

On behalf of: Claimants
J.A.Dilcock
1st statement of witness
Exhibits: JAD1 to JAD3
Date: 25 March 2022

**IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY**

Claim No. QB-2022-BHM-000044

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

**WITNESS STATEMENT OF JULIE AMBER DILCOCK
&
STATEMENT OF SUITABILITY TO ISSUE IN THE HIGH COURT PURSUANT
TO CPR r.55.3(2)**

I, **JULIE AMBER DILCOCK**, of High Speed Two (HS2) Limited, Two Snow Hill, Snow Hill Queensway, Birmingham, B4 6GA, WILL SAY as follows:

Introduction

1. I am a solicitor of the Senior Courts of England and Wales and employed by the First Claimant as Litigation Counsel (Land & Property). My role involves advising the First Claimant and instructing and assisting external legal advisers advising and representing the First Claimant and in that capacity my role includes instructing our external legal advisers Government Legal Department (“**HS2’s**

Solicitors”) in relation to the conduct of these proceedings. Prior to being appointed as Litigation Counsel for the First Claimant I was a solicitor employed by the firm Eversheds Sutherland (Intl) LLP for 13 years and in that role I advised the Claimants on contentious property matters, including possession claims against trespassers and seeking injunctive relief. I am authorised to make this, my First Witness Statement, on behalf of the Claimants.

2. I make this statement in support of the First Claimant’s claim for possession of land at Cash’s Pit, Staffordshire (the “**Cash’s Pit Land**”) and the Claimants’ application for an injunction restraining unlawful activity over land acquired or held by the Claimants (the “**HS2 Land**”) in connection with the High Speed Two Railway Scheme (commonly referred to as “HS2” and referred to in this statement as: the “**HS2 Scheme**”). Defined terms used in the Particulars of Claim have been adopted in this statement with the same meanings. I confirm that the contents of the Particulars of Claim are true to the best of my knowledge and belief.
3. This statement has been prepared with the Claimants’ legal representatives.
4. This statement is made from matters that are within my own knowledge and/or (unless other sources of information are stated) knowledge gained from my review of the First Claimant’s documents, incident reports logged on the First Claimant’s HORACE and Trak Tik systems, reports by the First Claimant’s security and legal teams and those of the First Claimant’s contractors, as well as material obtained and reviewed from open-source internet and social media platforms. In each case I believe them to be true. The contents of this statement are true to the best of my knowledge and belief. The HORACE and Trak Tik systems are explained in the Witness Statement of Richard Jordan (“**Jordan 1**”).
5. There are now shown and produced to me marked **JAD1, JAD2 and JAD3** true copies of documents to which I shall refer in this statement.
6. In preparing this statement have read **Jordan 1** in draft.

Statement of suitability

7. I note that paragraph 1.3 of Practice Direction 55A and paragraph 6 of the Practice Note given by the Chancery Division and Queens Bench Division in London concerning Possession Claims Against Trespassers indicates that it may be appropriate to issue possession claims in the High Court where:
 - 7.1 there are complicated disputes of fact;
 - 7.2 there are points of law of general importance; or
 - 7.3 the claim is against trespass and there is substantial risk of public disturbance or of serious harm to persons or property which properly require immediate determination.
8. With that guidance in mind, the reasons that the Claimants consider these proceedings to be suitable for determination by the High Court are:
 - 8.1 The actions of the Defendants are directed at the obstruction of the HS2 Scheme - a major high profile national infrastructure project. Whilst the factual issues raised are not necessarily complicated, they are weighty, high profile and of considerable public interest and importance. Further, the Claimants are seeking injunctive relief over a large geographical area in order to protect a national infrastructure project from sustained unlawful action and in the context of the expenditure of extremely significant sums of public money on dealing with these issues (as discussed in **Jordan 1**). Injunctive relief is also sought against categories of persons unknown – a matter in which the higher courts have had considerable interest of late.
 - 8.2 The claim raises somewhat unusual and important issues of law, in that the Claimants have the advantage of particular statutory rights and powers upon which they rely, granted under the High Speed Rail (London - West Midlands) Act 2017 (the “**Phase One Act**”) and the High Speed Rail (West Midlands - Crew) Act 2021 (the “**Phase 2a Act**”) (together: the “**HS2 Acts**”).
 - 8.3 It is anticipated that the Defendants may wish to raise arguments under the Human Rights Act 1996 concerning their rights to protest and these are issues of

general importance, although the Claimants will say that they are not complex issues or issues which present any arguable defence in the context of these claims.

8.4 As explained in **Jordan 1**, the Claimants' experience of dealing with unauthorised encampments such as the one on the Cash's Pit Land that is the subject of these proceedings is that the Defendants take extreme steps to resist eviction and to make the process as difficult and dangerous as possible. The First Claimant was required (paragraph 4(1) of Schedule 16 of the Phase One Act and Schedule 15 of the Phase 2a Act) to give the Cash's Pit Defendants not less than 28 days' notice that it intended to take possession of the Cash's Pit Land. The Cash's Pit Defendants have been explicit on social media and in mainstream media (see for example **Jordan 1** and the article at **pages 1 to 3 of JAD3**) that they have been spending that time fortifying the encampment and digging tunnels to resist eviction. D18, D19 and D20 also did this at HS2 Land at Small Dean in Wendover (this is described in **Jordan 1**). The matter is therefore urgent. There are also significant concerns for the safety of the Cash's Pit Defendants whom the Claimants consider (based on previous experience) are likely to be occupying dangerous structures in trees and make-shift un-shored underground tunnels and to be at risk of serious harm. It is imperative that they are required to leave as soon as possible for their own safety.

8.5 I would also note that similar proceedings concerning HS2 Land, which raise similar issues to these proceedings, have been addressed by the High Court in recent years. See in particular: *Secretary of State for Transport -v- Persons Unknown* [2018] EWHC 1404 (Ch) and [2019] EWHC 1437 (Ch). The Claimants' application for an injunction asks that injunctions made in those proceedings and other High Court proceedings are discharged in favour of the land in question being covered by the injunction sought in these proceedings. Such an application can only be dealt with by the High Court.

Purpose and scope of this statement

9. In this statement I will:

9.1 Explain the legislative framework of the HS2 Scheme;

- 9.2 Explain the basis upon which the Claimants come to be entitled to possession of the HS2 Land;
- 9.3 Describe the injunctions already in place over parts of the HS2 Land and the reasons for the Claimants' application to consolidate those into the injunction sought in these proceedings;
- 9.4 Explain how the Claimants reached the decision as to which individuals are the Named Defendants;
- 9.5 Address the question of how the Claimants propose to effect service of these proceedings and the injunction application; and
- 9.6 Describe the entitlement of the First Claimant to possession of the Cash's Pit Land; the circumstances of the trespass at the Cash's Pit Land and the need for a possession order and injunction to restrain further trespass.

The HS2 Scheme

10. In this section I have explained the different means by which the Claimants have acquired or gained the right to possession of the HS2 Land under the HS2 Acts; the discretionary schemes created by the Government (the "**Discretionary Schemes**"); acquisition by consent; and the taking of leases.

Phase One

11. Construction of Phase One of the HS2 Scheme is authorised by the Phase One Act.
12. The Government and the First Claimant engaged in extensive consultation and engagement prior to deposition the Bill that led to the Phase One Act with Parliament and - as it was a hybrid Bill - it was also subject to a petitioning process during which almost three and a half thousand petitions were considered by Select Committees. The Claimants are committed to continuing engagement with stakeholders on the HS2 Scheme as it progresses. In addition, the HS2 Code of Construction Practice requires community engagement, particularly focussing on those who may be affected by construction impacts.

13. The Phase One Act was the culmination of nearly five years of work, including an Environmental Impact Assessment, the results of which were reported in an Environmental Statement submitted alongside the Bill. The First Claimant has also published Environmental Minimum Requirements, which set out the environmental and sustainability commitments that will be observed in the construction of the Scheme. All of these documents are publicly available online at: <https://www.gov.uk/government/collections/hs2-phase-one-environmental-statement-documents> and <https://www.gov.uk/government/publications/environmental-minimum-requirements> .
14. On 24 February 2017 the First Claimant was appointed as nominated undertaker pursuant to section 45 of the Phase One Act by way of the High Speed Rail (London-West Midlands) (Nomination) Order 2017. The Second Claimant is responsible for the successful delivery of the HS2 Scheme.
15. Section 4(1) of the Phase One Act gives the First Claimant power to acquire so much of the land within the Phase One Act limits as may be required for Phase One purposes. The First Claimant may acquire by way of General Vesting Declaration (“GVD”) or the Notice to Treat (“NTT”) and Notice of Entry (“NoE”) procedure.
16. Section 15 and Schedule 16 of the Phase One Act give the First Claimant the power to take temporary possession of land within the Phase One Act limits for Phase One purposes.

Phase 2a

17. Construction of Phase 2a of the HS2 Scheme is authorised by the Phase 2a Act.
18. The Government and the First Claimant engaged in extensive consultation and engagement prior to deposition the Bill that led to the Phase 2a Act with Parliament and - as it was a hybrid Bill - it was also subject to a petitioning process during which around three hundred and forty petitions were considered by Select Committees. The Claimants are committed to continuing engagement with stakeholders on the HS2 Scheme as it progresses. In addition, the HS2 Code

of Construction Practice requires community engagement, particularly focussing on those who may be affected by construction impacts.

19. The Phase 2a Act was the culmination of nearly five years of work, including an Environmental Impact Assessment, the results of which were reported in an Environmental Statement submitted alongside the Bill. In addition, Supplementary Environmental Statements and Additional Provision Environmental Statements were submitted during the Bill's passage through Parliament. The First Claimant has also published Environmental Minimum Requirements, which set out the environmental and sustainability commitments that will be observed in the construction of the Scheme. All of these documents are publicly available online at: <https://www.gov.uk/government/collections/hs2-phase-2a-supplementary-environmental-statement-and-additional-provision-environmental-statement> and <https://www.gov.uk/government/publications/environmental-minimum-requirements-for-hs2-phase-2a> .
20. On 12 February 2021 the First Claimant was appointed as nominated undertaker pursuant to section 42 of the Phase 2a Act by way of the High Speed Rail (West Midlands - Crewe) (Nomination) Order 2021. The First Claimant is responsible for the successful delivery of the HS2 Scheme.
21. Section 4(1) of the Phase 2A Act gives the First Claimant power to acquire so much of the land within the Phase 2a Act limits as may be required for Phase 2a purposes. The First Claimant may acquire by way of General Vesting Declaration ("GVD") or the Notice to Treat ("NTT") and Notice of Entry ("NoE") procedure.
22. Section 13 and Schedule 15 of the Phase 2a Act give the First Claimant the power to take temporary possession of land within the Phase 2a Act limits for Phase 2a purposes.

Statutory Blight

23. In addition to the powers of acquisition and temporary possession under the Phase One Act and the Phase 2a Act, some of the HS2 Land has been acquired by the

First Claimant via the statutory blight regime under Chapter II of the Town and Country Planning Act 1990.

Discretionary Schemes

24. The First Claimant has acquired other parts of the HS2 Land via transactions under the various Discretionary Schemes set up by the Government to assist property owners affected by the HS2 Scheme. The details of the various Discretionary Schemes are publicly available online at: <https://www.gov.uk/claim-compensation-if-affected-by-hs2>
25. Further parts of the HS2 Land have been acquired from landowners by consent and without the need to exercise powers.
26. Finally, the Claimants hold some of the HS2 Land under leases – most notably, the First Claimant’s registered office at Snowhill in Birmingham and its office at the Podium in Euston, both of which have been subject to trespass and (in the case of The Podium) criminal damage by activists opposed to the HS2 Scheme (the incident of trespass and criminal damage at The Podium on 06.05.2021 is described in more detail in **Jordan 1**).

Legitimacy

27. The Claimants accept that the HS2 Scheme is a controversial and high-profile project, and that some people feel very strongly against it. However, the Claimants have a duty, imposed by Parliament, to deliver the HS2 Scheme. As the High Court confirmed in the case of *R(Packham) v Secretary of State for Transport [2020] EWHC 829 (Admin)*, there is a strong public interest in the works proceeding, and it is not for individuals to seek to undermine the democratic decisions of Parliament in defiance of court orders seeking to protect that democratic mandate.

The HS2 Land

28. The HS2 Land covers a large area and for the purposes of bringing this claim, the Claimants have produced a set of coloured plans to show the HS2 Land and illustrate the basis of the Claimants’ right to possession of it. The plans span 283

sheets (including index maps to assist with orientation). Producing the plans in hard copy and multiple times would generate a very large amount of paper and navigation of the plans is also easier electronically. Accordingly the plans (along with copies of all other documents supporting this claim and the injunction application) have been placed online at: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> (the “**HS2 Land Plans**”), but for ease of reference are also referred to in this statement as **Exhibit JAD1**. The Claimants have also produced spreadsheets setting out the basis of the Claimants’ right to possession of the HS2 Land. These also run into hundreds of pages and accordingly have also been placed online at the same link. For ease of reference, these are referred to in this statement as **Exhibit JAD2**. These documents are related only to the Claimants’ application for an injunction. The details of the First Claimant’s right to possession of the Cash’s Pit Land (over which the First Claimant seeks a possession order) are set out in the Particulars and in this Witness Statement and copies of the relevant notices and other evidence in support of the claim for possession are at **Exhibit JAD3**, a copy of which will be served in hard copy with the proceedings in accordance with CPR r.55.6. The evidence in support of the possession claim will also be placed online at <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> and will therefore also be available electronically to anyone who wishes to have a copy.

29. The First or the Second Claimant are the owner of the land coloured pink on the HS2 Land Plans, with either freehold or leasehold title (the “**Pink Land**”). The Claimants’ ownership of much of the Pink Land is registered at HM Land Registry, but the registration of some acquisitions has yet to be completed. The basis of the Claimants’ title is explained in the spreadsheets named “**Table 1**” and “**Table 3**” at **JAD2**. Table 1 reflects land that has been acquired by the GVD process and Table 3 reflects land that has been acquired by other means. A further table (“**Table 2**”) has been included to assist with cross referencing GVD numbers with title numbers. Where the Claimants’ acquisition has not yet been registered with the Land Registry, the most common basis of the Claimants’ title

is by way of executed GVDs under Section 4 of the HS2 Acts, with the vesting date having passed.

30. Some of the land included in the Pink Land comprises property that the Claimants have let or underlet to third parties. At the present time, the constraints of the First Claimant's GIS data do not allow for that land to be extracted from the overall landholding. The Claimants are of the view that this should not present an issue for the present application as the tenants of that land (and their invitees) are persons on the land with the consent of the Claimants.
31. The Claimants' interest in the Pink Land excludes any rights of the public that remain over public highways and other public rights of way and the proposed draft order deals with this point. The Claimant's interest in the Pink Land also excludes the rights of statutory undertakers over the land and the proposed draft order also deals with this point.
32. The First Claimant is the owner of leasehold title to the land coloured blue on the HS2 Land Plans (the "**Blue Land**"), which has been acquired by entering into leases voluntarily, mostly for land outside of the limits of the land over which compulsory powers of acquisition extend under the HS2 Acts. The details of the leases under which the Blue Land is held are in **Table 3**.
33. The First Claimant has served the requisite notices under the HS2 Acts and is entitled to temporary possession of that part of the HS2 Land coloured green on the HS2 Land Plans ("the **Green Land**") pursuant to section 15 and Schedule 16 of the Phase One Act and section 13 and Schedule 15 of the Phase 2a Act. A spreadsheet setting out the details of the notices served and the dates on which the First Claimant was entitled to take possession pursuant to those notices is at **Table 4 of JAD2**.
34. A variety of works for the HS2 Scheme are taking place or are scheduled to take place on the HS2 Land at any given time and throughout the years that it will take to construct the HS2 Scheme, which include (depending on the stage which that part of the project has reached) initial site clearance, the diversion of utilities, access road construction, demolition works, survey and environmental mitigation works and main works construction operations.

35. On site, there is a large amount of heavy plant and more will be added as works progress. The dangers posed by that machinery to unauthorised individuals entering onto the HS2 Land are obvious. All staff and contractors working on the site are provided with intensive training and inductions so they understand the hazards posed by working on site. They are provided with appropriate personal protective equipment, including high visibility clothing. Without such familiarisation anyone entering the site puts themselves at risk when in the vicinity of hazardous operations. The Claimants are acutely aware of the hazards associated with major construction sites and wish to ensure that only those competent to do so and with a full understanding of all site hazards enter the sites. Again, the Claimants have serious concerns that if the activities of the Defendants continue, there is a high likelihood that someone will be seriously injured. As set out in **Jordan 1**, it is very often the case that the Defendants do not simply enter onto the HS2 Land, but that they actively seek to interfere with the heavy plant on site during operation.
36. Further, the activities that the Defendants undertake on land ahead of The First Claimant's construction operations also pose a significant risk of injury or death. The Defendants have engaged in the digging of very deep and dangerous make-shift tunnels which carry a high risk of collapse or issues such as carbon-monoxide / dioxide poisoning. They have engaged in the erection of large make-shift structures both from ground level and in trees, which are unstable and risk collapse or a fall from height. These structures are also often "booby-trapped" by the Defendants with material such as razor wire in order to hamper the work of teams trying to remove the Defendants from them and which risk causing serious injury to both the Defendants and those seeking to remove them. Examples of this conduct are set out in **Jordan 1**.

Consolidation of other injunctions

37. There are currently two injunctions in place over areas of the HS2 Land to restrain unlawful activity by those opposed to the HS2 Scheme.
38. The first relates to land in the Harvil Road area of Hillingdon and was first imposed by the High Court in February 2018 in proceedings under claim number

PT-2018-000098. The Court reviewed the injunction and extended it both in terms of the land covered and in duration by way of an order dated 4 September 2020, a copy of which is at **pages 4 to 16 of JAD3** (the “**Harvil Rd Injunction**”). Those proceedings are awaiting the listing of a CMC to set directions to take the matter to trial. Named Defendants D28; D32 to D34; and D36 to D59 are the named defendants to those proceedings.

39. The second relates to land at South Cubbington Woods, Crackley Wood, Birches Wood and Broadwells Wood in Warwickshire and was first imposed by the High Court in March 2020 in proceedings under claim number PT-2020-BHM-000017. The Court reviewed and extended it by way of an order made on 13 April 2021, a copy of which is at **pages 17 to 29 of JAD1** (the “**Cubbington & Crackley Injunction**”). Those proceedings are stayed with liberty to apply. Named Defendants D32 to D35 are the named defendants to those proceedings.
40. The Court will note that the terms of the Harvil Rd Injunction and the terms of the Cubbington & Crackley Injunction are not the same.
41. Should the Court see fit to grant the injunction sought by way of application in these proceedings, the Claimants are of the view that it would be expedient and would assist with certainty for those affected by the injunctions and would ensure efficient use of Court time going forward for the land covered by the Harvil Rd Injunction and the Cubbington & Crackley Injunction to be included in the new injunction and for these two pre-existing injunctions to be discharged and the proceedings relating to them discontinued. The Claimants consider that there would be no prejudice to the named defendants in claim numbers PT-2018-000098 and PT-2020-BHM-000017 in this course of action and their rights to challenge the injunction (even if they only wished to challenge it in relation to the land comprised in the pre-existing injunctions) will remain under the proposed new injunction. The Claimants apply accordingly.

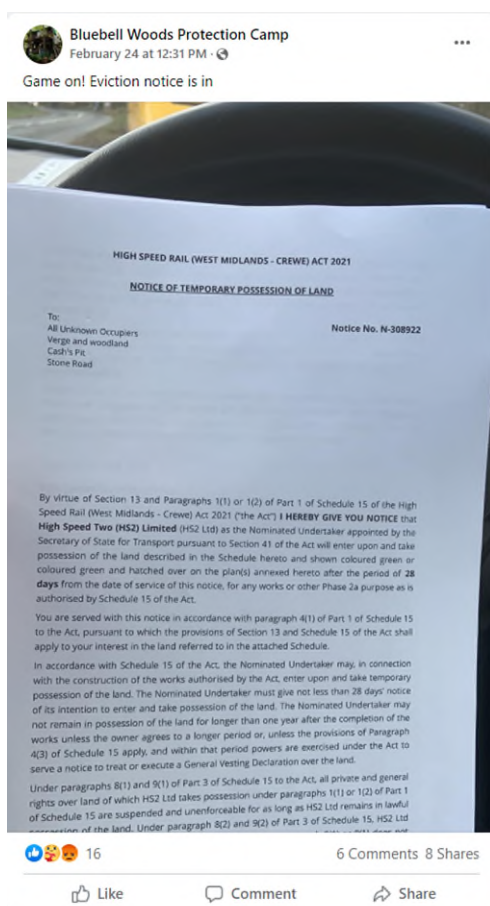
Named Defendants

42. The Claimants have named as Defendants to this application individuals known to the Claimants (sometimes only by pseudonyms) the following categories of individuals:

- 42.1 Individuals identified as believed to be in occupation of the Cash's Pit Land whether permanently or from time to time (D5 to D20, D22, D31 and D63);
- 42.2 The named defendants in the Harvil Road Injunction (D28; D32 to D34; and D36 to D59);
- 42.3 The named defendants in the Cubbington and Crackley Injunction (D32 to D35); and
- 42.4 Individuals whose participation in incidents is described in the evidence in support of this claim and the injunction application and not otherwise named in one of the above categories.
43. It is, of course open to other individuals who wish to defend the proceedings and/or the application for an injunction to seek to be joined as named defendants. Further, if any of the individuals identified wish to be removed as defendants, the Claimants will agree to their removal upon the giving of an undertaking to the Court in the terms of the injunction sought. Specifically, in the case of D32, who (as described in **Jordan 1**) has already given a wide-ranging undertaking not to interfere with the HS2 Scheme, the Claimants have only named him because he is a named defendant to the proceedings for both pre-existing injunctions. If D32 wishes to provide his consent to the application made in these proceedings, in view of the undertaking he has already given, the Claimants will consent to him being removed as a named defendant.
44. This statement is also given in support of the First Claimant's possession claim in respect of the Cash's Pit Land and which the Cash's Pit Defendants have dubbed: "Bluebell Wood". The unauthorised encampment and trespass on the Cash's Pit Land is the latest in a series of unauthorised encampments established and occupied by various of the Defendants on HS2 Land (more details of which are set out in **Jordan 1**).
45. The possession proceedings concern a wooded area of land and a section of roadside verge, which is shown coloured orange on the plan at **Annex A** of the Particulars of Claim ("**Plan A**"). The HS2 Scheme railway line will pass through

the Cash's Pit Land, which is required for Phase 2a purposes and is within the Phase 2a Act limits.

46. The First Claimant is entitled to possession of the Cash's Pit Land having exercised its powers pursuant to section 13 and Schedule 15 of the Phase 2a Act. Copies of the notices served pursuant to paragraph 4(1) of Schedule 15 of the Phase 2a Act are at **pages 30 to 97 of JAD3**. For the avoidance of doubt, these notices were also served on the Cash's Pit Land addressed to "the unknown occupiers". Notices requiring the Defendants to vacate the Cash's Pit Land and warning that Court proceedings may be commenced in the event that they did not vacate were also served on the Cash's Pit Land. A statement from the process server that effected service of the notices addressed to "the unknown occupiers" and the Notice to Vacate is at **pages 98 to 112 of JAD3** and copies of the temporary possession notice addressed to the occupiers of the Cash's Pit Land and the notice to Vacate are exhibited to that statement.
47. Following service of the notices at the Cash's Pit Land, the Defendants posted on social media acknowledging receipt of the notices as follows:



D6 also filmed service as it was taking place (see **Jordan 1**). Since the Notices were served there have been further Facebook posts about the Notices and indicating an intention not to vacate and to resist eviction. Examples of further Facebook posts exhibited to **Jordan 1**.

48. The Cash's Pit Land abuts the A51 highway and part of the verge of the highway forms part of the Cash's Pit Land, to which the First Claimant is entitled to possession as described above. The Cash's Pit Defendants have also occupied part of the verge. To the extent that there were any public rights of way over the verge, any such rights have been temporarily stopped up pursuant to section 3 and Schedule 4, Part 2 of the Phase 2a Act. Copies of the relevant documents relating to the temporary stopping up of public rights over the verge land are at **pages 113 to 115 of JAD3**.
49. As detailed in the Particulars of Claim, the Cash's Pit Land is heavily wooded and has been occupied by individuals who are opposed to the HS2 Scheme and

whom the First Claimant understands to have been occupying since early 2021. Persons unknown come and go at the Cash's Pit Land and as such there is a fluctuating population of trespassers. The First Claimant believes that the Cash's Pit Defendants are in occupation of the Cash's Pit Land, either permanently or from time to time, in addition to a number of persons unknown.

50. Access to the Cash's Pit Land is currently restricted due to the ongoing trespass, but the Defendants have posted comments and pictures on social media and on a website: <https://www.aggravatedtrespass.com/blog/bluebell-woods-protection-camp-staffordshire> that show large make-shift structures erected on the land and indicate that tunnels are being dug. The local planning authority has informed the First Claimant that complaints have been received about unauthorised development on the land in breach of planning regulations in respect of the unauthorised encampment. Pictures of the unauthorised encampment, which give an indication of the nature and scale of the trespass are at **pages 113 to 124 of JAD3**.
51. In addition to occupying the Cash's Pit Land with the express intention of delaying the First Claimant in taking possession and commencing works, since October 2021, the Cash's Pit Defendants have been using the Cash's Pit Land as a base from which to launch action to disrupt works being carried out on the HS2 Scheme by the First Claimant's contractor Balfour Beatty ("BB") from a nearby works compound. The Cash's Pit Defendants regularly post on social media about their actions to obstruct and disrupt access to and works at the BB compound and encourage others to engage in obstructive and disruptive action. Examples of such social media posts are exhibited to **Jordan 1**. Typically, the Cash's Pit Defendants assemble in the entrance to the BB compound each day for around two hours at a time and obstruct vehicles seeking to enter and leave the compound. On 17.03.2021 BB obtained an injunction from the High Court to restrain interference with their access to and egress from their site compound and a copy of the order made by the High Court is at **pages 125 to 133 of JAD3**.
52. The encampment on the Cash's Pit Land Land was also used as a base to launch action to disrupt HS2 Scheme works on the M42 in December 2021. That action included D6 climbing onto a lorry delivering tarmac for the works, preventing it

from moving for an hour or so and jeopardising the viability of the load. The details of this and other disruptive actions are set out in detail in **Jordan 1**.

53. The First Claimant is entitled to possession of the whole of the Cash's Pit Land and accordingly seeks a possession order forthwith and a declaration from the Court to that effect, in the hope that it may assist in simplifying any further processes to recover possession of the Cash's Pit Land if they are dispossessed by further acts of trespass in the future

Ongoing risk of unlawful conduct and need for injunctive relief

54. The Claimants consider that there is a real risk that the Cash's Pit Defendants will not comply with an order for possession made by the Court and that an injunction is required mandating that the Cash's Pit Defendants leave the Cash's Pit Land immediately. The Claimants reasonably fear that having been evicted from the Cash's Pit Land, the Cash's Pit Defendants will either seek to re-enter the Cash's Pit Land or trespass upon or obstruct access to other parts of the HS2 Land. By way of example, D17 to D20 and D22, who are believed to be or have been in occupation of the Cash's Pit Land, were all trespassers on Phase One HS2 Land at Small Dean in Wendover (which is on Phase One of the HS2 Scheme) before then moving to occupy the Cash's Pit Land (which is on Phase 2a of the HS2 Scheme and is some 130 miles by vehicle from the Wendover site). D22 resisted eviction and obstructed High Court Enforcement Officers executing a writ of possession at Wendover by placing himself in a lock-on device. D18, D19 and D20 occupied and continued to dig tunnels underground at the same site to resist eviction and obstruct High Court Enforcement Officers executing a writ of possession. These incidents are described in more detail in **Jordan 1**.
55. The Claimants also consider that there is a real risk that other Defendants will trespass on or obstruct access to the Cash's Pit Land or other parts of the HS2 Land and the reasons for this belief are set out in **Jordan 1**.
56. Accordingly, the Claimants ask the Court to impose an injunction in the terms sought in the Application Notice.

Service

57. In so far as these proceedings are simply possession proceedings against trespassers who are persons unknown, a means for service is set out in CPR r.55.6.
58. In addition to an order for possession, however, the Claimants seek inter alia injunctive relief restraining future trespass and declaratory relief confirming their right to possession (I note here for completeness that the purpose of seeking that declaratory relief is that it may assist in securing possession more swiftly in the future if there is a future trespass, as it was suggested by Lord Rodger in *SoS for the Environment -v-v Meier* [2009] UKSC 11 at [93] that a party with the benefit of such a declaration could obtain the benefit of a writ of restitution in the event of future trespass.
59. In addition, injunctive relief on an interim basis is sought by the application notice which accompanies the claim. It will therefore be necessary to serve the Application as well as the Claim. Further:
- 59.1 It is necessary to serve the documents on the Named Defendants as well as the persons unknown.
- 59.2 It will be necessary to serve any order made upon the hearing on those defendants as well.
60. In those circumstances, the Claimants propose to ask the Court retrospectively to approve the steps taken to draw these proceedings to the Defendants' attention (to the extent necessary) under CPR r.6.15 and 6.27. The Claimants also ask the Court to approve (prospectively) certain steps to serve any order that the Court makes upon the Defendants.
61. Service – particularly service on the Named Defendants – is far from straightforward in these proceedings. Many of the Named Defendants have no fixed address and move regularly between different protest camps up and down the country. They are a transient population. Many have given pseudonyms and are difficult to 'track down'. Accordingly, in the past, service by conventional means has been difficult to execute. The activists do not tend to live at their fixed abode, and even if their location can be established, often they are in difficult to

reach places, residing in trees, or in tunnels underground (examples of this conduct are set out in Jordan 1). Where service is physical and site notices are displayed, often the notices are ‘ripped down’. These, in my experience, are often attempts to frustrate effective service.

62. Ultimately, the question, for service, is whether all practicable steps have been taken to notify “the person” against whom relief is sought.
63. The steps that the Claimants intend to take to serve these proceedings are similar to those they intend to take to serve any order made by the Court following the hearing as set out at paragraph 11 of the draft order accompanying the application. Once these proceedings have been served, updated evidence will be filed to confirm what has been done. The rationale for the steps proposed is broadly self-explanatory, but to expand briefly:
 - 63.1 The claimants wish to seek to ensure so far as possible that the proceedings and relief sought in them come to the attention of all those in occupation of HS2 Land at the moment as well as those who can reasonably be expected to want to trespass upon HS2 Land in the future.
 - 63.2 The Cash’s Pit Land has an unauthorised encampment on it at the present time. Documents left at that camp will no doubt come to the attention of those who occupy it. It is proposed to leave copies of the Court proceedings addressed to the occupiers at the camp on the Cash’s Pit Land and addressed individually by name to D5 to D20, D22, D31 and D63.
 - 63.3 In addition, it is proposed to leave copies of the Court proceedings in conspicuous locations around the perimeter of the Cash's Pit Land so that persons who might be coming onto the land or considering doing so can access them.
 - 63.4 The proceedings will also be advertised on the HS2 section of the .gov website at: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> and copies of all documents in these proceedings will be available on that website.


63.5 The claimants are also in possession of service information provided by D28; D32 to D34; and D36 to D59 in respect of the proceedings for the Harvil Rd Injunction and D32 to D35 in respect of proceedings relating to the the Cubbington & Crackley Injunction and will effect service of copies of these Court proceedings on those defendants using the information provided by them for service in those other proceedings.

63.6 In addition, emails will be sent two email addresses for two of the groups who are involved in coordinating action against the HS2 Scheme using the following email addresses (which are publicised by those groups as a method of contacting them): HS2Rebellion@gmail.com and info@stophs2.org .

64. For completeness, I should add that the Claimants have considered whether steps might be taken to draw these proceedings to the attention of affected parties via social media. In my experience of seeking to effect such service in similar cases in the past, however, those steps are regularly unsuccessful in that the intended recipients will often block messages from unknown or (from their perspective) undesirable contacts. However, the claimants will consider whether a link to the website hosting all of the Court documents can be placed on social media via a Facebook post and / or a Tweet from the accounts of the First Claimant. An update on this will be provided to the court along with an update on all methods of service affected, ahead of the hearing.

Statement of Truth

I believe that the facts stated in this witness statement are true. I 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.

Signed:.....

JULIE AMBER DILCOCK

Dated:.....25 March 2022.....