

## Application notice

For help in completing this form please read the notes for guidance form N244 Notes.

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<https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personal-information-charter>

<b>Name of court</b> High Court of Justice King's Bench Division Birmingham District Registry		<b>Claim no.</b> QB-2022-BHM-000044										
<b>Fee account no.</b> (if applicable)	<b>Help with Fees – Ref. no.</b> (if applicable)											
PBA:0087960	<table border="1"> <tr> <td>H</td> <td>W</td> <td>F</td> <td>-</td> <td></td> <td></td> <td>-</td> <td></td> <td></td> <td></td> </tr> </table>		H	W	F	-			-			
H	W	F	-			-						
<b>Warrant no.</b> (if applicable)												
<b>Claimant's name</b> (including ref.) (1) High Speed Two (HS2) Limited (2) The Secretary of State for Transport (Ref: RXS/380900/401)												
<b>Defendant's name</b> (including ref.) (1)–(4) Four Categories of Persons Unknown (5) – Ross Monaghan and 60 other Named Defendants												
<b>Date</b>	2 June 2023											

1. What is your name or, if you are a legal representative, the name of your firm?

DLA Piper UK LLP

2. Are you a  Claimant  Defendant  Legal Representative

Other (please specify)

If you are a legal representative whom do you represent?

Claimant

3. What order are you asking the court to make and why?

An order in the form of the draft order enclosed seeking:

- 1) that the sunset date at paragraph 3 of the Order of Mr Justice Julian Knowles dated 20.09.2022 (the **“Injunction”**) is varied from 23:59 on 31 May 2023 to 23:59 on 14 June 2023; and
- 2) that the Applicants be permitted to serve the proposed order by alternative means.

4. Have you attached a draft of the order you are applying for?  Yes  No

5. How do you want to have this application dealt with?  at a hearing  without a hearing

6. How long do you think the hearing will last?

30 Minutes

Is this time estimate agreed by all parties?

Yes  No

7. Give details of any fixed trial date or period

None

8. What level of Judge does your hearing need?

High Court Judge

9. Who should be served with this application?

(1)–(4) Four Categories of Persons Unknown  
(5) – Ross Monaghan and 60 other Named Defendants

9a. Please give the service address, (other than details of the claimant or defendant) of any party named in question 9.

The Claimant will deal with effecting service of this Application on the Defendants in accordance with the Directions Order dated 15 March 2023.


10. What information will you be relying on, in support of your application?

- the attached witness statement
- the statement of case
- the evidence set out in the box below

If necessary, please continue on a separate sheet.

Please see the attached witness statements of James Dobson, Julie Dilcock and John Groves.

**Statement of Truth**  
The applicant believes that the facts stated in this section (and any continuation sheets) are true. The applicant understands 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  Dated **2 June 2023**  
Applicant's legal representative

Full name: **Robert Shaw**

Name of applicant's legal representative's firm: **DLA Piper UK LLP**

Position or office held: **Solicitor**  
(if signing on behalf of firm or company)

11. Signature and address details

Signed  Dated **2 June 2023**  
Applicant's legal representative

Position or office held: **Solicitor**  
(if signing on behalf of firm or company)

Applicant's address to which documents about this application should be sent

DLA Piper UK LLP  
1 St. Paul's Place  
Sheffield

If applicable	
Phone no.	0114 283 3312
Fax no.	
DX no.	DX 708580 Sheffield 10

Postcode			S	1		2	J	X		Ref no.	RXS/388900/401
E-mail address	rob.shaw@dlapiper.com / mary.barracough@dlapiper.com										

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

Before:  
On: 2 June 2023

Between:

(1) HIGH SPEED TWO (HS2) LIMITED  
(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 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/Respondents

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ORDER

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PENAL NOTICE

IF YOU THE WITHIN NAMED DEFENDANTS OR ANY OF YOU DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE YOUR ASSETS SEIZED.

## IMPORTANT NOTICE TO THE DEFENDANTS

**This Order prohibits you from doing the acts set out in this Order. You should read it very carefully. You are advised to consult a solicitor as soon as possible. You have the right to ask the Court to vary or discharge this Order.**

**A Defendant who is an individual who is ordered not to do something must not do it himself/herself or in any other way. He/she must not do it through others acting on his/her behalf or on his/her instructions or with his/her encouragement.**

**FURTHER TO** the Orders made in these proceedings by Julian Knowles J on 20 September 2022 (the “**Injunction Order**”) and by HHJ Kelly on 16 March 2023 (the “**Directions Order**”).

**AND UPON** the Claimants’ application by Application Notice dated 27 March 2023 pursuant to the provisions at paragraphs 15 and 20 of the Injunction Order (“**March 2023 Application**”).

**AND UPON** the Claimants’ application by Application Notice dated 2 June 2023 seeking an extension to the sunset provision in the Injunction Order (“**Extension Application**”).

**AND UPON** the Court accepting the Claimants’ renewed undertaking that they will comply with any order for compensation which the Court might make in the event that the Court later finds that this Order has caused loss to a Defendant and the Court finds that the Defendant ought to be compensated for that loss.

**AND UPON** the Claimants’ renewed confirmation that this Order is not intended to prohibit lawful protest which does not involve trespass upon the HS2 Land and does not block, slow down, obstruct or otherwise interfere with the Claimants’ access to or egress from the HS2 Land (as defined in the Injunction Order).

**AND UPON** the Claimants’ renewed confirmation that they do not intend for any freeholder or leaseholder with a lawful interest in the HS2 Land to fall within the Defendants to this Order, and undertaking not to make any committal application in respect of a breach of this Order, where the breach is carried out by a freeholder or leaseholder with a lawful interest in the HS2 Land on the land upon which that person has an interest.

**AND UPON** the Claimants’ renewed confirmation that this Order is not intended to act against any guests or invitees of any freeholders or leaseholders with a lawful interest in the HS2 Land unless that guest or invitee undertakes actions with the effect of damaging, delaying or otherwise hindering the HS2 Scheme on the land held by the freeholder or leaseholder with a lawful interest in the HS2 Land.

**AND UPON** [considering the Extension Application on the papers] [**HEARING** Counsel for the Claimants]

**IT IS ORDERED THAT:**

1. The date at paragraph 3 of the Injunction Order is varied with immediate effect from 23:59 on 31 May 2023 to 23.59 on 14 June 2024.
2. The Court will provide sealed copies of this Order to the Claimants' solicitors for service (whose details are set out below).
3. Pursuant to CPR r.6.27 and r.81.4, the Claimants shall serve this Order upon the Defendants by placing a copy of this Order on the following website:  
<https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>
4. Service in accordance with paragraph 3 above shall:
  - (a) be verified by certificates of service to be filed with Court;
  - (b) be good and sufficient service of this Order on the Defendants and each of them and the need for personal service be dispensed with.
5. The Claimants otherwise have liberty to apply to extend or vary this Order or for further directions.
6. This order has been made by the Court pursuant to CPR 23.9 as the Court has disposed of an application without service of a copy of the application notice. Any person not served with a copy of the application notice before the order was made may apply to have the order set aside or varied, with any such application to be made within 7 days after the date on which this order was served on the person making the application.

**Costs**

7. There be no order as to costs as between any of the parties in respect of the Extension Application.
8. The Claimants' solicitors and their contact details are:

FAO: HS2 TEAM  
DLA PIPER UK LLP  
1 St Paul's Place  
Sheffield  
S1 2JX

E: HS2Injunction@dlapiper.com  
T: 0114 283 3312  
DX: 708580 Sheffield 10  
Ref: RXS/380900/401

**BY THE COURT**

**MADE ON [DATE]**

On behalf of: Applicants/Claimants  
R. Shaw  
Exhibits: RXS1  
Date: 2 June 2023

Claim No. QB-2022-BHM-000044

IN THE HIGH COURT OF JUSTICE  
KINGS 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")
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- (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

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WITNESS STATEMENT OF ROBERT SHAW

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I, ROBERT SHAW, of DLA Piper UK LLP of 1 St. Paul's Place, Sheffield, S1 2JX WILL SAY as follows:



1. I am a solicitor of the Senior Courts of England and Wales and a Legal Director at DLA Piper UK LLP with day to day conduct of this matter under the supervision of my partners. I am authorised to make this statement on behalf of the Applicants.
2. I make this statement in support of the Applicants' application dated 2 June 2023 that the sunset date in the injunction order granted by Mr. Justice Julian Knowles on 20 September 2022 (the "**Injunction Order**") be extended for a short period of time (2 weeks), that is until Wednesday 14 June 2023. A copy of the Injunction Order is at pages 1 to 20 of RXS1.
3. The Injunction Order was made by Mr. Justice Julian Knowles in order to restrain trespass and nuisance on to land acquired for the HS2 railway scheme.
4. As per paragraph 3 of the Injunction Order, the sunset date was 23:59 on 31 May 2023 (the "**Sunset Date**").
5. On 16 May 2023, the Injunction order was reconsidered at a hearing before Mr. Justice Ritchie, as per the requirement at paragraph 15 of the Injunction Order (the "**Review Hearing**")
6. At the Review Hearing, the Applicants sought, inter alia, a continuation of the Injunction Order for a further 12 months. At pages 21 to 23 of RXS1 is a copy of the Applicants' Application Notice that was filed prior to the Review Hearing (the "**Review Application**").
7. I was present at the Review Hearing and at pages 24 to 42 of RXS1 is a copy of a note of the Review Hearing, prepared by my trainee (Saffron Goldberg) who was also present.
8. At page 41 of RXS1, Mr. Justice Ritchie summarises the decisions he will be making in respect of the Review Application. Notably the judge confirmed that "*I will be extending the current injunction for a further 12 months*" and stated "*I hope counsel can get to me in good time before 31st May 2023*" when referring to the draft form of order.
9. The judge therefore confirmed that the Injunction Order would be extended for 12 months and was conscious of the upcoming Sunset Date.

10. Following the Review Hearing, Counsel for the Applicants and for Defendant No. 6 (James Knaggs) prepared two draft orders – a new Injunction Order (recording the terms of the injunction that was to be extended) and a Judgment Order (recording the outcome of the Review Hearing). Those draft orders were submitted to Mr. Justice Ritchie’s clerk on 24 May 2023.
11. The Applicants have heard not heard further from the judge or his clerk since this date regarding the current status of the draft orders and whether they have been made. The Sunset Date has also come and gone.
12. Counsel for the Applicants has attempted to contact the judge’s clerk by email and phone. There has been no reply.
13. Separately I have spoke with the court staff at Birmingham Civil Justice Centre, who have themselves attempted to reach Mr. Justice Ritchie and his clerk. They too have confirmed to me that they have had no response. They have informed me that Mr. Justice Ritchie and his clerk may both be on leave, but the court staff have been unable to confirm this and when either will return.
14. The Applicants’ are understandably concerned that as the Sunset Date has come and gone, the land covered by the Injunction Order is no longer protected and could become subject to the same unlawful protests, trespass and nuisance that caused them to apply for the Injunction Order originally.
15. The Applicants therefore request that the Injunction Order be extended for a short period of time (2 weeks) to allow for Mr. Justice Ritchie to consider and make the orders resulting from the Review Hearing.
16. The Applicants do not propose any changes to the Injunction Order other than an extension to the Sunset Date to 23:59 on 14 June 2023.
17. The Applicants also request that the court permit service of the order extending the Injunction Order to be via the “RWI Updated Website”. This is to ensure that such order can be brought to the attention of the Defendants as soon as possible and because any methods of service that cannot be effected almost immediately present a further period of time when the land is further at risk. The Applicants therefore request that service is permitted via the same method as permitted by HHJ Kelly at paragraph 6.a.

of the Directions Order made on 16 March 2023. A copy of the Directions Order is at pages 43 to 51 of RXS1.

**Statement of Truth**

I believe that the facts in this witness statements 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 .....

Name: ROBERT SHAW

Dated: 2 June 2023

On behalf of: Applicants/Claimants  
R. Shaw  
Exhibits: RXS1  
Date: 2 June 2023

Claim No. QB-2022-BHM-000044

IN THE HIGH COURT OF JUSTICE  
KINGS 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")
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- (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

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EXHIBIT RXS1

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This is the exhibit marked RXS1 referred to in the witness statement of Robert Shaw dated this 2<sup>nd</sup> day of June 2023.

Signed:  .....

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

MR JUSTICE JULIAN KNOWLES

Between:

(1) HIGH SPEED TWO (HS2) LIMITED

(2) THE SECRETARY OF STATE FOR TRANSPORT

-and-

Claimants

- (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")
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- (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

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ORDER

---

**PENAL NOTICE**

**IF YOU THE WITHIN NAMED DEFENDANTS OR ANY OF YOU DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE YOUR ASSETS SEIZED.**

**IMPORTANT NOTICE TO THE DEFENDANTS**

**This Order prohibits you from doing the acts set out in this Order. You should read it very carefully. You are advised to consult a solicitor as soon as possible. You have the right to ask the Court to vary or discharge this Order.**

**A Defendant who is an individual who is ordered not to do something must not do it himself/herself or in any other way. He/she must not do it through others acting on his/her behalf or on his/her instructions or with his/her encouragement.**

**UPON** the Claimants' application by an Application Notice dated 25 March 2022.

**AND UPON** Mr Justice Cotter making an Order on 11 April 2022 approving service on the Cash's Pit Defendants (as defined in this Order), granting a possession order, declaratory relief and interim injunctive relief in relation to the Cash's Pit Land.

**AND UPON** Mr Justice Julian Knowles making an Order on 28 April 2022 making directions and approving service in respect of the Claimants' Application on Named Defendants (as defined in this Order).

**AND UPON** the Court accepting the Claimants' undertaking that they will comply with any order for compensation which the Court might make in the event that the Court later finds that this Order has caused loss to a Defendant and the Court finds that the Defendant ought to be compensated for that loss.

**AND UPON** the Claimants confirming that this Order is not intended to prohibit lawful protest which does not involve trespass upon the HS2 Land and does not block, slow down, obstruct or otherwise interfere with the Claimants' access to or egress from the HS2 Land.

**AND UPON** the Claimants confirming that they do not intend for any freeholder or leaseholder with a lawful interest in the HS2 Land to fall within the Defendants to this Order, and undertaking not to make any committal application in respect of a breach of this Order, where the breach is carried out by a freeholder or leaseholder with a lawful interest in the HS2 Land on the land upon which that person has an interest.

**AND UPON** the Claimants confirming that this Order is not intended to act against any guests or invitees of any freeholders or leaseholders with a lawful interest in the HS2 Land unless that guest or

invitee undertakes actions with the effect of damaging, delaying or otherwise hindering the HS2 Scheme on the land held by the freeholder or leaseholder with a lawful interest in the HS2 Land.

**AND UPON HEARING** Counsel for the Claimant, Mr Richard Kimblin KC, Mr Michael Fry, Ms Sioned Davies and Mr Jonathan Welch, and for the Sixth Defendant Mr Timothy Moloney KC and Mr Owen Greenhall, other Defendants in person and various non-Defendants in person.

**IT IS ORDERED THAT:**

**Definitions**

1. In this Order, the following defined terms shall apply:
  - a. The “HS2 Proceedings Website” means the webpages at: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings>.
  - b. The “Cash’s Pit Defendants” means D1, D5 to D20, D22, D31 and D63 whose names appear in the schedule annexed to this Order at Annex A.
  - c. The “Named Defendants” means D5 to D63 whose names appear in Annex A.
  - d. The term “Defendants” refers to all Defendants 1 – 63.
  - e. The “Cash’s Pit Land” means all of the land known as Cash’s Pit, Staffordshire shown coloured orange on Plan A annexed to the Order dated 11 April 2022 and reproduced as an annexe to this Order (“**Plan A**”).
  - f. The “Harvil Road Land” means the land subject to the Order of David Holland KC (sitting as Deputy Judge of the High Court) in PT-2018-000098 dated 4 September 2020 and the Order of Mrs Justice Heather Williams dated 1 September 2022.
  - g. The “Crackley and Cubbington Land” means the land subject to the Order of Mr Justice Marcus Smith in PT-2020-BHM-000017 dated 3 May 2021 and sealed on 7 May 2021.
  - h. The “HS2 Land” means all of the land acquired or held by the Claimants in connection with the High Speed 2 Railway Scheme shown coloured pink and green on the plans which are available electronically on the HS2 Proceedings Website. For the avoidance of doubt, the Cash’s Pit Land, the Harvil Road Land and the Crackley and Cubbington Land are included within the HS2 Land.

**Service by Alternative Method – Proceedings**

2. Pursuant to CPR r. 6.15 and r.6.27, the steps that the Claimants have taken to serve the Claim, the Application and the evidence in support on the Defendants shall amount to good and proper service of the proceedings on the Defendants and each of them.

### **Injunction in force**

3. With immediate effect, and until 23.59 on 31 May 2023 unless varied, discharged or extended by further order, the Defendants and each of them are forbidden from doing the following:
  - a. entering or remaining upon the HS2 Land;
  - b. deliberately obstructing or otherwise interfering with the free movement of vehicles, equipment or persons accessing or egressing the HS2 Land; or
  - c. interfering with any fence or gate on or at the perimeter of the HS2 Land.
  
4. Nothing in paragraph 3 of this Order:
  - a. Shall prevent any person from exercising their rights over any open public right of way over the HS2 Land.
  - b. Shall affect any private rights of access over the HS2 Land.
  - c. Shall prevent any person from exercising their lawful rights over any public highway.
  - d. Shall extend to any person holding a lawful freehold or leasehold interest in land over which the Claimants have taken temporary possession.
  - e. Shall extend to any interest in land held by statutory undertakers.
  
5. For the purposes of paragraph 3(b) prohibited acts of obstruction and interference shall include (but not be limited to):
  - a. standing, kneeling, sitting or lying or otherwise remaining present on the carriageway when any vehicle is attempting to turn into the HS2 Land or attempting to turn out of the HS2 Land in a manner which impedes the free passage of the vehicle;
  - b. digging, erecting any structure or otherwise placing or leaving any object or thing on the carriageway which may slow or impede the safe and uninterrupted passage of vehicles or persons onto or from the HS2 Land;
  - c. affixing or attaching their person to the surface of the carriageway where it may slow or impede the safe and uninterrupted passage of vehicles onto or from the HS2 Land;
  - d. affixing any other object to the HS2 Land which may delay or impede the free passage of any vehicle or person to or from the HS2 Land;
  - e. climbing on to or affixing any object or person to any vehicle in the vicinity of the HS2 Land; and
  - f. deliberate slow walking in front of vehicles in the vicinity of the HS2 Land.



6. For the purposes of paragraph 3(c) prohibited acts of interference shall include (but not be limited to):
  - a. cutting, damaging, moving, climbing on or over, digging beneath, or removing any items affixed to, any temporary or permanent fencing or gate on or at the perimeter of the HS2 Land;
  - b. the prohibition includes carrying out the aforementioned acts in respect of the fences and gates; and
  - c. interference with a gate includes drilling the lock, gluing the lock or any other activities which may prevent the use of the gate.

**Service by Alternative Method – This Order**

7. The Court will provide sealed copies of this Order to the Claimants' solicitors for service (whose details are set out below).
8. Pursuant to CPR r.6.27 and r.81.4:
  - a. The Claimants shall serve this Order upon the Cash's Pit Defendants by affixing 6 copies of this Order in prominent positions on the perimeter of the Cash's Pit Land.
  - b. Further, the Claimants shall serve this Order upon the Second, Third and Fourth Defendants by:
    - i. Affixing 6 copies in prominent positions on the perimeter of each of the Cash's Pit Land (which may be the same copies identified in 8(a) above), the Harvil Road Land and the Crackley and Cubbington Land.
    - ii. Advertising the existence of this Order in the Times and Guardian newspapers, and in particular advertising the web address of the HS2 Proceedings Website, and direct link to this Order.
    - iii. Where permission is granted by the relevant authority, by placing an advertisement and/or a hard copy of the Order within 14 libraries approximately every 10 miles along the route of the HS2 Scheme. In the alternative, if permission is not granted, the Claimants shall use reasonable endeavours to place advertisements on local parish council notice boards in the same approximate locations.



whom they become aware is, or has been, on the HS2 Land without consent and shall verify any such service with further certificates of service (where possible if persons unknown can be identified) to be filed with Court.

### **Discontinuance and discharge of Orders**

12. The following claims are discontinued with no order as to costs:
  - a. PT-2018-000098 (Harvil Road); and
  - b. PT-2020-BHM-000017 (Cubbington and Crackley).
  
13. The following orders of the court are discharged and replaced by the injunction contained in paragraph 3 of this Order:
  - a. The Order of David Holland QC (sitting as Deputy Judge of the High Court) in PT-2018-000098 dated 4 September 2020 and sealed on 18 September 2020 and the Order of Mrs Justice Heather Williams dated 1 September 2022 (in respect of the Harvil Road Land);
  - b. The Order of Mr Justice Marcus Smith in PT-2020-BHM-000017 dated 3 May 2021 and sealed on 7 May 2021 (in respect of the Crackley and Cubbington Land); and
  - c. The Order of Mr Justice Cotter dated 11 April 2022 and sealed on 12 April 2022 (in respect of the Cash's Pit Land).
  
14. The Claimants' application, dated 23 August 2022 to extend the three interim injunctions referred to in paragraph 13 above, shall stand withdrawn with no order as to costs.

### **Further Case Management**

15. This Order will be reconsidered at a hearing to be listed on approximately a yearly basis between 15 and 31 May to determine whether there is a continued threat which justifies continuation of this Order. It will be the Claimants' responsibility to arrange such a hearing and to place details of any such hearing on the HS2 Proceedings Website.
  
16. Without prejudice to the foregoing, any person affected by this Order may apply to the Court at any time to vary or discharge it but if they wish to do so they must inform the Claimants' solicitors immediately (and in any event not less than 48 hours before the hearing of any such application) via the contact details set out below. Schedule A to this Order indicates the process

which must be followed for any such application. Useful sources of support and information are listed in Schedule C.

17. Any person applying to vary or discharge this Order must provide their full name and address, an address for service, and must also apply to be joined as a Named Defendant to the proceedings at the same time (unless they are already named as a defendant).
18. Any Named Defendant or other person who believes that they will or might bring themselves within the definition of the “persons unknown” by their conduct and who wishes to oppose these proceedings should file an Acknowledgment of Service pursuant to CPR Part 8.3 and serve a copy on the Claimants solicitors via the email address set out in paragraph 28 below. Schedule B to this Order indicates the process which must be followed.
19. Any Defendant who fails to comply with paragraph 18 above shall not be permitted to defend these proceedings or take any further role in these proceedings without further order of the Court and shall be liable to have injunctive relief continued against them without trial pursuant to CPR r.3.5.
20. The Claimants otherwise have liberty to apply to extend or vary this Order or for further directions.
21. Save as provided for above, the Claim be stayed generally with liberty to restore.

#### **Costs**

22. There be no order as to costs as between any of the parties to the proceedings to date in respect of the trial hearing on 26 and 27 May 2022 or any other steps to date in these proceedings.
23. If the Claimants intend to seek a costs order against any person in respect of any future applications in these proceedings or any future hearing, then they shall seek to give reasonable advance notice of that fact to that person.

#### **Documents in the Claim and Application**

24. All documents relating to these proceedings and this Order may be downloaded at: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings>.
25. A single hard copy of any document will be sent within 21 days of the receipt of a reasonable request for that document or documents via the Claimants’ solicitors whose contact details are set out below so long as any requests include a postal address and the full name of the requestor.

## **Communications with Claimants and the Court**

26. All communications to the Court about this Order (which should quote the case number) should be sent to:

Birmingham District Registry  
Civil Justice Centre  
Priory Courts  
33 Bull Street  
Birmingham  
B4 6DW

E: qb.birmingham@justice.gov.uk  
T: 0121 681 4441  
F: 01264 785 131  
DX: 701987 Birmingham 7

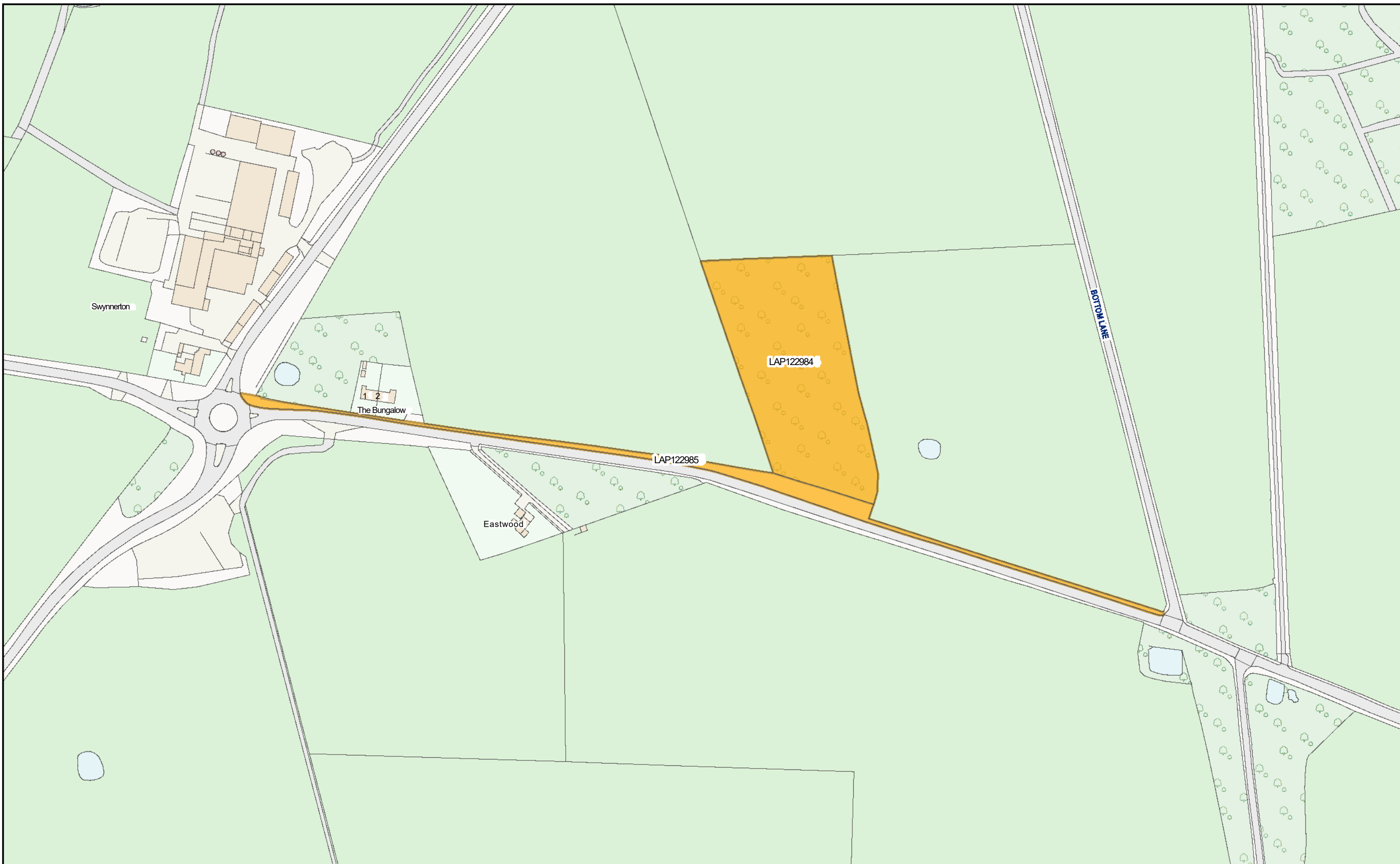
27. Any person who wishes to view or download copies of the documents shall contact the Claimants' solicitors via the contact details below.
28. The Claimants' solicitors and their contact details are:

FAO: HS2 TEAM  
DLA PIPER UK LLP  
1 St Paul's Place  
Sheffield  
S1 2JX

E: HS2Injunction@dlapiper.com  
T: 0114 283 3312  
DX: 708580 Sheffield 10  
Ref: RXS/380900/378

**Dated: 20 September 2022**

**PLAN A – CASH’S PIT LAND**



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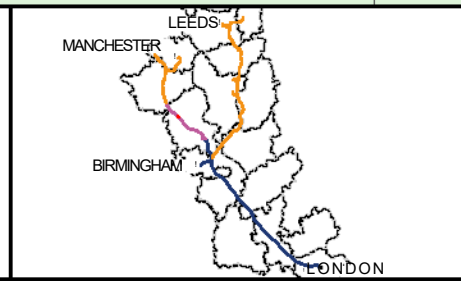
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**Legend**

 Cash's Pit Land



High Speed Two  
Phase One/ Phase 2A  
Injunction Mapping

PLAN A

Internal

**HS2** Scale at A3: 1:2,500

Registered in England. Registration number 06791686.  
Registered office: 2 Snowhill, Queensway, Birmingham B4 6GA.

0 24 48 72  
Metres

**Doc Number:** PH1-HS2-LP-MAP-000-000085 **Date:** 22/03/22

## ANNEX A – SCHEDULE OF DEFENDANTS

### PART 1

<b>DEFENDANT NUMBER</b>	<b>UNNAMED DEFENDANTS</b>
(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 <a href="https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings">https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings</a> ("THE HS2 LAND") WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUBCONTRACTORS, 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, SUBCONTRACTORS, 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

**For the avoidance of doubt, any person who has been a defendant in these proceedings, or who has given undertakings to HS2, may nevertheless become Defendant 1 – Defendant 4 as a person unknown if they commit any of the prohibited acts.**



**PART 2**

<b>DEFENDANT NUMBER</b>	<b>NAMED DEFENDANTS</b>
(5)	Mr Ross Monaghan (aka Squirrel / Ash Tree)
(6)	Mr James Andrew Taylor (aka Jimmy Knaggs / James Knaggs / Run Away Jim)
(7)	Ms Leah Oldfield
(8)	Not Used
(9)	Not Used
(10)	Not Used
(11)	Mr Tony Carne
(12)	Ms Amy Lei
(13)	Mr Tom Holmes
(14)	Not Used
(15)	Not Used
(16)	Ms Karen Wildin (aka Karen Wilding / Karen Wilden / Karen Wilder)
(17)	Mr Andrew McMaster (aka Drew Robson)
(18)	Mr William Harewood (aka Satchel / Satchel Baggins)
(19)	Mr Harrison Radcliffe (aka Log / Bir_Ch / Sasha James)
(20)	Mr George Keeler (aka C Russ T Chav / Flem)
(21)	Mr William French (aka Will French / Took)
(22)	Mr Tristan Dixon (aka Tristan Dyson)
(23)	Mx Scarlett Rien (aka Leggs)
(24)	Not Used
(25)	Not Used
(26)	Not Used
(27)	Mr Lachlan Sandford (aka Laser / Lazer)
(28)	Mr Scott Breen (aka Scotty / Digger Down)
(29)	Not Used
(30)	Not Used
(31)	Mr Rory Hooper
(32)	Not Used
(33)	Mr Elliot Cuciurean (aka Jellytot)
(34)	Mr Paul Sandison
(35)	Not Used
(36)	Mr Mark Keir
(37)	Mr Thorn Ramsey (aka Virgo Ramsay)
(38)	Mr Vajda Robert Mordechaj

<b>DEFENDANT NUMBER</b>	<b>NAMED DEFENDANTS</b>
(39)	Mr Iain Oliver (aka Pirate)
(40)	Ms Jess Walker
(41)	Mr Matt Atkinson
(42)	Ms Hannah Bennett
(43)	Mr James Ruggles (aka Jimmy Ruggles)
(44)	Mr Nick Grant (aka Potts)
(45)	Mr Stuart Ackroyd
(46)	Ms Wiktoria Paulina Zieniuk
(47)	Not Used
(48)	Mr Conner Nichols
(49)	Mr Sebastian Roblyn Maxey
(50)	Ms Jessica Heathland-Smith
(51)	Ms Ella Dorton
(52)	Mr Karl Collins
(53)	Mr Sam Goggin
(54)	Not Used
(55)	Not Used
(56)	Not Used
(57)	Ms Samantha Smithson (aka Swan / Swan Lake)
(58)	Mr Jack Charles Oliver
(59)	Ms Charlie Inskip
(60)	Mr Xavier Gonzalez Trimmer
(61)	Mr David Buchan (aka David Holliday)
(62)	Ms Leanne Swateridge (aka Leayn / Flowery Zebra)
(63)	Mr Dino Misina (aka Hedge Hog)

## **ANNEX B – WORDING FOR NOTICES**

### **[On the package containing the Order]**

“VERY URGENT: THIS PACKAGE CONTAINS AN ORDER OF THE HIGH COURT AND YOU SHOULD READ IT IMMEDIATELY AND SEEK LEGAL ADVICE. IF YOU NEED ANOTHER COPY PLEASE CONTACT –

FAO: HS2 TEAM  
DLA PIPER UK LLP  
1 St Paul’s Place  
Sheffield  
S1 2JX

E: HS2Injunction@dlapiper.com  
T: 0114 283 3038  
DX: 708580 Sheffield 10  
R: RXS/380900/378

All documents relating to these proceedings and this Order may be downloaded at:  
<https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings>”

## SCHEDULE A – STEPS TO VARY OR DISCHARGE THIS ORDER

If, in accordance with paragraph 16 above, any Defendant or any other person affected by this Order wishes to apply to vary or discharge this Order, to ensure effective case management by the Court the following indicative steps must be followed:

1. Any person seeking to contest the Claimants' entitlement to interim relief should file with the court (i.e. send to the court) and serve (i.e. send to the Claimants):

(a) An N244 application form<sup>1</sup>;

(b) Written grounds (which may be contained in within the N244 application form or a separate document) for:

- i. permission to bring the application; and
- ii. the application (i.e. reasons for the proposed variation / discharge of the Order).

Any applicant shall explain clearly within their written grounds the differences between their grounds and the issues which the Court has already adjudicated upon in the judgment of Mr Justice Julian Knowles of [20] September 2022. A copy of the judgment can be found on the HS2 Proceedings Website; and

(c) A witness statement(s) containing and/or appending all of the evidence to be relied upon in support of the application.

2. In order to file the above documents with the Court, the applicant should:

(a) Send physical copies of the documents to the address at paragraph 26 of this Order; and/or

(b) Speak to the Court to obtain an address to send electronic copies of the documents to.

3. In order to serve the above documents on the Claimants, the applicant should:

(a) Send physical copies of the documents to the address at paragraph 28 of this Order; and/or

(b) Send electronic copies of the documents to the e-mail address at paragraph 28 above.

4. The person making the application should indicate to the Court and Claimants whether they consider the matter requires a court hearing or can be dealt with by the judge reviewing the paper application and any response from the Claimants.

5. Thereafter the Claimants (i.e. HS2) shall have 14 days to file and serve evidence and submissions in response, including as to whether an oral hearing is required to determine the application.

6. Within 21 days, the Court shall decide:

- i. whether to grant permission for the application to proceed; and
- ii. if permission is granted, whether a hearing is necessary, and/or may request from the parties evidence on any further matters necessary to determine the application. If the

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<sup>1</sup> See the following link which provides a digital version of the form, and guidance notes:  
<https://www.gov.uk/government/publications/form-n244-application-notice>

Court decides that a hearing is necessary, it shall seek to schedule the hearing (accommodating availabilities of the parties) within 42 days (6 weeks).

7. If the Court decides that further evidence is needed from either party, it may set strict deadlines by which that evidence must be filed. Both parties should be aware that the Court may restrict the use of evidence which is filed late or impose other penalties for non-compliance.

## **SCHEDULE B – STEPS TO BRING MATTER TO TRIAL**

If, in accordance with paragraph 18 above, any Defendant or other person affected by this Order wishes to apply bring the Claimants' proceedings (whether as a whole or in part) to final trial, to ensure effective case management by the Court the following steps must be followed:

1. If not already so, the person must apply to become a named defendant to the claim. This can be done by filing with the court (i.e. send to the court) and serving (i.e. send to the Claimants)

(a) An N244 Application form<sup>2</sup>; and

(b) a short statement explaining the reason for applying to become a named defendant (i.e. in order to contest the Claimants' claim).

2. In order to file the above with the Court, the person who is applying should:

(a) Send physical copies to the address at paragraph 26 of this Order; and/or

(b) Speak to the Court to obtain an address to send electronic copies to.

3. In order to serve the above on the Claimants, the person applying should:

(a) Send physical copies to the address at paragraph 28 of this Order; and/or

(b) Send electronic copies to the to the e-mail address at paragraph 28 above.

4. The person seeking to contest the Order and bring the matter to trial must then file and serve (see above as to how this is to be done):

(a) An Acknowledgement of Service using form N210,<sup>3</sup> explaining the reasons for contesting the Order (whether as a whole or in part), which must include a postal address for service together with (if they wish to be served with documents electronically in these proceedings) an email address to which such service may be effected;

(b) An application for permission to contest the Order and to bring the matter to trial, which explains clearly the differences between their grounds of defence relied upon and the issues which the Court has already adjudicated upon in the judgment of Mr Justice Julian Knowles of [20] September 2022. A copy of the judgment can be found on the HS2 Proceedings Website;

(c) A written Defence responding to the allegations set out in the Particulars of Claim (to the extent in the Defendant's knowledge); and

(d) A witness statement(s) (verified by a statement of truth) containing and/or appending all the evidence to be relied upon in support of the application for permission and Defence (i.e. evidence explaining the basis for contesting the claim).

5. Thereafter the Claimants shall have 14 days after service of the Defence to file and serve any evidence in reply.

6. The Court shall then list a hearing date for a Case Management Conference, at which it will:

---

<sup>2</sup> See the following link which provides a digital version of the form, and guidance notes:

<https://www.gov.uk/government/publications/form-n244-application-notice>

<sup>3</sup> <https://www.gov.uk/government/publications/form-n210-acknowledgment-of-service-cpr-part-8>

- (a) determine the application for permission to contest the Order and to bring the matter to trial; and
- (b) should the application for permission be successful, give directions to parties for any further steps required prior to the final trial (such as filing further evidence). The Court may set strict deadlines by which the further steps must be taken and both parties should be aware that the Court may restrict the use of evidence which is filed late or impose other penalties for non-compliance.

7. Further:

- a. The Claimants shall prepare an electronic hearing bundle for the hearing and provide the Defendant(s) with access to the bundle not less than 14 days before the hearing.
- b. At the hearing, the Court shall consider whether injunctive relief shall be continued against any or all of the Defendants, whether on an interim or final basis.
- c. Any further application by the Claimants to add further named defendants, to have final relief granted against any Defendant(s) without trial pursuant to CPR r.3.5 and/or otherwise to amend its claim shall be determined at the hearing.
- d. The need for and form of any further case management directions through to trial or any further hearing shall be considered.

## **SCHEDULE C – USEFUL REFERENCES AND RESOURCES**

The attention of all parties is drawn to the following references and resources:

Bar Pro Bono Unit – A possible avenue for obtaining free legal advice and/or representation:  
<https://weareadvocate.org.uk/>

Support Through Court (formerly Personal Support Unit) – An organisation supporting litigants in person: <https://www.supportthroughcourt.org/>

Chancery Division Guide: <https://www.gov.uk/government/publications/chanceryguide>

Chancery Division Interim Applications Guide for Litigants in Person:  
<https://www.judiciary.uk/publications/guide-litigants-person-chancery/>

Civil Procedure Rules Part 8: <https://www.justice.gov.uk/courts/procedure/civil/rules/part08>

Help with Court Fees website: <https://www.gov.uk/get-help-with-court-fees>



## Application notice

For help in completing this form please read the notes for guidance form N244 Notes.

Find out how HM Courts and Tribunals Service uses personal information you give them when you fill in a form:

<https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personal-information-charter>

<b>Name of court</b> High Court of Justice King's Bench Division Birmingham District Registry		<b>Claim no.</b> QB-2022-BHM-000044										
<b>Fee account no.</b> (if applicable)	<b>Help with Fees – Ref. no.</b> (if applicable)											
PBA:0087960	<table border="1"> <tr> <td><b>H</b></td> <td><b>W</b></td> <td><b>F</b></td> <td>-</td> <td></td> <td></td> <td>-</td> <td></td> <td></td> <td></td> </tr> </table>		<b>H</b>	<b>W</b>	<b>F</b>	-			-			
<b>H</b>	<b>W</b>	<b>F</b>	-			-						
<b>Warrant no.</b> (if applicable)												
<b>Claimant's name</b> (including ref.) (1) High Speed Two (HS2) Limited (2) The Secretary of State for Transport (Ref: RXS/380900/401)												
<b>Defendant's name</b> (including ref.) (1)–(4) Four Categories of Persons Unknown (5) – Ross Monaghan and 60 other Named Defendants												
<b>Date</b>	27 March 2023											

1. What is your name or, if you are a legal representative, the name of your firm?

DLA Piper UK LLP

2. Are you a  Claimant  Defendant  Legal Representative

Other (please specify)

If you are a legal representative whom do you represent?

Claimant

3. What order are you asking the court to make and why?

An order in the form of the draft order enclosed seeking, inter alia:

- 1) a continuation of the injunction imposed by the Order of Mr Justice Julian Knowles dated 20.09.2022 (the “**Injunction**”), for a further 12 months;
- 2) to amend the definition of HS2 Land to cover the land shown coloured pink and green on the “March 2023 HS2 Land Plans” (as defined in the draft order), to extend the protection afforded by the Injunction to land that has come into the Claimants’ possession for the purposes of the HS2 Scheme since the Claimants’ original application was made in March 2022; and
- 3) to prohibit the Defendants from obstructing, impeding, hindering or delaying works or activities authorised by the “HS2 Acts” (as defined in the draft order) by unlawful means, in express or implied agreement or in combination with another person with the intention of causing damage to the Claimants.

4. Have you attached a draft of the order you are applying for?  Yes  No

5. How do you want to have this application dealt with?  at a hearing  without a hearing

6. How long do you think the hearing will last?

Day

Is this time estimate agreed by all parties?

Yes

No

7. Give details of any fixed trial date or period

16 May 2023

8. What level of Judge does your hearing need?

High Court Judge

9. Who should be served with this application?

(1)–(4) Four Categories of Persons Unknown  
(5) – Ross Monaghan and 60 other Named Defendants

9a. Please give the service address, (other than details of the claimant or defendant) of any party named in question 9.

The Claimant will deal with effecting service of this Application on the Defendants in accordance with the Directions Order dated 15 March 2023.

10. What information will you be relying on, in support of your application?

the attached witness statement

the statement of case

the evidence set out in the box below

If necessary, please continue on a separate sheet.

Please see the attached witness statements of James Dobson, Julie Dilcock and John Groves.

### Statement of Truth

The applicant believes that the facts stated in this section (and any continuation sheets) are true. The applicant understands 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

*DLA Piper UK LLP*

Applicant's legal representative

Dated **27 March 2022**

Full name: **Robert Shaw**

Name of applicant's legal representative's firm: **DLA Piper UK LLP**

Position or office held: **Solicitor**  
(if signing on behalf of firm or company)

11. Signature and address details

Signed

*DLA Piper UK LLP*

Applicant's legal representative

Dated **27 March 2022**

Position or office held: **Solicitor**  
(if signing on behalf of firm or company)

Applicant's address to which documents about this application should be sent

DLA Piper UK LLP 1 St. Paul's Place Sheffield		If applicable									
		Phone no.	0114 283 3312								
		Fax no.									
		DX no.	DX 708580 Sheffield 10								
		Ref no.	RXS/388900/401								
Postcode	<table border="1"><tr><td></td><td></td><td>S</td><td>1</td><td></td><td></td><td></td><td></td></tr></table>			S	1						
		S	1								
E-mail address	rob.shaw@dlapiper.com / mary.barraclough@dlapiper.com										

Client HS2 Limited  
Matter RWI Review Hearing  
Ref & File No SGO/SGO/380900/401  
Attending Mr Justice Ritchie (“**JR**”)

Richard Kimblin KC (No 5 Chambers) – (“**RKKC**”)  
James Dobson (Fenrir Ltd)  
Michael Fry (FTB Chambers)  
Julie Dilcock (HS2 Limited)  
John Groves (HS2 Limited)  
Richard Jordan (HS2 Limited)  
Robert Shaw (DLA Piper UK LLP)  
Mary Barraclough (DLA Piper UK LLP)  
Saffron Goldberg (DLA Piper UK LLP)

James Knaggs / D6  
Stephen Simblet KC (Garden Court Chambers) (“**SSKC**”)  
Owen Greenhall (Garden Court Chambers)  
Nicola Hall (Robert Lizars Solicitors)

Caroline Thomson-Smith (“**CTS**”)  
Mark Keir (“**MK**”)  
Elliott Cuciorean

Date 16 May 2023

## 16.05.2023 HS2 RWI Review Hearing Note

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### 10.35

*Brief discussion between SSKC and JR re. access of other defendants to room. Adjourned to address issue.*

### 10.42 Submissions resume.

**JR** – I am told Mr Keir and Ms Caroline Thomson-Smith wishes to address the Court.

**RKKC** – CTS is prospective D66.

**JR** – The Claimant, D6 Mr Knaggs is represented, D66 who isn't yet, D66, D36 Mr Mark Keir and Mr Christopher Butcher.

**RKKC** – As far as I'm aware, he's not here. That's the appearances. I propose to touch upon documents to check that the Court has what's it needed. Set out in an administrative note filed at Court yesterday and

providing that the Court has those documents, I am content. Just to flag, there was also a note from our learned friends responding to our supplementary skeleton which helps to crystalise the issues further. Also re. Mr Keir – I've sought to indicate where in the materials one can find his submissions.

Now to how the Court may best like to organise the agenda – I've tried to do this at paragraph 12 of the admin note. Starting with the question of late materials. Two matters – one being evidence and my learned friend's skeleton argument. As far as evidence is concerned, Mr Keir's evidence came inside of the deadline and is dealt with in Dilcock's twelfth witness statement. A large part of the materials received from Caroline Thomson-Smith don't advance matters. As far as the learned friend's skeleton is concerned, I'd like to put down the marker that it's the latest chapter in a range of materials that have come in not in accordance with the Court's direction.

**RJ** – What does that mean?

**RKKC** – That means if my lord wishes to hear those arguments then that can proceed.

There is a question of whether the Court needs to hear any oral evidence. In that regard I strongly submit that there is no need whatsoever. The witness statements are actual in nature and the issues before this Court are much more limited in practice than on the making of this particular injunction order as it subsists. The request for everyone to be crossed is unusual not least because it would be for the SoS.

The first main issue is whether to continue the injunction order by way of temporary extension – whether to extend it for another year. I will take the Court to the order that is proposed. That is something which is going to come up by reference to the submissions made by D6. The first point is the extent to which there is any argument on that. Those representing D6 do not say to the Court that it's inappropriate to renew the injunction in these terms. They do make a submission about the matter going to trial and do so separately.

Regarding continuing the injunction, the Court has not received substantial submissions to the contrary. Those who opposed the injunction order do say they disagree with the order of Justice Knowles but are not pursuing the avenue of saying the injunction should be discharge.

**RJ** – Is there any notice of the application being put in which says it should be discharged or renewed?

**RKKC** – No. And there has been a long time for such notice. Bring me to Item E on my list of issues which is also non-contentious. As to bringing up to date the extent to HS2 land which is covered by the present injunction. The short point is that in the process of compulsory acquisition, there has to be a cut off point. The cut off point on the last occasion didn't capture the land on which [...] declaration have been served. More land has come onto the possession of HS2 since the injunction has been made. All the proposed order does is bring matters up to date re. further acquired land.

**RJ** – Would I call that "*land in HS2 possession*"?

**RKKC** – Yes.

The next matter is not opposed – whether or not to remove particular named defendants. In this witness evidence, very careful attention has been paid by HS2 to the level of activity of the D's to the current order. Essentially HS2 has done what the Court has said it should do in the event it becomes apparent that someone should no longer be subject of the order, and it's incumbent on the claimant to say so. There's an application to remove a series of defendants who are as far as we can see, no longer active.

**RJ** – Can you give me a final list of those defendants to be removed? I have removed James Dobson's 27 March witness statement and see that he has set out a lot of the background. I have read John Groves and Dilcock 11 and 12. Can I have a list?

**RKKC** – No. 11, 12, 13, 18, 19, 21, 23, 31, 34, 37, 38, 40, 41, 42, 43, 44, 45, 46, 49, 50, 51, 52, 53, 60, 61, 62 and 65.

**RJ** – 27 to be removed and nobody objects?

**RKKC** – Nobody that we propose to remove has objected.

**RJ** – Removal on basis of no cost orders made against them now or in future in relation to these proceedings.

**RKKC** – Yes. That deals with Item F. There is a question of adding names – this is a shorter list of contentious matters but to some extent resolved. First of all, Mr Butcher – prospective D67 – an undertaking has been agreed. So we no longer seek to add Mr Butcher. He is no longer sought to be added.

**RJ** – So he is not a defendant?

**RKKC** – Yes that's right.

**RJ** – Thank you.

**RKKC** – As we learned this morning, D66 is Caroline Thomson-Smith. She is here and you may wish to hear from her in due course. The present circumstances in which we wish to add Caroline Thomson-Smith is for the reasons set out in the witness statements. There has been some attempt to reach an accommodation with Ms Thomson-Smith but that hasn't to date resulted in agreement and what we have is a substantive amount of material explaining her position.

It is probably most convenient to hear from her first as to what her present position is. As far as the addition of defendants is concerned, that is really the only contentious matter and I am content to either address some of the matters in our list of issues before we turn to that but if the Court wishes to take another course I am perfectly happy to fit in with that.

**RJ** – Does anyone suggest it's inappropriate course?

**SSKC** – One point I wish to make is on whether anyone has applied to make an application notice re. the injunction. It is in fact for the Court to decide whether the injunction is to be renewed, rather than to apply for it to be discharged. Looking at Core Bundle A, page 6. As a matter of plain English, the burden of seeking an extension of any order is on the claimants, not anyone else.

**RJ** – Didn't Judge Kelly give directions on 15 March that by 4 pm on the 11th, anyone seeking to oppose the judgement and file evidence?

**SSKC** – That's right – she gave various procedural directions but that does not direct an application to discharge the application. The law appears to be that Mr Justice Knowles' approach – the evidential burden is slightly different – but on the meaning of the actual injunction itself, that's what it says, it's for the Court to decide whether to re-grant the injunction.

D6 makes little observation about the terms of the existing statement but does say that the temporal limit is for the Court. One cannot have claims for merely perpetual injunctions that last for a number of years. That is warehousing of claims – this is not allowed. There's a point in which a claim mutates into a warehouse of claims.

**RKKC** – That has very helpfully confirmed that there is no application. Quite plainly, the Court in reconsidering it, the Court has the option to say no.

**RJ** – It might be said that the undisputed issues are the temporal extension in its current form, new land and new defendants. There are other issues you have identified and are moving onto.

**RKKC** – Starting with skeleton. With paragraph 13 – "*Need for continued injunctive relief*" which I hope summarises the cases and evidence for what we have identified as the uncontested question. I refer to that in the context of contest issues. My submission is that we cannot ignore the context as to the matters which drove HS2 to obtain the injunction in the first place and as to the terms on which it currently exists.

Once one has that context in mind, we then come to the amendment to the particulars of claim and injunction order regarding the conspiracy to injure by unlawful means. At paragraph 4 in skeleton and explained in 25 – it is required due to an evolution of protestor tactics. In particular, the action of D66 and 47 in relation to A418.

I want to pause to talk about the nature of that activity.

**RJ** – Why do you need conspiracy, when you have nuisance, common assault and battery on the incidents on the A418? Why do you need to add anything to the torts already in your skeleton?

**RKKC** – I respect that point. In respect of the torts of assault and physical harm – one can see it's unnecessary to show conspiracy to injure by unlawful means but it is nonetheless an important tort in its own right, it allows one to identify that particular economic tort and proceed against those that proceed in that way. It makes it more difficult for the claimant. It adds an independent tort independent of the free tort of battery.

**RJ** – What does it add? Is the objective to catch those who are planning? Or those who have committed those other torts and to capture them? If it's to get them in advance, that's not explained. Let's say there's already one or more torts – what does it add?

**RKKC** – The difference arises in respect of those activities which are directed towards disrupting and delaying. For example the disrupting and delaying of vehicles on their approach to HS2 works. This particularly directed to those areas of land that aren't within the meaning of H2S land. That is activity to which unlawful means conspiracy does add something.

**RJ** – So it's about breaking out from the geographical restrictions?

**RKKC** – Yes, of the current restrictions as identified in the plans and explained in paragraph 25. Schedule 4 to the Act provides for temporary possession to be taken of particular highways to undertake works. An important part of the operation of getting the railway built. It's possible to target those temporary possessions in order to disrupt and delay the works that are taking place on the land. That is the change of tactics which concerns HS2 – the evolution of the conspiracy of what it is to cause delay, disruption. One sees it as a means of addressing this issue.

**RJ** – At what stage? For the A418 you already have the torts. Is the plan to raise allegations against those that have not yet committed conspiracy from Twitter, Facebook etc.

**RKKC** – No. Not part of HS2's plans to do so on the basis of intelligence.

**RJ** – So it's event driven. So why do you need conspiracy?

**RKKC** – Because you don't need a tort. This may be a good moment to go to the law. Having identified something in the operation of the HS2 Acts. Before I do so, can I also put down the marker in which the D68 and associated prohibition would help. The Cash's Pit encampment – that's a very good example of activists looking ahead in respect of the HS2 works to land which wasn't at the time of the occupation within the possession of HS2. The land hadn't been acquired at that stage. In real and practical terms, it would be to be able to obtain relief in respect of that sort of activity, in respect of land not currently in our possession. Due to the number of people involved, it's a conspiracy.

**RJ** – It grants the claimant the ability to enforce for the conspiracy tort, but cannot enforce the tort re. trespass to the claimant. It would be nuisance to the claimant before the land is acquired. It adds a protective player against the forward planning.

**RKKC** – Yes. Turning to the Authorities.

*Discussion re. supply of bundles. Yesterday Dropbox link provided by Defendant's solicitors.*

**RJ** – It wasn't CE-Filed. Provided by Dropbox.

**SSKC** – It may have been.

**RJ** – What right do you have to send these direct to clerk and not to have them CE-filed?

**SSKC** – As I assumed, they would find their way to your lordship in a suitable form. They haven't and I apologise. Mr Greenall tells me it was CE-filed.

**RJ** – I have got what looks to be the bundle you are referring to. Mr Kimblin is taking you to Tab 7 of that.

**RKKC** – This is a case in which the Supreme Court dealt with facts arising from very large of sums of money – the defendant was subject to a freezing order which he breached and was in contempt. On receipt of the draft judgement in respect of that contempt hearing, he left the jurisdiction. It was against those facts that the supreme Court came to the question of conspiracy to injure by unlawful means and also conspiracy to cause harm by unlawful means in the way we have described. The headnote is very helpful. At 337, it's held that dismissing the mean [*cites paragraph*].

That is a very helpful display of where the Supreme Court got to in answering whether it was a tort. They said it wasn't but it was unlawful means for the purpose of this conspiracy and could find on a factual basis for a finding of conspiracy to harm by unlawful means. The headnote is helpful as this judgement is such a detailed exposition of the origin of a particular sort. It starts from paragraph 6 to 24. That's the headnote – where we get to in terms of the state of the law. I'm not going to take matters further by going through the detail of the reason of the Supreme Court on this matter. I wanted to take the Court to that first - it sets out parameters of this economic tort.

I then want to go to our Authorities Bundle. I want to deal with the cases which deal with unlawful means conspiracy in the context of injunctions. As I understand, the case advanced on Mr Knaggs' behalf, is very much about whether the Court can grant an injunction on that basis. I want to look at *Ineos* and *Cuadrilla*. The easiest way is to start at the end of the story. At Tab 8, one has Cuadrilla in the Court of Appeal. This is a judgement from January 2020 which comprised of the Vice President, Lord Justice David Richards and Lord Justice Leggatt. It is an injunction in respect of fracking activity which was the subject of protest. The key part of the judgement for our purposes is paragraph 38 at page 145, the heading "*Variation of the injunction*". This was a matter which came before his Honour Judge Pelling KC. In respect of an application to vary the injunction. In making that application, the appellants relied on the decision of the Court of Appeal in *Ineos*.

*Ineos* is in view. The judge then has a section dealing with the right to protest and draws attention to those authorities which make play the right to protest. We then turn to paragraph 46 to the *Ineos* case and it draws attention to the fact the injunction was granted not against the current defendants, but against persons unknown. The facts are at paragraph 47 – the *Ineos* case – [*cites paragraph*]. This sets out the background re. *Ineos*. The Court then sets out whether the injunction in this case was unclear. At paragraph 47, there is a helpful section as to the ways an injunction may be unclear. It then turns to the crux of this judgement, from paragraph 61 onwards as to the concept of intention. There is some discussion of that concept but the important point is at paragraph 69.

Here the Court says that "it's not an infringing act as suggested in the passage above, that the requirement of the tort of conspiracy to show damage can only be incorporated in an injunction by reference to the defendant's intentions" [*continues reading passage*]. That is where the Court of Appeal got to in respect of this tort and in respect of the question of intention and the question of the topic of actually causing damage. It is in that context in particular that *Ineos* should be understood. I of course entirely agree that an injunction should be clear. Likewise, it says its possible to frame a prohibition that [...].

**RJ** – Two elements - future conduct, and intention to cause damage.

**RKKC** – Yes. With the exchange I had with my lord earlier, I made it clear that we are only concerned with events that actually cause damage. I am content with amends to our draft injunction to reflect the need to show actual damage. I do not seek that the injunction goes anything further.

**RJ** – That goes to the question I had earlier about monitoring social media. What you're saying is *actual* damage conspiracy.

**RKKC** – I am content for the insertion of words such as "*and effect*" so that we have the words "*intention and effect of causing damage to the claimant*".

**RJ** – To take Cash's Pit. The first day they took possession was the first day of damage – hiring security guards etc. that wouldn't otherwise be needed.

**RKKC** – It is.

Can I look at the way in which the case is put against HS2 from the note from yesterday headed "*Further Note for Review Hearing on Behalf of D6*"? This is helpful as it does refine what the issues are between the parties



and certainly places a spotlight on the important issues. At paragraph 3 at the top of page 2. In the last sentence where it says, “*not sustainable in law*”. Paragraph 6, 4<sup>th</sup> line down “*discloses no viable cause of action...it does something conceptually not possible*”. Paragraph 10 in the 3<sup>rd</sup> line, “*the Court is not able to permit the amend*”. From all of which, I gather the overarching submission to be that the Court cannot do this as there is no viable legal basis to do so. That submission is not sustainable in the light of authorities. It is open to D6 to submit why the Court should not make the amendment, but not to D6 to say the Court cannot.

**RJ** – Doesn’t D6 say that it’s not viable due to it being geographically restricted? There are a couple of steps.

**RKKC** – I do read that the submission is hard lined in saying that the Court cannot do this. Regarding the particular questions as to whether this has enormous geographical scope – the example of people in Newcastle and Norwich having a conversation. It’s not part of HS2 plans to injunct those that are merely planning.

**RJ** – So it’s a drafting point.

**RKKC** – It’s also right to observe that the requirement to show the element of the D68 breach of the injunction, is that one has to demonstrate an intention to bring about the harm and that the harm happens. The intention of itself is an important feature of the tort. With that, necessarily brings a sharp geographical focus. A route is a linear route – one knows where it goes. The focus is on the HS2 works, that is how it’s defined - works authorised by the HS2 facts. It’s difficult to see why there is any concern about the geographical scope beyond the route.

**RJ** – Are you planning for it to cover Eversheds or any other law firms, DLA Piper?

**RJJC** – It seems a strain on the language to say that’s what is proposed.

**RJ** – I think I have misread the way in which the evidence has been set out. I recall reading about “*trying to dissuade law firms providing a service to HS2*”.

**RKKC** – This is a practical way of dealing with practical matters on the ground. That’s why HS2 is here, to limit disruption and cost to the public. In my submission it doesn’t assist to take something that this application is not about, to try turn it into something it isn’t.

**RJ** – Would now be convenient for a 10 minute break?

**11.44** – *Adjourned.*

**11.57** – *Resumed.*

**RKKC** – If we can turn to unlawful means conspiracy. Paragraph 41 – sets out 4 matters. [...] intention, and actual injury, our submission is that the evidence shows that that threat is evidence and has been for a period of years as to the actual actions which are complained of and which are foundations of the current injunction in nuisance, trespass etc. and as to the intention there is lots of materials which shows what the intention is – to disrupt and delay. For that very reason, organisations such as HS2 Rebellion were formed – to achieve that objective. The evidence from Mr Dobson as to the impact of that comes to millions of pounds - it shows harms and can be shown by reference to the specific actions and events themselves. For the tests to be applied here, it’s easily shown in our submissions. I don’t propose to say much more about the conspiracy matter at this stage. I will say that at an interim stage, these proceedings have racketed evolutionary thinking in relation to interim and final relief. The Court of Appeal in *Barking v Dagenham* basically said there’s not much difference between interim and final in the vast majority of cases. That particular question isn’t the focus of *Barking*.

**RJ** – What was the issue put to the Supreme Court?

**RKKC** – The question was narrow. It was as to whether there was any proper power given by the Senior Courts Act to grant an injunction in respect of an order given by Wolverhampton in respect of travellers. The powers derived from the Act were insufficient to grant such an injunction at the time. Rather than the question of whether it was imperative to go to a final hearing – the Court said no, there’s not much difference. The focus of the issues became narrower.

Another reason for mentioning this topic is that it's raised by my learned friend – to draw your attention as to what happened on another occasion. A hearing was set up as a final hearing. But in light of *Barking* in the Court of Appeal, the judge granted an interim injunction and that was probably the right course in where we got to. We say firstly, that's consistent with the law as currently stated by the Court of Appeal and secondly, a position we'd be happy to continue. We don't hold the reigns in that respect. If someone wants to make an application then they can. I have covered in brief the references to the Human Rights Act – I don't propose to make any submissions to this. Mr Justice Knowles covered those and there was an application in relation to this which was dismissed at permission stage. As far as our agenda is concerned, that brings me to point H – terms of the injunction order if it is continued.

I hasten to add already that we'd be content to some amendment to paragraph 3 of the prohibition. It's at that point I propose to sit down and see what is said against me.

**SSKC** – Taking the last point, one of the difficulties is for anybody trying to understand the changes the claimant wishes to make to the injunction. It's not simply a matter of drafting. The claimants have set their stall out. They've put their proposed amends before the Court in the particulars of claim. And they have provided the Court with the evidence, and essentially drafted a set of legal submissions on the face of it.

The witness statement from Mr Dobson says so – paragraph 3 – this statement has been prepared with the claimant's legal representatives. He makes various observations around the law and uses language as used by lawyers as part of their exchanges rather than by lay people. They set out what they say are the grounds for the Court, very significantly and fundamentally, changing the nature of their claim. We say those are objectionable. It's not simply a matter of drafting.

Before I can make submissions, we need to know what it is that the claimants say should be in the injunction. There appears to be some confusion as to whether this injunction would stop people communicating over Facebook. The evidence seems largely focussed to the events that took place at Eversheds. There is a long and substantial part of Mr Dobson's witness statement from paragraph 84 to 106, culminating in Mr Dobson's opinion that the disturbing aspects of the unlawful activities taken against Eversheds is an unlawful attempt to stop them from acting for their clients. That is a core part of the rationale that the claimants rely on in their application, fundamentally to expand the scope of the relief that they seek. It's them which have put this before the Court. It's their evidence and it has that effect. It is intended to address what is described as '*supply chain issues*'. It is those problems that resulted in *Ineos* discharging the injunction.

**RJ** – They use Eversheds as an example, and contractors as an example. I have the impression that wasn't any longer the foundation for the expanding scope.

**SSKC** – That's the difficulty. You have been told that by counsel in the Court hearing. What you haven't been told is what words you should approve that achieve the aim they want to obtain. Although Mr Kimblin has sat down to listen to what I have to say – I also want to sit down and see what the terms are of the injunction that he wants to make. It should have already been formulated. It is not acceptable to permit this as the application is against persons unknown.

**RJ** – If I look at the draft order. I had in mind looking at paragraph 3 (d) – that seems to be the extension provision.

**SSKC** – Yes and also 5 (F). Bearing in mind what was said in *Cuadrilla* and *Ineos*.

**RJ** – Then there is PU 68 ("**Persons Unknown**") on the front sheet I believe.

**SSKC** – Yes and I will make submissions on that. The definitions are too uncertain – doesn't say what you cannot do.

**RJ** – Are you saying in relation to PU 68 and clause 3 (d) and 5 (f) – you seek clarity?

**SSKC** – Yes, and as currently drafted, the Court cannot make the injunction in the form that is before the Court. It is not for my lord or for me to try solve the problem as with any amendment, the party seeking the element, drafts the element and invites the Court to consider whether it is well-founded. At the moment you are being asked to make an order that includes 3 (d), you're being told that the claimants don't wish to deal

with people talking about protests over the internet but not being told how 3 (d) will catch those intent on committing serious disruption and only those people.

Kimblin and Fry's evidence said it was aimed at those causing "*mayhem*". Those protesting against Eversheds and peacefully protest with legitimate concerns about the project and its impacts – those people, if they protest, could be said to be impeding the activities put forward by the HS2 Act. We have statutory rights to protest – HRA and ECHR – and also Article 1, Freedom of Association. The amends involve association and agreement. I have submissions on all of those things. I take the objection now as to what is before the Court, and not what they hope and aim is to be granted by the Court.

I don't want to waste time but it is a fundamental point and needs fairly to be thought about before the Court can accept blind reassurances as to what the intent of the injunction is. The Court cannot accept an injunction that it is not prepared to be enforced. Enforcement may involve contempt. It's a matter that goes to the rule of law. This injunction means what it says. It cannot be treated as a matter of drafting. In a context in which there has already been very extensive arguments by Mr Justice Julian Knowles as to the ambit of the case, in which he says in his judgment at paragraph 48-49 – that the claimant's case is in trespass and nuisance. Their case before him was not conspiracy, and now they are seeking to recast their claim and are submitting draft amends. It is incumbent on them to put –

**RJ** – How long was the hearing before Mr Justice Knowles?

**SSKC** – Two days. A two-day hearing considering all the arguments, a draft of the nature prepared by my learned friends was produced a month ago. Concerns are raised about it. One of the points about D68, is as far as the Court knows, the persons unknown, these are *ex parte*. Those are the problems which I say now. But I would say before I finish my submissions, that you and I are entitled to know what they intend to say.

**RKKC** – As I say, my learned friend's thinking on this is appreciated. In their skeleton at paragraph 90 – terms of the order – they draw attention to causation questions and actual damage. Under paragraph 90, they insert the word "*directly*", and just over the page, they insert the words "*and effect*". There are different ways of drafting that but those are fair points.

**RJ** – Are you able to tell me now how that order should be drafted, or would you like some time for Mr Simblet to view your amend and then make submissions?

**RKKC** – On D68 – I am content with the way my friends have put it. I would prefer "*causing obstruction, hinderance or delay to works*".

**RJ** – If you could dictate so I can write this down.

**RKKC** – "*Persons known by unlawful means, causing obstruction, hinderance –*"

**RJ** – So cross out impeding?

**RKKC** "*Causing obstruction, hinderance or delay to works*"...with intention "*and effect*" of causing damage to the claimant.

**RJ** - The reason that brings it to actual acts, and 3 (d)?

**RKKC** - As far as 3 (d) is concerned, we dealt with that in our supplementary skeleton at page 11. We simply draw attention to paragraph 42 – inserting the underlined words. To introduce that, in the same way the prohibited acts in respect of paragraph 3 (b) are expanded on...

**RJ** – I would be helped if that can be drafted.

**SSKC** – I would like at some point to see a draft and make submissions. Presently, even on the likely revised draft there are practical and conceptual problems of evidence.

**RJ** – I accept we need a re-draft of that order. If you can redraft in handwriting. Then submissions and replies can be completed. Does anyone have any difficulties with this?

Mr Mark Keir invited to speak.

**MK** – My name is Mark Keir. This talk of conspiracy – I believe in Julie Dilcock’s submission – the idea that nothing that damages HS2 should be lawful. The whole idea of protest is to cause damage in some way. If they will use that, it will capture everyone.

**RJ** – Step one here, I will look at the redraft in relation to the conspiracy extension. Then step 2 we will hear extensions. I will stand again at 1.45.

**MK** – Can we have a copy for everyone of the draft.

**RJ** – 4 copies.

**12.30** – Adjourned for re-drafting of order and lunch.

**13.44** – Resumed.

**SSKC** – My lord Mr Kimblin has produced his draft. Leaving aside the textual points, we say there are still significant problems with the revised draft which for instance do not solve the conceptual problem of D68. We say they have lost sight of the aim of litigation - the claimant has brought a claim against a defendant, defined by the CPR as ‘a’ person and then the Court manages the case to a resolution. What the Courts are not here to do is to essentially allow people to bring claims they have no intention of bringing to an end.

I understand the point in relation to *Barking* but it’s a very different situation. *Barking* was a case in trespass to land, there is a suggestion that the primary remedy for a claim in trespass is an injunction. It’s often not damages that are sought, but cessation by the trespass. An injunction is often the remedy sought. It’s also a set of facts which gave rise to a very limited period to which the trespass was incurred. It was not an infrastructure project predicted to finish in 2042. The jurisdiction to do all of this comes from the *Hampshire Waste* case – the injunction was granted for a matter of days, not weeks, months and years.

This is a fundamental problem with the approach to the case and the amendment, it’s not good enough to extract from some of the cases some dicta and reformulate a case to be heard in a two-day hearing. You have not been provided with any reason why this supposed concern is not part of the original application. The evidence which is largely before you is from putative D66 and D77 and the actions against Eversheds.

**RJ** – What is left in evidence if it’s not cutting the ties? Is it just the A418 or the trespass which is disputed on litigation land?

**SSKC** – That’s a question for my learned friend. On the conspiracy point, I have several points. I’ve raised the ‘who is the defendant point’, a defendant means a defendant. You can’t construct a mythical defendant – the sort of person that will conspire with someone else and give it a title. You cannot conspire with yourself. In those circumstances, people are giving notification prohibiting trespassing, they will in fact find themselves in contempt. There’s no injustice as they get the notification. That’s different to what the claimants are doing here – here they are asking the Court to ask you to prospectively construe when / what the alleged mischief is. They refuse to comply with elementary requirements of pleading a case and identifying a case/what the conspiracy is.

**RJ** – Do you say the PU only really works when it’s tied to a defined geography?

**SSKC** – Yes and that’s why in *Ineos* the injunction was discharged. There the Courts emphasised that the injunction must be geographically precise. The actual injunction is very precise and it is at least possible to identify a place where you cannot do something. It is instructed in my submission to look at the *Barking* case and look at what the limitations of the judgement were.

As my lord knows, the injunctions there were to prevent people coming onto local authority land. It has always been the case that the Court has been able to have a persons unknown procedure regarding the possession and recovery of land – currently CPR part 55. Ancillary to that there are circumstances where a Court grants an injunction in order to support effectively the possession order made against persons unknown. When it comes to the land, you can say don’t come on the land – the *Gammell* case which underpins the judgement in *Barking* – is an example of that. Possession proceedings and an injunction prohibiting people moving onto that

land who the court decided should not be here. When we get to the *Barking* case, we look at a situation where the Court are concerned that the persons unknown procedure meant the Court was required to push onto a final order.

In that context – turning to *Barking* – claimant’s Authorities Bundle at Tab 4, the Court of appeal set out and do not disapprove paragraph 82 of the *Canada Goose* decision which draws attention to all the practical and legal potential problems that very broad injunctions of indeterminate ambit cause. They don’t say any of that is wrong, but they do say that it was wrong for the claimant to push on to a final order in that sort of case. Where they say it was necessary to depart to a small extent from *Canada Goose*, the judge formulated at paragraphs 70-71 in terms of occupying and trespassing on local authority land. That’s what he defines as the main issue.

On the subject of jurisdiction, proceeds through the paragraphs of *Canada Goose* which say that an injunction of this sort couldn’t remain in existence forever. He reaches the conclusion at paragraph 101 that the judge was wrong and the Court cannot grant final injunctions which prevent unidentified persons from coming onto the land. He repeats that and holds that jurisdictionally the Court cannot limit in advance. It’s a case about jurisdiction and where an order can be properly and fairly drawn up that the Court can enforce against persons unknown, who make themselves known when they come on the land.

**RJ** – That fits with the principle that when granting an interim injunction, one of the criteria is the prospects of success in obtaining a final order. There is an inherent problem with that isn’t there?

**SSKC** – Yes. In this case, the claimants do not identify any defendants.

**RJ** – That’s the nature of persons unknown.

**SSKC** – I say that in relation to a conspiracy injunction. It’s difficult to conjure up, particularly in this case where they do have named defendants. The 38 or so that remain – the claimants don’t say that any of those known defendants are intending to conspire against others. If they have a case they allege against the known defendants, how is it they don’t seek to extend the case to the known defendants to conspiracy. How is it that they do nevertheless have a case that they know nothing about. How is it that they say this conspiracy is affected. It’s hard to see how conceptually and practically it is right.

**RJ** – The evidence they use is preparatory to Phase 2a – taking down vegetation. If members of organisations choose to get in the way of that, they may do so, turn up just as the works are about to take place. As was the case on A418. Why shouldn’t the conspiracy extension apply to those unknown?

**SSKC** – They haven’t got the evidence to support it.

**RJ** – They do. D66 and 67 – they were PU, and then became identified. They didn’t turn up by chance.

**SSKC** – The difficulty is the tenuous nature. The *Bank* case. There were two people against which there was very considerable evidence, in those circumstances, the Court was able to see through that evidence and say that they had a case in conspiracy. The evidence of D67 and D66 conversation – if accepted – does not in my submission justify, a persons unknown.

In the schedule of evidence put before you in the statement from Mr Dobson, it is the table at paragraph 29. What one sees from the basis on which the Court seeks to persuade the Court [...] is not necessarily for the motive of obstructing HS2. It’s a question of concept and evidence. One can’t infer from alleged acts by different people and different places that there is a conspiracy with that object. It cannot be the case that a defendant can conspire with themselves. This matter is not properly pleaded. It is an elementary matter of pleading that the Court can see who is supposed to have done what. That’s a matter of general pleadings and what the CPR requires in PD 16.

**RJ** – What’s wrong with Roman X at Core-A-148?

**SSKC** – It doesn’t relay who those people are, or how they agreed it.

**RJ** – It’s a PU case. They cannot say who did it.

**SSKC** – They have to when they have a year. It's an illustration as to what they expect. In *UKOG* they put forward what their case was against the various people. It's necessary to look at what the evidence is and how it fits in with the injunctions. Paragraph 25 to 33 on p. 521-522. And what she did about the injunction. Bearing in mind that the task of the Court was also to balance the rights – approach set out in paragraph 52 – 55. I draw your attention to paragraph 54 where she emphasised that the injunction as now drawn, is very narrowly focussed to people actually trespassing on the site. Knowles has made various factual findings and we are not on review saying the Court should do anything different about those, but the other side to this debate is are the claimants sufficiently protected from what they already have.

**RJ** -Wouldn't you have to have the opportunity to reargue all the matters put before Mr Knowles in relation to the conspiracy point. It affects your submissions in a wide ranging way. That wide ranging effect would trigger article 10 and 11. Wouldn't it need to be re-argued? I can't rely on the arguments put before Mr Knowles relating to tightly defined geographic scope, and apply it to a looser scope.

**SSKC** – That is the issue – arriving at an injunction that is limited in terms of time and place. Then inviting the Court to infer that this sort of conduct will happen all over the country. Court cannot make that inference because the claimant refuse to plead their case – on the fact of it, the absence of a proper pleading against those they have identified, is an implicit recognition that the responsible pleader does not feel able to make a pleading against them. It's the architecture of the claim. They currently have a solidly built house. They're asking the Court to build castles in the sky. They cannot explain to the Court how they should move from what has already happened to this undefined order. And in the context of there being Article 10 and 11 rights of protest, the Court's responsibility is to ensure this doesn't kill lawful protest. It is telling that my lord did not understand the full extent of it.

You've also heard them refine their case to say that they're not interested in things that aren't disrupting the works. The trouble is that their evidence is addressed to that. Looking at Mr Dobson's statement – there is a great emphasis on Eversheds. In Court, we are told it's not to do with that. It may be that the way through this is to look at what land is covered and to see the extent in which the existing injunction stops what they are claiming about. That is not a basis in law for inventing some ill-defined conspiracy that anyone who does anything has conspired together.

What we say about *Barking* is that it's very much rooted in the land. And when one looks at attempts to introduce PU injunctions that go outside a geographical restriction, it's very complicated and the reason that what is referred to as the '*supply chain injunction*' in *Ineos* was discharged. In our Authorities Bundle at Tab 9 – paragraph 9 [*cites paragraph*]. The explanation being in paragraph 11. The decision reached is that whilst its possible to have PU injunctions, at paragraph 34, LJ Longmore identified the requirements before an injunction can be granted. We know that one of those was at least tweaked in the claimant's case. The actual decision of the Court is to be found at paragraph 39 and 40-44. 39 is important – these important points regarding the width and clarity of the injunction [*cites paragraph*]. Essentially the last few sentences of paragraph 40 are important regarding lack of clarity and the "chilling effect".

**RJ** – This proportionate balance that needs to be struck when protests are on the street under Article 10 and 11 rights. It has some criteria looked at carefully. If it's focused on an issue, how many members of the public are impacted.

**SSKC** – We say that this injunction tramples through it and should not be done. In my submission the draft submission makes it even less satisfactory than it was before. For instance paragraph 5 which lists the unlawful acts, it says unlawful acts '*shall include and shall not be limited to*', you see a list of things you're told you cannot do, some of which are on the face may in fact be lawful. If you slow down the traffic or sit or lie in the road for a short time – *Ziegler* tells us this may be lawful. Here you're told you're not limited to those.

**RJ** – (a) - (e) are extent clauses.

**RKKC** – The words '*but not limited to*' are in the existing order.

**RJ** – Was (f) in the original order?

**RKKC** – Yes.

**RJ** – So for purposes of paragraph 3 (d) which is in dispute, the unlawful acts shall include and not be limited to the following [*cites amended draft*]. How can you “turn into the works authorised by the HS2 acts”?

**RKKC** – Cash’s Pit example. There would be an injunction in force in respect of that.

**RJ** – A vehicle attempting to turn into the authorised works?

**RKKC** – That is why the draft has the definitions which explains that the HS2 Acts set out those works.

**RJ** – instead of an injunction preventing standing, kneeling etc, when vehicles are going in and out of the land, it’s when vehicles are attempting to turn in and out of works that isn’t HS2 land?

**RKKC** – Turning to the definitions. HS2 land is defined as land which is acquired or held. HS2 Acts is there defined.

**RJ** – And you’re going to expand HS2 land not only to the pink or to the yellow in Schedule 4?

**RKKC** – Yes.

**RJ** – Is there any land which is covered by the Act which isn’t HS2 Land?

**RKKC** – Such land could be by reference to any Schedule 4 land which is taken. That’s why the A418 land is a good example. Where it’s necessary to obtain road closures using Schedule 4 powers.

**RJ** – Isn’t this covered by the extension of the definition?

**RKKC** – Where there is a Schedule 4 act and it’s been used to -

**RJ** – So land temporarily taken over by works, but not within the HS2 definition as amended. If we call that purple land, temporarily in the possession of HS2. So the purpose then of the redefinition re. turning into works, would it cover works not covered by HS2 Land. Why not cover definition of HS2 land to where we can cover temporary works? Then we don’t have to play around with the extant terms of the order.

**RKKC** – Can I take instructions on that?

**RJ** – Yes and if you don’t have time now, do so later.

**SSKC** – On the A418 issue – if the definition of HS2 land has added to it. If you had subsection (i) - land which is taken into temporary or permanent possession where the claimant is using powers under Schedule 2 powers, then one gets at the mischief that the claimant claims by reasons that are much more proportionate. Coupled with putting up signs so people know the land is temporarily under possession.

**RJ** – There could be signs and also a map of the areas.

**SSKC** – It being in their possession, is nothing to do with unlawful means conspiracy.

**RJ** – Different point. I have I mind that whilst the renewal of the injunction requested needs to take place by the end of this month, there may be a way of dealing with the core and separating out the extended parts. The issue that you have helpfully assisted on, may go to a core matter, resolvable in a week or so, rather than the extension matter of substance in relation to conspiracy. I don’t want to rush the claimants at this stage. Put this on your action list if acceptable.

**RKKC** – it is acceptable but there is a judgement in *Shell* that we await on this point. We understand that a draft of this judgement will be made available to parties of that case – it may be advantageous for that case to be handed down in advance of my lord making findings.

**RJ** – Make submissions on it if you feel appropriate to do so. Mr Keir?

**Keir** – Something to be discussed re. Schedule 4 – part of the qualifying requirements includes pedestrians which has not been the case so far and also the 28 days’ notice.

**RJ** – So you would like access to the discussions on that? I will hear submissions on that.

**SSKC** – One of the points re. the *Shell* case and conspiracy injunction is that it’s much more geographically confined. The mischief here is that the claimants cannot tell us in any sense how lawful protest is not killed by the order that they seek. Mr Kimblin also relies on *Esso*. The reason why the conspiracy injunction had to be discharged is because at 43, injunctions have to have acceptable geographical limits and a temporal limit. Whilst there were acceptable geographical limits but no temporal limits.

My next point is that in a case of this sort where the injunction is to have a geographical or temporal limit, we are a long way away from the idea in *Barking* where you get an injunction and then let it lapse. It is a pleading requirement where unlawful conduct is alleged, to say what that unlawful conduct is. In cases where people make serious allegations, they can’t keep limping along to Court and there comes a point where if they do have an entitlement to relief, there’s a requirement to push it on to trial.

In my submissions, one of the things that ought to be applied for and is also being considered in *Shell*, is directions to progress this claim. The idea that every so often counsel will come in to extend it, that’s not how litigation needs to be conducted. There must be a resolution. I make this point re. conspiracy and the other points, the point it comes to an end with a final order. A claim with conspiracy means the judge cannot have a fair trial on this claim with the pleadings as they are. People are entitled to know what is alleged of them.

**RJ** – Why has no notice to bring it to final order being brought by D6? What is then the value of your submissions when you haven’t made the application?

**SKKC** – I haven’t a good answer to that. This is the vice with PU – the claimants can’t bring this without any intention of bringing it to full trial. When it comes to PU injunctions and particularly the addition of the D68 which is only a very recent matter, it may very well be the case that D(6) chooses to issue that notice. Precise particulars of claim are important to the Court’s fair adjudication of the matter.

**RJ** – That will be resolved if a notification of final trial arises. Directions will be given and if before the trial there are no submissions as to the conspiracy point, it would be abandoned.

**SKKC** – The position as far as the Court is concerned in terms of case management, it raises the point on how can they have an interim judgement if they couldn’t have a final one? It is a fair point albeit D(6) hasn’t put in the notice. It’s a fair point to say that the claimant’s refusal to identify the case in conspiracy is material.

A couple of short points re. the conspiracy point and *Shell* case. The acts prohibited are clearly defined in *Shell*. In the claimant’s proposed amendments, it’s the very opposite. It is ambiguous – persons unknown by unlawful means. It is a point of practice and law – what unlawful means conspiracy is a matter of uncertainty and the claimant’s case provides no assistance as to how third party actions are said to cause injury to claimants. Something much stronger – both evidentiary and in terms of allegations – would need to be put to the Court to enable them to grant an injunction of this sort. If its not necessary to make an injunction in conspiracy, then the Court shouldn’t do so. The particular mischief of which they complain, can be tackled by the change in definition to HS2 land in the existing injunction. If that’s the case, then why do it. We say there are sound reasons for not embarking on what is a difficult and potentially unnecessary exercise when there is a much more desirable and clearer way of addressing the mischief without being a deterrent to lawful protest. We can understand why my lord may want to hive those issues off, but we say that you can deal with that second stage by considering how we can modify the existing injunction to address those additional points re. conspiracy to injure.

*SKKC submissions concluded.*

**RJ** – Now let’s hear from other defendants. Mr Keir and Ms. Thomson – Smith.

*Mr Mark Keir rises.*

**MK** – The draft order for conspiracy does not read well for the lay person.



**RJ** – Paragraph 5 - that is objectionable?

**MK** – The protest at Eversheds – if that is a problem to the claimant. I find it hard to understand how that's damaging other than reputational, then it's well within the boundaries of lawful protest. I'd like to point out that Dobson says that the Eversheds protest involves trespass and criminal damage and nuisance. We did not trespass, cause nuisance and certainly no criminal damage. There's a clear case that the conspiracy was perhaps not ours.

**RJ** – Was this the graffiti allegation?

**MK** – Yes but it wasn't criminal damage – it was washed off.

**RJ** – Understood.

**MK** – I can't see how if this is damaging in any other way than reputational to the claimants, perhaps there is a conspiracy on their side.

**RJ** – Thank you. Miss Thomson-Smith?

*Miss Thomson-Smith rises.*

**CTS** – My apologies for the late submissions. I have video evidence on USB which place into context the fanciful allegations placed by Mr Dobson. The purpose of me being here is not to oppose this application. The purpose of me being here is in defence of the allegations made against me based on conjecture, embellishment and embroidery of the facts and are disingenuous. By lying by omission and taking things I didn't say out of context.

If you take away the protest of Eversheds Sutherland, and 6 October and 7 February – really what is left in this case? In order for DLA to accept my undertaking, they required me to withdraw my submission. A cynical move to stop you from seeing my submission and evidence. The purpose of those videos is to illustrate behaviour which assaults and intimidates HS2 protestors. The videos illustrate poor management and bad practice of putting the injunction in place. In doing so, HS2 have committed nuisance. It's the actions of HS2 which have led to protestors acting in self-defence – these events have been contorted to acts of abuse or assault. I have been accused of verbal abuse. If you are able to see my submission that I was in self-defence that day.

The 2<sup>nd</sup> February may not be my finest hour but I was acting in self-defence of the provocation, physical attack and verbal assault against me. You can see in the video members of HS2 security recording the incident. Mr Dobson has cherry picked 45 seconds out of a 4-hour live stream. If Mr Dobson considers my words that day to be verbally abusive, I wonder about his own words of being called a “slag” being told to “f\*\*\* off”. I have also been subject to sexual harassment and taunting. Some of these incidents have happened when not protesting but when walking around my home environment. I wonder what he would say to that. I put it to you that the evidence pales into insignificance the sustained provocations and intimidation I have been subject to. Out of hours, he selects just a few moments of retaliatory self-defence. Mr Kimblin said himself that context is extremely important – it places it firmly into context.

**RJ** – Can you show me in the bundle where your witness statement is?

**RKKC** – It came to Court via email.

**RJ** – I have your submissions which I have printed out and an email which had attached to it, a link.

**CTS** – I was told that you are not able to open the link. I have copied the attachments on USB link.

**RJ** – Can I have the USB now.

*CTS leaves to retrieve USB stick.*

**RJ** – Have leading counsel had access to this video?

**RKKC** – Yes if it is what we think it is.

**RJ** – I am minded to look at it overnight. Then to post it to leading counsel so they know what I have seen and then for their solicitors to get it back to you.

**CTS** – Yes that's fine. Some of the links are extremely long – livestreams that may last a few hours. It places into context the cherry picked clips. They are all broken up and clearly labelled in accordance with my submission.

**RJ** – How many hours of video are on the stick?

**CTS** – Maybe 4 hours. The reason I provided so much evidence is that Mr Dobson does make an awful lot of allegations and I must provide context to those and information that refutes those allegations and justifies some of the claims made against me. I believe it's serious evidence. My purpose is not to be vexatious here, but to assist. One of the submissions also made, was that they would no longer accept an undertaking from me and they'd make as to an order to costs. I refer to paragraphs 19 -20 which says there will be no order as to costs. I don't understand how coming here today to defend myself is going to incur any extra costs.

**RJ** – Are you content to become a defendant?

**CTS** – No. I would leave it to you to decide if you feel I should be named. I feel like I have been unfairly pressurised by HS2 and would call it bullying. It is unfair to be a named defendant, I didn't breach the order. As already stated, the unlawful behaviour alleged on 5 February is unspecified. I don't know what I was supposed to have done – there were no boundaries and it was a chaotic environment. None of which was caused by protestors or members of the public. It's hard to know where one ends and the other begins. Just because you protest on one day and then the next day in HS2 vicinity, doesn't make you a protestor the next day. I would suggest that before any extension of the injunction is considered in terms of scope, it must be considered if the injunction can be properly implemented. I would suggest that my inclusion in the alleged trespass on 6 October is that it cannot be. I fall within the category as described on the HS2 website as someone who is a rambler that inadvertently enters HS2 property with no intent to cause damage. That is absolutely what happened that day.

**RJ** – As I understand the assertions made by the claimants in relation to the October offence, you were on land that they had a right to possession of. You say you weren't?

**CTS** – I was there on a public footpath which led into that land. There was no fencing or signage. When we were asked to leave, we left and engaged with some good-humoured conversation with workers. That's what is illustrated in Mr Dobson's video. I was in the area inadvertently. It illustrates clearly that I would not intend to intimidate anybody. Despite being subject to some extreme abuse by HS2 workers, I acknowledge the fact they have the right to earn money. Many of them don't like the work they are doing and are very conflicted. I do have respect for a lot of the workers who have to earn the money they do to put food on the table. On the day of 2 February it may not appear that way, but I had been subject to sustained abuse for hours. My retaliation was that HS2 had closed footpath and highway against the terms of the injunction.

**RJ** – Do you accept the allegations made in the witness statement of James Dobson saying that you said you **hoped** the money made his children sick?

**CTS** – I do accept I said that but regret that part about the children, but I was under duress. Looking back at videos was very distressing which is why it took so long to make my submissions.

**RJ** – So you wish for me to look at that video in light of the context?

**CTS** – Yes. I livestreamed that day with my nephew to observe and report what they were doing. Yes to protest but not to cause delay or disruption.

**RJ** – How old is your nephew?

**CTS** – 13. I don't know if he heard everything but he did hear me say to that worker it was disgusting.

**RJ** – You don't wish to be a defendant and you oppose the extension of the injunction.

**CTS** – Yes and the point about conspiracy. Those are all my points.

**SSKC** – Mr Dobson is effectively giving evidence in the same way a solicitor makes representations about the law to the Court. When you consider the evidence, you must look at that for what it is and not in the context of someone who sits down with solicitors to draft what he is going to say. I have not sent my draft to the claimant as there may be others who wish to contribute.

**RKKC** – Can I deal with first of all as to what's said about witness statements. It's an important thing to make clear on the face of a witness statement, that they draw upon information in the evidence.

**SSKC** – When he's watching footage that's not of him, it's his opinion on what it shows.

**RKKC** – It has become evident that the evidence as understood is being directed towards the extension of the injunction. This is incorrect. It demonstrates the need to continue the current jurisdiction to its temporal and geographical extent. I understand the contentious issue is D68. One sees from reading James Dobson's witness statement, how matters have evolved. In respect of Eversheds, that has achieved a significance in respect of the D(68) extension which we don't intend. If I led others to that view it was inadvertently.

Turning to the way in which the case of the D68 extension is now put. I want to identify early on whether it can be said whether the Court should not. The submissions also went further that it shouldn't on the way it is presently drafted. I wanted to address what is pleaded first of all. What is pleaded is what can be pleaded in respect of PU injunction where there are a variety of activities that change over time and change by nature of where they are undertaken. That's precisely why the PU injunction is necessary in this case. What's pleaded is all that can be pleaded, and is pleaded against D(68). If one thinks in the generality, there are many examples of people acting together, agreeing to delay and disrupt. There are some that are named. It changes over time.

**RJ** – I don't have a strike-out application. If you propose to amend your particulars of claim, there's an objection from D6 to do so. I have two things, do I grant permission based on the pleadings, and two, do I grant the injunction extending to conspiracy.

**RKKC** – As to point two and what the amendment achieves and if it's clear. What does it achieve and is it clear. What it achieves is the ability to stop significant disruption of the HS2 works from land that is not presently within the definition of HS2 land. It achieves that in a way which is really helpful in minimising the expense, disruption and indeed distress. If a group of activist want to move onto a place that has not yet come into the definition by a declaration or by temporary possession, it protects for a theoretical Cash's Pit 2. Not yet HS2 land. Service of a notice to take the land, would then have the very real benefit in saying to those on the land that you would be in breach by reference to D68.

**RJ** – Then why? If that notice is heard, then they are also just trespassing? That's why I asked at the start if you wanted to do it via social media or by actual action?

**RKKC** – The illustration of Cash's Pit 2 shows the immediacy by which that additional D68 injunction would apply to those that are in that conspiracy – obstructing, hindering etc – it would then become immediately impossible to take action against those. It allows you to deal with it that much earlier. Any such notice under Schedule 16 has a 28-day period. If you serve the notice, then you are able to take action straight away.

**RJ** – Or serve the notice then take the action? It only saves 28 days.

**RKKC** – The other way in which D68 is of substantial benefit is by reference to Schedule 4. Taking possession of land, in particular highways. It allows the protection effectively in the sense that those activists standing outside the current injunction but having a real effect on the activity on HS2 land. It removes the possibility of the displacement of the unlawful aspects of the activity. That's why the revised draft and supplemental skeleton makes the suggested argument, that the same matters (a) – (f) should apply in relation to conspiracy as they do to the existing parts of the injunction in force. The amendments to paragraph 5 have the effect of mirroring exactly what's in the existing injunction in respect of 3 (d).

**RJ** – If I have to decide on that I will. I have some sympathy with prospective D66 re. the wording of paragraph 5 and how difficult it is to read. I don't want to be too prescriptive in how you could word it.

**RKKC** – That conversation is a welcome one. The essential thing to achieve is that the actual effect is capable of remedy. That's why I made it clear that we are not interested in mere discussion on Facebook. If it is capable of being addressed by a different mechanism, we are happy to consider that. As I said in opening, it is having

something effective and clear. As far as the objections taken in relation to PU are concerned, those submissions do not find any support within *Barking v Dagenham* at the Court of Appeal. Barking considered the submissions made to you re. the procedural limits on PU injunctions and concluded there was no impediment to having a PU injunction in final form.

**RJ** – You say that part of the ratio was not before the Supreme Court?

**RKKC** – It was a very wide ranging discussion. Turning to the submission that we don't know who the conspiracists are. That was put from the point of view that it's impossible to know from the defendant's point of view as to who is alleged. I come back to my earlier submission about isolating parts of the evidence. There's been a concentration on the D67 and D66 interactions in making the original order without regard to the totality of the evidence. The totality with respect to the route-wide injunction, shows beyond doubt at all, that there is very significant interaction and agreement between defendants with a particular objective with the intention to interrupt and delay. The submission that one cannot know who the conspirators are doesn't go anywhere. It's something that can only be apparent by way of evidence which comes from contempt evidence. We do have evidence of cooperation and costs and damage.

Also brings me to whether or not lawful protest would be killed. Related to that, in respect of whether there is any problem in adding this element to the injunction. The draft injunction makes clear in the recitals that it does not intend to inhibit lawful protest. It would be difficult for any contempt application. Further, the way in which the prohibition itself as it currently stands, particularly as 3 (b) is concerned, makes clear that it isn't directed at lawful protest. It's concerned with *deliberately* obstructing etc. That's expanded upon in 5. If that's acceptable, which it is, and doesn't hamper lawful protest then likewise D68 doesn't either.

It only leaves the question of geographical scope. The extent of the submissions in that regard is not very precise. Whereas what is to be achieved by D68 is that one gets a reference to the Act and works made by reference to the Act, which is a remarkably precise explanation of where the works are?

**RJ** – Are you expecting member so public to look at the Act to determine where they can or cannot go?

**RKKC** – No.

**RJ** – How are they meant to work out where HS2 works are and where the subcontractors are?

**RKKC** – The answer lies in the intention. You cannot intend to do something you don't know about. That's why D68 differs. You necessarily have to know. In all cases it will be obvious that there are HS2 works on the land and then if it isn't, then they're not in breach. It's really no different from the current way in which HS2 land is defined and made known via the website, where all the plans exist for those who wish to see them.

The geographical scope point hasn't been addressed by reference to how D68 works in practice. In practice it works by saying that PU by using unlawful means, with intention and having the effect of disruption, none of those things are incidental. The geographical scope is important to members of public who may trespass inadvertently. The proper reading of it is to read it as a whole – what is it that D68 prevents. Prevents people getting together, intending that harm is caused, and actually causing it. It's for that reason that our supplementary skeleton made the observation that proving it is the equal and opposite of the nature of the prohibition. Same point made in *Cuadrilla*. D68 isn't hard to understand when read as a whole. Using unlawful means to do those things to have the effect of causing harm and damage.

In respect of Ms Thomson-Smith's submissions, it's difficult to respond to submissions which start at paragraph 5 by saying "*I don't object to the extension of the injunction itself so far as extended time is concerned. What I'm here to do is to say is that the things set out in the witness evidence aren't correct, short of having a trial on those issues*". The reason she appears is to rebut what is said in that evidence. As I indicated at the outset, it's not proportionate to call those witnesses. What's clear now is that the only matter in issue is whether she should become a defendant or not. Is there a case against her which she wishes to answer, and is there a case on the evidence that is at least a prima facie case? On both, yes. There isn't a part in the particulars of claim that addresses any named defendant.

**RJ** – There are cost consequences of course in drawing in any defendant. What would you say is the threshold I should apply?

**RKKC** – Where there is PU cases – the threshold is often the other way round. Often with the traveller cases, there are injunctions that fail to name those that need to be identified. It's not fulfilling of the duty on claimants to bring those -

**RJ** – I will set out 4 factors: i) known to the defendant, identifiable, ii) should be served to be informed, iii) actively involved in activities within the particulars of claim, iv) which may be proved to satisfaction.

**RKKC** – The remaining matter is the alternative approach to achieve HS2's objectives. I would like to take instruction on that – may I have permission to respond in writing.

**RJ** – Happy for you to do so.

**RKKC** - Those are my submissions.

**RJ** – I said I would come back to the matter of thresholds.

**SSKC** – I think the submission is that there should be a pleaded case. That the defendant has or will commit the tort. One of the issues with the factor you identified, is that D66 is sought to be joint in part with D67 for something to do with D68. The same issues with the claimant's application re. D68, may have a bearing on D66. the whole problem is with the claimant's circularity. They say we have an injunction, we want more. Whilst we talk about the criteria for joining people, one submission is that it's not possible for the claimant to say what they have done as it can only be apparent in due course, at the state of contempt proceedings. That is not the way to bring a claim.

**RJ** – Is there anything in the CPR on this?

**SSKC** – I will locate and address it in writing. The existing injunction already makes it unlawful for people to do something on his or her own behalf.

**RJ** – Re-arguing the point. Miss Thomson Smith – I know you object to being joined but I have set out some touch stones on that and welcome counsel's written submissions. Do you have anything else to say on why you shouldn't be joined?

**CTS** – I haven't breached, I haven't conspired. I haven't done anything unlawful. I responded to situations created by HS2 management.

**RJ** – But not prepared to give an undertaking? Now you have given submissions would you be prepared to?

**CTS** – Absolutely.

**RJ** – I propose we come back another day. I am in the building until 5 pm. I will be extending the current injunction for a further 12 months. I will be giving permission to remove the 27 defendants requested. I will be giving permission to amend the particulars of claim. I will be giving permission to extend the definition in (1) of HS2 Land as requested, and further to Temporary Possession Provisions, the details of which are for counsel to sort out. I am not ordering anyone to produce a draft. Nothing to say on the undertaking of D67. Not exceeding to D36 adjournment application, call to witnesses, or desire to raise invalidity to planning and issues contested in parliament.

I will be reserving the application to extend to conspiracy. If either party wishes to put in further submissions in relation to that which do not repeat the submissions already in, that can be done in the next 7 days. I have the following concerns about tidying up the order. It seems that new form of the order should go out. [...] I had a concern that the draft given to me had referenced Christopher Butcher and Caroline Thomson-Smith. The address of Birmingham Justice Centre has the incorrect postcode. I was concerned about the interaction between Schedule B and clause 15 which gives any named defendant who believes they might bring themselves within the definition of PU, the right to bring proceedings. Schedule B says if you want to bring the case to final trial. Maybe a final paragraph is needed to make it consistent.

I hope counsel can get to me in good time before 31<sup>st</sup> May 2023, I will produce a reserved judgement on conspiracy later.

Miss Thomson-Smith?

**CTS** – Can I have clarification on whether the claimant seeks to apply for costs against me from this hearing?

**RKKC** – That's dependent on the outcome.

**RJ** – If I decide to join her?

**RKKC** – Yes. It's possible. There is a cost schedule but as presently drafted isn't of use to her.

**RJ** – I will consider applications of costs when I have provided my reserve judgement.

We might also need a side order with directions on that so the level of costs that may be claimed by the claimant to CTS will be within a certain period of time. Miss Thomson-Smith, I cannot tell you the result of that enquiry but I will get them to agree a set of directions about you knowing what they are and what is proposed.

**SSKC** – In relation to the reserved judgement, it may be possible that the parties reach an accommodation that does not require that. Would you like to suggest a date or time by which we need to communicate?

**RJ** – Yes. If I could be told in 7 days if at least D6 agrees to this.

**RKKC** – Having heard that exchange, then the only matter that you might be updated today will be as between ourselves and Miss Thomson-Smith which we are happy to engage with.

**RJ** – Yes. I agree that is a matter for today to put her at ease.

**RKKC** – Could we have 10 minutes?

**RJ** – Yes.

**16.18** – Adjourned

**16.34** - Resumed

**RKKC** – We have reached an accommodation with Miss Thomson-Smith – we no longer seek to join her as a defendant.

**RJ** – You have an action list and in 7 days your solicitors will communicate with me about the need for the extension regarding the conspiracy point.

**16.36** – End.

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

HER HONOUR JUDGE EMMA KELLY

Between:



QB-2022-BHM-000044

**(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, SUBCONTRACTORS, 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

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DIRECTIONS ORDER

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**BEFORE** Her Honour Judge Emma Kelly, sitting as a Judge of the High Court, and considering the matter on paper on 15 March 2023

**UPON** the Order of Mr Justice Julian Knowles made on 20 September 2022 (“**Injunction Order**”) requiring at paragraph 15 reconsideration of the injunction on approximately a yearly basis.

**AND UPON** the Court noting the requirement in paragraph 15 of the Injunction Order that the Claimants are required to “place details of any such hearing on the HS2 Proceedings Website”

**AND UPON** the Court having listed a review hearing to take place on 16 May 2023 at the High Court in Birmingham at which the reconsideration of the Injunction Order will take place including any application made by parties to the proceedings (“**the Review**”)

**AND UPON** the Court reading the Certificate of Service dated 21 February 2023 filed by the Claimants confirming that the Notice of Review Hearing has been placed on the HS2 Proceedings Website

**AND UPON** the Claimants’ application for directions by Application Notice dated 10 March 2023.

**AND UPON** the Court noting that the HS2 Proceedings Website has reached capacity and is unable to hold further substantial documents relating to this case.

**IT IS ORDERED THAT:**

**Definitions**

1. In this Order, the following defined terms shall apply:
  - a. The “HS2 Proceedings Website” means the webpages at: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings>.
  - b. The “RWI Updated Website” means the webpages at: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>.
  - c. The term “Defendants” refers to all Defendants 1 – 63.
  - d. The term “Named Defendants” means D5 to D63 whose names appear in Annex A of the Injunction Order (and copied in full at Annex A of this Order for convenience).
  - e. The “HS2 Land” means all of the land acquired or held by the Claimants in connection with the High Speed 2 Railway Scheme shown coloured pink and green on the plans which are available electronically on the HS2 Proceedings Website.
  - f. The “Review Documents” means all the documents filed with the Court by the Claimants for the Review, including this Order and the Application Notice dated 10 March 2023.

**The Websites**



2. The Claimants shall forthwith place a notice on the HS2 Proceedings Website stating that in future documents will be uploaded to the RWI Updated Website and include a link to the RWI Updated Website.
3. The Claimants shall forthwith place copies of all documents already uploaded to the HS2 Proceedings Website onto the RWI Updated Website.
4. The Claimants shall retain the HS2 Proceedings Website unless and until the Court considers that at some future date it is no longer necessary to do so.

**Service by Alternative Method – Review Documents**

5. The Court will provide sealed copies of this Order to the Claimants' solicitors for service (whose details are set out below). The Claimants shall advertise the existence of this Order in a prominent location on the HS2 Proceedings Website and the RWI Updated Website, together with a link to download an electronic copy of this Order.
6. Pursuant to CPR r. 6.27 and r. 81.4, personal service is dispensed with and service of the Review Documents upon the Defendants shall be by:
  - a. placing the Review Documents on the RWI Updated Website.
  - b. causing an advertisement advertising the date of the Review in the *Times* and *Guardian* newspapers, and in particular advertising the web address of the RWI Updated Website.
  - c. where permission is granted by the relevant authority, by causing to be placed an advertisement and/or a hard copy of this Order within 14 libraries approximately every 10 miles along the route of the HS2 Scheme. In the alternative, if permission is not granted, the Claimants shall use reasonable endeavours to place advertisements on local parish council notice boards in the same approximate locations.
  - d. causing to be made social media posts on the HS2 twitter and Facebook pages advertising the date of the Review and the web address of the HS2 RWI Updated Website.
7. Compliance with paragraphs 6(a), (b) and (c) above will be good and sufficient service on the Defendants and each of them.

8. The Claimants shall email a copy of the Order to the solicitors for D6 and any other party who has at the date hereof provided an email address to the Claimants to the email addresses: HS2Injunction@governmentlegal.gov.uk or HS2Injunction@dlapiper.com.

### **Further Case Management**

9. The Review has been listed for one day at 10.30am on Tuesday 16 May 2023 in the High Court in Birmingham, The Priory Courts, 33 Bull Street, Birmingham B4 6DS.
10. Any person, other than a Named Defendant (D5 – D63), who wishes to address the Court at the Review must inform the Court and the Claimants of their intention to attend by 4pm on 12 May 2023 at the addresses listed in paragraphs 23 and 24 below.
11. By 4pm on 27 March 2023, the Claimants' must file and serve (in accordance with paragraph 6(a) above) any applications relevant to the Review, a draft order, and any evidence upon which they seek to rely.
12. By 4pm on 11 April 2023, any person seeking to amend (including discharge) the Injunction Order, or oppose any applications made by the Claimants, must file and serve a statement of case and any evidence upon which that person seeks to rely by emailing or posting it to the Court and the Claimants at the addresses listed below. At the same time and date, any party requiring any of the Claimants' witnesses to attend for cross-examination are to give notice of the name of the witness required together with the reasons why that person is required. For the avoidance of doubt, whether live evidence will be permitted will remain to be determined by the Court.
13. By 4pm on 17 April 2023, the Claimants' have permission to file and serve any evidence in response to any statement of case or evidence filed in accordance with paragraph 12 above if so advised.
14. By 4pm on 18 April 2023, the Claimants shall cause to be placed on the RWI Updated Website a draft hearing bundle index.
15. By 4pm on 21 April 2023, any person who wishes to comment on the draft hearing bundle must notify the Claimants of their comments by email to the address in paragraph 24 below. Any person may provide suggested documents for inclusion to the Claimants. Where there is disagreement between the Claimants and that person as to the relevance of any document, that disagreement will be noted in the hearing bundle index and the document shall be provided to

the Court in a separate bundle by the person seeking to rely upon it, with reasons provided as to the document's relevance.

16. By 4pm on 8 May 2023, the Claimants shall file and serve a properly paginated and indexed hearing bundle to the Court by email and in hard copy, and shall cause to be placed on the RWI Updated Website a copy of the same. The electronic copy of the bundle must be bookmarked and have a hyperlinked index.
17. By 4pm on 10 May 2023, the Claimants and any other person seeking to address the Court at the Review shall file and serve any skeleton argument or speaking note.
18. The Claimants otherwise have liberty to apply to extend or vary this Order or for further directions.
19. Costs reserved.

#### **Documents in the Claim and Application**

20. All documents relating to the underlying proceedings may be downloaded at: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings>.
21. All documents relating to this application and the Review may be downloaded at: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>.
22. A single hard copy of any document will be sent within 21 days of the receipt of a reasonable request for that document or documents via the Claimants' solicitors whose contact details are set out below so long as any requests include a postal address and the full name of the requestor.

#### **Communications with Claimants and the Court**

23. All communications to the Court about this Order (which should quote the case number) should be sent to:

Birmingham District Registry  
Birmingham Civil and Family Justice Centre  
The Priory Courts  
33 Bull Street  
Birmingham  
B4 6DS

E: [kb.birmingham@justice.gov.uk](mailto:kb.birmingham@justice.gov.uk)  
T: 0121 681 3033  
DX: 701987 Birmingham 7

24. The Claimants' solicitors and their contact details are:

FAO: HS2 TEAM  
DLA PIPER UK LLP  
1 St Paul's Place  
Sheffield  
S1 2JX

E: HS2Injunction@dlapiper.com  
T: 0114 283 3312  
DX: 708580 Sheffield 10  
Ref: RXS/380900/378

25. This order has been made by the Court pursuant to CPR 23.9 as the Court has disposed of an application without service of a copy of the application notice. Any person not served with a copy of the application notice before the order was made may apply to have the order set aside or varied, with any such application to be made within 7 days after the date on which this order was served on the person making the application.

**BY THE COURT**

**15 MARCH 2023**

**ANNEX A – NAMED DEFENDANTS**

**PART 1**

<b>DEFENDANT NUMBER</b>	<b>UNNAMED DEFENDANTS</b>
(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 <a href="https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings">https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings</a> (“THE HS2 LAND”) WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUBCONTRACTORS, 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

**For the avoidance of doubt, any person who has been a defendant in these proceedings, or who has given undertakings to HS2, may nevertheless become Defendant 1 – Defendant 4 as a person unknown if they commit any of the prohibited acts.**

**PART 2**

<b>DEFENDANT NUMBER</b>	<b>NAMED DEFENDANTS</b>
(5)	Mr Ross Monaghan (aka Squirrel / Ash Tree)
(6)	Mr James Andrew Taylor (aka Jimmy Knaggs / James Knaggs / Run Away Jim)
(7)	Ms Leah Oldfield
(8)	Not Used
(9)	Not Used
(10)	Not Used
(11)	Mr Tony Carne
(12)	Ms Amy Lei
(13)	Mr Tom Holmes
(14)	Not Used
(15)	Not Used
(16)	Ms Karen Wildin (aka Karen Wilding / Karen Wilden / Karen Wilder)
(17)	Mr Andrew McMaster (aka Drew Robson)
(18)	Mr William Harewood (aka Satchel / Satchel Baggins)
(19)	Mr Harrison Radcliffe (aka Log / Bir_Ch / Sasha James)
(20)	Mr George Keeler (aka C Russ T Chav / Flem)
(21)	Mr William French (aka Will French / Took)
(22)	Mr Tristan Dixon (aka Tristan Dyson)
(23)	Mx Scarlett Rien (aka Leggs)
(24)	Not Used
(25)	Not Used
(26)	Not Used
(27)	Mr Lachlan Sandford (aka Laser / Lazer)
(28)	Mr Scott Breen (aka Scotty / Digger Down)
(29)	Not Used
(30)	Not Used
(31)	Mr Rory Hooper
(32)	Not Used
(33)	Mr Elliot Cuciurean (aka Jellytot)
(34)	Mr Paul Sandison
(35)	Not Used
(36)	Mr Mark Keir
(37)	Mr Thorn Ramsey (aka Virgo Ramsay)
(38)	Mr Vajda Robert Mordechaj

<b>DEFENDANT NUMBER</b>	<b>NAMED DEFENDANTS</b>
(39)	Mr Iain Oliver (aka Pirate)
(40)	Ms Jess Walker
(41)	Mr Matt Atkinson
(42)	Ms Hannah Bennett
(43)	Mr James Ruggles (aka Jimmy Ruggles)
(44)	Mr Nick Grant (aka Potts)
(45)	Mr Stuart Ackroyd
(46)	Ms Wiktoria Paulina Zieniuk
(47)	Not Used
(48)	Mr Conner Nichols
(49)	Mr Sebastian Roblyn Maxey
(50)	Ms Jessica Heathland-Smith
(51)	Ms Ella Dorton
(52)	Mr Karl Collins
(53)	Mr Sam Goggin
(54)	Not Used
(55)	Not Used
(56)	Not Used
(57)	Ms Samantha Smithson (aka Swan / Swan Lake)
(58)	Mr Jack Charles Oliver
(59)	Ms Charlie Inskip
(60)	Mr Xavier Gonzalez Trimmer
(61)	Mr David Buchan (aka David Holliday)
(62)	Ms Leanne Swateridge (aka Leayn / Flowery Zebra)
(63)	Mr Dino Misina (aka Hedge Hog)

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

Before: Her Honour Judge Emma Kelly

On: 5 June 2023

Between:

(1) HIGH SPEED TWO (HS2) LIMITED  
(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 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/Respondents

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ORDER

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UPON the Claimants' application by Application Notice dated 2 June 2023 seeking an extension to the sunset provision in the Injunction Order of the Honourable Mr Justice Julian Knowles dated 20 September 2022 ("**Extension Application**").



QB-2022-BHM-000044



**AND UPON** considering the Extension Application on the papers

**IT IS ORDERED THAT:**

1. The Extension Application is dismissed.
2. Pursuant to CPR r.6.27 and r.81.4, the Claimants shall serve the Extension Application and this Order upon the Defendants by placing a copy of this Order on the following website: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>
3. This order has been made by the Court pursuant to CPR 23.9 as the Court has disposed of an application without service of a copy of the application notice. Any person not served with a copy of the application notice before the order was made may apply to have the order set aside or varied, with any such application to be made within 7 days after the date on which this order was served on the person making the application.
4. There be no order as to costs as between any of the parties in respect of the Extension Application.
5. The Claimants' solicitors and their contact details are:

FAO: HS2 TEAM  
DLA PIPER UK LLP  
1 St Paul's Place  
Sheffield  
S1 2JX

E: HS2Injunction@dlapiper.com  
T: 0114 283 3312  
DX: 708580 Sheffield 10  
Ref: RXS/380900/401

Reasons

On 16 May 2023 Ritchie J confirmed during a review hearing that he was planning to extend the injunction order of Julian Knowles J dated 20 September 2022 by a period of 12 months. Following the hearing counsel filed a minute of order but the same was not approved and sealed prior to the original expiry date of the injunction on 31 May 2023. The lack of sealed order prompted the Claimants to issue the Extension Application to cover the lacuna until the order from 16 May 2023 was available. The court is aware that Ritchie J has now approved the draft order and the court has sealed and uploaded copies to CE-File today (5 June 2023.) The order of Ritchie J extends the injunction to 23.59 on 31 May 2024. The Extension Application is therefore now otiose as the issue concerning the Claimants has been resolved.

**BY THE COURT**

**MADE ON 5 JUNE 2023**