



Claim no:

QB-2022-BHM-000044

**IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY**

Between:

(1) HIGH SPEED TWO (HS2) LIMITED

(2) THE SECRETARY OF STATE FOR TRANSPORT

Claimants

-and-

- (1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND KNOWN AS LAND AT CASH'S PIT, STAFFORDSHIRE SHOWN COLOURED ORANGE ON PLAN A ANNEXED TO THE PARTICULARS OF CLAIM ("THE CASH'S PIT LAND")**
- (2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND ACQUIRED OR HELD BY THE CLAIMANTS IN CONNECTION WITH THE HIGH SPEED TWO RAILWAY SCHEME SHOWN COLOURED PINK, GREEN AND BLUE ON THE PLAN ANNEXED TO THE APPLICATION NOTICE ("THE HS2 LAND")**
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND BY THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT WITHOUT THE CONSENT OF THE CLAIMANTS**
- (4) PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS**
- (5) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE) AND 58 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM**

Defendants

PARTICULARS OF CLAIM

Introduction

1. The First Claimant (“**HS2**”) is the nominated undertaker (“**Nominated Undertaker**”) appointed by the Secretary of State for Transport under:
 - 1.1. section 45 of the High Speed Rail (London – West Midlands) Act 2017 (the “**Phase One Act**”) by way of the High Speed Rail (London-West Midlands) (Nomination) Order 2017; and
 - 1.2. section 42 of the High Speed Rail (West Midlands - Crewe) Act 2021 (the “**Phase 2a Act**”) by way of the High Speed Rail (West Midlands - Crewe) (Nomination) Order 2021.

to construct the High Speed Two Railway Scheme (commonly referred to as “**HS2**” and referred to in these Particulars as: the “**HS2 Scheme**”).
2. The Second Claimant is the Secretary of State for Transport (“**the SoS**”).
3. The Claimants are entitled as Nominated Undertaker, alternatively as the freehold or leasehold owner, to prevent trespass and nuisance to the use of, and access to, land acquired or held in connection with the HS2 Scheme (the “**HS2 Land**”).
4. Those Defendants who have been identified and joined individually as Defendants to these proceedings are set out in Annex 1 to these Particulars. Where necessary the Defendants whose names appear in Annex 1 are referred to as “the Named Defendants”, whilst reference to “the Defendants” includes both the Named Defendants and those persons unknown who have not yet been individually identified.
5. The Defendants have taken part in a series of unlawful actions against the HS2 Land since October 2017 (the “**Anti-HS2 Action**”). The Anti-HS2 Action to date has included blocking access to the HS2 Land, damaging HS2’s vehicles, trespassing on land, and digging and occupying tunnels and building fortifications on the HS2 Land without permission. Some of the Anti-HS2 Action has led to criminal charges, and in respect of other Anti-HS2 Action, the Court has granted injunctive relief and committal orders.

6. The Claimants have produced plans showing the HS2 Land coloured Pink, Blue and Green. Those plans span 283 pages and are best viewed electronically and have therefore been uploaded to: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> (the “**HS2 Land Plans**”). As a matter of form they have been introduced as Exhibit JAD1 to **Dilcock 1**. That part of the HS2 Land over which a possession order is sought, being land known as Cash’s Pit, Staffordshire (the “**Cash’s Pit Land**”) is shown coloured orange on Plan A annexed to these Particulars.
7. The Claimants have previously obtained several interim injunctions preventing unlawful trespass and nuisance in claims: PT-2018-000098 (Harvil Road); PT-2020-BHM-000017 (Cublington and Crackley); CO/361/2021 (Euston, Steyn J) and PT-2021-000132 (Euston, Mann J). In respect of PT-2020-BHM-000017 (Cublington and Crackley), a committal order has been made against a named defendant, Mr Cuciurean. In respect of CO/361/2021 and PT-2021-000132 (Euston, Steyn J and Mann J), the Claimants have issued committal proceedings against 5 named defendants.
8. Presently, the First Claimant is faced with a significant unlawful trespass and obstruction of access in respect of the Cash’s Pit Land which serves to illustrate the issues the Claimants face in respect of such unlawful activity along the route of the HS2 Scheme. Although the First Claimant seeks a possession order in these proceedings specifically in respect of the Cash’s Pit Land, the facts giving rise to the need for that order are illustrative of the wider issues which the Claimants face: there are other significant Anti-HS2 Action activities which nevertheless continue to take place along the HS2 Land and experience has shown that the removal of the Defendants from the Cash’s Pit Land is highly likely to mean that the issues are simply displaced to another part of the HS2 Land.

The Cash’s Pit Land

9. The First Claimant has an immediate right to possession of the Cash’s Pit Land.
10. The Defendants have never been a tenant or sub-tenant of the Cash’s Pit Land.
11. The Cash’s Pit Land does not include residential property.

12. As explained further below, the Claimants do not know all of the names of the Defendants. As to D5 to D20; D22; D31; and D63 (“the **Cash’s Pit Named Defendants**”), the basis for joining them to these proceedings is set out at paragraph 42 and 49 of the First Witness Statement of Julie Amber Dilcock filed and served in support of this claim (“**Dilcock 1**”).
13. The basis of the First Claimant’s entitlement to possession of the Cash’s Pit Land is set out at paragraph 46 of **Dilcock 1**. In summary, the First Claimant is entitled to take possession of the Cash’s Pit Land pursuant to its powers under section 13 and Schedule 15 of the Phase 2a Act, but has not yet taken possession due to the ongoing trespass.
14. The First Claimant requires possession of the Cash’s Pit Land in connection with the HS2 Scheme, construction of Phase 2a of which is authorised by the Phase 2a Act. In particular, the Cash’s Pit Land is required for “Phase 2a purposes” within the meaning of section 61 of the Phase 2a Act.

Trespass to the Cash’s Pit Land

15. The circumstances in which the Cash’s Pit Land has been occupied are as follows:
 - 15.1. The Claimants believe a fluctuating group of individuals have been occupying the Cash’s Pit Land (or part of it) since around March 2021. At present it is understood that there are in the region of 15 to 20 adults in occupation of the Cash’s Pit Land, but numbers fluctuate on a daily basis. The Claimants have no specific information about the presence or otherwise of children on the Cash’s Pit Land.
 - 15.2. Many of the Cash’s Pit Named Defendants are known to the First Claimant’s security team and have trespassed upon other HS2 Land owned by the Second Claimant and/or land to which the First Claimant is entitled to possession on previous occasions across both Phase One and Phase 2a of the HS2 Scheme. The First Defendant and all of the Cash’s Pit Named Defendants (together: the “**Cash’s Pit Defendants**”) are trespassers on the Cash’s Pit Land and save for the Cash’s Pit Named Defendants, their identities are not known.

- 15.3. It is not known precisely how or where the Cash's Pit Defendants gained access to the Cash's Pit Land, but access would likely have been gained easily given the nature of the Cash's Pit Land as open (albeit heavily wooded) land.
- 15.4. An encampment has been established on the Cash's Pit Land comprising a number of structures including tents, wooden structures (incorporating towers) and structures in trees. The Cash's Pit Defendants are understood to be opposed to the continuation of the HS2 Scheme on environmental, economic or other grounds. It is to be inferred from their conduct that the Cash's Pit Defendants by their unlawful trespass wish to prevent or delay or render more difficult and expensive works on the Cash's Pit Land and other HS2 Land in the area by the Claimants and their contractors.
- 15.5. The encampment on the Cash's Pit Land has been used by the Cash's Pit Defendants as a base of operations for action attempting to block access to and disrupt HS2 Scheme works on other land in the vicinity. Severe disruption has been caused to the First Claimant's contractor Balfour Beatty and necessitated them seeking injunctive relief to restrain the interference with their access. On 17 March 2022, the Court granted the injunction, which is exhibited to **Dilcock 1**. The encampment has also been used as a base of operations for sporadic incidents of trespass on other HS2 Land in the vicinity of the encampment on which works are being carried out by Cadent Gas to divert a gas pipeline. Some of these incidents are described in detail in **Jordan 1**.
16. On 23 February 2022, the First Claimant gave the occupiers of the Cash's Pit Land written notice to vacate and warned that Court proceedings would be issued if the Cash's Pit Land was not vacated. The circumstances of that notice are set out at paragraph 46 of **Dilcock 1**. The Cash's Pit Defendants (or some of them) remain in occupation of the Cash's Pit Land without the consent of the First Claimant.
17. In the premises the First Claimant is entitled to and so claims an order for possession of the Cash's Pit Land.

Declaratory relief

18. The First Claimant also seeks declaratory relief confirming its immediate right to possession of the Cash's Pit Land.

Trespass and nuisance

19. As set out at paragraph 3 above, the Claimants have a right to possession of the HS2 Land.

20. The Anti-HS2 Action involves trespass on the HS2 Land; disruption of the works on the HS2 Land; and disruption of the use of roads in the vicinity of the HS2 Land causing inconvenience and danger to the Claimants and to other road users.

21. In particular, the Anti-HS2 Action has:

21.1. On numerous occasions created immediate threats to life, putting at risk the lives of those engaging in the action, the Claimants, their agents, servants, contractors, sub-contractors, group companies, licensees, invitees and employees and potentially emergency services personnel.

21.2. Caused disruption, delay and nuisance to the Claimants, their agents, servants, contractors, sub-contractors, group companies, licensees, invitees and employees on the HS2 Land.

21.3. Prevented the Claimants, their agents, servants, contractors, sub-contractors, group companies, licensees, invitees and employees and members of the public from exercising their ordinary rights to use the public highway or inconvenienced them in so doing.

22. Further, the Defendants' conduct:

22.1. Is an unlawful trespass on the HS2 Land in circumstances where they are bare trespassers.

- 22.2. In respect of obstruction of access to the HS2 Land has exceeded the rights of the public to use the public highway and is in itself a trespass against the relevant highway authority.
- 22.3. Has endangered the life, health, property or comfort of the public and/or obstructs the public in the exercise of rights common to all Her Majesty's subjects such that a public nuisance has been created, and the Claimants have suffered particular damage over and above the general inconvenience and injury suffered by the public in expending (i) costs incurred in additional internal managerial and staffing time in order to deal with the protest action; (ii) costs and losses incurred as a result of delays to the HS2 Scheme programme; and (ii) other costs incurred in remedying the wrongs and seeking to prevent further wrongs.
- 22.4. Threatens, unless restrained, to continue the actions under preceding subparagraphs and to cause an interference with the reasonable use of the HS2 Land amounting to a private nuisance.
23. The Claimants reasonably fear that the Cash's Pit Defendants will not comply with any order for possession or declaration made by the Court and in particular that they will refuse to leave any structures on or tunnels that they have constructed under the Cash's Pit Land, placing themselves and those trying to remove them at significant risk.
24. The Claimants also reasonably fear that, having removed the Cash's Pit Defendants from the Cash's Pit Land, the Defendants will return to trespass on or cause nuisance to the Cash's Pit Land or on other parts of the HS2 Land. The Claimants also, based on previous experience, reasonably fear that the Defendants will interfere with the access of the Claimants, their agents, servants, contractors, sub-contractors, group companies, licensees, invitees and/or employees to and from the HS2 Land and/or interfere with the fencing or gates at the perimeter of the HS2 Land.
25. By reason of the matters set out herein and in **Dilcock 1** and **Jordan 1**, there is a real and imminent risk of trespass and nuisance continuing to be committed in respect of the Cash's Pit Land and the HS2 Land.

26. The Defendants have openly stated an intention to continue to take part in direct action protest against the HS2 Scheme, through further protest action similar to that described herein unless restrained by this Honourable Court.
27. Accordingly, the Claimants apply, by way of the Application Notice and supporting witness evidence accompanying this claim, for injunctive relief requiring the Cash's Pit Defendants to leave the Cash's Pit Land, declaratory relief and an order restraining the Defendants from trespassing upon or interfering with access to or the fencing and gates at the perimeter of the HS2 Land.

AND THE CLAIMANT CLAIMS:

- (1) An order that the Cash's Pit Defendants deliver up possession of the Cash's Pit Land to the First Claimant forthwith;
- (2) Declaratory relief confirming the First Claimant's immediate right to possession of the Cash's Pit Land;
- (3) Injunctive relief in the terms of the draft Order appended to the Application Notice;
- (4) Costs;
- (5) Further and other relief.


MICHAEL FRY
SIONED DAVIES
JONATHAN WELCH

Dated this 25 day of March 2022

STATEMENT OF TRUTH

The Claimants believe that the facts stated in these Particulars of Claim are true. The Claimants understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

I am duly authorised by the Claimants to sign this statement.

Signed: 
Claimants' Solicitor

Position or office held: Litigation
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