

**IN THE HIGH COURT OF JUSTICE
BIRMINGHAM DISTRICT REGISTRY**

B E T W E E N:

- (1) HIGH SPEED TWO (HS2) LTD
(2) THE SECRETARY OF STATE FOR TRANSPORT**

Claimants/Applicants

-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/Respondents

**CLAIMANTS' NOTE OF SUGGESTED PRE-READING/WATCHING
IN ADVANCE OF DIRECTIONS HEARING 28 APRIL 2022**

Introduction

1. The Directions Hearing in these proceedings is listed for Thursday 28 April 2022 before Mr Justice Knowles. The previous hearings were before Mr Justice Cotter.

2. Although the matter is listed for directions, the Claimants understand that the Court is also concerned with service of the injunction application on potentially affected parties. To that end, it is anticipated a short skeleton argument and further witness evidence will be filed in advance of the Directions Hearing. The Claimants will also produce a note to provide any relevant updates (if necessary) to the Court on Wednesday 27 April 2022.
3. This note is produced in order to assist the Court in focussing its review of the substantial documentary and video evidence in order to identify what the Claimants consider to be useful in understanding the crux of these proceedings. It will be placed on the HS2 website (<https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings>) which contains information on these proceedings as it may assist other parties in understanding the context of the proceedings.
4. The Claimants have produced two skeleton arguments in these proceedings, dated 1 April 2022 and 8 April 2022 which set out the Claimants lengthier submissions on the law and the evidence before the Court. The Claimants continue to rely on those skeleton arguments.
5. There were two further skeleton arguments filed on behalf of the Sixth Defendants, and several submissions made by named defendants and interested parties. Those submissions are not summarised in this document, but are addressed in the Claimants' second skeleton argument.

Evidential Background

6. The Witness Statement of Richard Jordan sets out the evidential background in detail. Specific paragraphs which it is anticipated will serve to assist the Court in preparing for the Directions Hearing are as follows:

Para of Jordan 1	Brief description
10 - 13	General background to the application
15	Costs of direct action protests
20 - 21	Evidence of ongoing threat
28 - 29	Summary of activist actions
44 - 49	Description of the eviction of a similar site to Cash's Pit

57	Further description of the activities undertaken by activists on another similar site
64 - 68	Evidence of the reality of tunnel removals
72 - 79	Evidence relating to Cash's Pit
80 - 82	Evidence of threat and need for injunctive relief
Exhibits	
Page 1	Phase One incidents
Page 3	Phase 2a incidents
Page 6	Incident location map
Page 77 - 79	Maps and photos of the Cash's Pit Land

7. Video evidence is provided as Exhibit RJ2 and JAD5 (an exhibit to the Second Witness Statement of Julie Dilcock ("Dilcock 2")). It is not suggested that the Court should watch every video (each of which is summarised in indexes exhibited to the relevant witness statement), but the Court may wish to view the following videos and the timestamps indicated to gather an impression of the activity which found the Claimants' application.

RJ2 Video Number	Suggested Time Stamps	Description
3	1m – 2m	Statement of intention to trespass across the HS2 route
4	3m – 4m	Statement of intention to trespass across the HS2 route
6	45s – 1m 50s	Activist social media
8	1s – 30s 3m30s – 4m	Attacking fencing in Jones Hill Wood
12	1s – 50s	Activist on high crane at Euston
13	1s – 10s 1m 45s – 2m	Activist locked on to crane on public highway
14	1s – 1m30s 10m40s – 11m20s	Public highway blockages
15	1s – 30s	Activist criminal damage to HS2 offices. Note emergency service attendance.
21	33s – 50s	Activist on excavator arm
22	In full	Evidence of very dangerous state in which activists put the land
23	In full	Abusive behaviour
25	In full	Serious disorder and assault
26	In full	HS2 contractors grappling with resistant activist at height
28	First 2 minutes	Interference with fencing, refusal to leave the land, extensive staff requirement
29	1s – 1m10s	Traffic disruption resulting from "lock on"
46	In full	Activists surrounding working digger

JAD5 Video Number	Suggested Time Stamps	Description
1	In full	ITV news report on Cash's Pit highlighting tunnelling and stated intentions to resist eviction

Legal and Procedural Background

8. The legislative framework of the HS2 scheme is set out in the First Witness Statement of Julie Dilcock ("Dilcock 1") at paragraphs 10 – 26.
9. The HS2 Land, which is the land over which the Claimants' seek injunctive relief is described at paragraph 28 – 36 of Dilcock 1.
10. Service is addressed in Dilcock 1 at paragraphs 57 – 64, and Dilcock 2 at paragraphs 7 – 12.

Key Authorities

11. The Claimants anticipate that the Court will be familiar with the relevant tests and recent authorities in respect of injunctive relief in general (which are set out in full in the Claimants' Skeleton Arguments), and provide here suggested extracts from the case authorities which address specific points which is it submitted are relevant to the HS2 Scheme and the present proceedings:

Para(s)	Authority	Relevance
136	SSfT & HS2 v Persons Unknown (Harvil Road) [2019] EWHC 1437 (Ch)	Article 10 & 11 ECHR in context of HS2 Scheme
11	Ackroyd v HS2 Ltd [2020] EWHC 1460 (QB)	Article 8 ECHR in context of HS2 Scheme and trespass
117, 133	Packham v SSfT and HS2 [2020] EWHC 829 (Admin)	Parliament has addressed public interest considerations in the HS2 Act. There is strong public interest in ensuring that activities sanctioned by Parliament are not stopped by individuals who do not agree

63	SSfT and High Speed Two (HS2) Limited v Cuciurean [2020] EWHC 2614 (Ch)	Operation of service provisions in the context of a persons unknown injunction
14 – 15; 25 – 26; 70	Cuciurean v SSfT and High Speed Two (HS2) Limited [2021] EWCA Civ 357	Operation of service provisions in the context of a persons unknown injunction
24(7)	National Highways Limited v Persons Unknown & Ors [2021] EWHC 3081 (QB)	On geographic extent of injunctive relief and the justification for a wide injunction.
46, 50, 77, 84, 87	DPP v Cuciurean [2022] EWHC 736 (Admin)	Article 10 & 11 ECHR in context of HS2 Scheme; the democratic mandate for the HS2 Scheme; and direct action protest in context.

**RICHARD KIMBLIN QC
MICHAEL FRY**

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Francis Taylor Building**

21 April 2022