

On behalf of: the Claimants
By: M E Barraclough
Statement No: 1
Exhibit: MEB1

Date: 24 August 2022

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 ORDER DATED 11 APRIL 2022 ("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, AND GREEN ON THE HS2 LAND PLANS AT <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> ("THE HS2 LAND") WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES**
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND IN CONNECTION WITH THE HS2 SCHEME WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT, WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES 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 MARY
ELIZABETH BARRACLOUGH**

I, MARY ELIZABETH BARRACLOUGH, of DLA Piper UK LLP, 1 St Pauls Place, Sheffield, S1 2JX **WILL SAY** as follows:

1. I am a solicitor of the Senior Courts of England and Wales and a Senior Associate at DLA Piper UK LLP ("**DLA**") with shared day-to-day conduct of this matter under the supervision of my partners. I am authorised to make this Witness Statement on behalf of the Claimants.
2. I make this statement in support of the Claimants' application dated 23 August 2022 ("**Application**") for an extension of the three interim injunction orders made in these and other related proceedings as follows:
 - 2.1 The Order of David Holland QC (sitting as Deputy Judge of the High Court) dated 4 September 2020 made in proceedings under claim number PT-2018-000098 ("**the Harvil Road Injunction**");
 - 2.2 The Order of Mr Justice Marcus Smith dated 13 April 2021 made in proceedings under claim number PT-2020-BHM-000017 ("**the Cubbington & Crackley Injunction**"); and
 - 2.3 The Order of Mr Justice Cotter dated 11 April 2022 made in these proceedings under claim number QB-2022-BHM-000044 ("**the Cash's Pit Injunction**"),(together, "**the Orders**"). Copies of the Orders are at pages 1 to 39 of MEB1.
3. The matters I set out in this statement are within my own knowledge, whether directly or resulting from matters reported to me – both orally and in writing. Where matters are based upon information received from a third party, I identify

the third party source and why I believe the truth of the matters stated. The contents of this statement are true to the best of my knowledge and belief.

4. There is now produced and shown to me and exhibited hereto a bundle of documents marked MEB1. References in this witness statement to page numbers are to page numbers within that bundle.
5. As I explain below, the reason that this temporary extension is sought on an urgent basis is that the trial in these proceedings took place in May 2022, but the Claimants are awaiting final judgment. In these proceedings, the Claimants sought 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**”).
6. Should the court see fit to grant the injunction sought in these proceedings over the HS2 Land, the intention is that the land covered by the existing Orders will be included in the new injunction and for the existing Orders to be discharged (and the proceedings with claim numbers PT-2018-000098 and PT-2020-BHM-000017 discontinued). Due to reasons beyond the Claimants’ control which I explain further below, judgment has not yet been received in these proceedings. It is unclear when the judgment will be handed down, but that is unlikely to be before the date specified in at least one of the Orders for the cesser of the interim injunctions.
7. This application is therefore intended to maintain the status quo for a short period until judgment is received in these proceedings. This statement therefore:
 - 7.1 Provides a brief background to these proceedings and updates the Court on relevant matters that have taken place since these proceedings were last before the Court; and
 - 7.2 Explains why the Claimants consider that there is a continuing and ongoing risk of trespass on the land which is the subject of the Orders to justify a temporary extension to that relief.

Earlier Proceedings

8. As set out at paragraph 2 above, the Claimants have obtained three interim injunctions over areas of the HS2 Land to restrain unlawful activity by those opposed to the HS2 Scheme.
9. The first is the Harvil Road Injunction which was first imposed by the High Court in February 2018. 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. Those proceedings were awaiting the listing of a CMC to set directions to take the matter to trial when the making of the application in these proceedings for an injunction over the HS2 Land superseded them.
10. The second is the Cubbington & Crackley Injunction which was first imposed by the High Court in March 2020. The Court reviewed and extended it by way of an order dated 13 April 2021. Those proceedings are stayed with liberty to apply.
11. The third is the Cash's Pit Injunction which was first imposed by the High Court in these proceedings by an order dated 11 April 2022. These proceedings were listed for trial on 26 and 27 May 2022 in the High Court in Birmingham before Mr Justice Julian Knowles ("**Knowles J**").
12. The Orders are subject to the following long stop dates:
 - 12.1 The Harvil Road Injunction – 4 September 2022;
 - 12.2 The Cubbington & Crackley Injunction – 31 October 2022; and
 - 12.3 The Cash's Pit Injunction – 24 October 2022
13. The Claimants seek in these proceedings an injunction over the whole of the HS2 Land, which would consolidate the Orders.

Trial in these proceedings and recent developments

14. As set out at paragraph 11 above, the trial in these proceedings took place on 26 and 27 May 2022 before Knowles J. I was present in court for both days of the trial.
15. At the conclusion of the trial, Knowles J recognised the urgency of giving judgment and stated that he would provide the draft judgment as soon as possible.

16. Towards the end of July 2022, judgment had still not been received from Knowles J, and both the Claimants and DLA became aware from news reports that following the trial in these proceedings, Knowles J had been presiding over a lengthy murder trial in Bristol Crown Court, towards the end of which he had been taken ill and was unable to continue. I exhibit relevant news reports from the BBC and ITV news websites at pages 40 to 43 of MEB1.
17. Since learning of Knowles J's illness, Counsel for the Claimants have regularly been in contact with the Court both to wish Knowles J well and to seek to ascertain whether the judgment in these proceedings is likely to be handed down before the expiry of the long stop dates of the Orders. Unfortunately, Counsel for the Claimants have, as at the date of this witness statement been unable to ascertain from the Court whether Knowles J is likely to be well enough to return to work in the immediate future, and consequently, when the judgment is likely to be handed down. The Claimants do of course appreciate that it is Summer Vacation and that the Court is operating a skeleton staff.
18. The Claimants are concerned that the lack of judgment in these proceedings (which they anticipate would ordinarily have been received by now) exposes the Claimants to the risk that the Defendants will trespass on or obstruct access to the HS2 Land which is currently protected by injunctions if the Orders are allowed to lapse pending the judgment being handed down.
19. In the circumstances, the Claimants are of the view that this urgent application is necessary.

Ongoing risk of unlawful conduct and need for continuing injunctive relief

20. The Claimants consider that there is a real risk that the Defendants will trespass on or obstruct access to the HS2 Land if the Orders are allowed to lapse pending final judgment in these proceedings.
21. Given the large number of incidents of trespass, obstruction and damage experienced by the Claimants on the HS2 Land over the course of the last four and a half years and the stated commitment (often expressed in violent language) of the Defendants to continue with the unlawful activity, the Claimants reasonably fear that the HS2 Land remains at significant risk of trespass by the Defendants and that incidents of damage to fences, gates, vehicles and equipment and obstruction of access will continue. In fact, the Claimants consider it likely

that unlawful activity by the Defendants will only continue to escalate if left unchecked by the Court as works on the HS2 Land progress. The acts of trespass and obstruction are often accompanied by incidents of verbal harassment and physical intimidation of staff and contractors, including some violent acts. The Defendants' activities place both themselves and the Claimants' contractors, sub-contractors and employees at significant risk of injury or even death and that is an overriding concern that has led to the Claimants' decision to seek the assistance of the Court in preventing further incidents.

22. For the Court's convenience, I exhibit at pages 44 to 67 of MEB1 the Claimants' skeleton argument on the merits in these proceedings which addresses the basis of the application for injunctive relief, the risk of continued unlawfulness and the reasons to grant the wider order in respect of the whole of the HS2 Land¹.
23. The Defendants in these proceedings and the underlying proceedings relating to the Harvil Road Injunction and the Cubbington & Crackley Injunction have a history of trespassing on the HS2 Land and moving from one part of the HS2 Land to another when displaced. The Claimants reasonably fear that if the Orders are allowed to lapse, the Defendants will seek to reoccupy the land covered by the Orders, or indeed other HS2 Land, as they have done previously.
24. Whilst the Orders have not wholly prevented unlawful disruption, they have been broadly successful and remain of great assistance to the Claimants' activities. The Claimants therefore believe that the Orders should be continued to deter further disruption.
25. I am informed by in-house counsel for the First Claimant that since the trial on 26 and 27 May 2022 incidents of trespass on or obstruction of access to the HS2 Land have markedly decreased. The Claimants believe this is because the Defendants have been awaiting the judgment in these proceedings before deciding whether to continue with their campaign of direct-action protest. In this regard the proceedings themselves appear to have had a deterrent effect on the Defendants and encouraged them to confine their actions to lawful means of protest.

¹ The Claimants are aware that the Court does have hard copy bundles of the application on file. All of the relevant documents are also available on a website set up for the proceedings by the Claimants at: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings>

Contempt of Court Proceedings

26. As a result of breaches of the Cash's Pit Injunction, the Claimants brought an application in these proceedings for contempt of court against 7 of the named Defendants to these proceedings.
27. That application was tried from 25 to 28 July 2022 and resulted in the following sanctions being handed down by the Court:

| Defendant | Sanction |
|---|--|
| (D18) William Harewood (AKA Satchel / Satchel Baggins) | Custodial sentence of 184 days suspended for 24 months, £3,000 fine and costs of £12,486 |
| (D61) David Buchan (AKA David Holliday) | Immediate custodial sentence of 100 days, £1,500 fine and costs of £12,486 |
| (D64) Stefan Wright | Immediate custodial sentence of 332 days, £3,000 fine and costs of £12,486 |
| (D65) Liam Walters | Custodial sentence of 156 days suspended for 24 months, £2,000 fine and costs of £12,486 |

28. On 19 August 2022, D61 served an application to purge his contempt. No date has yet been set for that hearing.
29. In respect of the other 3 named Defendants to the contempt application:
- 29.1 (D33) Elliot Cuciurean (AKA Jellytot) – admitted breaching the Cash's Pit Injunction. The element of the contempt hearing dealing with any sanction to be imposed on D33 was adjourned until 22 September 2022 and costs reserved; and
- 29.2 (D31) Rory Hooper and (D62) Leanne Swateridge (AKA Flowery Zebra) both gave undertakings to the Court which were approved.
30. For the purposes of this statement, I mention this separate application as evidence that the Claimants will seek to enforce the Orders should the Defendants act in

defiance of the Orders and to explain to the Court why the Claimants perceive there to be an ongoing risk of unlawful conduct.

Extension Application

31. The Claimants do not seek to stifle anti-HS2 views and respect the right to engage in lawful protest and to express views that are opposed to the HS2 Scheme. The Claimants seek the Court's assistance to try to ensure that the Defendants do not resort to unlawful direct-action activity. Not only is that conduct unlawful, but it is extremely disruptive, dangerous, costly and unpleasant and difficult for those engaged in work on the HS2 Land. The activity of the Defendants is an attempt, not to articulate views, but a hard-fought and continuous campaign to try to compel the Claimants to stop the work they are mandated to do by an Act of Parliament.
32. In the circumstances, given the continued threat to the land covered by the Orders, the Claimants' purpose in making this application is the narrow one of seeking a temporary extension of the long stop dates in order to maintain the protection to the HS2 Land afforded by the Orders for a reasonable period of time until final judgment is received in these proceedings and any consequent order is made and served. I can confirm that the draft order enclosed with this application is in materially the same terms as the existing Orders with the only variation proposed by the Claimants being an extension of the long stop dates.
33. The current application seeks to obtain the minimum protection that is necessary to protect the Claimants' interests and seeks at this stage only to extend temporarily the orders obtained and not to modify or extend them (other than in the respect explained). Whilst it may be the case that some modification will be required if the Court is minded to give final judgment for the Claimants (consolidating the Orders), that is a matter for the judgment.
34. The Claimants reasonably fear that the land that is the subject of the Orders remains at risk of trespass and nuisance should the Orders be allowed to lapse without the continuation of the injunctions.
35. I confirm that the Claimants remain prepared to continue to offer the cross-undertaking in damages contained in the Orders.

Statement of Truth

I believe that the facts 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:

A handwritten signature in blue ink that reads "M. E. Barracough". The signature is written in a cursive style with a long, sweeping underline.

Name: **MARY ELIZABETH BARRACLOUGH**

Dated: **24 August 2022**