

On behalf of: Applicants/Claimants
J.A Dilcock
13th statement of witness
Exhibits: JAD15
Date: 28.02.2024

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) NOT USED**
- (2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER 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 60 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants

THIRTEENTH WITNESS STATEMENT OF JULIE AMBER DILCOCK

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

1. I am a solicitor of the Senior Courts of England and Wales and employed by the First Claimant as Head Counsel – Land & Property Disputes. My role involves advising the First Claimant and instructing and assisting external legal advisers advising and representing the First Claimant and in that capacity my role includes instructing our external legal advisers, DLA Piper UK LLP, in relation to the conduct of these proceedings. I am authorised to make this, my Thirteenth Witness Statement, on behalf of the Claimants.
2. I make this statement in support of the Claimants’ application to extend the injunction imposed by the Order of Mr Justice Julian Knowles dated 20.09.2022 and extended by the Order of Mr Justice Ritchie dated 31.05.2023 (the “**Injunction**”). References to the Injunction in this witness statement refer to the most recent text of the Injunction as granted by Mr Justice Ritchie on 31.05.2023.
3. This statement has been prepared with the Claimants’ legal representatives.
4. This statement contains matters that are within my own knowledge, whether directly or resulting from matters reported to me – both orally and in writing. Where matters are based upon information received from a third party I identify the third party source and why I believe the truth of the matters stated.
5. There are now shown and produced to me marked **JAD15** true copies of documents to which I shall refer in this statement and which can be found at <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>. Page numbers without qualification refer to that exhibit.
6. In preparing this statement I have read the following witness statements filed previously in these proceedings:
 - (a) Witness Statement of Richard Jordan (“**Jordan 1**”)
 - (b) First witness statement of James Dobson (“**Dobson 1**”)
 - (c) First witness statement of John Groves (“**Groves 1**”)
 - (d) My first to twelfth witness statements (“**Dilcock 1**” to “**Dilcock 12**”)

I have also reviewed the Second Witness Statement of John Groves (“**Groves 2**”) and Second Witness Statement of James Dobson (“**Dobson 2**”) in draft.

Defined terms used in this statement are the same as those defined in the Particulars of Claim and the above listed statements, unless separately defined in this statement.

Purpose and scope of this statement

7. In this statement I will:
 - 7.1. Explain the history of these proceedings.
 - 7.2. Give an overview of the Claimants’ position on the addition and removal of Defendants.
 - 7.3. Explain the purpose and scope of the Claimants’ application to vary and extend the Injunction.
 - 7.4. Update the position regarding the land of which the Claimants are entitled to possession and introduce the online interactive plans showing that land (the “**Online Live Mapping**”).
 - 7.5. Give an overview of the current position on the HS2 Scheme and explain the position with regard to Phase 2a following the Prime Minister’s announcement of 04.10.2023.

History of these proceedings

8. These proceedings were initiated on 28.03.2022 by the Claimants under CPR Part 55 as a claim for possession of the Cash’s Pit Land and an application within those proceedings for an injunction across the HS2 Land. There was an initial hearing on 05.04.2022 at which the matter was adjourned. There was a further hearing on 11.04.2022 at which the Cotter Order was made, ordering that possession of the Cash’s Pit Land be given to the Claimants and imposing an injunction over the Cash’s Pit Land restraining trespass, obstruction of access and other matters. The Claimants’ application for an injunction over the wider HS2 Land was listed for a directions hearing.
9. A directions hearing took place on 28.04.2022 at which Mr Justice Julian Knowles set directions to take the matter to a hearing. The substantive hearing of the Claimants’ application for an injunction then took place on 26.05.2022 and 27.05.2022, following

which judgment was reserved. Judgment was then handed down and the Injunction made on 20.09.2022. D6 applied to the Court of Appeal for permission to appeal and that application was refused on 09.12.2022.

10. As originally made, the Injunction was expressed to be in force until 23:59 on 31.05.2023 with express provision for a hearing to take place between 15.05.2023 and 31.05.2023 to determine whether there is a continued threat which justifies the continuation of the Injunction. The Injunction also gave the Claimants liberty to apply to extend or vary the Injunction or for further directions.
11. On 13.01.2023 the court issued Notice of Hearing for the hearing to review the Injunction (the “**First Review Hearing**”) and on 15.03.2023 the court issued a directions order giving directions for the conduct of the proceedings up to the First Review Hearing.
12. Between the hearing on 26.05.2022 to 27.05.2022 and the making of the Injunction on 20.09.2022, the Claimants issued applications for committal for contempt against 7 Defendants for breaching the injunction imposed over the Cash’s Pit Land by the Cotter Order (the “**Cash’s Pit Contempt**”). The hearing of those applications took place on 25.07.2022 to 28.07.2022, with 2 Defendants giving undertakings to the court and 4 given immediate or suspended custodial sentences. The remaining Defendant’s case was adjourned to a further hearing on 22.09.2022 to 23.09.2022 at which an immediate custodial sentence was imposed.
13. The Claimants’ original application had sought an injunction for a period of 12 months, subject to review. The timescales by which the proceedings progressed to the making of the Injunction meant that by the time of the First Review Hearing, the Injunction had been in place for just 8 months.
14. At the First Review Hearing Mr Justice Ritchie made an order extending the Injunction for a further 12 months to 31.05.2024 and varying the terms, most notably to include:
 - 14.1. Provision for the Claimants to add further land that came into possession for the purposes of the HS2 Scheme and to remove land no longer in possession by updating the plans on the RWI Updated Website; and

- 14.2. Provision for highway land temporarily possessed pursuant to powers of temporary stopping up under Schedule 4 of the HS2 Acts to be brought into the Injunction by following a specified process.
15. The order dated 31.05.2023 contained provision for a further review of the Injunction (the “**Second Review Hearing**”) to take place between 15.05.2024 and 31.05.2024 and directions for the conduct of that review.
16. Since the making of the Injunction on 20.09.2022, no-one has applied to vary or discharge it pursuant to the provisions at paragraph 14 of the Injunction and no-one has filed an acknowledgment of service pursuant to paragraph 16 of the Injunction.

Defendants

17. I set out the rationale for those individuals whom the Claimants originally named as Defendants to the proceedings in Dilcock 1 (paragraphs 42 to 43). To a certain extent, the Claimants were bound to name a number of individuals who had already moved away from unlawful direct action campaigning against the HS2 Scheme by virtue of the fact that they had been named Defendants to proceedings for other injunctions obtained by the Claimants and which the Claimants were seeking to consolidate as part of the original application. Several individuals were removed as named Defendants in the Injunction by agreement with the Claimants. The numbers originally used for those removed Defendants are now shown as “not used”. Those individuals remain bound by the terms of the Injunction that apply to persons unknown.
18. D64 and D65 were added as named Defendants to the proceedings by way of an order made by Mr Justice Ritchie on 14.06.2022 as part of the Cash’s Pit Contempt.
19. A number of named Defendants were removed during the First Review Hearing for the reasons set out in Dobson 1. D66 (Caroline Thomson-Smith) and D67 (Christopher Paul Butcher) were proposed to be added as named Defendants to these proceedings in the Claimants’ application to extend and vary the Injunction at the First Review Hearing for the reasons set out in Dobson 1. D67 gave a personal undertaking to abide by the terms of the Injunction prior to the First Review Hearing and in consequence the Claimants agreed not to pursue their application to add him as a named Defendant. D66 agreed before the court during the First Review Hearing that she would give a

personal undertaking to abide by the terms of the Injunction and in consequence the Claimants agreed not to pursue their application to add her as a named Defendant or to pursue an application for costs against her. In spite of the representations that she made to the court and subsequent extensive correspondence with the Claimants' solicitors, D66 then refused to give the undertaking referred to.

20. The Claimants take seriously their obligation to review whether individuals ought to remain named as Defendants to these proceedings and whether any further individuals ought to be added as named Defendants. In preparation for the Second Review Hearing, the Claimants have carried out an extensive and careful review of the named Defendants in order to take an informed decision as to whether to remove each one from the proceedings. The results of that exercise are described in Dobson 2. The Defendants whom the Claimants are now proposing to remove as named Defendants to the proceedings appear not to pose a continuing threat of unlawful direct action campaigning against the HS2 Scheme. It is, of course, open to any of those Defendants to oppose the Claimants' proposal to remove them, in which case the Claimants are content that those individuals remain as named Defendants if they wish. The Claimants detailed reasons for retaining the remaining individuals as named Defendants – essentially because they are each considered to pose a continued threat of unlawful direct action against the HS2 Scheme - are also set out in Dobson 2.

21. The Claimants are also under an obligation to add any new Defendants whom they consider have been involved in or pose a significant threat of being involved in the forms of unlawful activity that the Claimants are asking the court to make an order prohibiting. For this reason, the Claimants seek to add D69 – Curtis Arnold (aka Daniel J Edwards; Curtis Media; DJE Media; DJE PINAC) as a named Defendant to the proceedings. As set out in detail in Dobson 2, D69 has engaged, on multiple occasions, in trespass and the flying of a drone over HS2 Land causing delay and disruption to works on the HS2 Scheme which the Claimants are seeking an order prohibiting by way of the present application.

Claimants' Application to extend the Injunction

22. By the current application, the Claimants are seeking:

- 22.1. continuation of the Injunction for a further 12 months (the “**Temporal Extension**”).
- 22.2. to amend the definition of HS2 Land to clarify that it includes land that was acquired for the purposes of the HS2 Scheme but which may in due course be the subject of a formal declaration as surplus to requirements and earmarked for disposal (the “**Surplus Land Clarification**”).
- 22.3. to clarify that trespass into airspace above HS2 Land in such a manner as to delay or disrupt works is prohibited by the Injunction (the “**Drone Clarification**”).
- 22.4. to make reference to the Online Live Mapping.

I have explained the reasons for each of these and further details about what is sought below.

23. With regard to the Temporal Extension, as is explained in detail in Dobson 2 and Groves 2, the Claimants reasonably fear that there remains a real and imminent threat of unlawful direct action campaigning targeting the HS2 Scheme if the Injunction is allowed to lapse and have evidence to support that fear. Accordingly, the Claimants are seeking to continue the protection afforded by the Injunction for a further 12 months, with provision for the court to review the matter again in May 2025.
24. With regard to the Surplus Land Clarification, this is an issue that will arise on all phases of the HS2 Scheme at some point. In relation to Phase One, the Second Claimant has had to acquire – pursuant to discretionary schemes or statutory blight for example – land and property that is not required for the construction of the railway and which will ultimately be disposed of at an appropriate juncture. In relation to Phase 2a, the Government has announced its intention to devise a disposal programme for the disposal of land no longer required for that phase of the HS2 Scheme. Land that is declared surplus (a surplus declaration is a formal process that the Government is required to go through in order to dispose of Government owned land) remains in the ownership of the Second Claimant until the disposal is completed and remains vulnerable to the unlawful action restrained by the Injunction. However, in the present Injunction, such land may not technically be “HS2 Land” as currently defined. The

Claimants therefore seek a minor amendment to the definition of HS2 Land to ensure that such land continues to benefit from the protection of the Injunction.

25. With regard to the Drone Clarification, as explained in detail in Dobson 2, the Claimants have been experiencing particular issues with the unauthorised flying of drones over HS2 Land interfering with works on the HS2 Scheme. The Claimants consider that there is a risk that it may be arguable that this activity is not covered by the Injunction as presently drafted and accordingly the Claimants seek an amendment to the Injunction to clarify that this activity is prohibited by the terms of the Injunction.
26. With regard to the Online Live Mapping, since the First Review Hearing the First Claimant has been working to devise a more user-friendly way of hosting the mapping and underlying data (currently in the tables of data that accompany the PDF maps) relating to the extent of the Injunction. The First Claimant's aim has been to improve accessibility and the ease with which the mapping showing the extent of the Injunction can be interrogated and the relevant data relating to the HS2 Land accessed. The First Claimant also wished to create a system that could be regularly updated via an automated rather than a manual process to add and remove land. The First Claimant has created an online GIS system that shows the injuncted land using the same colour coding as the March 2023 HS2 Land Plans and which can be found here: <https://experience.arcgis.com/experience/70c5772709be48609cd8853e93b4c93f/>. The link has also been placed on the RWI Updated Website along with an explanatory note as follows:

*The HS2 Land subject to the injunction is shown coloured pink and green on the mapping hosted on the following website:
<https://experience.arcgis.com/experience/70c5772709be48609cd8853e93b4c93f/>.
Information about the basis of the Claimants' right to possession of the HS2 Land can also be accessed by clicking on individual plots of land on that website.*

The online mapping is freely available to anyone who wishes to access it and is automatically updated from the central HS2 GIS system monthly. Users can click on any individual plot of land and obtain all of the information about that plot that was contained in the March 2023 Tables 1 to 4. The Claimants consider that this will allow those who wish to see which land is subject to the Injunction to do so more easily and the Claimants seek an amendment to the Injunction to replace the references to the

March 2023 HS2 Land Plans with reference to the Online Live Mapping as set out in the draft order enclosed with the Claimants' Application.

Overview of construction of the HS2 Scheme


27. In Dilcock 11 I outlined the stages of construction of the HS2 Scheme and broadly what was involved in those stages. In order assist with orientation I have exhibited a map showing the route of the HS2 Scheme at **page 1**.
28. It remains the case that Phase One is in peak construction with over 350 active worksites carrying out activities such as constructing cuttings, building bridges and viaducts and boring tunnels. This is an intensive period of heavy construction involving complex civil engineering and any delays or disruption to the programme caused by direct action activism would be both potentially highly dangerous and extremely costly (see, for example, the worked example in Groves 2).
29. As has been well publicised, on 04.10.2023, the Prime Minister announced that the Government did not intend to proceed with construction of Phase 2 of the HS2 Scheme between the West Midlands and Manchester. Phase 2 of the HS2 Scheme is split into two parts:
 - 29.1. Phase 2a – from the West Midlands to Crewe. The construction of Phase 2a is authorised by an Act of Parliament: The High Speed Rail (West Midlands – Crewe) Act 2021 (“the Phase 2a Act”). The Act has not been repealed.
 - 29.2. Phase 2b – from Crewe to Manchester. There is no Act of Parliament in place for Phase 2b. A Bill was progressing through Parliament to authorise Phase 2b when the 04.10.2023 announcement was made. No land on Phase 2b has ever been included in the Injunction.
30. The Second Claimant had acquired around 60% of the land required for the construction of Phase 2a by the time of the 04.10.2023 announcement. As I explained in Dilcock 11, at the time of the Second Review Hearing construction works for Phase 2a were delayed due to inflationary pressures, but land acquisition and enabling works were continuing on Phase 2a. Following the 04.10.2023 announcement, the Second Claimant has suspended the exercise of powers of compulsory acquisition over Phase 2a, albeit some land in respect of which GVDs had already been made vested after that

date. Further acquisitions may be required in due course to deal with the interface between Phase One and the West Coast Main Line at Handsacre Junction (the location of which is shown on the map at **page 2** – labelled: “West Coast Main Line Connection”).

31. The Government has announced its intention to dispose of land and property acquired for the purposes of Phase 2a and is devising a disposal process (which will need to comply with the Crichel Down Rules), however there is currently no set timescale for disposal. Until such time as the land and property on Phase 2a is disposed of, it remains owned by the Second Claimant (and the First Claimant remains entitled to possession of any land that is held under Schedule 15 temporary possession powers).
32. The Second Claimant has instructed the First Claimant to effect an orderly closure of works on Phase 2a. The programme for closing out Phase 2a is currently being settled and is projected to run until around July 2026. There are over 50 work sites on Phase 2a including utility works, site compounds and offices and environmental mitigation sites. Some works require completion and other areas require restoration.
33. As described in Dobson 2, the HS2 Land on Phase 2a and those who continue to work on it remain under threat of direct action activism and as described in Groves 2 the costs of dealing with an increased threat in the event of the Injunction not continuing would be significant. The 04.10.2023 announcement has not diminished the risk that Phase 2a of the HS2 Scheme will be subject to unlawful direct action and may well heighten that risk as outlined in Groves 2.

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: JULIE AMBER DILCOCK

Dated: 28 February 2024