

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

BETWEEN:

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

Claimants

- and -

PERSONS UNKNOWN & OTHERS

Defendants

**CORE BUNDLE
(Volume A)**
for hearing on 15 May 2024

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DLA Piper UK LLP
1 St Paul's Place
Sheffield
S1 2IX

Telephone: 0114 283 3312
Email: HS2Injunction@dlapiper.com
Reference: RXS/380900/441

Solicitors for the Claimants



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.

QB-2022-BHM-000044

Claim no: QB-2022-BHM-000044

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

**Before: Mr Justice Ritchie
Made on: 31 May 2023**

Between:

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

Claimants/Applicants

-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, 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 60 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants/Respondents

ORDER

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.

BEFORE Mr the Honourable Mr Justice Ritchie sitting at the Birmingham Civil Justice Centre, on 16th May 2023.

AND UPON HEARING Counsel for the Claimants, Mr Richard Kimblin KC and Mr Michael Fry; Mr Stephen Simblet KC and Mr Owen Greenhall for D6, and Mr Mark Keir and Ms Caroline Thomson-Smith in person at the (“**Review Hearing**”).

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 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.

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.

NOW IT IS ORDERED THAT:

Definitions

1. In this Order, the following defined terms shall apply:

- (a) The "RWI Updated Website" means the webpages at: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>.
- (b) The "Named Defendants" means D5 to D65 whose names appear in Annex A.
- (c) The "Defendants" refers to all Defendants.
- (d) The "March 2023 HS2 Land Plans" means the updated plans which illustrate the land to which the Claimants are entitled to possession and which the Claimants shall update from time to time to include:
 - (i) further land of which they have become entitled to possession for Rail Act purposes and
 - (ii) to remove land to which they are no longer entitled to possession for Rail Act purposes.
- (e) The "HS2 Land" means:
 - i) 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 March 2023 HS2 Land Plans and which are available electronically on the RWI Updated Website; and
 - ii) any land which the First Claimant has taken into temporary or permanent possession using its powers under Part 2 of Schedule 4 of the HS2 Acts (Interference with Highways) for Rail Act purposes and on which a copy of this Order shall be displayed at prominent locations on the land in question in accordance with paragraph 10 below.
- (f) The "HS2 Acts" are the High Speed Rail (London – West Midlands) Act 2017 and the High Speed Rail (West Midlands – Crewe) Act 2021.

- (g) “Rail Act purposes” means “Phase One purposes” as defined in section 67 of the High Speed Rail (London – West Midlands) Act 2017 and “Phase 2A purposes” as defined in section 61 of the High Speed Rail (West Midlands – Crewe) Act 2021.

Injunction in force

- 2. With immediate effect, and until 23.59 on 31 May 2024 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 sign, fence or gate on or at the perimeter of the HS2 Land.

- 3. Nothing in paragraph 2 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.

- 4. For the purposes of paragraph 2(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.
5. For the purposes of paragraph 2(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

6. The Court will provide sealed copies of this Order to the Claimants’ solicitors for service (whose details are set out below).
7. Pursuant to CPR r.6.27 and r.81.4:
- (a) The Claimants shall serve this Order upon the Second, Third and Fourth Defendants by:
 - i) Advertising the existence of this Order in the Times and Guardian newspapers, and in particular advertising the web address of the RWI Updated Website, and direct link to this Order.
 - ii) 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.
 - iii) Publishing social media posts on the HS2 Twitter and Facebook platforms advertising the existence of this Order and providing a link to the RWI Updated Website.

- (b) Service of this Order on Named Defendants may be effected by personal service where practicable and/or posting a copy of this Order through the letterbox of each Named Defendant (or leaving in a separate mailbox), with a notice drawing the recipient's attention to the fact the package contains a court order. If the premises do not have a letterbox, or mailbox, a package containing this Order may be affixed to or left at the front door or other prominent feature marked with a notice drawing the recipient's attention to the fact that the package contains a court order and should be read urgently. The notices shall be given in prominent lettering in the form set out in Annex B. It is open to any Defendant to contact the Claimants to identify an alternative place for service and, if they do so, it is not necessary for a notice or package to be affixed to or left at the front door or other prominent feature.
 - (c) The Claimants shall further advertise the existence of this Order in a prominent location on the RWI Updated Website, together with a link to download an electronic copy of this Order.
 - (d) The Claimants shall email a copy of this Order to solicitors for D6 and any other party who has as at the date hereof provided an email address to the Claimants to the email address: HS2Injunction@governmentlegal.gov.uk or hs2injunction@dlapiper.com.
8. Service in accordance with paragraph 7 above shall:
- (a) be verified by certificates of service to be filed with Court;
 - (b) be deemed effective as at the date of the certificates of service; and
 - (c) be good and sufficient service of this Order on the Defendants and each of them and the need for personal service be dispensed with.
9. Insofar as this order applies to land under 1(e)(ii) above, namely land over which the First Claimant has taken into temporary possession using its powers under Part 2 of Schedule 4 (Interference with Highways) of the HS2 Acts, a copy of this Order shall be displayed at prominent locations on the land in question clearly identifying the land, or portion of land, which is affected and such copy shall be removed promptly after any temporary possession has ceased.
10. Although not expressed as a mandatory obligation due to the transient nature of the task, the Claimants will seek to maintain copies of this Order on areas of the HS2 Land in proximity to potential Defendants, such as on the gates of construction compounds or areas of the HS2 Land known to be targeted by objectors to the HS2 Scheme.

11. Further, without prejudice to paragraph 7, while this Order is in force, the Claimants shall take all reasonably practicable steps to effect personal service of the Order upon any Defendant of 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.

Further Case Management

12. 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 (“**Yearly Review**”), but nothing in this order is intended to absolve the Claimants of their obligation to progress their claim expeditiously.
13. It will be the Claimants’ responsibility to apply for listing of the Yearly Review and to place details of the date of the Yearly Review on the RWI Updated Website. At Schedule A are directions which will apply to the next Yearly Review. Parties are advised to consider them carefully.

Applying to vary/discharge/bring to trial

14. 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 B 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.
15. 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 or an application under CPR Part 40.9 (unless they are already named as a Defendant).
16. 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 and bring them to trial 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 26 below. Schedule D to this Order indicates the process which must be followed.
17. Any Defendant who fails to comply with paragraphs 15 or 16 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.

18. The Claimants and named Defendants otherwise have liberty to apply to extend or vary this Order or for further directions.
19. Save as provided for above, the Claim be stayed generally with liberty to restore.

Costs

20. There be no order as to costs as between any of the parties to the Review Hearing.
21. 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

22. All documents relating to these proceedings and this Order may be downloaded at: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>.
23. 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

24. 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 6DS

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

25. Any person who wishes to view or download copies of the documents shall contact the Claimants' solicitors via the contact details below.

26. 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 Ritchie J

MADE ON 31 May 2023

ANNEX A – SCHEDULE OF DEFENDANTS

PART 1

DEFENDANT NUMBER	UNNAMED DEFENDANTS
(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, 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 2 – Defendant 4 as a person unknown if they commit any of the prohibited acts.

PART 2

DEFENDANT NUMBER	NAMED DEFENDANTS
(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)	Not Used
(12)	Not Used
(13)	Not Used
(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)	Not Used
(19)	Not Used
(20)	Mr George Keeler (aka C Russ T Chav / Flem)
(21)	Not Used
(22)	Mr Tristan Dixon (aka Tristan Dyson)
(23)	Not Used
(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)	Not Used
(32)	Not Used
(33)	Mr Elliot Cuciurean (aka Jellytot)
(34)	Not Used
(35)	Not Used
(36)	Mr Mark Keir
(37)	Not Used
(38)	Not Used
(39)	Mr Iain Oliver (aka Pirate)

DEFENDANT NUMBER	NAMED DEFENDANTS
(40)	Not Used
(41)	Not Used
(42)	Not Used
(43)	Not Used
(44)	Not Used
(45)	Not Used
(46)	Not Used
(47)	Not Used
(48)	Mr Conner Nichols
(49)	Not Used
(50)	Not Used
(51)	Not Used
(52)	Not Used
(53)	Not Used
(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)	Not Used
(61)	Not Used
(62)	Not Used
(63)	Mr Dino Misina (aka Hedge Hog)
(64)	Stefan Wright (aka Albert Urtubia)
(65)	Not Used

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/380900/401

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

SCHEDULE A – DIRECTIONS FOR YEARLY REVIEW

Definitions

1. In these Directions, the following defined terms shall apply:
 - a. The “RWI Updated Website” means the webpages at: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>.
 - b. The term “Defendants” refers to all Defendants, both named and persons unknown, and (b) above will be good and sufficient service on the Defendants and each of them.
2. The Claimants shall email a copy of this Order to solicitors for D6 and any other party who has as 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

3. The Yearly Review will be listed for one day at 10.30am on a date between 15 and 31 May 2024 in the High Court in Birmingham at a date, after consultation by the court with the parties, convenient to counsel for any named party
4. Any person who wishes to address the Court at the Review must inform the Court and the Claimants of their intention to attend by 4pm on 10 May 2024 at the addresses at paragraphs 24 and 26 of the Order.
5. By 4pm on 1 March 2024, the Claimants’ must file and serve (in accordance with paragraph 3(a) of this Schedule) any applications relevant to the Yearly Review, a draft order, and any evidence upon which they seek to rely.
6. By 4pm on 5 April 2024, any person seeking to amend (including discharge) the Order, or oppose any applications made by the Claimants, must file and serve their written reasons in a document and indicate whether they intend to adduce evidence upon which that person seeks to rely by emailing or posting it to the Court and the Claimants at the addresses listed at paragraphs 24 and 26 of the Order.
7. Any evidence upon which a Defendant or other Applicant wishes to rely must be filed by 4pm on 19 April 2024.
8. By 4pm on 26 April 2024, the Claimants have permission to file and serve (in accordance with paragraph 3(a) of this Schedule) any evidence in response to any document or evidence filed in accordance with paragraphs 6 and 7 of this Schedule if so advised.
9. By 4pm on 3rd May 2024, the Claimants shall cause to be placed on the RWI Updated Website a draft hearing bundle index.
10. By 4pm on 6 May 2024, 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 26 of the Order. 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.,
11. By 4pm on 10 May 2024, 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.

12. By 4pm on 10 May 2024, the Claimants and any other person seeking to address the Court at the Yearly Review shall file and serve any skeleton argument or speaking note.
13. The parties otherwise have liberty to apply to for further or varied directions.

Documents in the Claim and Application

14. All documents relating to these proceedings and the Yearly Review may be downloaded at: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>.
15. 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 in the Order so long as any requests include a postal address and the full name of the requestor.

SCHEDULE B – STEPS TO VARY OR DISCHARGE THIS ORDER

If, in accordance with paragraphs 14-16 of the Order, 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 form¹;
- (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 [or any judgment arising out of this Application]. A copy of the judgment[s] can be found on the RWI Updated 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 24 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 26 of this Order; and/or

¹ 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>

(b) Send electronic copies of the documents to the e-mail address at paragraph 26 of the Order.

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 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 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 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/procedurerules/civil/rules/part08>

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

SCHEDULE D – STEPS TO BRING MATTER TO TRIAL

If, in accordance with paragraph 16 of the Order above, any Defendant or other person affected by this Order wishes to apply to 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 form²; 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 24 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 26 of this Order; and/or

(b) Send electronic copies to the to the e-mail address at paragraph 26 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 N210,³ 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 [or any judgment arising out of this Application]. A copy of the judgment[s] can be found on the RWI Updated 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.

² 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>

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

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

END

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



Between:

QB-2022-BHM-000044

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

Claimants/Applicants

-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, 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
- (5) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE)

AND 62 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants/Respondents

ORDER

BEFORE the Honourable Mr Justice Ritchie, sitting in Birmingham Civil Justice Centre on 16 May 2023.

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 withdrawing their application to join Mr Christopher Butcher and Ms Caroline Thomson- Smith as a named Defendants.

AND UPON the Claimants and D6 agreeing to the amendments to the scope of the land affected by the Injunction Order and, on that basis, the Claimant not pursuing the application to add unlawful means conspiracy to the Injunction Order

AND UPON HEARING Counsel for the Claimants, Mr Richard Kimblin KC and Mr Michael Fry; Mr Stephen Simblet KC and Mr Owen Greenhall for D6, and Mr Mark Keir and Ms Caroline Thomson-Smith in person (“**Review Hearing**”).

NOW IT IS ORDERED THAT:

1. The Claimants have permission:
 - (a) To amend the description of the HS2 Land to refer the land illustrated in the March 2023 HS2 Land Plans and that land taken into temporary or permanent possession using its powers under Part 2 of Schedule 4 of the HS2 Acts (Interference with Highways) for Rail Act purposes.
 - (b) To amend the description of D2 to refer to the HS2 Land.
 - (c) To remove Named Defendants to the Claim, namely: D1, D11 - 13, 18, 19, 21, 23, 31, 34, 37, 38, 40 – 46, 49 - 53, 60 – 62, and 65.
 - (d) To amend the Amended Particulars of Claim dated 26 April 2022 to give effect to 2(a) – (c) above.
2. The application by D36 to adjourn the hearing is refused.
3. The application by D36 to call and cross-examine witnesses is refused.
4. There be no order as to costs.

Ritchie J

Made 28 June 2023

(in accordance with the agreed draft of the orders made at the hearing, which were delivered to the Court in the last week)

SERVICE OF THE ORDER

This Order has been distributed to DLA Piper UK LLP to serve upon all parties.

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")
- (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

ORDER

CORE-A-24

Claim no: QB-2022-BHM-000044



QB-2022-BHM-000044

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.

- iv. Publishing social media posts on the HS2 twitter and Facebook platforms advertising the existence of this Order and providing a link to the HS2 Proceedings Website.
 - c. Service of this Order on Named Defendants may be effected by personal service where practicable and/or posting a copy of this Order through the letterbox of each Named Defendant (or leaving in a separate mailbox), with a notice drawing the recipient's attention to the fact the package contains a court order. If the premises do not have a letterbox, or mailbox, a package containing this Order may be affixed to or left at the front door or other prominent feature marked with a notice drawing the recipient's attention to the fact that the package contains a court order and should be read urgently. The notices shall be given in prominent lettering in the form set out in Annex B. It is open to any Defendant to contact the Claimants to identify an alternative place for service and, if they do so, it is not necessary for a notice or package to be affixed to or left at the front door or other prominent feature.
 - d. The Claimants shall further advertise the existence of this Order in a prominent location on the HS2 Proceedings Website, together with a link to download an electronic copy of this Order.
 - e. The Claimants shall email a copy of this Order to solicitors for D6 and any other party who has as at the date hereof provided an email address to the Claimants to the email address: HS2Injunction@governmentlegal.gov.uk
9. Service in accordance with paragraph 8 above shall:
 - a. be verified by certificates of service to be filed with Court;
 - b. be deemed effective as at the date of the certificates of service; and
 - c. be good and sufficient service of this Order on the Defendants and each of them and the need for personal service be dispensed with.
10. Although not expressed as a mandatory obligation due to the transient nature of the task, the Claimants will seek to maintain copies of this Order on areas of the HS2 Land in proximity to potential Defendants, such as on the gates of construction compounds or areas of the HS2 Land known to be targeted by objectors to the HS2 Scheme.
11. Further, without prejudice to paragraph 8, while this Order is in force, the Claimants shall take all reasonably practicable steps to effect personal service of the Order upon any Defendant of

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

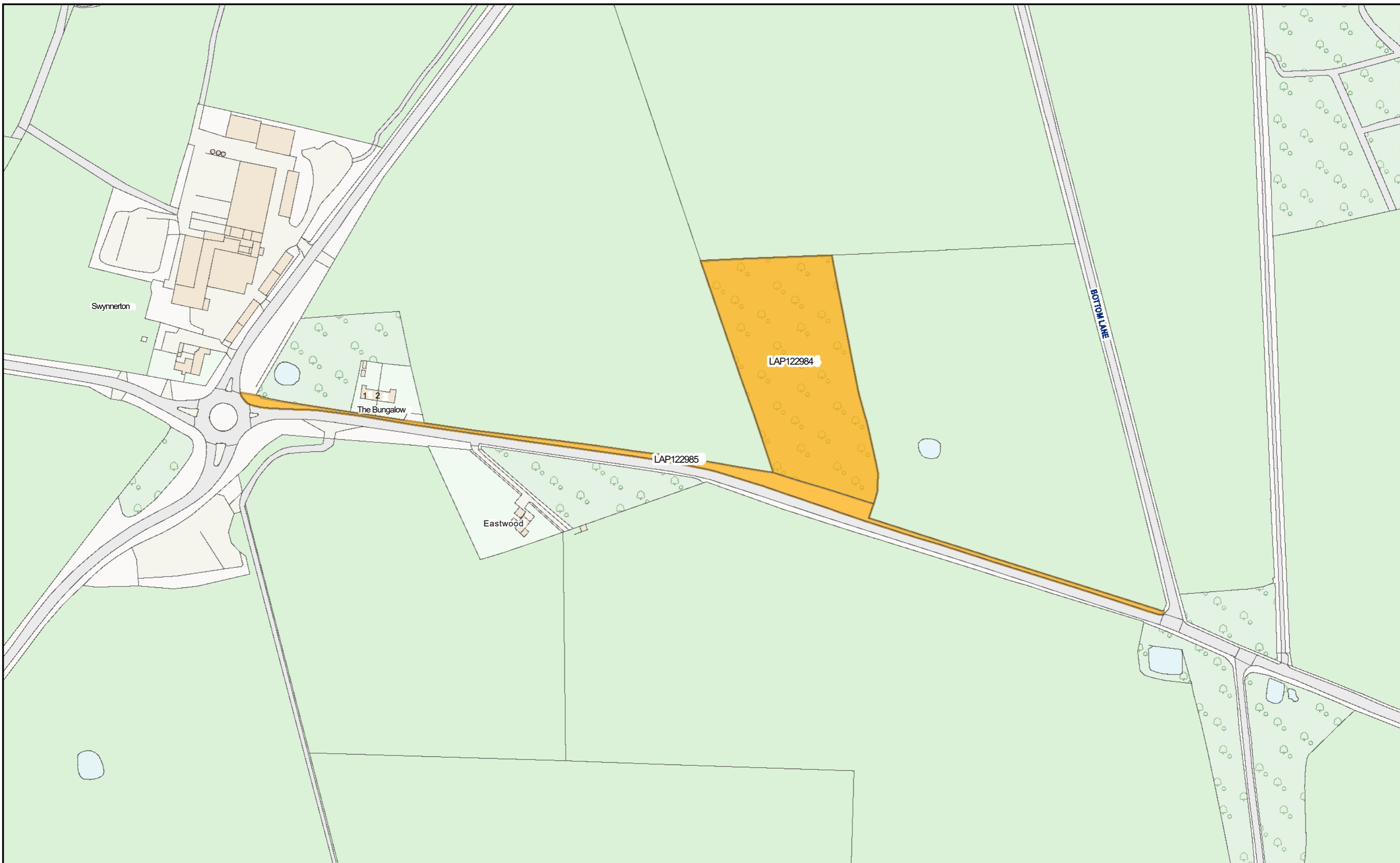
27. Any person who wishes to view or download copies of the documents shall contact the Claimants' solicitors via the contact details below.
28. The Claimants' solicitors and their contact details are:

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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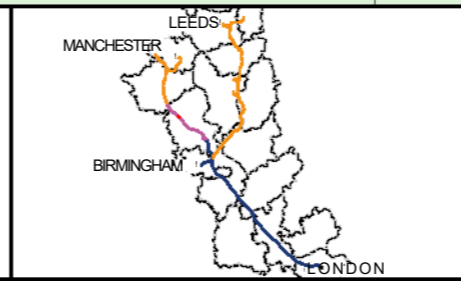
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Legend

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

CORE-A-34

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

ANNEX A – SCHEDULE OF DEFENDANTS

PART 1

DEFENDANT NUMBER	UNNAMED DEFENDANTS
(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, 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

DEFENDANT NUMBER	NAMED DEFENDANTS
(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

DEFENDANT NUMBER	NAMED DEFENDANTS
(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 form¹;

(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

¹ 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 form²; 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 N210,³ 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:

² 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>

³ <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/procedurerules/civil/rules/part08>

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



Neutral Citation Number: [2022] EWHC 2360 (KB)

Case No: QB-2022-BHM-000044

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

Birmingham Civil Justice Centre
33 Bull Street, Birmingham B4 6DS

Date: 20/09/2022

Before :

MR JUSTICE JULIAN KNOWLES

Between :

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

Claimants

- and -

FOUR CATEGORIES OF PERSONS UNKNOWN

-and-

**ROSS MONAGHAN AND
58 OTHER NAMED DEFENDANTS**

Defendants

Richard Kimblin KC, Michael Fry, Sioned Davies and Jonathan Welch (instructed by DLA Piper UK LLP) for the Claimants

Tim Moloney KC and Owen Greenhall (instructed by Robert Lizar Solicitors) for the Sixth Named Defendant (James Knaggs)

A number of Defendants appeared in person and/or filed written submissions

Hearing dates: **26-27 May 2022**

APPROVED JUDGMENT

CORE-A-44

Mr Justice Julian Knowles:

Introduction

1. If and when it is completed HS2 will be a high speed railway line between London and the North of England, via the Midlands. Parts of it are already under construction. The First Claimant in this case, High Speed Two (HS2) Limited, is the company responsible for constructing HS2. It is funded by grant-in-aid from the Government (ie, sums of money provided to it by the Government in support of its objectives).
2. To avoid confusion, in this judgment I will refer to the railway line itself as HS2, and separately to the First Claimant as the company carrying out its construction. The Second Claimant is responsible for the successful delivery of the HS2 Scheme.
3. This is an application by the Claimants, by way of Claim Form and Application Notice dated 25 March 2022, for injunctive relief to restrain what they say are unlawful protests against the building of HS2 which have hindered its construction. They say those protesting have committed trespass and nuisance.
4. There is a dedicated website in relation to this application where the relevant files can be accessed: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings>. I will refer to this as ‘the Website’.
5. Specifically, the Claimants seek: (a) an injunction, including an anticipatory injunction, to protect HS2 from unlawful and disruptive protests; (b) an order for alternative service; and (c) the discharge of previous injunctions (as set out in the Amended Particulars of Claim (APOC) at [7]). The latter two matters are contained in the Amended Draft Injunction Order of 6 May 2022 at Bundle B, B049.
6. There are four categories of unnamed defendant (see Appendix 1 to this judgment). There are also a large number of named defendants.
7. The Claimants have made clear that any Defendant who enters into suitable undertakings will be removed from the scope of the injunction (if granted). The named Defendants to whom this application relates has been in a state of flux. The Claimants must, upon receipt of this judgment, in the event I grant an injunction, produce a clear list of those Defendants (to be contained in a Schedule to it) to whom it, and those to whom it does not apply (whether because they have entered into undertakings, or for any other reason).
8. The Application Notice seeks an interim injunction (‘... Interim injunctive relief against the Defendants at Cash's Pit, and the HS2 Land ...’). However, Mr Kimblin KC, as I understood him, said that what he was seeking was a final injunction.
9. I note the discussion in *London Borough of Barking and Dagenham v Persons Unknown* [2022] 2 WLR 946, [89], that there may be little difference between the two sorts of injunction in the unknown protester context. However, in this case there are named Defendants. Some of them may wish to dispute the case against them. Mr Moloney on behalf of D6 (who has filed a Defence) objected to a final injunction. I cannot, in these circumstances, grant a final injunction. There may have to be a trial. Any injunction that I grant must therefore be an interim injunction. The Claimant’s draft injunction provides for a long-stop date of 31 May 2023 and also provides for annual reviews in May.

10. The papers in this case are extremely voluminous and run to many thousands of pages. D36, Mark Keir, alone filed circa 3000 pages of evidence. There are a number of witness statements and exhibits on behalf of the Claimants. The Claimants provided me with an Administrative Note shortly before the hearing. I also had two Skeleton Arguments from the Claimants (one on legal principles, and one on the merits of their application); and a Skeleton Argument from Mr Moloney KC and Mr Greenhall on behalf of D6, James Knaggs. There were then post-hearing written submissions from the Claimants and on behalf of Mr Knaggs. There are also written submissions from a large number of defendants and also others. These are summarised in Appendix 2 to this judgment. A considerable bundle of authorities was filed. All of this has taken time to consider.
11. The suggested application on behalf of D6 to cross-examine two of the Claimants' witnesses was not, in the end, pursued. I grant any necessary permission to rely on documents and evidence, even if served out of time.
12. The land over which the injunction is sought is very extensive. In effect, the Claimants seek an injunction over the whole of the proposed HS2 route, and other land which I will describe later. I will refer to the land collectively as the HS2 Land. The injunction would prevent the defendants from: entering or remaining upon HS2 Land; obstructing or otherwise interfering with vehicles accessing it or leaving it; interfering with any fence or gate at its perimeter.
13. The Application Notice also related to a discrete parcel of land known as Cash's Pit, in Staffordshire. Cotter J granted a possession order and an injunction in respect of that land on 11 April 2022, on the Claimants' application, and adjourned off the other application, which is now before me.

Democracy and opposition to HS2

14. It must be understood at the outset that I am not concerned with the rights or wrongs of HS2. I am not holding a public inquiry. It is obviously a project about which people hold sincere views. It is not for me to agree or disagree with these. But I should make clear that I am not being 'weaponised' against protest, as at least one person said at the hearing. My task is solely to decide whether the Claimants are properly entitled to the injunction they seek, in accordance with the law, the evidence, and the submissions which were made to me.
15. It should also be understood that the injunction that is sought will not prohibit lawful protest. That is made clear in the recitals in the draft injunction:

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

...

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."

16. HS2 is the culmination of a democratic process. In other words, it is being built under specific powers granted by Parliament. As would be expected in relation to such a major national infrastructure project, the scheme was preceded by extensive consultation, and it then received detailed consideration in Parliament. As early as 2009, the Government published a paper, 'Britain's Transport Infrastructure: High Speed Two'. The process which followed thereafter is described in the first witness statement of Julie Dilcock (Dilcock 1), [11] et seq. She is the First Claimant's Litigation Counsel (Land and Property). She has made four witness statements (Dilcock 1, 2, 3 and 4.)
17. The HS2 Bills which Parliament passed into law were hybrid Bills. These are proposed laws which affect the public in general, but particularly affect certain groups of people. Hybrid Bills go through a longer Parliamentary process than purely Public Bills (ie, in simple terms, Bills which affect all of the public equally). Those particularly affected by hybrid Bills may submit petitions to Parliament, and may state their case before a Parliamentary Select Committee as part of the legislative process.
18. HS2 is in two parts: Phase 1, from London to the West Midlands, and Phase 2a, from the West Midlands – Crewe.
19. Parliament voted to proceed with HS2 via, in particular, the High Speed Rail (London - West Midlands) Act 2017 (the Phase One Act) and the High Speed Rail (West Midlands - Crewe) Act 2021 (the Phase 2a Act) (together, the HS2 Acts). There is also a lot of subordinate legislation.
20. Many petitions were submitted in relation to HS2 during the legislative process. For example, in *Secretary of State for Transport and High Speed Two (HS2) Limited v Persons Unknown (Harvil Road)* [2019] EWHC 1437 (Ch), [16]-[18], the evidence filed on behalf of the Claimants in relation to the Phase One Act was that:

“... the Bill which became the Act was a hybrid Bill and, as such, subject to a petitioning process following its deposit with Parliament. In total [the Claimants' witness] says 3,408 petitions were lodged against the Bill and its additional provisions, 2,586 in the Commons and 822 in the Lords and select committees were established in each House to consider these petitions.

17. She says the government was able to satisfy a significant number of petitioners without the need for a hearing before the committees. In some cases in the Commons this involved making changes to the project to reduce impacts or enhance local mitigation measures and many of these were included in one of the additional provisions to the Bill deposited during the Commons select committee stage.

18. Of the 822 petitions submitted to the House of Lords select committee, the locus of 278 petitions was successfully challenged. Of the remaining 544 petitions, the select committee heard 314 petitions in formal session with the remainder withdrawing, or choosing not to appear before the select committee, mainly as a result of successful prior negotiation with the Claimants.”

21. In his submissions of 16 May 2022, Mr Keir said at [5] that HS2 was a project which ‘the people of the country do not want but over which we have been roundly ignored by Parliament’. In light of the above, I cannot agree. ‘What the public wants’, is reflected in what Parliament decided. That is democracy. Those who were against HS2 were not ignored during the legislative process. People could petition directly to express their views, and thousands did so. Their views were considered. Parliament then took its decision to approve HS2 knowing that many would disagree with it. It follows, it seems to me, that the primary remedy for those who do not want HS2 is to elect MPs who will cancel it. (In fact, whilst not directly relevant to the matter before me, I understand that the original planned leg of the route towards Leeds/York from the Midlands has now been abandoned).
22. All of this is, I hope, consistent with what the Divisional Court said in *DPP v Cuciurean* [2022] EWHC 736 (Admin). That concerned a criminal conviction under s 68 of the Criminal Justice and Public Order Act 1994 (aggravated trespass) arising out of a protest against HS2. Lord Burnett of Maldon CJ said at [84]:

“... Those lawful activities in this case [viz, the building of HS2] had been authorised by Parliament through the 2017 Act after lengthy consideration of both the merits of the project and objections to it. The legislature has accepted that the HS2 project is in the national interest. One object of section 68 is to discourage disruption of the kind committed by the respondent, which, according to the will of Parliament, is against the public interest ... The Strasbourg Court has often observed that the Convention is concerned with the fair balance of competing rights. The rights enshrined in articles 10 and 11, long recognised by the Common Law, protect the expression of opinions, the right to persuade and protest and to convey strongly held views. They do not sanction a right to use guerrilla tactics endlessly to delay and increase the cost of an infrastructure project which has been subjected to the most detailed public scrutiny, including in Parliament.”

23. The Government’s website on HS2 says this:

“Our vision is for HS2 to be a catalyst for growth across Britain. HS2 will be the backbone of Britain’s rail network. It will better connect the country’s major cities and economic hubs. It will help deliver a stronger, more balanced economy better able to compete on the global stage. It will open up local and regional markets. It will attract investment and improve job opportunities for hundreds of thousands of people across the whole country.”

See: <https://www.gov.uk/government/organisations/high-speed-two-limited/about>

24. As I have said, many people do not agree, and think that HS2 will cause irremediable damage to swathes of the countryside – including many areas of natural beauty and ancient woodlands - and that it will be bad for the environment in general. There have been many protests against it, and it has generated much litigation in the form, in particular, of applications by the Claimants and others for injunctions to restrain groups of persons (many of whom are unknown) from engaging in activities which were

interfering with HS2’s construction: see eg, *Secretary of State for Transport and High Speed Two (HS2) Limited v Persons Unknown (Harvil Road)* [2019] EWHC 1437 (Ch); *Secretary of State for Transport and High Speed Two (HS2) Limited v Persons Unknown (Cubbington and Crackley)* [2020] EWHC 671 (Ch); *Ackroyd and others v High Speed (HS2) Limited and another* [2020] EWHC 1460 (QB); *London Borough of Hillingdon v Persons Unknown* [2020] EWHC 2153 (QB); *R (Maxey) v High Speed 2 (HS2) Limited and others* [2021] EWHC 246 (Admin).

25. These earlier decisions contain a great deal of information about HS2 and the protests against it. I do not need to repeat all of the detail in this judgment: the reader is referred to them. As I have said, the Claimants’ draft order proposes the discharge of these earlier injunctions as they will be otiose if the present application is granted as it will encompass the relevant areas of land.
26. Richard Jordan is the First Claimant’s Interim Quality and Assurance Director and was formerly its Chief Security and Resilience Officer. In that role, he was responsible for the delivery of corporate security support to the First Claimant in line with its security strategy, and the provision of advice on all security related matters. In his witness statement of 23 March 2022 (Jordan 1) he described the nature of the protests against HS2. I will return to his evidence later.

The Claimants’ land rights

27. Parliament has given the Claimants a number of powers over land for the purposes of constructing HS2.
28. Dilcock 1, [14]-[16], explains that on 24 February 2017 the First Claimant was appointed as nominated undertaker pursuant to s 45 of the Phase One Act by way of the High Speed Rail (London-West Midlands) (Nomination) Order 2017 (SI 2017/184).
29. Section 4(1) of the Phase One Act gives the First Claimant power to acquire so much of the land within the Phase One Act limits as may be required for Phase One purposes. The First Claimant may acquire rights over land by way of General Vesting Declaration (GVD) or the Notice to Treat (NTT) or Notice of Entry (NoE) procedures.
30. Section 15 and Sch 16 of the Phase One Act give the First Claimant the power to take temporary possession of land within the Phase One Act limits for Phase One purposes. So, for example, [1] of Sch 16 provides:

“(1) The nominated undertaker may enter upon and take possession of the land specified in the table in Part 4 of this Schedule -

(a) for the purpose specified in relation to the land in column (3) of the table in connection with the authorised works specified in column (4) of the table,

(b) for the purpose of constructing such works as are mentioned in column (5) of the table in relation to the land, or

(c) otherwise for Phase One purposes.

(2) The nominated undertaker may (subject to paragraph 2(1)) enter upon and take possession of any other land within the Act limits for Phase One purposes.

(3) The reference in sub-paragraph (1)(a) to the authorised works specified in column (4) of the table includes a reference to any works which are necessary or expedient for the purposes of or in connection with those works.”

31. ‘Phase One purposes’ is defined in s 67 and ‘Act limits’ is defined in s 68. The table mentioned in [1(1)(a)] is very detailed and specifies precisely the land affected, and the works that are permitted.
32. In relation to Phase 2a, on 12 February 2021 the First Claimant was appointed as nominated undertaker pursuant to s 42 of the Phase 2a Act by way of the High Speed Rail (West Midlands - Crewe) (Nomination) Order 2021 (SI 2021/148).
33. Section 4(1) of the Phase 2a Act gives the First Claimant power to acquire so much of the land within the Phase 2a Act limits as may be required for Phase 2a purposes. Again, the First Claimant may acquire land rights by way of the GVD, NTT and NoE procedures.
34. Section 13 and Sch 15 of the Phase 2a Act give the First Claimant the power to take temporary possession of land within the Phase 2a Act limits for Phase 2a purposes. Paragraph 1 of Sch 15 is broadly analogous to [1] of Sch 16 to the Phase One Act that I set out earlier.
35. It is not necessary for me to go much further into all the technicalities surrounding these provisions. Suffice it to say that the Claimants have been given extremely wide powers to obtain land, or take possession of it, or the right to immediate possession, even where they do not acquire freehold or leasehold title to the land in question. In short, if they need access to land in order to construct or maintain HS2 as provided for in the HS2 Acts then, one way or another, they have the powers to do so providing that they follow the prescribed procedures.
36. So for example, [4(1) and (2)] of Sch 16 to the Phase 1 Act provide:

“(1) Not less than 28 days before entering upon and taking possession of land under paragraph 1(1) or (2), the nominated undertaker must give notice to the owners and occupiers of the land of its intention to do so.

(2) The nominated undertaker may not, without the agreement of the owners of the land, remain in possession of land under paragraph 1(1) or (2) after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken.”
37. The Claimants have produced plans showing the HS2 Land coloured pink and green. These span several hundred pages and can be viewed electronically on the Website. There have been two versions: the HS2 Land Plans, and the Revised HS2 Land Plans.

38. In their original form, the HS2 Land Plans were exhibited as Ex JAD1 to Dilcock 1 and explained at [29]-[33] of that statement. In simple terms, the (then) colours reflected the various forms of title or right to possession which the First Claimant has in respect of the land in question:

“29. The First or the Second Claimant are the owner of the land coloured pink on the HS2 Land Plans, with either freehold or leasehold title (the “Pink Land”). The Claimants’ ownership of much of the Pink Land is registered at HM Land Registry, but the registration of some acquisitions has yet to be completed. The basis of the Claimants’ title is explained in the spreadsheets named “Table 1” and “Table 3” at JAD2. Table 1 reflects land that has been acquired by the GVD process and Table 3 reflects land that has been acquired by other means. A further table (“Table 2”) has been included to assist with cross referencing GVD numbers with title numbers. Where the Claimants’ acquisition has not yet been registered with the Land Registry, the most common basis of the Claimants’ title is by way of executed GVDs under Section 4 of the HS2 Acts, with the vesting date having passed.

30. Some of the land included in the Pink Land comprises property that the Claimants have let or underlet to third parties. At the present time, the constraints of the First Claimant’s GIS data do not allow for that land to be extracted from the overall landholding. The Claimants are of the view that this should not present an issue for the present application as the tenants of that land (and their invitees) are persons on the land with the consent of the Claimants.

31. The Claimants’ interest in the Pink Land excludes any rights of the public that remain over public highways and other public rights of way and the proposed draft order deals with this point. The Claimant’s interest in the Pink Land also excludes the rights of statutory undertakers over the land and the proposed draft order also deals with this point.

32. The First Claimant is the owner of leasehold title to the land coloured blue on the HS2 Land Plans (the “Blue Land”), which has been acquired by entering into leases voluntarily, mostly for land outside of the limits of the land over which compulsory powers of acquisition extend under the HS2 Acts. The details of the leases under which the Blue Land is held are in Table 3.

33. The First Claimant has served the requisite notices under the HS2 Acts and is entitled to temporary possession of that part of the HS2 Land coloured green on the HS2 Land Plans (“the Green Land”) pursuant to section 15 and Schedule 16 of the Phase One Act and section 13 and Schedule 15 of the Phase 2a Act. A

spreadsheet setting out the details of the notices served and the dates on which the First Claimant was entitled to take possession pursuant to those notices is at Table 4 of JAD2.”

39. The plans were then revised, as Ms Dilcock explains in Dilcock 3 at [39]. Hence, my calling them the Revised HS2 Land Plans. There is now just pink and green land.
40. The land coloured pink is owned by the First or Second Claimants with either freehold or leasehold title. The land coloured green is land over which they have temporary possession (or the immediate right to possession) under the statutory powers I have mentioned. Land which has been let to third parties has been removed from the scope of the pink land (see Dilcock 3, [39]).
41. Ms Dilcock has produced voluminous spreadsheets as Ex JAD2 setting out the bases of the Claimants’ right to possession of the HS2 Land.
42. Ms Dilcock gives some further helpful detail about the statutory provisions in Dilcock 3, [28] et seq. At [31]-[34] she said:

“31. As explained by Mr Justice Holland QC at paragraphs 30 to 32 of the 2019 *Harvil Rd Judgment (SSfT and High Speed Two (HS2) Limited -v- Persons Unknown* [2019] EWHC 1437 (Ch)), the First Claimant is entitled to possession of land under these provisions provided that it has followed the process set down in Schedules 15 and 16 respectively, which requires the First Claimant to serve not less than 28 days’ notice to the owners and occupiers of the land. As was found in all of the above cases, this gives the First Claimant the right to bring possession proceedings and trespass proceedings in respect of the land and to seek an injunction protecting its right to possession against those who would trespass on the land.

32. For completeness and as it was raised for discussion at the hearing on 11.04.2022, the HS2 Acts import the provisions of section 13 of the Compulsory Purchase Act 1965 on confer the right on the First Claimant to issue a warrant to a High Court Enforcement Officer empowering the Officer to deliver possession of land the First Claimant in circumstances where, having served the requisite notice there is a refusal to give up possession of the land or such a refusal is apprehended. That procedure is limited to the point at which the First Claimant first goes to take possession of the land in question (it is not available in circumstances where possession has been secured by the First Claimant and trespassers subsequently enter onto the land). The process does not require the involvement of the Court. The availability of that process to the First Claimant does not preclude the First Claimant from seeking an order for possession from the Court, as has been found in all of the above mentioned cases.

33. Invoking the temporary possession procedure gives the First Claimant a better right to possession of the land than anyone else – even the landowner. The First Claimant does not take ownership of the land under this process, nor does it step into the shoes of the landowner. It does not become bound by any contractual arrangements that the landowner may have entered into in respect of the land and is entitled to possession as against everyone. The HS2 Acts contain provisions for the payment of compensation by the First Claimant for the exercise of this power.

34. The power to take temporary possession is not unique to the HS2 Acts and is found across compulsory purchase - see for example the Crossrail Act 2008, Transport and Works Act Orders and Development Consent Orders. It is also set to be even more widely applicable when Chapter 1 of the Neighbourhood Planning Act 2017 is brought into force.”

43. Ms Dilcock goes on to explain that:

“35. ...the First Claimant is entitled to take possession of temporary possession land following the above procedure and in doing so to exclude the landowner from that land until such time as the First Claimant is ready to or obliged under the provisions of the HS2 Acts to hand it back. If a landowner were to enter onto land held by the First Claimant under temporary possession without the First Claimant’s consent, that landowner would be trespassing.”

44. In addition to the powers of acquisition and temporary possession under the Phase One Act and the Phase 2a Act, some of the HS2 Land has been acquired by the First Claimant under the statutory blight regime pursuant to Chapter II of the Town and Country Planning Act 1990. The First Claimant has acquired other parts of the HS2 Land via transactions under the various discretionary HS2 Schemes set up by the Government to assist property owners affected by the HS2 Scheme.

45. Further parts of the HS2 Land have been acquired from landowners by consent and without the need to exercise powers. There are no limits on the interests in land which the First Claimant may acquire by agreement. Among the land held by the First Claimant under a lease are its registered offices in Birmingham and London (at Euston), both of which it says have been subject to trespass and (in the case of Euston) criminal damage by activists opposed to the HS2 Scheme.. The incident of trespass and criminal damage at Euston on 6 May 2021 is described in more detail in Jordan 1, [29.3.2].

46. I am satisfied, as previous judges have been satisfied, that the Claimants do have the powers they assert they have over the land in question, and that are either in lawful occupation or possession of that land, or have the immediate right to possession (without more, the appropriate statutory notices having been served). I reject any submissions to the contrary.

47. One of the points taken by D6 is that because the Claimants are not in actual possession of some of the green land, they are not entitled to a precautionary injunction in relation

to that land, and this application is therefore, in effect, premature. I will return to this later.

The Claimants' case

48. The Claimants' action is for trespass and nuisance. They say that pursuant to their statutory powers they have possession of, or the right to immediate possession of, the HS2 Land and therefore have better title than the protesters. Their case is that the protests against HS2 involve unlawful trespass on the HS2 Land; disruption of works on the HS2 Land; and disruption of the use of roads in the vicinity of the HS2 Land, causing inconvenience and danger to the Claimants and to other road users. They say all of this amounts to trespass and nuisance.
49. Mr Kimblin on behalf of the Claimants accepted that he had to demonstrate trespass and nuisance, and a real and imminent risk of recurrence. He said, in particular, that the protests have: on numerous occasions put at risk protesters' lives and those of others (including the Claimants' contractors); caused disruption, delay and nuisance to works on the HS2 Land; prevented the Claimants and their contractors and others (including members of the public) from exercising their ordinary rights to use the public highway or inconvenienced them in so doing, eg by blocking access gates. Further, he said that the Defendants' actions amount to a public nuisance which have caused the Claimants particular damage over and above the general inconvenience and injury suffered by the public, including costs incurred in additional managerial and staffing time in order to deal with the protest action, and costs and losses incurred as a result of delays to the HS2 construction programme; and other costs incurred in remedying the alleged wrongs and seeking to prevent further wrongs.
50. Based on previous experience, and on statements made by protesters as to their intentions, the Claimants say they reasonably fear that the Defendants will continue to interfere with the HS2 Scheme along the whole of the route by trespassing, interfering with works, and interfering with the fencing or gates at the perimeter of the HS2 Land and so hinder access to the public highway.
51. They argue, by reference in particular to the evidence in Mr Jordan's and Ms Dilcock's statements and exhibits, that there is a real and imminent risk of trespass and nuisance in relation to the whole of the HS2 Land, thus justifying an anticipatory injunction.
52. They say that Defendants, or some of them, have stated an intention to continue to take part in direct action protests against HS2, moving from one parcel of land to another in order to cause maximum disruption.
53. Thus, the Claimants say they are entitled to a route wide injunction, extensive though this is. They draw an analogy with the injunctions granted over thousands of miles of roads in relation to continuing and moving road protests by a group loosely known as 'Insulate Britain': see, in particular, *National Highways Limited v Persons Unknown and others* [2021] EWHC 3081 (QB) (Lavender J); *National Highways Limited v Persons Unknown and others* [2022] EWHC 1105 (QB) (Bennathan J).
54. I have the Revised HS2 Land Plans in hard copy form. I have studied them. They are clear, detailed and precise. I reject any suggestion that they are unclear. They clearly

show the land to which the injunction, if granted, will apply. Whether it should be granted is a different question.

The Defendants' cases

55. Mr Moloney addressed me on behalf of Mr Knaggs (D6), and I was also addressed by a number of unrepresented defendants (and others). I thought it appropriate to allow anyone present in court to address me, in recognition of the strength of feeling which HS2 generates. I exercised my case management powers to ensure these were kept within proper bounds. I had in mind an approach analogous to that set out by the Court of Appeal in *The Mayor Commonalty and Citizens of London v Samede* [2012] EWCA Civ 160, [63]. Mr Kimblin did not object to this course.
56. I have considered all of the points which were made, whether orally or in writing. The failure to mention a particular point in this judgment does not mean that it has been overlooked. I am satisfied that everyone had the opportunity to make any point they wanted.
57. D6's case can be summarised as follows. Mr Moloney submitted that the Claimants are not entitled to the relief which they seek because (Skeleton Argument, [2]): (a) they are seeking to restrain trespass in relation to land to which there is no demonstrated immediate right of possession; (b) they are seeking to restrain lawful protest on the highway; (c) the test for a precautionary injunction is not met because of a lack of real and imminent risk, which is the necessary test for which a 'strong case' is required; (d) it is wrong in principle to make a final injunction in the present case (I have dealt with that); (e) the definition of 'Persons Unknown' is overly broad and does not comply with the *Canada Goose* requirements (see *Canada Goose UK Retail Ltd v Persons Unknown* [2020] 1 WLR 2802, [82]); (f) the service provisions are inadequate; (g) the terms of the injunction are overly broad and vague; (h) discretionary relief should not be granted; and (i) the proposed order would have a disproportionate chilling effect.
58. Developing these arguments, Mr Moloney said that the Claimants have not yet taken possession of much of the HS2 Land – which can only arise in the statutorily prescribed circumstances - and so its possessory right needed to found an action in trespass had not yet crystallised and its application was premature. There is hence a fundamental difference between land where works are currently ongoing or due to commence imminently (for which, subject to notification requirements, the Claimants have a cause of action in trespass at the present date) and land where works are not due to commence for a considerable period (for which no cause of action in trespass currently arises for the Claimants). He distinguished the earlier injunctions in relation to land where work had commenced on that basis.
59. Notwithstanding the decision of the Court of Appeal in *Barking and Dagenham* to the effect that final injunctions may in principle be made against persons unknown, they remain inappropriate in protest cases in which the Article 10 and 11 rights of the individual must be finely balanced against the rights of the Claimants.
60. Next, Mr Moloney submitted that there was not the necessary strong case of a real and imminent danger to justify the grant of a precautionary injunction. He said the Claimant had to establish that there is a risk of actual damage occurring on the HS2 Land subject

to the injunction that is imminent and real. Mr Moloney said this was not borne out on the evidence, given no work or protests were ongoing over much of the HS2 Land.

61. The next point is that D6 says the categories of unknown Defendant are too broad and will catch, for example, persons on the public highway that fall within the scope of HS2 Land. The second category of Unknown Defendant (ie, D2) (as set out in the APOC and in Appendix 1 below) is:

“(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”

62. Paragraph 54(i) of D6’s Skeleton Argument asserts that D2 will catch:

“It includes those present on HS2 land on public highways. A person who walks over HS2 land on a public footpath is covered by the definition (subject to the consent of the Claimants). A demonstration on a public footpath which had the effect (intended or not) of hindering those connected to the Claimants (for any degree) would be caught within the definition.”

63. I can deal with this submission now. I think it is unmeritorious. Paragraph 3 of the draft injunction prohibits various activities eg, [3(b)], ‘obstructing or otherwise interfering with the free movement of vehicles, equipment or persons accessing or egressing the HS2 Land ...’. However, [4(a)] provides that nothing in [3], ‘shall prevent any person from exercising their rights over any open public right of way over the HS2 Land’. Paragraph 4(c) provides that nothing in [3], ‘shall prevent any person from exercising their lawful rights over any public highway’. Contrary to the submission, such people therefore do not fall within [3] and do not need the First Claimant’s consent. I also find it difficult to envisage that a walk or protest on a public footpath would infringe [3(a)]. As I have already said, the proposed order does not prevent lawful protest.
64. In [54(ii)] D6 also argued that the injunction would include those present on HS2 land which has been sublet. It was argued that a person present on sublet HS2 land with the permission of the sub-lessor, but without the consent of HS2, is covered by the definition of D2.
65. Again, I can deal with that point now. As I have set out, the Revised HS2 Land Plans produced by Ms Dilcock exclude let land; the original version of the Plans did not

because of lack of data when those plans were drawn up, but that has now been corrected ([Dilcock 3, [39]). Two of the Recitals to the order put the matter beyond doubt:

“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 freeholder or leaseholder 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.”

66. Mr Moloney then went on to criticise the proposed methods of service in the draft injunction at [8]-[11] as being inadequate. The fundamental submission is that the steps for alternative service cannot reasonably be expected to bring the proceedings to the attention of someone proposing to protest against HS2 (Skeleton Argument, [98]).
67. Various points about the wording of the injunction were then made to the effect, for example, that it was too vague (Skeleton Argument, [105] et seq).
68. Turning to the points made by those who addressed me in court, I can summarise these (briefly, but I hope fairly) as follows. There were complaints about poor service of the injunction application. However, given those people were able to attend the hearing, service was obviously effective. It was said that HS2 would ‘hammer another nail into the coffin of the climate crisis’, and that land and trees should be nurtured. It was then said that there was no need for another railway line. It was in the public interest to protest against HS2 which is a ‘classist project’. It was said that there had been violence, and racist and homophobic abuse of protesters by HS2 security guards, who had acted in a disproportionate manner. Many of the written submissions also complained about the behaviour of HS2’s security guards. The injunction would condone that behaviour. Some named defendants said that there was insufficient evidence against them. The injunction was intended to ‘terrorise’ and ‘coerce’, and the judiciary was being ‘weaponised’ against protest (a point I have already rejected). It was a ‘fantasy’ to say that HS2 would benefit the environment; there had been environmental damage and the First Claimant had failed to honour the environmental obligations it said it would fulfil. It was said that the First Claimant was committing ‘wildlife crimes’ on a daily basis. Several people indicated they had signed undertakings and so should not be enjoined (as I have said, any such persons who have entered into appropriate undertakings will be exempted from the scope of any injunction). There had been an impact on journalistic freedom to report on HS2. The maps showing HS2 Land are hard to make out and/or are unclear.

69. In reply, Mr Kimblin said there was nothing about the application which was novel. The grant of injunctions against groups of unknown protesters to prevent trespass and nuisance had become common in recent times. He accepted the land affected was extensive, but pointed to injunctions over the country's road networks granted in recent years which are even more extensive. He said, specifically in relation to the green land and in response to the First Claimant's right of possession not having 'crystallised', that all of the relevant statutory notices had been served, and the First Claimant therefore had the right to take immediate possession of that land at a time of its choosing where it was not already in actual possession. That was sufficient. He also said that there is a system for receiving complaints, and that complaints were frequent and were always investigated. There was always scope to amend the order if necessary, and Mr Kimblin ended by emphasising that the injunction would have no effect on, and would not prevent, lawful protest.
70. Turning to the material filed by Mr Keir, I reiterate I am not concerned with the merits of HS2. Parliament has decided that question. The grounds advanced by Mr Keir are that: (a) the area of land subject to this claim is incorrect in a number of respects; (b) the protest activity is proportionate and valid and necessary to stop crimes being committed by HS2; (c) the allegations of violence and intimidation are false. The violence and intimidation emanates from HS2; (d) the project is harmful and should not have been consented to, or has not been properly consented to, by Parliament.
71. Appendix 2 to this judgment sets out in summary form points made by those who filed written submissions. I have considered these points.

Discussion

Legal principles

72. The first part of this section of my judgment addresses the relevant legal principles. Many of these have emerged recently in cases concerned with large scale protests akin to those involved in this matter.

(i) Trespass and nuisance

73. I begin with trespass and nuisance, the Claimants' causes of action.
74. A landowner whose title is not disputed is *prima facie* entitled to an injunction to restrain a threatened or apprehended trespass on his land: Snell's Equity (34th Edn) at [18-012].
75. It has already been established that even the temporary possession powers in the HS2 Acts give the Claimants sufficient title to sue for trespass. The question of trespass on HS2 Land was considered in *Secretary of State for Transport and another v Persons Unknown (Harvil Road)* [2019] EWHC 1437 (Ch) at [7]. [30]-[32]. The judge said:

“7. There are subject to the order three different categories of land. First of all, there is land within the freehold ownership of the First Claimant that is coloured blue on both sets of plans, and is referred to as "the blue land". Secondly, there is land acquired by the First Claimant pursuant to its compulsory purchase powers

in the High Speed Rail (London - West Midlands) Act 2017 (to which I shall refer as "the 2017 Act"). That land is coloured pink on the various plans and is referred to as "the pink land". Thirdly, there is land in the temporary possession of the Second Claimant by reason of the exercise of its powers pursuant to section 15 and Schedule 16 of the 2017 Act, that land is coloured green on the plans

....

30. The first cause of action is trespass. The Claimants are entitled, as a matter of law, to bring a claim in trespass in respect of all three categories of land and, as I have said, it was not seriously suggested that they could not. In particular, I was referred to section 15 and paragraphs 1, 3 and 4 of Schedule 16 to the 2017 Act ...

31. Thus, the procedure is simply this: if the Second Claimant wishes to take temporary possession of land within a defined geographical limit, it serves 28 days' notice pursuant to paragraph 4. Thereafter, it is entitled to enter on the land and 'take possession'. That, to my mind, and it was not seriously argued otherwise, gives it a right to bring possession proceedings and trespass proceedings in respect of that land.

32. In paragraph 40 of his judgment in *Ineos* at first instance [*Ineos Upstream Ltd v Persons Unknown* [2017] EWHC 2945 (Ch)], Mr. Justice Morgan says this:

"The cause of action for trespass on private land needs no further exposition in this case."

Exactly the same is the case here, it seems to me, and it is the First Defendant, the definition of which persons I have described above, who is, or are, subject to such a claim in trespass."

76. Mr Moloney for D6 sought to distinguish this and other HS2 cases on the basis that work was ongoing on the sites in question, and so the First Claimant was in possession, whereas the present application related to green land which the First Claimant was not currently in possession of.
77. In relation to trespass, all that needs to be demonstrated by the claimant is a better right to possession than the occupiers: *Manchester Airport plc v Dutton* [2000] QB 133, 147. In that case the Airport was granted an order for possession over land for which it had been granted a licence in order to construct a second runway, but which it was not yet in actual possession of.
78. I can therefore, at this point, deal with D6's 'prematurity' point. As I have said, Mr Kimblin was quite explicit that the Claimants do, as of now, have the right to immediate possession over the green land because the relevant statutory notices have been served, albeit (to speak colloquially) the diggers have not yet moved in. That does not matter, in

my judgment. I am satisfied that the Claimants do, as a consequence, have a better title to possession than the current occupiers – and certainly any protesters who might wish to come on site. Actual occupation or possession of land is not required, as *Dutton* shows (see in particular Laws LJ’s judgment at p151; the legal right to occupy or possess land, without more, is sufficient to maintain an action for trespass against those not so entitled. That is what the First Claimant has in relation to the green land.

79. This conclusion is supported by what Warby LJ said in *Cuciurean v Secretary of State for Transport* [2021] EWCA 357, [9(1)]-[9(2)] (emphasis added):

“9. The following general principles are well-settled, and uncontroversial on this appeal.

(1) Peaceful protest falls within the scope of the fundamental rights of free speech and freedom of assembly guaranteed by Articles 10(1) and 11(1) of the European Convention on Human Rights and Fundamental Freedoms. Interferences with those rights can only be justified if they are necessary in a democratic society and proportionate in pursuit of one of the legitimate aims specified in Articles 10(2) and 11(2). Authoritative statements on these topics can be found in *Tabernacle v Secretary of State for Defence* [2009] EWCA Civ 23 [43] (Laws LJ) and *City of London v Samede* [2012] EWCA Civ 160 [2012] 2 All ER 1039, reflecting the Strasbourg jurisprudence.

(2) But the right to property is also a Convention right, protected by Article 1 of the First Protocol (‘A1P1’). In a democratic society, the protection of property rights is a legitimate aim, which may justify interference with the rights guaranteed by Article 10 and 11. Trespass is an interference with A1P1 rights, which in turn requires justification. In a democratic society, Articles 10 and 11 cannot normally justify a person in trespassing on land of which another has *the right to possession*, just because the defendant wishes to do so for the purposes of protest against government policy. Interference by trespass will rarely be a necessary and proportionate way of pursuing the right to make such a protest.”

80. In relation to defences to trespass, genuine and *bona fide* concerns on the part of the protestors about HS2 or the proposed HS2 Scheme works do not amount to a defence, and the Court should be slow to spend significant time entertaining these: *Samede*, [63].
81. A protestor’s rights under Articles 10 and 11 of the ECHR, even if engaged in a case like this, will not justify continued trespass onto private land or public land to which the public generally does not have a right of access: see the passage from Warby LJ’s judgment in *Cuciurean I* quoted earlier, *Harvil Road*, [136]; and *DPP v Cuciurean* at [45]-[49] and [73]-[77]. There is no right to undertake direct action protest on private land: *Crackley and Cubbington*, [35], [42]. In the most recent of these decisions, *DPP v Cuciurean*, the Lord Chief Justice said:

“45. We conclude that there is no basis in the Strasbourg jurisprudence to support the respondent's proposition that the freedom of expression linked to the freedom of assembly and association includes a right to protest on privately owned land or upon publicly owned land from which the public are generally excluded. The Strasbourg Court has not made any statement to that effect. Instead, it has consistently said that articles 10 and 11 do not "bestow any freedom of forum" in the specific context of interference with property rights (see *Appleby* at [47] and [52]). There is no right of entry to private property or to any publicly owned property. The furthest that the Strasbourg Court has been prepared to go is that where a bar on access to property has the effect of preventing any effective exercise of rights under articles 10 and 11, or of *destroying the essence* of those rights, then it would not exclude the possibility of a State being obliged to protect them by regulating property rights.

46. The approach taken by the Strasbourg Court should not come as any surprise. articles 10, 11 and A1P1 are all qualified rights. The Convention does not give priority to any one of those provisions. We would expect the Convention to be read as a whole and harmoniously. Articles 10 and 11 are subject to limitations or restrictions which are prescribed by law and necessary in a democratic society. Those limitations and restrictions include the law of trespass, the object of which is to protect property rights in accordance with A1P1. On the other hand, property rights might have to yield to articles 10 and 11 if, for example, a law governing the exercise of those rights and use of land were to destroy the essence of the freedom to protest. That would be an extreme situation. It has never been suggested that it arises in the circumstances of the present case, nor more generally in relation to section 68 of the 1994 Act. It would be fallacious to suggest that, unless a person is free to enter upon private land to stop or impede the carrying on of a lawful activity on that land by the landowner or occupier, the essence of the freedoms of expression and assembly would be destroyed. Legitimate protest can take many other forms.

47. We now return to *Richardson [v Director of Public Prosecutions]* [2014] AC 635] and the important statement made by Lord Hughes JSC at [3]:

‘By definition, trespass is unlawful independently of the 1994 Act. It is a tort and committing it exposes the trespasser to a civil action for an injunction and/or damages. The trespasser has no right to be where he is. Section 68 is not concerned with the rights of the trespasser, whether protester or otherwise. References in the course of argument to the rights of free expression conferred by article 10 of the European Convention on Human Rights

were misplaced. Of course a person minded to protest about something has such rights. But the ordinary civil law of trespass constitutes a limitation on the exercise of this right which is according to law and unchallengeably proportionate. Put shortly, article 10 does not confer a licence to trespass on other people's property in order to give voice to one's views. Like adjoining sections in Part V of the 1994 Act, section 68 is concerned with a limited class of trespass where the additional sanction of the criminal law has been held by Parliament to be justified. The issue in this case concerns its reach. It must be construed in accordance with normal rules relating to statutes creating criminal offences.'

48. *Richardson* was a case concerned with the meaning of 'lawful activity', the second of the four ingredients of section 68 identified by Lord Hughes (see [12] above). Accordingly, it is common ground between the parties (and we accept) that the statement was *obiter*. Nonetheless, all members of the Supreme Court agreed with the judgment of Lord Hughes. The *dictum* should be accorded very great respect. In our judgment it is consistent with the law on articles 10 and 11 and A1P1 as summarised above.

48. The proposition which the respondent has urged this court to accept is an attempt to establish new principles of Convention law which go beyond the "clear and constant jurisprudence of the Strasbourg Court". It is clear from the line of authority which begins with *R (Ullah) v. Special Adjudicator* [2004] 2 AC 323 at [20] and has recently been summarised by Lord Reed PSC in *R (AB) v. Secretary of State for Justice* [2021] 3 WLR 494 at [54] to [59], that this is not the function of a domestic court.

49. For the reasons we gave in para. [8] above, we do not determine Ground 1 advanced by the prosecution in this appeal. It is sufficient to note that in light of the jurisprudence of the Strasbourg Court it is highly arguable that articles 10 and 11 are not engaged at all on the facts of this case.

...

73. The question becomes, is it necessary to read a proportionality test into section 68 of the 1994 Act to render it compatible with articles 10 and 11? In our judgment there are several considerations which, taken together, lead to the conclusion that proof of the ingredients set out in section 68 of the 1994 Act ensures that a conviction is proportionate to any article 10 and 11 rights that may be engaged.

74. First, section 68 has the legitimate aim of protecting property rights in accordance with A1P1. Indeed, interference by an individual with the right to peaceful enjoyment of possessions can give rise to a positive obligation on the part of the State to ensure sufficient protection for such rights in its legal system (*Blumberga v. Latvia* No.70930/01, 14 October 2008).

75. Secondly, section 68 goes beyond simply protecting a landowner's right to possession of land. It only applies where a defendant not merely trespasses on the land, but also carries out an additional act with the intention of intimidating someone performing, or about to perform, a lawful activity from carrying on with, or obstructing or disrupting, that activity. Section 68 protects the use of land by a landowner or occupier for lawful activities.

76. Thirdly, a protest which is carried out for the purposes of disrupting or obstructing the lawful activities of other parties, does not lie at the core of articles 10 and 11, even if carried out on a highway or other publicly accessible land. Furthermore, it is established that serious disruption may amount to reprehensible conduct, so that articles 10 and 11 are not violated. The intimidation, obstruction or disruption to which section 68 applies is not criminalised unless it also involves a trespass and interference with A1P1. On this ground alone, any reliance upon articles 10 and 11 (assuming they are engaged) must be towards the periphery of those freedoms.

77. Fourthly, articles 10 and 11 do not bestow any "freedom of forum" to justify trespass on private land or publicly owned land which is not accessible by the public. There is no basis for supposing that section 68 has had the effect of preventing the effective exercise of freedoms of expression and assembly."

82. I will return to the issue of Convention rights later.
83. The second cause of action pleaded by the Claimants in the APOC is nuisance. Nuisances may either be public or private.
84. A public nuisance is one which inflicts damage, injury or inconvenience on all the King's subjects or on all members of a class who come within the sphere or neighbourhood of its operation. It may, however, affect some to a greater extent than others: *Soltau v De Held* (1851) 2 Sim NS 133, 142.
85. Private nuisance is any continuous activity or state of affairs causing a substantial and unreasonable interference with a [claimant's] land or his use or enjoyment of that land: *Bamford v Turnley* (1862) 3 B & S; *West v Sharp* [1999] 79 P&CR 327, 332:

"Not every interference with an easement, such as a right of way, is actionable. There must be a substantial interference with the enjoyment of it. There is no actionable interference with a right

of way if it can be substantially and practically exercised as conveniently after as before the occurrence of the alleged obstruction. Thus, the grant of a right of way in law in respect of every part of a defined area does not involve the proposition that the grantee can in fact object to anything done on any part of the area which would obstruct passage over that part. He can only object to such activities, including obstruction, as substantially interfere with the exercise of the defined right as for the time being is reasonably required by him".

86. The unlawful interference with the claimant's right of access to its land via the public highway, where a claimant's land adjoins a public highway, can be a private nuisance: *Cuadrilla Bowland Ltd v Persons Unknown* [2020] 4 WLR 29, [13]; and can be an unlawful interference with one or more of the claimant's rights of way over land privately owned by a third party: *Gale on Easements*, 13-01.

87. In *Cuadrilla*, [13], the Court said:

"13 The second type of wrong which the Injunction sought to prevent was unlawful interference with the claimants' freedom to come and go to and from their land. An owner of land adjoining a public highway has a right of access to the highway and a person who interferes with this right commits the tort of private nuisance. In addition, it is a public nuisance to obstruct or hinder free passage along a public highway and an owner of land specially affected by such a nuisance can sue in respect of it, if the obstruction of the highway causes them inconvenience, delay or other damage which is substantial and appreciably greater in degree than any suffered by the general public: see *Clerk & Lindsell on Torts*, 22nd ed (2017), para 20–181."

88. The position in relation to actions which amount to an obstruction of the highway, for the purposes of public nuisance, is described in *Halsbury's Laws*, 5th ed. (2012). [325], where it is said (in a passage cited in *Ineos*, [44], (Morgan J)): (a) whether an obstruction amounts to a nuisance is a question of fact; (b) an obstruction may be so inappreciable or so temporary as not to amount to a nuisance; (c) generally, it is a nuisance to interfere with any part of the highway; and (d) it is not a defence to show that although the act complained of is a nuisance with regard to the highway, it is in other respects beneficial to the public.

89. In *Harper v G N Haden & Sons* [1933] Ch 298, 320, Romer LJ said:

"The law relating to the user of highways is in truth the law of give and take. Those who use them must in doing so have reasonable regard to the convenience and comfort of others, and must not themselves expect a degree of convenience and comfort only obtainable by disregarding that of other people. They must expect to be obstructed occasionally. It is the price they pay for the privilege of obstructing others."

90. A member of the public has a right to sue for a public nuisance if he has suffered particular damage over and above the ordinary damage suffered by the public at large: *R v Rimmington* [2006] AC 459, [7], [44]:

“44. The law of nuisance and of public nuisance can be traced back for centuries, but the answers to the questions confronting the House are not to be found in the details of that history. What may, perhaps, be worth noticing is that in 2 Institutes 406 Coke adopts a threefold classification of nuisance: public or general, common, private or special. Common nuisances are public nuisances which, for some reason, are not prosecutable. See *Ibbetson, A Historical Introduction to the Law of Obligations*, p 106 nn 62 and 65. So for Coke, while all public nuisances are common, not all common nuisances are public. Later writers tend to elide the distinction between common and public nuisances but, throughout, it has remained an essential characteristic of a public nuisance that it affects the community, members of the public as a whole, rather than merely individuals. For that reason, the appropriate remedy is prosecution in the public interest or, in more recent times, a relator action brought by the Attorney General. A private individual can sue only if he can show that the public nuisance has caused him special injury over and above that suffered by the public in general. These procedural specialties derive from the effect of the public nuisance on the community, rather than the other way round.

(ii) *The test for the grant of an injunction*

91. In relation to remedy, the starting point, if not the primary remedy in most cases, will be an injunction to bring the nuisance to an end: *Shelfer v City of London Electric Lighting Co* [1895] 1 Ch 287, 322-323, per A L Smith LJ; *Hunter v Canary Wharf Ltd* [1997] AC 655, 692 per Lord Goff; *Lawrence v Fen Tigers Ltd and others* [2014] AC 822, [120]-[124] per Lord Neuberger. In that case his Lordship said at [121] (discussing when and whether damages rather than an injunction for nuisance should be granted):

“I would accept that the *prima facie* position is that an injunction should be granted, so the legal burden is on the defendant to show why it should not.”

92. The High Court may grant an injunction (whether interlocutory or final) in all cases in which it appears to the court to be just and convenient: s 37(1) of the Senior Courts Act 1981 (the SCA 1981).
93. The general function of an interim injunction is to ‘hold the ring’ pending final determination of a claim (*United States of America v Abacha* [2015] 1 WLR 1917). The basic underlying principle of that function is that the court should take whatever course seems likely to cause the least irremediable prejudice to one party or another: *National Commercial Bank Jamaica Limited v Olint Corp Ltd (Practice note)* [2009] 1 WLR 105 at [17].

94. The general test for the grant of an interim injunction requires that there be at least a serious question to be tried and then refers to the adequacy of damages for either party and the balance of justice (or convenience): *American Cyanamid Co v Ethicon Ltd* [1975] AC 396.
95. The threshold for obtaining an injunction is normally lower where wrongs have already been committed by the defendant: *Secretary of State for Transport and HS2 Limited v Persons Unknown* [2019] EWHC 1437 (Ch) at [122] to [124]. Snell's Equity states at [18-028]:
- “In cases where the defendant has already infringed the claimant's rights, it will normally be appropriate to infer that the infringement will continue unless restrained: a defendant will not avoid an injunction merely by denying any intention of repeating wrongful acts.”
96. This, it seems to me, is not a rule of law but one of evidence which broadly reflects common sense. Where a defendant can be shown to have already infringed the claimant's rights (eg, by committing trespass and/or nuisance), then the court *may* decide that that weighs in the claimant's favour as tending to show the risk of a further breach, alongside other evidence, if the claimant seeks an anticipatory injunction to restrain further such acts by the defendant.
97. However, *Ineos Upstream Ltd v Persons Unknown* [2019] 4 WLR 100, [44]-[48] (CA) makes clear, in light of s 12(3) of the Human Rights Act 1998, that the Court must be satisfied that the Claimants would be likely to obtain an injunction preventing future trespass at trial; not just that there is a serious question to be tried (see also *Crackley and Cubbington*, [35]). ‘Likely’ in this context usually means more likely than not: *Cream Holdings Limited v Banerjee* [2005] 1 AC 253, [22].
98. This is accepted by the Claimants (Principles Skeleton Argument, [19]), and it is the test that I will apply. The draft injunction has a long stop date and will be subject to regular review by the court, as I have said. There is the usual provision allowing for applications to vary or discharge it.
99. Where the relief sought is a precautionary injunction (formerly called a *quia timet* injunction, however Latin is no longer to be used in this area of the law, per *Barking and Dagenham*, [8]), the question is whether there is an *imminent* and *real* risk of harm: *Ineos* at [34(1)] (Court of Appeal) and the first instance decision of Morgan J ([2017] EWHC 2945 (Ch)), [88].
100. ‘Imminent’ means that the circumstances must be such that the remedy sought is not premature. In *Hooper v Rogers* [1975] Ch 43, 49-50, Russell LJ said:
- “I do not regard the use of the word ‘imminent’ in those passages as negating a power to grant a mandatory injunction in the present case: I take the use of the word to indicate that the injunction must not be granted prematurely.

...

In different cases differing phrases have been used in describing circumstances in which mandatory injunctions and *quia timet* injunctions will be granted. In truth it seems to me that the degree of probability of future injury is not an absolute standard: what is to be aimed at is justice between the parties, having regard to all the relevant circumstances.”

101. In *Canada Goose*, [82(3)] the Court said:

“(3) Interim injunctive relief may only be granted if there is a sufficiently real and imminent risk of a tort being committed to justify [precautionary] relief.”

102. As I have already said, one of the points made by Mr Moloney is that the ‘imminent and real’ test is not satisfied over the whole of the HS2 route because over much of it, work has not started and there have been no protests.

(iii) *The Canada Goose requirements*

103. I turn to the requirements governing the sort of injunction which the Claimants seek in this case against unknown persons (ie, D1-D4). So, for example, I set out the definition of D2 earlier.

104. The guidelines set out by the Court of Appeal in *Canada Goose*, [82], are as follows:

“(1) The ‘persons unknown’ defendants in the claim form are, by definition, people who have not been identified at the time of the commencement of the proceedings. If they are known and have been identified, they must be joined as individual defendants to the proceedings. The ‘persons unknown’ defendants must be people who have not been identified but are capable of being identified and served with the proceedings, if necessary by alternative service such as can reasonably be expected to bring the proceedings to their attention. In principle, such persons include both anonymous defendants who are identifiable at the time the proceedings commence but whose names are unknown and also Newcomers, that is to say people who in the future will join the protest and fall within the description of the ‘persons unknown’.

(2) The ‘persons unknown’ must be defined in the originating process by reference to their conduct which is alleged to be unlawful.

(3) Interim injunctive relief may only be granted if there is a sufficiently real and imminent risk of a tort being committed to justify [precautionary] relief.

(4) As in the case of the originating process itself, the defendants subject to the interim injunction must be individually named if known and identified or, if not and described as ‘persons

unknown', must be capable of being identified and served with the order, if necessary by alternative service, the method of which must be set out in the order.

(5) The prohibited acts must correspond to the threatened tort. They may include lawful conduct if, and only to the extent that, there is no other proportionate means of protecting the claimant's rights.

(6) The terms of the injunction must be sufficiently clear and precise as to enable persons potentially affected to know what they must not do. The prohibited acts must not, therefore, be described in terms of a legal cause of action, such as trespass or harassment or nuisance. They may be defined by reference to the defendant's intention if that is strictly necessary to correspond to the threatened tort and done in non-technical language which a defendant is capable of understanding and the intention is capable of proof without undue complexity. It is better practice, however, to formulate the injunction without reference to intention if the prohibited tortious act can be described in ordinary language without doing so.

(7) The interim injunction should have clear geographical and temporal limits. It must be time limited because it is an interim and not a final injunction. We shall elaborate this point when addressing Canada Goose's application for a final injunction on its summary judgment application."

105. In *National Highways Limited*, [41], Bennathan J said this:

"41. Injunctions against unidentified defendants were considered by the Court of Appeal in the cases of *Ineos Upstream Ltd v Persons Unknown* [2019] 4 WLR 100 [*"Ineos"*] and *Canada Goose Retail Ltd v Persons Unknown* [2020] 1 WLR 2802 [*'Canada Goose'*]. I summarise their combined affect as being:

(1) The Courts need to be cautious before making orders that will render future protests by unknown people a contempt of court [*Ineos*].

(2) The terms must be sufficiently clear and precise to enable persons potentially effected to know what they must not do [*Ineos* and *Canada Goose*].

(3) The prohibited acts must correspond to the threatened tort. They may include lawful conduct if, and only to the extent that, there is no other proportionate means of protecting the claimant's rights [*Canada Goose*]."

106. The authorities in this area, including in particular, *Canada Goose*, were reviewed by the Court of Appeal in *Barking and Dagenham*. Although some parts of the decision in

Canada Goose were not followed, the guidelines in [82], were approved (at [56]) and I will apply them.

107. The parts of *Canada Goose* which the Court of Appeal in *Barking and Dagenham* disagreed with were the following paragraphs (see at [78] of the latter decision), where the Court also made clear they were not part of its *ratio*:

“89. A final injunction cannot be granted in a protester case against ‘persons unknown’ who are not parties at the date of the final order, that is to say newcomers who have not by that time committed the prohibited acts and so do not fall within the description of the ‘persons unknown’ and who have not been served with the claim form. There are some very limited circumstances, such as in *Venables v News Group Newspapers Ltd* [2001] Fam 430, in which a final injunction may be granted against the whole world. Protester actions, like the present proceedings, do not fall within that exceptional category. The usual principle, which applies in the present case, is that a final injunction operates only between the parties to the proceedings: *Attorney General v Times Newspapers Ltd* [1992] 1 AC 191, 224. That is consistent with the fundamental principle in *Cameron* (at para 17) that a person cannot be made subject to the jurisdiction of the court without having such notice of the proceedings as will enable him to be heard.”

91. That does not mean to say that there is no scope for making ‘persons unknown’ subject to a final injunction. That is perfectly legitimate provided the persons unknown are confined to those within Lord Sumption’s category 1 in *Cameron*, namely those anonymous defendants who are identifiable (for example, from CCTV or body cameras or otherwise) as having committed the relevant unlawful acts prior to the date of the final order and have been served (probably pursuant to an order for alternative service) prior to the date. The proposed final injunction which *Canada Goose* sought by way of summary judgment was not so limited. Nicklin J was correct (at para 159) to dismiss the summary judgment on that further ground (in addition to non-service of the proceedings). Similarly, Warby J was correct to take the same line in *Birmingham City Council v Afsar* [2019] EWHC 3217 (QB) at [132].

92. In written submissions following the conclusion of the oral hearing of the appeal Mr Bhowe submitted that, if there is no power to make a final order against ‘persons unknown’, it must follow that, contrary to *Ineos*, there is no power to make an interim order either. We do not agree. An interim injunction is temporary relief intended to hold the position until trial. In a case like the present, the time between the interim relief and trial will enable the claimant to identify wrongdoers, either by name or as anonymous persons within Lord Sumption’s category 1. Subject

to any appeal, the trial determines the outcome of the litigation between the parties. Those parties include not only persons who have been joined as named parties but also ‘persons unknown’ who have breached the interim injunction and are identifiable albeit anonymous. The trial is between the parties to the proceedings. Once the trial has taken place and the rights of the parties have been determined, the litigation is at an end. There is nothing anomalous about that.”

108. Some points emerging from the discussion of these paragraphs in *Barking and Dagenham* are as follows:
- a. the Court undoubtedly has the power under s 37 of the SCA 1981 to grant final injunctions that bind non-parties to the proceedings ([71]).
 - b. the remedy can be fairly described as ‘exceptional’, albeit that formulation should not be used to lay down limitations on the Court’s broad discretion. The categories in which such injunctions can be granted are not closed and they may be appropriate in protest cases ([120]);
 - c. there is no real distinction between interim and final injunctions in the context of injunctions granted against persons unknown ([89] and [93]). While the guidance regarding identification of persons unknown in *Canada Goose* was given in the context of an application for an interim injunction, the same principles apply in relation to the grant of final injunctions ([89]; see also [102] and [117]);
 - d. as to the position of a non-party who behaves so as satisfy the definition of persons unknown only after the injunction has been granted (ie, a ‘newcomer’), such a person becomes a party on knowingly committing an act that brings them within the description of persons unknown set out in the injunction: *South Cambridgeshire District Council v Gammell* [2006] 1 WLR 658, [32]. There is no need for a claimant to apply to join newcomers as defendants. There is ‘no conceptual or legal prohibition on suing persons unknown who are not currently in existence but will come into existence when they commit the prohibited tort’: *Boyd*, [30];
 - e. procedural protections available to ensure a permanent injunction against persons unknown is just and proportionate include the provision of a mechanism for review by the Court: ‘Orders need to be kept under review. ‘For as long as the court is concerned with the enforcement of an order, the action is not at end’ ([89]); ‘... all persons unknown injunctions ought normally to have a fixed end point for review as the injunctions granted to these local authorities actually had in some cases’ ([91]); ‘It is good practice to provide for a periodic review, even when a final order is made’ ([108]);
 - f. in the unauthorised encampment cases, the Court of Appeal has suggested that borough-wide injunctions should be limited to one year at a time before a review: *Bromley London Borough Council v Persons Unknown* [2020] PTSR 1043, [106].
109. So far as keeping the injunction in this case under review is concerned, the draft order provides for a long stop date of 31 May 2023, when it will expire unless renewed (at [3]). It also provides for yearly reviews around May time (ie roughly the anniversary of the

hearing before me) in order ‘to determine whether there is a continued threat which justifies continuation of this Order’ (at [15]), and there are the usual provisions allowing for persons affected to apply to vary or discharge it (at [16] and [18]).

(iv) *Geographical scope of the order sought*

110. I turn to the question of the geographical scope of the injunction sought. As I have said, the proposed injunction stretches along the whole of the HS2 route. Massive tracts of land are potentially affected. The Claimants say that of itself is not a bar to injunctive relief, to which there is no geographical limit (at least as a matter of law).

111. Specifically in relation to trespass and nuisance, the Claimants said that this Court (Lavender J) was not troubled by a 4,300 mile injunction against environmental protesters along most of the Strategic Roads Network (namely motorways and major A roads) in *National Highways Limited v Persons Unknown and others* [2021] EWHC 3081 (QB), [24(7)]:

“... the geographical extent is considerable, since it covers 4,300 miles of roads, but this is in response to the unpredictable and itinerant nature of the Insulate Britain protests”.

112. See also his judgment at [15], and also Bennathan J’s judgment at [2022] EWHC 1105 (QB), [3], where they referenced other geographically wide-ranging injunctions against environmental road protesters. For example, on 24 September 2021 Cavanagh J granted an interim injunction which applied to the A2, A20, A2070, M2 and M20 in Claim No QB-2021-003626.

113. Lavender J at [24(7)(c)] found additionally that if a claimant is entitled to an injunction, it would not be appropriate to require it to apply for separate injunctions for separate roads, requiring the claimant in effect to ‘chase’ protestors around the country from location to location, not knowing where they will go next:

114. For these reasons, the Claimants submitted that there is a real and imminent risk of torts being carried out unless this injunction is granted across the whole of the HS2 Land.

115. The Claimants also submitted that although an individual protest may appear small in the context of HS2 as a whole, that was not a reason to overlook its impact. They relied on *DPP v Cuciurean*, [87], where the Lord Chief Justice said:

“87. It was also immaterial in this case that the Land formed only a small part of the HS2 project, that the costs incurred by the project came to ‘only’ £195,000 and the delay was 2½ days, whereas the project as a whole will take 20 years and cost billions. That argument could be repeated endlessly along the route of a major project such as this. It has no regard to the damage to the project and the public interest that would be caused by encouraging protesters to believe that with impunity they can wage a campaign of attrition. Indeed, we would go so far as to suggest that such an interpretation of a Human Rights instrument would bring it into disrespect.”

(v) *European Convention on Human Rights*

116. I turn next to the important issue of the European Convention on Human Rights (the ECHR). The ECHR is given effect in domestic law by the Human Rights Act 1998 (the HRA 1998). Section 6(1) of the HRA 1998 provides that it is unlawful for a public authority to act in a way which is incompatible with a Convention right. The Court is a public authority: s 6(3)(a).
117. The key provisions for these purposes are Article 10 (freedom of expression); Article 11 (freedom of assembly); and Article 1 of Protocol 1 (A1P1) (right to peaceful enjoyment of property).
118. Articles 10 and 11 provide:

“Article 10 Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 11 Freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.”

119. A1P1 provides:

“Article 1 Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

120. Articles 10 and 11 potentially pull in one direction (that of the Defendants) whilst A1P1 pulls in the Claimants’ favour. That tension was one of the matters discussed in *DPP v Cuciurean*, [84]:

“84. The judge was not given the assistance she might have been with the result that a few important factors were overlooked. She did not address A1P1 and its significance. Articles 10 and 11 were not the only Convention rights involved. A1P1 pulled in the opposite direction to articles 10 and 11. At the heart of A1P1 and section 68 is protection of the owner and occupier of the Land against interference with the right to possession and to make use of that land for lawful activities without disruption or obstruction. Those lawful activities in this case had been authorised by Parliament through the 2017 Act after lengthy consideration of both the merits of the project and objections to it. The legislature has accepted that the HS2 project is in the national interest. One object of section 68 is to discourage disruption of the kind committed by the respondent, which, according to the will of Parliament, is against the public interest. The respondent (and others who hold similar views) have other methods available to them for protesting against the HS2 project which do not involve committing any offence under section 68, or indeed any offence. The Strasbourg Court has often observed that the Convention is concerned with the fair balance of competing rights. The rights enshrined in articles 10 and 11, long recognised by the Common Law, protect the expression of opinions, the right to persuade and protest and to convey strongly held views. They do not sanction a right to use guerrilla tactics endlessly to delay and increase the cost of an infrastructure project which has been subjected to the most detailed public scrutiny, including in Parliament.”

121. Section 12 provides:

“12. - Freedom of expression.

(1) This section applies if a court is considering whether to grant any relief which, if granted, might affect the exercise of the Convention right to freedom of expression.

(2) If the person against whom the application for relief is made ('the respondent') is neither present nor represented, no such relief is to be granted unless the court is satisfied -

(a) that the applicant has taken all practicable steps to notify the respondent; or

(b) that there are compelling reasons why the respondent should not be notified.

(3) No such relief is to be granted so as to restrain publication before trial unless the

court is satisfied that the applicant is likely to establish that publication should not be allowed.”

122. 'Publication' in s 12(3) has been interpreted by the courts as extending beyond the literal meaning of the word to encompass 'any application for prior restraint of any form of communication that falls within Article 10 of the Convention': *Birmingham City Council v Afsar* [2019] ELR 373, [60]-[61].

123. It is convenient here to deal with a point raised in particular by D6 about whether the First Claimant, as (at least) a hybrid public authority, can rely on A1P1. He flagged up this point in his Skeleton Argument and Mr Moloney also addressed me on it. After the hearing Mr Moloney and Mr Greenhall filed further submissions arguing, in summary, that: (a) the First Claimant is a core public authority, alternatively a hybrid public authority and a governmental organisation, being wholly owned by the Secretary of State and publicly funded: see *Aston Cantlow* [2004] 1 AC 546; (b) the burden lies on the First Claimant to establish in law and in fact that it may rely on its A1P1 rights; (c) so far as previous cases say otherwise, they are wrongly decided or distinguishable; (d) the exercise of compulsory purchase powers falls within 'functions of a public nature'; (e) thus, the First Claimant may not rely on A1P1 rights in support of the application.

124. The Claimants filed submissions in response.

125. I am satisfied that the First Claimant can pray in aid A1P1, and the common law values they reflect, and that the approach set out in *DPP v Cuciurean* and other cases is binding upon me. The point raised by D6 was specifically dealt with by the Court of Appeal in *Secretary of State for Transport v Cuciurean* [2022] EWCA Civ 661, [28]:

“28. As is so often the case, there are rights that pull in different directions. It has also been authoritatively decided that there is no hierarchy as between the various rights in play. On the one hand, then, there are Mr Cuciurean's rights to freedom of expression and freedom of peaceful assembly contained in articles 10 (1) and 11 (1) of the ECHR. On the other, there are the claimants' rights to the peaceful enjoyment of their property. There was some debate about whether these were themselves convention rights (given that the Secretary of State for Transport is himself a public authority and cannot therefore be a "victim" for the purposes of the Convention, and HS2 Ltd may not be regarded as a 'non-

governmental' organisation for that purpose). But whether or not they are convention rights, they are clearly legal rights (either proprietary or possessory) recognised by national law ...”

126. D6's submissions are also inconsistent with Warby LJ's judgment in *Cuciurean v Secretary of State for Transport* [2021] EWCA 357, [9(1)]-[9(2)], which I quoted earlier.
127. D6's submissions are also inconsistent with the approach of Arnold J (as he then was) in *Olympic Delivery Authority v Persons Unknown* [2012] EWHC 1012 (Ch). The judge accepted the submission that the Authority had A1P1 rights which went into the balance against the protesters' Article 10/11 rights, at [22]:

“22. In those circumstances, it seems to me that the approach laid down by Lord Steyn where both Article 8 and Article 10 ECHR rights are involved in *Re S* [2004] UKHL 47, [2005] 1 AC 593 at [17] is applicable in the present case. Here we are concerned with a conflict between the ODA's rights under Article 1 of the First Protocol, and the protesters' rights under Articles 10 and 11. The correct approach, therefore, is as follows. First, neither the ODA's rights under Article 1 of the First Protocol, nor the protesters' rights under Articles 10 and 11 have precedence over each other. Secondly, where the values under the respective Articles are in conflict, an intense focus on the comparative importance of the specific rights being claimed in the individual case is necessary. Thirdly, the justifications for interfering with or restricting each right must be taken into account. Finally, the proportionality test, or ultimate balancing test, must be applied to each.”

128. The Olympic Authority was unquestionably a public body. The judge described it at [2] as:

“... an executive non-departmental public body and statutory corporation established by section 3 of the London Olympic Games and Paralympic Games Act 2006 to be responsible for the planning and delivery of the Olympic Games 2012, including the development and building of Games venues.”

129. In a later judgment in the same case ([2012] EWHC 1114 (Ch)), the judge said:

“23. The protestors who have addressed me have made the point that they have sought to engage with the planning process in the normal way, and they have considered the possibility of seeking judicial review. As is so often the case, they say that they are handicapped by the lack of professional legal representation and the lack of finances to instruct lawyers of the calibre instructed by the ODA. They have also sought to engage normal democratic processes in order to make their points. It is because those processes have failed, as the protestors see it, that they have engaged in their protests.

24. That is all very understandable, but it does not, in my judgment, detract from the basic position which confronts the court. The ODA has rights as exclusive licensee of the land in question under Article 1 of the First Protocol to the Convention. As I observed in my judgment on 4 April 2012, the protestors' rights under Articles 10 and 11 are not unqualified rights. They must give way, where it is necessary and proportionate to do so, to the Convention rights of others, and specifically in the present case, of the ODA. The form of injunction sought by the ODA and which I granted on the last occasion does not, in and of itself, prevent or inhibit lawful and peaceful protest. It does not prevent or inhibit the protestors who wish to protest about the matters I have described from doing so in ways which do not interfere with the ODA's enjoyment of its rights in respect of the land

130. Articles 10 and 11 were considered in respect of protest on the highway in *Samede* at [38] – [41]. The Court said:

“38. This argument raises the question which the Judge identified at the start of his judgment, namely ‘the limits to the right of lawful assembly and protest on the highway’, using the word ‘protest’ in its broad sense of meaning the expression and dissemination of opinions. In that connection, as the Judge observed at [2012] EWHC 34 (QB), para 100, it is clear that, unless the law is that ‘assembly on the public highway *may* be lawful, the right contained in article 11(1) of the Convention is denied’ – quoting Lord Irvine LC in *DPP v Jones* [1999] 2 AC 240, 259E. However, as the Judge also went on to say at [2012] EWHC 34 (QB), para 145:

‘To camp on the highway as a means of protest was not held lawful in *DPP v Jones*. Limitations on the public right of assembly on the highway were noticed, both at common law and under Article 11 of the Convention (see Lord Irvine at p 259A-G, Lord Slynn at p 265C-G, Lord Hope of Craighead at p 277D-p 278D, and Lord Clyde at p 280F). In a passage of his speech that I have quoted above Lord Clyde expressed his view that the public's right did not extend to camping.’

39. As the Judge recognised, the answer to the question which he identified at the start of his judgment is inevitably fact-sensitive, and will normally depend on a number of factors. In our view, those factors include (but are not limited to) the extent to which the continuation of the protest would breach domestic law, the importance of the precise location to the protesters, the duration of the protest, the degree to which the protesters occupy the land, and the extent of the actual interference the protest causes to the rights of others, including the property rights of the owners of the land, and the rights of any members of the public.

40. The defendants argue that the importance of the issues with which the Occupy Movement is concerned is also of considerable relevance. That raises a potentially controversial point, because, as the Judge said at [2012] EWHC 34 (QB), para 155:

‘[I]t is not for the court to venture views of its own on the substance of the protest itself, or to gauge how effective it has been in bringing the protestors' views to the fore. The Convention rights in play are neither strengthened nor weakened by a subjective response to the aims of the protest itself or by the level of support it seems to command. ... [T]he court cannot – indeed, must not – attempt to adjudicate on the merits of the protest. To do that would go against the very spirit of Articles 10 and 11 of the Convention. ... [T]he right to protest is the right to protest right or wrong, misguidedly or obviously correctly, for morally dubious aims or for aims that are wholly virtuous.’

41. Having said that, we accept that it can be appropriate to take into account the general character of the views whose expression the Convention is being invoked to protect. For instance, political and economic views are at the top end of the scale, and pornography and vapid tittle-tattle is towards the bottom. In this case, the Judge accepted that the topics of concern to the Occupy Movement were ‘of very great political importance’ - [2012] EWHC 34 (QB), para 155. In our view, that was something which could fairly be taken into account. However, it cannot be a factor which trumps all others, and indeed it is unlikely to be a particularly weighty factor: otherwise judges would find themselves according greater protection to views which they think important, or with which they agree. As the Strasbourg court said in *Kuznetsov* [2008] ECHR 1170, para 45:

‘Any measures interfering with the freedom of assembly and expression other than in cases of incitement to violence or rejection of democratic principles – however shocking and unacceptable certain views or words used may appear to the authorities – do a disservice to democracy and often even endanger it. In a democratic society based on the rule of law, the ideas which challenge the existing order must be afforded a proper opportunity of expression through the exercise of the right of assembly as well as by other lawful means’.

The Judge took into account the fact that the defendants were expressing views on very important issues, views which many would see as being of considerable breadth, depth and relevance, and that the defendants strongly believed in the views they were expressing. Any further analysis of those views and issues would have been unhelpful, indeed inappropriate.”

131. However, there is a more restrictive approach (ie, more restrictive against protest) where the protest takes place on private land. This approach was explained by the Strasbourg Court in *Appleby v United Kingdom* [2003] 27 EHRR 38, [43], [47]. The applicants had been prevented from collecting signatures in a private shopping centre for a petition against proposed building work to which they objected. They said this violated their rights under Articles 10 and 11. The Court disagreed:

“43. The Court recalls that the applicants wished to draw attention of fellow citizens to their opposition to the plans of their locally elected representatives to develop playing fields and to deprive their children of green areas to play in. This was a topic of public interest and contributed to debate about the exercise of local government powers. However, while freedom of expression is an important right, it is not unlimited. Nor is it the only Convention right at stake. Regard must also be had to the property rights of the owner of the shopping centre under Art.1 of Protocol No.1.

...

47. That provision, notwithstanding the acknowledged importance of freedom of expression, does not bestow any freedom of forum for the exercise of that right. While it is true that demographic, social, economic and technological developments are changing the ways in which people move around and come into contact with each other, the Court is not persuaded that this requires the automatic creation of rights of entry to private property, or even, necessarily, to all publicly owned property (Government offices and ministries, for instance). Where however the bar on access to property has the effect of preventing any effective exercise of freedom of expression or it can be said that the essence of the right has been destroyed, the Court would not exclude that a positive obligation could arise for the State to protect the enjoyment of Convention rights by regulating property rights. The corporate town, where the entire municipality was controlled by a private body, might be an example.“

132. The passage from *Samede I* set out earlier was cited with approval by the Supreme Court in *DPP v Ziegler* [2022] AC 408 at [17], [72], [74] to [77], [80] and [152]. In that case, the defendants were charged with obstructing the highway, contrary to s 137 of the Highways Act 1980, by causing a road to be closed during a protest against an arms fair that was taking place at a conference centre nearby. The defendants had obstructed the highway for approximately 90 minutes by lying in the road and making it difficult for police to remove them by locking themselves to structures.
133. The defendants accepted that their actions had caused an obstruction on the highway, but contended that they had not acted ‘without lawful ... excuse’ within the meaning of s 137(1), particularly in the light of their rights to freedom of expression and peaceful assembly under Articles 10 and 11 of the ECHR. The district judge acquitted the defendants of all charges, finding that the prosecution had failed to prove that the defendants’ actions had been unreasonable and therefore without lawful excuse. The

prosecution appealed by way of case stated, pursuant to s 111 of the Magistrates Courts Act 1980.

134. The Divisional Court allowed the prosecution's appeal, holding that the district judge's assessment of proportionality had been wrong. The defendant appealed to the Supreme Court. It was common ground on the appeal that the availability of the defence of lawful excuse depended on the proportionality of any interference with the defendants' rights under Articles 10 or 11 by reason of the prosecution.
135. The Supreme Court allowed the defendants' appeal. It highlighted the features that should be taken into account in determining the issue of proportionality, as including: (a) the place where the obstruction occurred; (b) the extent of the actual interference the protest caused to the rights of others, including the availability of alternative thoroughfares; (c) whether the protest had been aimed directly at an activity of which protestors disapproved, or another activity which had no direct connection with the object of the protest; (d) the importance of the precise location to the protestors; and (e) the extent to which continuation of the protest breaches domestic law.
136. At [16] and [58], the Supreme Court endorsed what have become known as the '*Ziegler* questions', which must be considered where Articles 10 and 11 are engaged:
 - a. Is what the defendant did in exercise of one of the rights in Articles 10 or 11?
 - b. If so, is there an interference by a public authority with that right?
 - c. If there is an interference, is it 'prescribed by law'?
 - d. If so, is the interference in pursuit of a legitimate aim as set out in paragraph (2) of Articles 10 and 11, for example the protection of the rights of others?
 - e. If so, is the interference 'necessary in a democratic society' to achieve that legitimate aim?
137. This last question can be sub-divided into a number of further questions, as follows:
 - a. Is the aim sufficiently important to justify interference with a fundamental right?
 - b. Is there a rational connection between the means chosen and the aim in view?
 - c. Are there less restrictive alternative means available to achieve that aim?
 - d. Is there a fair balance between the rights of the individual and the general interest of the community, including the rights of others?
138. Also, in *Ziegler*, [57], the Supreme Court said:

“57. Article 11(2) states that ‘No restrictions shall be placed’ except ‘such as are prescribed by law and are necessary in a democratic society’. In *Kudrevicius v Lithuania* (2015) 62 EHRR 34, para 100 the European Court of Human Rights ("ECtHR") stated that ‘The term 'restrictions' in article 11(2) must be interpreted as including both measures taken before or during a

gathering and those, such as punitive measures, taken afterwards' so that it accepted at para 101 'that the applicants' conviction for their participation in the demonstrations at issue amounted to an interference with their right to freedom of peaceful assembly. Arrest, prosecution, conviction, and sentence are all "restrictions" within both articles."

139. The structured approach provided by the *Ziegler* questions is one which the Court of Appeal has said courts would be 'well-advised' to follow at each stage of a process which might restrict Article 10 or 11 rights: *Secretary of State for Transport v Cuciurean* [2022] EWCA Civ 661, [13]. Also in that case, at [28]-[34], the Court summarised the relevant Convention principles:

"28. As is so often the case, there are rights that pull in different directions. It has also been authoritatively decided that there is no hierarchy as between the various rights in play. On the one hand, then, there are Mr Cuciurean's rights to freedom of expression and freedom of peaceful assembly contained in articles 10 (1) and 11 (1) of the ECHR. On the other, there are the claimants' rights to the peaceful enjoyment of their property. There was some debate about whether these were themselves convention rights (given that the Secretary of State for Transport is himself a public authority and cannot therefore be a "victim" for the purposes of the Convention, and HS2 Ltd may not be regarded as a 'non-governmental' organisation for that purpose). But whether or not they are convention rights, they are clearly legal rights (either proprietary or possessory) recognised by national law. Articles 10 (2) and 11 (2) of the ECHR qualify the rights created by articles 10 (1) and 11 (1) respectively. Article 10 (2) relevantly provides that:

"The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, ... for the protection of health or morals, for the protection of the reputation or rights of others... or for maintaining the authority... of the judiciary."

29. Article 11 (2) relevantly provides:

"No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society ... for the protection of the rights and freedoms of others."

30. There is no doubt that the right to freedom of expression and the right of peaceful assembly both extend to protesters. In *Hashman v United Kingdom* (2000) EHHR 241, for example, the European Court of Human Rights held that the activity of hunt

saboteurs in disrupting a hunt by the blowing of hunting horns fell within the ambit of article 10 of the ECHR. In *City of London Corporation v Samede* [2012] EWCA Civ 160, [2012] PTSR 1624 protesters who were part of the 'Occupy London' movement set up a protest camp in the churchyard of St Paul's Cathedral. This court held that their activities fell within the ambit of both article 10 and also article 11.

31. On the other hand, articles 10 and 11 do not entitle a protester to protest on any land of his choice. They do not, for example, entitle a protester to protest on private land: *Appleby v United Kingdom* (2003) 37 EHHR 38; *Samede* at [26]. The Divisional Court so held in another HS2 protest case, involving Mr Cuciurean himself who at that time was living in a tunnel for the purpose of disrupting HS2: *DPP v Cuciurean* [2022] EWHC 736 (Admin). In that case the court (Lord Burnett CJ and Holgate J) said at [45]:

"We conclude that there is no basis in the Strasbourg jurisprudence to support the respondent's proposition that the freedom of expression linked to the freedom of assembly and association includes a right to protest on privately owned land or upon publicly owned land from which the public are generally excluded. The Strasbourg Court has not made any statement to that effect. Instead, it has consistently said that articles 10 and 11 do not "bestow any freedom of forum" in the specific context of interference with property rights (see *Appleby* at [47] and [52]). There is no right of entry to private property or to any publicly owned property. The furthest that the Strasbourg Court has been prepared to go is that where a bar on access to property has the effect of preventing any effective exercise of rights under articles 10 and 11, or of *destroying* the essence of those rights, then it would not exclude the possibility of a State being obliged to protect them by regulating property rights."

32. Even the right to protest on a public highway has its limits. In *DPP v Ziegler* protesters were charged with obstructing the highway without lawful excuse. The Supreme Court held that whether there was a 'lawful excuse' depended on the proportionality of any interference with the protesters' rights under articles 10 and 11. Lords Hamblen and Stephens said at [70]:

'It is clear from those authorities that intentional action by protesters to disrupt by obstructing others enjoys the guarantees of articles 10 and 11, but both disruption and whether it is intentional are relevant factors in relation to an evaluation of proportionality. Accordingly, intentional

action even with an effect that is more than *de minimis* does not automatically lead to the conclusion that any interference with the protesters' articles 10 and 11 rights is proportionate. Rather, there must be an assessment of the facts in each individual case to determine whether the interference with article 10 or article 11 rights was 'necessary in a democratic society'.

33. But that proportionality exercise does not apply in a case in which the protest takes place on private land. In *DPP v Cuciurean* the court said:

"66. Likewise, *Ziegler* was only concerned with protests obstructing a highway where it is well-established that articles 10 and 11 are engaged. The Supreme Court had no need to consider, and did not address in their judgments, the issue of whether articles 10 and 11 are engaged where a person trespasses on private land, or on publicly owned land to which the public has no access. Accordingly, no consideration was given to the statement in *Richardson* at [3] or to cases such as *Appleby*.

67. For these reasons, it is impossible to read the judgments in *Ziegler* as deciding that there is a general principle in our criminal law that where a person is being tried for an offence which does engage articles 10 and 11, the prosecution, in addition to satisfying the ingredients of the offence, must also prove that a conviction would be a proportionate interference with those rights."

34. Where a land owner, such as the claimants in the present case, seeks an injunction restraining action which is carried on in the exercise of the right of freedom of expression or the right of peaceful assembly (or both) on private land, the time for the proportionality assessment (to the extent that it arises at all) is at the stage when the injunction is granted. Any 'chilling effect' will also be taken into account at that stage: see for example the decision of Mr John Male QC in *UK Oil and Gas Investments plc v Persons Unknown* [2018] EWHC 2252 (Ch), especially at [104] to [121], [158] to [167] and [176] (another case of protest predominantly on the highway); and the decision of Lavender J in *National Highways Ltd v Heyatawin* [2021] EWHC 3081 (QB) (also a case of protest on the highway). Once the injunction has been granted then, absent any appeal or application to vary, the balance between the competing rights has been struck: see *National Highways Ltd v Heyatawin* [2021] EWHC 3078 (QB) at [44]; *National Highways Ltd v Buse* [2021] EWHC 3404 (QB) at [30]."

140. The Claimants say that, in having regard to the balance of convenience and the appropriate weight to be had to the Defendants' Convention rights, there is no right to protest on private land (*Appleby*, [43] and *Samede*, [26]) and therefore Articles 10 and 11 rights are not engaged in relation to those protests (see *Ineos* at [36], and *DPP v Cuciurean*, [46], [50] and [77]). In other words, there is no 'freedom of forum' for protest (*Ibid*, [45]). A protest which involves serious disruption or obstruction to the lawful activities of other parties may amount to 'reprehensible conduct', so that Articles 10 and 11 are not violated: *Ibid*, [76].
141. The Claimants say that constant direct action protest and trespass to the HS2 Land is against the public interest and rely on *DPP v Cuciurean*, [84], which I quoted earlier. They placed special weight on the Lord Chief Justice's condemnation of endless 'guerrilla tactics'.
142. To the extent that protest is on public land (eg by blocking gates from the highway), to which Articles 10 and 11 do apply, the Claimants say that the interference with that right represented by the injunction is modest and proportionate.

(vi) *Service*

143. I turn to the question of service. This was something which I canvassed with counsel at the preliminary hearing in April. It is a fundamental principle of justice that a person cannot be subject to the court's jurisdiction without having notice of the proceedings: *Cameron v Liverpool Victoria Insurance Co Ltd* [2019] 1 WLR 1471, [14].
144. The essential requirement for any form of alternative service is that the mode of service should be such as could reasonably be expected to bring the proceedings to the attention of the defendant: *Cameron*, [21], and *Cuciurean v Secretary of State for Transport and High Speed Two (HS2) Limited* [2021] EWCA Civ 357, [14] – [15], [25] – 26], [60] and [70]; *Canada Goose*, [82]. Posting on social media and attaching copies at nearby premises would have a greater likelihood of bringing notice of the proceedings to the attention of defendants: *Canada Goose*, [50]:

“50. Furthermore, it would have been open to Canada Goose at any time since the commencement of the proceedings to obtain an order for alternative service which would have a greater likelihood of bringing notice of the proceedings to the attention of protestors at the shop premises, such as by posting the order, the claim form and the particulars of claim on social media coverage to reach a wide audience of potential protestors and by attaching or otherwise exhibiting copies of the order and of the claim form at or nearby those premises. There is no reason why the court's power to dispense with service of the claim in exceptional circumstances should be used to overcome that failure.”

145. There is a difference between service of proceedings, and service of an injunction order. A person unknown is a newcomer, and is served and made a party to proceedings, when they violate an order of which they have knowledge; it is not necessary for them to be personally served with it: *Barking and Dagenham*, [84]-[85], [91], approving *South*

Cambridgeshire District Council v Gammell [2005] EWCA Civ 1429, [34]. In the former case, the Court of Appeal said:

“84. In the first two sentences of para 91, *Canada Goose* seeks to limit persons unknown subject to final injunctions to those “within Lord Sumption’s category 1 in *Cameron*, namely those anonymous defendants who are identifiable (for example, from CCTV or body cameras or otherwise) as having committed the relevant unlawful acts prior to the date of the final order and have been served (probably pursuant to an order for alternative service) prior to [that] date”. This holding ignores the fact that *Canada Goose* had already held that Lord Sumption’s categories did not deal with newcomers, which were, of course, not relevant to the facts in *Cameron*.

85. The point in *Cameron* was that the proceedings had to be served so that, before enforcement, the defendant had knowledge of the order and could contest it. As already explained, *Gammell* held that persons unknown were served and made parties by violating an order of which they had knowledge. Accordingly, the first two sentences of para 91 are wrong and inconsistent both with the court’s own reasoning in *Canada Goose* and with a proper understanding of *Gammell*, *Ineos* and *Cameron*.

...

91. The reasoning in para 92 is all based upon the supposed objection (raised in written submissions following the conclusion of the oral hearing of the appeal) to making a final order against persons unknown, because interim relief is temporary and intended to “enable the claimant to identify wrongdoers, either by name or as anonymous persons within Lord Sumption’s category 1”. Again, this reasoning ignores the holding in *Gammell*, *Ineos* and *Canada Goose* itself that an unknown and unidentified person knowingly violating an injunction makes themselves parties to the action. Where an injunction is granted, whether on an interim or a final basis for a fixed period, the court retains the right to supervise and enforce it, including bringing before it parties violating it and thereby making themselves parties to the action. That is envisaged specifically by point 7 of the guidelines in *Canada Goose*, which said expressly that a persons unknown injunction should have “clear geographical and temporal limits”. It was suggested that it must be time limited because it was an interim and not a final injunction, but in fact all persons unknown injunctions ought normally to have a fixed end point for review as the injunctions granted to these local authorities actually had in some cases.”

146. Service provisions must deal with the question of notice to an unknown and fluctuating body of potential defendants. There may be cases where the service provisions in an order

have been complied with, but the person subject to the order can show that the service provisions have operated unjustly against him or her. In such a case, service might be challengeable: *Cuciurean v Secretary of State for Transport* [2021] EWCA Civ 357, [60].

147. In *National Highways Limited*, [50]-[52], Bennathan J adopted the following solution in relation to an injunction affecting a large part of the road network:

“50. Service on the named Defendants poses no difficulty but warning persons unknown of the order is far harder. In the first instance judgment in *Barking and Dagenham v People Unknown* [2021] EWHC 1201 (QB) Nicklin J [at 45-48, passages that were not the subject of criticism in the later appeal] stated that the Court should not grant an injunction against people unknown unless and until there was a satisfactory method of ensuring those who might breach its terms would be made aware of the order's existence.

51. In other cases, it has been possible to create a viable alternative method of service by posting notices at regular intervals around the area that is the subject of the injunctions; this has been done, for example, in injunctions granted recently by the Court in protests against oil companies. That solution, however, is completely impracticable when dealing with a vast road network. Ms Stacey QC suggested an enhanced list of websites and email addresses associated with IB [Insulate Britain] and other groups with overlapping aims, and that the solution could also be that protestors accused of contempt of court for breaching the injunction could raise their ignorance of its terms as a defence. I do not find either solution adequate. There is no way of knowing that groups of people deciding to join a protest in many months' time would necessarily be familiar with any particular website. Nor would it be right to permit people completely unaware of an injunction to be caught up with the stress, cost and worry of being accused of contempt of court before they would get to the stage of proceedings where they could try to prove their innocence.

52. In the absence of any practical and effective method to warn future participants about the existence of the injunction, I adopt the formula used by Lavender J [in *National Highways Limited v Persons Unknown and others* [2021] EWHC 3081 (QB)], that those who had not been served would not be bound by the terms of the injunction and the fact the order had been sent to the IB website did not constitute service. The effect of this will be that anyone arrested can be served and, thus, will risk imprisonment if they thereafter breach the terms of the injunction.”

Merits

148. The second part of this section of the judgment addresses the merits of the Claimants' application in light of these principles.

149. I plan to deal with the following topics: (a) trespass and nuisance; (b) whether there is a real and imminent risk of unlawfulness; (c) whether there are sufficient reasons to grant the order against known defendants; (d) whether there are sufficient reasons to grant the order against unknown defendants; (e) scope of the order; (f) service and knowledge.

150. At [6] and [7] of their Merits Skeleton Argument the Claimants said this:

“6. The purpose of the order, if granted, is simply to allow the First and Second Claimant to get on with building a large piece of linear infrastructure. Its purpose is not to inhibit normal activities generally, nor to inhibit the expression of whatever views may be held. The fundamental disagreement with those who appear to defend these proceedings is as to what constitutes lawful protest. The Claimants say that they are faced with deliberate interference with their land and work with a view to bringing the HS2 Scheme to a halt.

7. That is not lawful, and it is not lawful protest.”

(i) Trespass and nuisance

151. I begin with the question of title over the HS2 Land. I am satisfied, as other judges have been on previous occasions, that HS2 has sufficient title over the HS2 Land to bring an action in trespass against trespassers. I set out the statutory scheme earlier, and it is described in Dilcock 1, [10] eq seq and Dilcock 4, [21], et seq.

152. I am therefore satisfied that the Claimants are entitled to possession of all of the land comprising the HS2 Land. The fact they are not actually in possession (yet) of all of it does not matter, for the reasons I have already explained. The statutory notices have been served and they are entitled to immediate possession. That is all that is required.

153. I note D36’s (Mark Keir’s submissions) about the Revised HS2 Land Plans produced by Ms Dilcock. I am satisfied that the points he made are fully answered by Ms Dilcock, in particular, in Dilcock 4, [21] et seq.

154. Turning to the evidence of trespass relied on by the Claimants, I am satisfied that the evidence is plentiful. Jordan 1 is lengthy and contains much detail. It is accompanied by many pages of exhibits containing further specifics. I am satisfied that this evidence shows there has been many episodes of trespass by (primarily) persons unknown – but also by known persons - both on Cash’s Pit, and elsewhere along the HS2 Scheme route. Mr Jordan’s evidence is that trespassing activities have ranged widely across the HS2 Land as protesters carry out their direct-action activities:

“10. Those engaged in protest action opposed to the HS2 Scheme are made up of a broad cross-section of society, including concerned local residents, committed environmentalists, academics and also numerous multi-cause transient protestors whom have been resident at a number of protest camps associated with a number of different ‘causes’. Groups such as Extinction Rebellion (often known as ‘XR’) often garner much of the

mainstream media attention and widely publicise their actions. They often only travel into an area for a short period (specific 'days of action' or 'weeks of action'), however once present they are able to execute comprehensive and highly disruptive direct action campaigns, whipping up an almost religious fervour amongst those present. Their campaigns often include direct action training, logistical and welfare support and complimentary media submissions, guaranteeing national media exposure. Such incidents have a significant impact on the HS2 Scheme but make up only a proportion of overall direct action protest against the HS2 Scheme, which occurs on an almost daily basis.

11. By way of explanation of a term that will be found in the evidence exhibited to this statement, activists often seek to anonymise themselves during direct action by referring to themselves and each other as "Bradley". Activists also often go by pseudonyms, in part to avoid revealing their real identities. A number of the Defendants' pseudonyms are provided in the schedule of Named Defendants and those working in security on the HS2 Scheme are very familiar with the individuals involved and the pseudonyms they use.

12. On a day to day basis direct action protest is orchestrated and conducted by both choate groups dedicated to disruption of the HS2 Scheme (such as HS2 Rebellion and Stop HS2) and inchoate groups of individuals who can comprise local activists and more seasoned 'core' activists with experience of conducting direct action campaigns against numerous "causes". The aims of this type of action are made very explicitly clear by those engaged in it, as can be seen in the exhibits to this statement. It is less about expressing the activists' views about the HS2 Scheme and more about causing direct and repeated harm to the HS2 Scheme in the form of delays to works, sabotage of works, damage to equipment, psychological and physical injury to those working on the HS2 Scheme and financial cost, with the overall aim of 'stopping' or 'cancelling' the HS2 Scheme.

13. In general, the Claimants and their contractors and sub-contractors have been subject to a near constant level of disruption to works on the HS2 Scheme, including trespass on and obstruction of access to the HS2 Land, since October 2017. The Defendants have clearly stated - both to contractors and via mainstream and social media - their intention to significantly slow down or stop work on the HS2 Scheme because they are opposed to it. They have trespassed on HS2 Land on multiple occasions and have issued encouragement via social media to others to come and trespass on HS2 Land. Their activities have impeded the First Claimant's staff, contractors and sub-contractors going about their lawful business on the HS2 Land and hampered the work on the HS2 Scheme, causing delays and extremely significant costs

to the taxpayer and creating an unreasonably difficult and stressful working environment for those who work on the HS2 Land.”

155. At [14]-[15] Mr Jordan wrote:

“At page 1 [of Ex RJ1] is a graphic illustration of the number of incidents experienced by the Claimants on Phase One of the HS2 Scheme that have impacted on operational activity and the costs to the Claimant of dealing with those incidents. That shows a total of 1007 incidents that have had an impact on operational activity between the last quarter of 2017 and December 2021. Our incident reporting systems have improved over time and refined since we first began experiencing incidents of direct action protest in October 2017 and it is therefore considered that the total number of incidents shown within our overall reporting is likely fewer than the true total.

15. The illustration also shows the costs incurred in dealing with the incidents. These costs comprise the costs of the First Claimant’s security; contractor security and other contractor costs such as damage and repairs; and prolongation costs (delays to the programme) and show that a total of £121.62 million has been incurred in dealing with direct action protest up to the end of December 2021. The HS2 Scheme is a publicly funded project and accordingly the costs incurred are a cost to the tax-payer and come from the public purse. The illustration at page 2 shows the amount of the total costs that are attributable to security provision.”

156. At [29.1] under the heading ‘Trespass’ Mr Jordan said:

“Put simply, activists enter onto HS2 Land without consent. The objective of such action is to delay and disrupt works on the HS2 Scheme. All forms of trespass cause disruption to the HS2 Scheme and have financial implications for the Claimants. Some of the more extreme forms of trespass, such as tunnelling (described in detail in the sections on Euston Square Gardens and Small Dean below) cause significant damage and health and safety risks and the losses suffered by the Claimants via the costs of removal and programme delay run into the millions of pounds. In entering onto work sites, the activists create a significant health and safety hazard, thus staff are compelled to stop work in order to ensure the safety of staff and those trespassing (see, for example, the social media posts at pages 38 to 39 about trespassers at the HS2 Scheme Capper’s Lane compound in Lichfield where there have been repeated incursions onto an active site where heavy plant and machinery and large vehicles are in operation, forcing works to cease for safety and security reasons. A video taken by a trespasser during an incursion on 16

March 2022 and uploaded to social media is at Video (7). Worryingly, such actions are often committed by activists in ignorance of the site operations and or equipment functionality, which could potentially result in severe unintended consequences. For example, heavy plant being operated upon the worksite may not afford the operator clear sight of trespassers at ground level. Safety is at the heart of the Claimants' activities on the HS2 Scheme and staff, contractors and sub-contractors working on the HS2 Land are provided with intensive training and inductions and appropriate personal protective equipment. The First Claimant's staff, contractors and sub-contractors will always prioritise safety thus compounding the trespassers' objective of causing disruption and delay. Much of the HS2 Land is or will be construction sites and even in the early phases of survey and clearance works there are multiple hazards that present a risk to those entering onto the land without permission. The Claimants have very serious concerns that if incidents of trespass and obstruction of access continue, there is a high likelihood that activists will be seriously injured."

157. Mr Jordan went on to describe (at [29.1.1] et seq) some of the activities which protesters against HS2 have undertaken since works began. As well as trespass these include: breaching fencing and damaging equipment; climbing and occupying trees on trespassed land; climbing onto vehicles (aka, 'surfing'); climbing under vehicles; climbing onto equipment, eg, cranes; using lock-on devices; theft, property damage and abuse of staff, including staff being slapped, punched, spat at, and having human waste thrown at them; obstruction; (somewhat ironically) ecological and environmental damage, such as spiking trees to obstruct the felling of them; waste and fly tipping, which has required, for example, the removal of human waste from encampments; protest at height (which requires specialist removal teams); and tunnelling.
158. Mr Jordan said that some protesters will often deliberately put themselves and others in danger (eg, by occupying tunnels with potentially lethal levels of carbon dioxide, and protesting at height) because they know that the process of removing them from these situations will be difficult and time-consuming, often requiring specialist teams, thereby maximising the hindrance to the construction works.
159. I am also satisfied that the Claimants have made out to the requisite standard at this stage their claim in nuisance, for essentially the same reasons.
160. The HS2 Scheme is specifically authorised by the HS2 Acts, as I have said. Whilst mindful of the strong opposition against it in some quarters, Parliament decided that the project was in the public interest.
161. I am satisfied that there has been significant violence, criminality and sometimes risk to the life of the activists, HS2 staff and contractors. As Mr Jordan set out in Jordan 1, [14] and [23], 129 individuals were arrested for 407 offences from November 2019 - October 2020.
162. I accept Mr Jordan's evidence at [12] of Jordan 1, which I set out earlier, that much of the direct action seems to have been less about expressing the activists' views about the HS2

Scheme, and more about trying to cause as much nuisance as possible, with the overall aim of delaying, stopping or cancelling it via, in effect, a war of attrition.

163. At [21.2] of Jordan 1, he wrote:

“21.2 Interviews with the BBC on 19.05.2020 and posted on the Wendover Active Resistance Camp Facebook page. D5 (Report Map at page 32) was interviewed and said: ‘The longevity is that we will defend this woodland as long as we can. If they cut this woodland down, there will still be activists and community members and protectors on the ground. We’re not just going to let HS2 build here free will. As long as HS2 are here and they continue in the vein they have been doing, I think you’ll find there will be legal resistance, there’ll be on the ground resistance and there will be community resistance.’ In the same interview, another individual said: ‘We are holding it to account as they go along which is causing delays, but also those delays mean that more and more people can come into action. In a way, the more we can get our protectors to help us to stall it, to hold it back now, the more we can try and use that leverage with how out of control it is, how much it is costing the economy, to try to bring it to account and get it halted.’ A copy of the video is at Video 1.”

164. I am entirely satisfied that the activities which Mr Jordan describes, in particular in [29] et seq of Jordan 1, and the other matters he deals with, constitute a nuisance. I additionally note that even following the order made in relation to Cash’s Pit by Cotter J on 11 April 2022, resistance to removal in the form of digging tunnels has continued: Dilcock 4, [33]-[43].

165. It is perhaps convenient here to mention a point which emerged at the hearing when we were watching some of the video footage, and about which I expressed concern at the time. There was some footage of a confrontation between HS2 security staff and protesters. One clip appeared to show a member of staff kneeling on the neck of a protester in order to restrain them. One does not need to think of George Floyd to know that that is an incredibly dangerous thing to do. I acknowledge that I only saw a clip, and that I do not know the full context of what occurred. I also acknowledge that there is evidence that some protesters have also been guilty of anti-social behaviour towards security staff. But I hope that those responsible on the part of the Claimants took note of my concerns, and will take steps to ensure that dangerous restraint techniques are not used in the future.

166. I also take seriously the numerous complaints made before me orally and in writing about the behaviour of some security staff. I deprecate any homophobic, racist or sexist, etc, abuse of protesters by security guards (or indeed by anyone, in any walk of life). I can do no more than emphasise that such allegations must be taken seriously, investigated, and if found proved, dealt with appropriately.

167. Equally, however, those protesting must also understand that their right to do so lawfully – which, as I have said, any order I make will clearly state - comes with responsibilities, including not to behave unpleasantly towards men and women who are

just trying to do their jobs.

(ii) *Whether there is a real and imminent risk of continued unlawfulness so as to justify an anticipatory injunction*

168. I am satisfied that the trespass and nuisance will continue, unless restrained, and that the risk is both real and imminent. My reasons, in summary, are: the number of incidents that have been recorded; the protesters' expressed intentions; the repeated unlawful protests to date that have led to injunctions being granted; and the fact that the construction of HS2 is set to continue for many years.

169. The principal evidence is set out in Jordan 1, [20], et seq. Mr Jordan said at [20]:

“20. There are a number of reasons for the Claimants' belief that unlawful action against the HS2 Scheme will continue if unchecked by the Court. A large number of threats have been made by a number of the Defendants and general threats by groups opposed to the HS2 Scheme to continue direct action against the HS2 Scheme until the HS2 Scheme is “stopped”. These threats have been made on a near daily basis - often numerous times a day - since 2017 and have been made in person (at activist meetings and to staff and contractors); to mainstream media; and across social media. They are so numerous that it has only been possible to put a small selection of examples into evidence in this application to illustrate the position to the Court. I have also included maps for some individuals who have made threats against the HS2 Scheme and who have repeatedly engaged in unlawful activity that show where those individuals have been reported by security teams along the HS2 Scheme route (“Report Map”). These maps clearly demonstrate that a number of the Defendants have engaged in unlawful activity at multiple locations along the route and the Claimants reasonably fear that they will continue to target the length of the route unless restrained by the Court.”

170. In *Harvil Road*, [79]-[81], the judge recorded statements by protesters in the evidence in that case which I think are a broad reflection of the mind-set of many protesters against HS2:

“79. 'Two arrested. Still need people here. Need to hold them up at every opportunity.'

...

‘No, Lainey, these trees are alongside the road so they needed a road closure to do so. They can't have another road closure for 20 days. Meanwhile they have to worry BIG time about being targeted by extinction rebellion and, what's more, they're going to see more from us at other places on the route VERY soon. Tremble HS2, tremble.

...

“We have no route open to us but to protest. And however much we have sat in camp waving flags, and waving at passersby tooting their support, that was never and will never be the protest that gets our voices heard. We are ordinary people fighting with absolute integrity for truth that is simple and stark. We are ordinary people fighting an overwhelming vast government project. But we will be heard. We must be heard.”

81. I fully accept that this expresses the passion with which the Fourth Defendant opposes the HS2 scheme and while they may not indicate that the Fourth Defendant will personally breach any order or be guilty of any future trespass, I think there is, I frankly find, a faintly sinister ring to these comments which in light of all that has gone before causes me to agree with Mr. Roscoe and the Claimants that there is a distinct risk of further objectionable activity should an injunction not be granted.”

171. Other salient points on the same theme include the following (paragraph numbers refer to Jordan 1):

- a. Interview with *The Guardian* on 13 February 2021 given by D27 after he was removed from the tunnels dug and occupied by activists under HS2 Land at Euston Square Gardens, in which he said: ‘As you can see from the recent Highbury Corner eviction, this tunnel is just a start. There are countless people I know who will do what it takes to stop HS2.’ In the same article he also said: ‘I can’t divulge any of my future plans for tactical reasons, but I’m nowhere near finished with protesting.’
- b. In March 2021 D32 obstructed the First Claimant’s works at Wormwood Scrubs and put a call out on Twitter on 24 March 2021 asking for support to prevent HS2 route-wide. He also suggested targeting the First Claimant’s supply chain.
- c. On 23 February 2022 D6 stated that if an injunction was granted over one of the gates providing entrance to Balfour Beatty land, they, ‘will just hit all the other gates’ and ‘if they do get this injunction then we can carry on this game and we can hit every HS2, every Balfour Beatty gate’ ([21.12]).
- d. D6 on 24 February 2022 stated if the Cash’s Pit camp is evicted, ‘we’ll just move on. And we’ll just do it again and again and again’ ([21.13]).
- e. As set out in [21.14] on 10 March 2022 D17, D18, D19, D31, D63 and a number of persons unknown spent the morning trespassing on HS2 Land adjacent to Cash’s Pit Land, where works were being carried out for a gas diversion by Cadent Gas and land on which archaeological works for the HS2 Scheme were taking place. This incident is described in detail at [78] of Jordan 1. In a video posted on Facebook after the morning’s incidents, D17 said:

“Hey everyone! So, just bringing you a final update from down in Swynnerton. Today has been a really – or this morning today - has been a really successful one. We’ve blocked the gates for several hours. We had the team block the gates down at the main compound that we usually block and we had – yeah, we’ve had people running around a field over here and grabbing stuff and getting on grabbers and diggers (or attempting to), but in the meantime, completely slowing down all the works. There are still people blocking the gates down here as you can see and we’ve still got loads of security about. You can see there’s two juicy diggers over there, just waiting to be surfed and there’s plenty of opportunities disrupt – and another one over there as well. It’s a huge, huge area so it takes a lot of them to, kind of, keep us all under control, particularly when we spread out. So yeah. If you wanna get involved with direct action in the very near future, then please get in touch with us at Bluebell or send me a message and we’ll let you know where we are, where we’re gonna be, what we’re gonna be doing and how you can get involved and stuff like that. Loads of different roles, you’ve not just, people don’t have to run around fields and get arrested or be jumping on top of stuff or anything like that, there’s lots of gate blocking to do and stuff as well, yeah so you don’t necessarily have to be arrested to cause a lot of disruption down here and we all work together to cause maximum disruption. So yeah, that’s that. Keep checking in to Bluebell’s page, go on the events and you’ll see that we’ve got loads of stuff going on, and as I say pretty much most days we’re doing direct action now down in Swynnerton, there’s loads going on at the camp, so come and get involved and get in touch with us and we’ll let you know what’s happening the next day. Ok, lots of love. Share this video, let’s get it out there and let’s keep fucking up HS2’s day and causing as much disruption and cost as possible. Coming to land near you.”

Hence, comments Mr Jordan, D17 was here making explicit threats to continue to trespass on HS2 Land and to try to climb onto vehicles and machinery and encourages others to engage in similar unlawful activity.

- f. Further detail is given of recent and future likely activities around Cash’s Pit and other HS2 Land in the Swynnerton area at Jordan 1, [72]-[79] and Dilcock 4, [33], et seq.
172. These matters and all of the other examples quoted by Mr Jordan and Ms Dilcock, to my mind, evidence an intention to continue committing trespass and nuisance along the whole of the HS2 route.
173. I also take into account material supplied by the Claimants following the hearing that occupation of Cash’s Pit has continued even in the face of Cotter J’s order of 11 April 2022 and that committal proceedings have been necessary.

174. The Claimants reasonably anticipate that the activists will move their activities from location to location along the route of the HS2 Scheme. Given the size of the HS2 Scheme, the Claimants say that it is impossible for them to reasonably protect the entirety of the HS2 Land by active security patrol or even fencing.

175. I have carefully considered D6's argument that the Claimants must prove that there is an imminent danger of very substantial damage, and (per Skeleton, [48]):

“The Claimant must establish that there is a risk of actual damage occurring on the HS2 Land subject to the injunction that is imminent and real. This is not borne out on the evidence. In relation to land where there is no currently scheduled HS2 works to be carried out imminently there is no risk of disruptive activity on the land and therefore no basis for a precautionary injunction.”

176. I do not find this a persuasive argument, and I reject it. Given the evidence that the protesters' stated intention is to protest wherever, and whenever, along HS2's route, I am satisfied there is the relevant imminent risk of very substantial damage. To my mind, it is not an attractive argument for the protesters to say: 'Because you have not started work on a particular piece of land, and even though when you do we will commit trespass and nuisance, as we have said we will, you are not entitled to a precautionary injunction to prevent us from doing so until you start work and we actually start doing so.' As the authorities make clear, the terms 'real' and 'imminent' are to be judged in context and the court's overall task is to do justice between the parties and to guard against prematurity. I consider therefore that the relevant point to consider is not now, as I write this judgment, but at the point something occurs which would trigger unlawful protests. That may be now, or it may be later. Furthermore, protesters do not always wait for the diggers to arrive before they begin to trespass. The fact that the route of HS2 is now publicly available means that protesters have the means and ability to decide where they are going to interfere next, even in advance of work starting.

177. In other words, adopting the *Hooper v Rogers* approach that the degree of probability of future injury is not an absolute standard, and that what is to be aimed at is justice between the parties, having regard to all the relevant circumstances, I am satisfied that (all other things being equal) a precautionary injunction is appropriate given the protesters' expressed intentions. To accede to D6's submission would, it seems to me, be to licence the sort of 'guerrilla tactics' which the Lord Chief Justice deprecated in *DPP v Cucicirean*.

178. Here I think it is helpful to quote Morgan J's judgment in *Ineos*, [87]-[95] (and especially [94]-[95]), where he considered an application for a precautionary injunction against protests at fracking sites where work had not actually begun:

“87. The interim injunctions which are sought are mostly, but not exclusively, claimed on a *quia timet* basis. There are respects in which the Claimants can argue that there have already been interferences with their rights and so the injunctions are to prevent repetitions of those interferences and are not therefore claimed on a *quia timet* basis. Examples of interferences in the past are said to be acts on trespass on Site 1, theft of, and criminal damage to,

seismic testing equipment and various acts of harassment. However, the greater part of the relief is claimed on the basis that the Claimants reasonably apprehend the commission of unlawful acts in the future and they wish to have the protection of orders from the court at this stage to prevent those acts being committed. Accordingly, I will approach the present applications as if they are made solely on the *quia timet* basis.

88. The general test to be applied by a court faced with an application for a *quia timet* injunction at trial is quite clear. The court must be satisfied that the risk of an infringement of the claimant's rights causing loss and damage is both imminent and real. The position was described in *London Borough of Islington v Elliott* [2012] EWCA Civ 56, per Patten LJ at 29, as follows:

‘29 The court has an undoubted jurisdiction to grant injunctive relief on a *quia timet* basis when that is necessary in order to prevent a threatened or apprehended act of nuisance. But because this kind of relief ordinarily involves an interference with the rights and property of the defendant and may (as in this case) take a mandatory form requiring positive action and expenditure, the practice of the court has necessarily been to proceed with caution and to require to be satisfied that the risk of actual damage occurring is both imminent and real. That is particularly so when, as in this case, the injunction sought is a permanent injunction at trial rather than an interlocutory order granted on *American Cyanamid* principles having regard to the balance of convenience. A permanent injunction can only be granted if the claimant has proved at the trial that there will be an actual infringement of his rights unless the injunction is granted.”

89. In *London Borough of Islington v Elliott*, the court considered a number of earlier authorities. The authorities concerned claims to *quia timet* injunctions at the trial of the action. In such cases, particularly where the injunction claimed is a mandatory injunction, the court acts with caution in view of the possibility that the contemplated unlawful act, or the contemplated damage from it, might not occur and a mandatory order, or the full extent of the mandatory order, might not be necessary. Even where the injunction claimed is a prohibitory injunction, it is not enough for the claimant to say that the injunction only restrains the defendant from doing something which he is not entitled to do and causes him no harm: see *Paul (KS) (Printing Machinery) v Southern Instruments (Communications)* [1964] RPC 118 at 122; there must still be a real risk of the unlawful act being committed. As to whether the contemplated harm is ‘imminent’, this word is used

in the sense that the circumstances must be such that the remedy sought is not premature: see *Hooper v Rogers* [1975] Ch 43 at 49-50. Further, there is the general consideration that ‘Preventing justice excelleth punishing justice’: see *Graigola Merthyr Co Ltd v Swansea Corporation* [1928] Ch 235 at 242, quoting the Second Institute of Sir Edward Coke at page 299.

90. In the present case, the Claimants are applying for *quia timet* injunctions on an interim basis, rather than at trial. The passage quoted above from *London Borough of Islington v Elliott* indicated that different considerations might arise on an interim application. The passage might be read as suggesting that it might be easier to obtain a *quia timet* injunction on an interim basis. That might be so in a case where the court applies the test in *American Cyanamid* where all that has to be shown is a serious issue to be tried and then the court considers the adequacy of damages and the balance of justice. Conversely, on an interim application, the court is concerned to deal with the position prior to a trial and at a time when it does not know who will be held to be ultimately right as to the underlying dispute. That might lead the court to be less ready to grant *quia timet* relief particularly of a mandatory character on an interim basis.

91. I consider that the correct approach to a claim to a *quia timet* injunction on an interim basis is, normally, to apply the test in *American Cyanamid*. The parts of the test dealing with the adequacy of damages and the balance of justice, applied to the relevant time period, will deal with most if not all cases where there is argument about whether a claimant needs the protection of the court. However, in the present case, I do have to apply section 12(3) of the Human Rights Act 1998 and ask what order the court is likely to make at a trial of the claim.

92. I have dealt with the question of *quia timet* relief in a little detail because it was the subject of extensive argument. However, that should not obscure the fact that the decision in this case as to the grant of *quia timet* relief on an interim basis is not an unduly difficult one.

93. What is the situation here? On the assumption that the evidence does not yet show that protestors have sought to subject Ineos to their direct action protests, I consider that the evidence makes it plain that (in the absence of injunctions) the protestors will seek to do so. The protestors have taken direct action against other fracking operators and there is no reason why they would not include Ineos in the future. The only reason that other operators have been the subject of protests in the past and Ineos has not been (if it has not been) is that Ineos is a more recent entrant into the industry. There is no reason to think that (absent injunctions) Ineos will be treated any differently in the future

from the way in which the other fracking operators have been treated in the past. I therefore consider that the risk of the infringement of Ineos' rights is real.

94. The next question is whether the risk of infringement of Ineos' rights is imminent. I have described earlier the sites where Ineos wish to carry out seismic testing and drilling. It seems likely that drilling will not commence in a matter of weeks or even months. However, there have been acts of trespass in other cases on land intended to be used for fracking even before planning permission for fracking had been granted and fracking had begun. I consider that the risk of trespass on Ineos' land by protestors is sufficiently imminent to justify appropriate intervention by the court. Further, there have already been extensive protests outside the depots of third party contractors providing services to fracking operators. One of those contractors is P R Marriott. Ineos uses and intends to use the services of P R Marriott. Accordingly, absent injunctions, there is a continuing risk of obstruction of the highway outside P R Marriott's depot and when that contractor is engaged to provide services to Ineos, those obstructions will harm Ineos.

95. To hold that the risk of an infringement of the rights of Ineos is not imminent with the result that the court did not intervene with injunctions at this stage would leave Ineos in a position where the time at which the protestors might take action against it would be left to the free choice of the protestors without Ineos having any protection from an order of the court. I do not consider that Ineos should be told to wait until it suffers harm from unlawful actions and then react at that time. This particularly applies to the injunctions to restrain trespass on land. If protestors were to set up a protest camp on Ineos land, the evidence shows that it will take a considerable amount of time before Ineos will be able to recover possession of such land. In addition, Ineos has stated in its evidence on its application that it wishes to have clarity as to what is permitted by way of protest and what is not. That seems to me to be a reasonable request and if the court is able to give that clarity that would seem to be helpful to the Claimants and it ought to have been considered to be helpful by the Defendants. A clear injunction would allow the protestors to know what is permitted and what is not."

179. This part of the judgment was not challenged on appeal: see at [35] of the Court of Appeal's judgment: [2019] 4 WLR 100.

180. I think my conclusion is consistent with this approach, and also to that taken by the judges in the *National Highways* cases, where the claimants could not specifically say where the next road protests were going to occur, but could only say that there was a risk they could arise anywhere, at any time because of the protesters' previous behaviour. That uncertainty did not defeat the injunctions.

181. I find further support for my conclusion on this aspect of the Claimants' case in the history of injunctive relief sought by the Claimants over various discrete parcels of land within the HS2 Land. These earlier injunctions are primarily described in Dilcock 1 at [37] – [41]. They show a repeat and continued pattern of behaviour.

(iii) Whether an injunction should be granted against the named Defendants

182. I set out the *Canada Goose* requirements earlier. One of them is that in applications such as this, defendants whose names are known should be named. The basis upon which the named Defendants have been sued in this case is explained in Dilcock 1 at [42]-[46]:

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

42.1 Individuals identified as believed to be in occupation of the Cash's Pit Land whether permanently or from time to time (D5 to D20, D22, D31 and D63);

42.2 the named defendants in the Harvil Road Injunction (D28; D32 to D34; and D36 to D59);

42.3 The named defendants in the Cubbington and Crackley Injunction (D32 to D35); and

42.4 Individuals whose participation in incidents is described in the evidence in support of this claim and the injunction application and not otherwise named in one of the above categories.

43. It is, of course open to other individuals who wish to defend the proceedings and/or the application for an injunction to seek to be joined as named defendants. Further, if any of the individuals identified wish to be removed as defendants, the Claimants will agree to their removal upon the giving of an undertaking to the Court in the terms of the injunction sought. Specifically, in the case of D32, who (as described in Jordan 1) has already given a wide-ranging undertaking not to interfere with the HS2 Scheme, the Claimants have only named him because he is a named defendant to the proceedings for both pre-existing injunctions. If D32 wishes to provide his consent to the application made in these proceedings, in view of the undertaking he has already given, the Claimants will consent to him being removed as a named defendant.

44. This statement is also given in support of the First Claimant's possession claim in respect of the Cash's Pit Land and which the Cash's Pit Defendants have dubbed: “Bluebell Wood”. The

unauthorised encampment and trespass on the Cash's Pit Land is the latest in a series of unauthorised encampments established and occupied by various of the Defendants on HS2 Land (more details of which are set out in Jordan 1).

45. The possession proceedings concern a wooded area of land and a section of roadside verge, which is shown coloured orange on the plan at Annex A of the Particulars of Claim ("Plan A"). The HS2 Scheme railway line will pass through the Cash's Pit Land, which is required for Phase 2a purposes and is within the Phase 2a Act limits.

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

183. Appendix 2, to which I have already referred, summarises the defences which have been filed, and the representations received from non-Defendants. The main points made are (with my responses), in summary, as follows:

- a. The actions complained of are justifiable because the HS2 Scheme causes environmental damage. That is not a matter for me. Parliament approved HS2.
- b. The order would interfere with protesters' rights under Articles 10 and 11. I deal with the Convention later.
- c. Lawful protest would be prevented. As I have made clear, it would not and the draft order so provides.
- d. The order would restrict rights to use the public highway and public rights of way. These are specifically carved out in the order (paragraph 4).
- e. Concern about those who occupy or use HS2 Land pursuant to a lease or licence with the First Claimant. That has now been addressed in the Revised Land Plans.
- f. Complaints about HS2's security guards. I have dealt with that.

(iv) Whether there are reasons to grant the order against persons unknown

184. I am satisfied that the Defendants have all been properly identified either generally, where they are unknown, or specifically where their identities are known. Those who have been identified and joined individually as Defendants to these proceedings are the ‘named Defendants’ and are listed in the Schedule on the RWI website. The ‘Defendants’ (generally) includes both the named Defendants and those persons unknown who have not yet been individually identified. The names of all the persons engaged in unlawful trespass were not known at the date of filing the proceedings (and are largely still not known). That is why different categories of ‘persons unknown’ are generically identified in the relevant Schedule. That is an appropriate means of seeking relief against unknown categories of people in these circumstances: see *Boyd and another v Ineos Upstream Ltd and others* [2019] EWCA Civ 515 at [18]-[34], summarised in *Canada Goose*, [82], which I set out earlier.
185. I am satisfied that this is one of those cases (as in other HS2 and non-HS2 protest cases) in which it is appropriate to make an order against groups of unknown persons, who are generically described by reference to different forms of activity to be restrained. I quoted the principles contained in *Canada Goose*, [82] earlier. I am satisfied the order meets those requirements, in particular [82(1) and (2)].
186. I am satisfied that the definitions of ‘persons unknown’ set in Appendix 1 are apt and appropriately narrow in scope in accordance with the *Canada Goose* principles. The definitions would not capture innocent or inadvertent trespass.
187. I accept (and as is clear from the evidence I have set out) that the activists involved in this case are a rolling and evolving group. The ‘call to arms’ from D17 that I set out earlier was a clear invitation to others, who had not yet become involved in protests – and hence by definition were not known - to do so. The group is an unknown and fluctuating body of potential defendants. It is not effective to simply include named defendants. It is therefore necessary to define the persons unknown by reference to the consequence of their actions, and to include persons unknown as a defendant.

(v) *Scope*

188. Paragraphs 3-6 provide for what is prohibited:

“3. With immediate effect until 23:59hrs 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. 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. 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 on 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.”

189. Subject to two points, I consider these provisions comply with *Canada Goose*, [82], in that the prohibited acts correspond as closely as is reasonably possible to the allegedly tortious acts which the Claimants seeks to prevent. I also consider that the terms of the injunction are sufficiently clear and precise to enable persons potentially affected to know what they must not do. The ‘carve-outs’ in [4] make clear that ordinary lawful use of the highway is not prohibited. I do not agree with D6’s submission (Skeleton Argument, [52], et seq).

190. The two changes I require are as follows. The first, per *National Highways*, Lavender J, at [22] and [24(6), a case in which Mr Greenhall was involved, is to insert the word ‘deliberately’ in [3(b)] so that it reads:

“3. With immediate effect until 23:59hrs on 31 May 2023 unless varied, discharged or extended by further order, the Defendants and each of them are forbidden from doing the following:

...

b. *deliberately* obstructing or otherwise interfering with the free movement of vehicles, equipment or persons accessing or egressing the HS2 Land; or

191. The second, similarly, is to insert the word, ‘deliberate’ in [5(f)] so that it reads, ‘*deliberate* slow walking ...’

192. I have also considered the point made by D6 that ‘vicinity’ in [5(f)] is unduly vague. I note that in at least two cases that term has been used in protester injunctions without objection. In *Canada Goose*, [12(14)], it was used to prevent the use of a loudhailer ‘within the vicinity of’ Canada Goose’s store in Regent Street. There was no complaint about it, and although the application failed ultimately, that was for other reasons. Also, in *National Highways Limited v Springorum* [2022] EWHC 205 (QB), [8(5)], climate protesters were enjoined from blocking, obstructing, etc, the M25, which was given an extensive definition in the order. One of the terms prevented the protesters from ‘tunnelling in the vicinity of the M25’. No objection was taken to the use of that term. Overall, I am satisfied that in the circumstances, use of this term is sufficiently clear and precise.

193. As to the wide geographical scope of the order, I satisfied, for reasons already given, that the itinerant nature of the protests, as in the *National Highways* cases, justifies such an extensive order.

(vi) *Convention rights*

194. This, as I have said, is an important part of the case. The right to peaceful and lawful protest has long been cherished by the common law, and is guaranteed by Articles 10 and 11 of the ECHR and the HRA 1998. However, these rights are not unlimited, as I explained earlier.
195. I begin by emphasising, again, that nothing in the proposed order will prevent the right to conduct peaceful and lawful protest against HS2. I set out the recitals in the order at the beginning of this judgment.
196. I am satisfied there would be no unlawful interference with Article 10 and 11 rights because, in summary: (a) there is no right of protest on private land, and much, although not all, or what protesters have been doing has taken place on such land; and (b) there is no right to cause the type and level of disruption which would be restrained by the order; (c) to the extent that protest takes place on the public highway, or other public land, the interference represented by the injunction is proportionate.
197. Turning, as I must in accordance with the Court of Appeal’s guidance, to the *Zeigler* questions, I will set them out again for convenience (adapted to the present context), and answer them in the following way:

Would what the defendants are proposing to do be exercise of one of the rights in Articles 10 or 11?

198. I am prepared to accept in the Defendants’ favour that further continued protests of the type they have engaged in in the past potentially engages their rights under these Articles. In line with the principles set out earlier, I acknowledge that Articles 10 and 11 do not confer a right of protest on private land, per *Appleby*, and much of what the Claimants seeks the injunction to restrain relates to activity on private land (in particular, by the unknown groups D1, D2 and D4). But I accept - as I think the Claimants eventually accepted in post-hearing submissions at least – that some protests may on occasion spill over onto the public highway (per *Jordan 1*, [29.2] in relation to eg, blocking gates), and that such protests do engage Articles 10 and 11.

If so, would there be an interference by a public authority with those rights?

199. Yes. The application for, and the grant of, an injunction to prevent the Defendants interfering with HS2’s construction in the ways provided for in the injunction is an interference with their rights by a public authority so far as it touches on protest on public land, such as the highway, where Articles 10 and 11 are engaged.

If there is an interference, is it ‘prescribed by law’?

200. Yes. The law in question is s 37 of the SCA 1981 and the cases which have decided how the court’s discretion to grant an anticipatory injunction should be exercised: see *National Highways Ltd*, [31(2)] (Lavender J).

If so, would the interference be in pursuit of a legitimate aim as set out in paragraph (2) of Articles 10 and 11, for example the protection of the rights of others?

201. Yes. It would be for the protection the Claimants' rights and freedoms, and those of their contractors and others, to access and work upon HS2 Land unhindered, in accordance with the powers granted to them by Parliament which, as I have said already, determined HS2 to be in the public interest. The Claimants' have common law and A1P1 rights over the HS2 Land, as I have explained. The interference in question pursues the legitimate aims: of preventing violence and intimidation; reducing the large expenditure of public money on countering protests; reducing property damage; and reducing health and safety risks to protesters and others arising from the nature of some of the protests.

If so, is the interference 'necessary in a democratic society' to achieve that legitimate aim? This involves considering the following: Is the aim sufficiently important to justify interference with a fundamental right? Is there a rational connection between the means chosen and the aim in view? Are there less restrictive alternative means available to achieve that aim? Is there a fair balance between the rights of the individual and the general interest of the community, including the rights of others ?

202. These are the key questions on this aspect of the case, it seems to me.

203. The question whether an interference with a Convention right is 'necessary in a democratic society' can also be expressed as the question whether the interference is proportionate: *National Highways Limited*, [33] (Lavender J).

204. In *Ziegler*, Lords Hamblen and Stephens stated in [59] of their judgment that:

“Determination of the proportionality of an interference with ECHR rights is a fact-specific enquiry which requires the evaluation of the circumstances in the individual case.”

205. Lords Hamblen and Stephens also quoted, *inter alia*, [39] to [41] of Lord Neuberger MR's judgment in *Samede*

“39. As the judge recognised, the answer to the question which he identified at the start of his judgment [the limits to the right of lawful assembly and protest on the highway] is inevitably fact sensitive, and will normally depend on a number of factors. In our view, those factors include (but are not limited to) the extent to which the continuation of the protest would breach domestic law, the importance of the precise location to the protesters, the duration of the protest, the degree to which the protesters occupy the land, and the extent of the actual interference the protest causes to the rights of others, including the property rights of the owners of the land, and the rights of any members of the public.

40. The defendants argue that the importance of the issues with which the Occupy Movement is concerned is also of considerable relevance. That raises a potentially controversial point, because as the judge said, at para 155: 'it is not for the court to venture views of its own on the substance of the protest itself, or to gauge how effective it has been in bringing the protestors' views to the fore. The Convention rights in play are neither strengthened nor weakened by a subjective response to the aims of the protest itself

or by the level of support it seems to command ... the court cannot—indeed, must not—attempt to adjudicate on the merits of the protest. To do that would go against the very spirit of articles 10 and 11 of the Convention ... the right to protest is the right to protest right or wrong, misguidedly or obviously correctly, for morally dubious aims or for aims that are wholly virtuous.’

41. Having said that, we accept that it can be appropriate to take into account the general character of the views whose expression the Convention is being invoked to protect. For instance, political and economic views are at the top end of the scale, and pornography and vapid tittle-tattle is towards the bottom. In this case the judge accepted that the topics of concern to the Occupy Movement were ‘of very great political importance’: para 155. In our view, that was something which could fairly be taken into account. However, it cannot be a factor which trumps all others, and indeed it is unlikely to be a particularly weighty factor: otherwise judges would find themselves according greater protection to views which they think important, or with which they agree. As the Strasbourg court said in *Kuznetsov v Russia*, para 45: ‘any measures interfering with the freedom of assembly and expression other than in cases of incitement to violence or rejection of democratic principles - however shocking and unacceptable certain views or words used may appear to the authorities—do a disservice to democracy and often even endanger it. In a democratic society based on the rule of law, the ideas which challenge the existing order must be afforded a proper opportunity of expression through the exercise of the right of assembly as well as by other lawful means ...’ The judge took into account the fact that the defendants were expressing views on very important issues, views which many would see as being of considerable breadth, depth and relevance, and that the defendants strongly believed in the views they were expressing. Any further analysis of those views and issues would have been unhelpful, indeed inappropriate.”

206. I have set out this passage, as Lavender J did in *National Highways Limited*, [35], because, given the nature of some of the submissions made to me, I want to underscore the point I made at the outset that I am not concerned with the merits of HS2, or whether it will or will not cause the environmental damage which the protesters fear it will. I readily acknowledge that many of them hold sincere and strongly held views on very important issues. However, it would be wrong for me to express either agreement or disagreement with those views, even if I had the institutional competence to do so, which I do not. Many of the submissions made to me consisted of an invitation to me to agree with the Defendants’ views and to decide the case on that basis. But just like Lavender J said in relation to road protests, that is something which I cannot do, just as I could not decide this case on the basis of disagreement with protesters’ views.

207. Lords Hamblen and Stephens reviewed in [71] to [86] of their judgment in *Ziegler* the factors which may be relevant to the assessment of the proportionality of an interference with the Article 10 and 11 rights of protestors blocking traffic on a road.
208. Disagreeing with the Divisional Court, they held that each of the eight factors relied on by the district judge in that case were relevant. Those factors were, in summary: (a) the peaceful nature of the protest; (b) the fact that the defendants' action did not give rise, either directly or indirectly, to any form of disorder; (c) the fact that the defendants did not commit any criminal offences other than obstructing the highway; (d) the fact that the defendants' actions were carefully targeted and were aimed only at obstructing vehicles heading to the arms fair; (e) the fact that the protest related to a 'matter of general concern'; (f) the limited duration of the protest; (g) the absence of any complaint about the defendants' conduct; and (h) the defendants' longstanding commitment to opposing the arms trade.
209. As Lavender J said in his case at [39], this list of factors is not definitive, but it serves as a useful checklist. I propose now to discuss how they should be answered in this case.
210. The HS2 protests have in significant measure not been peaceful. There have been episodes, for example, of violence, intimidation, criminal damage, and assault, as described by Mr Jordan. There have been many arrests. Even where injunctions have been obtained, protestors have resisted being removed (most recently at Cash's Pit, as described in Dilcock 4 and in other material). It follows that the protests have given rise to considerable disorder. The protestors are specifically targeting HS2, and in that sense are in a somewhat different position to the protestors in the *National Highways Ltd* case, whose protests were aimed at the public as a means of trying to influence government policy. But the HS2 protests do also affect others, such as contractors employed to work on the project (for example Balfour Beatty), those in HS2's supply chain, security staff, etc. I accept that the HS2 protests relate to a matter of general concern, but on the other hand, at the risk of repeating myself, the many and complicated issues involved – including in particular environmental concerns - have been debated in Parliament and the HS2 Acts were passed. The HS2 protests are many in number, continuing, and are threatened to be carried on in the future along the whole of the HS2 route without limit of time. The disruption, expense and inconvenience which they have caused is obvious from the evidence. I do not think that I am in any position to assess the public mood about HS2 protests. No doubt some members of the public are in favour and no doubt some are against. As I have already said, I accept that the defendants are expressing genuine and strongly held views.
211. Turning to the four questions into which the fifth *Ziegler* proportionality question breaks down, I conclude as follows.
212. Firstly, by committing trespass and nuisance, the Defendants are obstructing a large strategic infrastructure project which is important both for very many individuals and for the economy of the UK, and are causing the unnecessary expenditure of large sums of public money. In that context, I conclude that the aim pursued by the Claimants in making this application is sufficiently important to justify interference with the Defendants' rights under Articles 10 and 11, especially as that interference will be limited to what occurs on public land, where lawful protest will still be permitted. Even if the interference were more extensive, I would still reach the same conclusion. I base that

conclusion primarily on the considerable disruption caused by protests to date and the repeated need for injunctive relief for specific pockets of land.

213. Second, I also accept that there is a rational connection between the means chosen by the claimant and the aim in view. The aim is to allow for the unhindered completion of HS2 by the Claimants over land which they are in possession of by law (or have the right to be). Prohibiting activities which interfere with that work is directly connected to that aim.
214. Third, there are no less restrictive alternative means available to achieve that aim. As to this, an action for damages would not prevent the disruption caused by the protests. The protesters are unlikely to have the means to pay damages for losses caused by further years of disruption, given the sums which the Claimants have had to pay to date. Criminal prosecutions are unlikely to be a deterrent, and all the more so since many defendants are unknown. By contrast, there is some evidence that injunctions and allied committal proceedings have had some effect: see APOC, [7].
215. I have anxiously considered the geographical extent of the injunction along the whole of the HS2 route, and whether it should be more limited. I have concluded, however, given the plain evidence of the protesters' intentions to continue to protest and disrupt without limit – 'let's keep fucking up HS2's day and causing as much disruption and cost as possible. Coming to land near you' – such an extensive injunction is appropriate. The risks are real and imminent for the reasons I have already given. I accept that the Claimants have shown that the direct action protests are ongoing and simply move from one location to another, and that the protesters have been and will continue to cause maximum disruption across a large geographical extent. As the Claimants put it, once a particular protest 'hub' on one part of HS2 Land is moved on, the same individuals will invariably seek to set up a new hub from which to launch their protests elsewhere on HS2 Land. The HS2 Land is an area of sufficient size that it is not practicable to police the whole area with security personnel or to fence it, or make it otherwise inaccessible.
216. Fourth, taking account of all of the factors which I have identified in this judgment, I consider that the injunction sought strikes a fair balance between the rights of the individual protestors and the general right and interests of the Claimants and others who are being affected by the protests, including the national economy. As to this: (a) on the one hand, the injunction only prohibits the defendants from protesting in ways that are unlawful. Lawful protest is expressly not prohibited. They can protest in other ways, and the injunction expressly allows this. Moreover, unlike the protest in *Ziegler*, the HS2 protests are not directed at a specific location which is the subject of the protests. They have caused repeated, prolonged and significant disruption to the activities of many individuals and businesses and have done so on a project which is important to the economy of this country. Finally on this, the injunction is to be kept under review by the Court, it is not without limit of time, and can and no doubt will be discharged should the need for it disappear.
217. Finally, drawing matters together and looking at the same matters in terms of the general principles relating to injunctions:
 - a. I am satisfied that it is more likely than not that the Claimants would establish at trial that the Defendants' actions constitute trespass and nuisance and that they will continue to commit them unless restrained. There is an abundance of evidence that leads to the conclusion that there is a real and imminent risk of the tortious behaviour

continuing in the way it has done in recent years across the HS2 Land. I am satisfied the Claimants would obtain a final injunction.

- b. Damages would not be an adequate remedy for the Claimants. They have given the usual undertakings as to damages.
- c. The balance of convenience strongly favours the making of the injunction.

(vii) *Service*

- 218. Finally, I turn to the question of service and whether the service provisions in the injunction are sufficient.
- 219. The passages from [82] of *Canada Goose* I quoted earlier show that the method of alternative service against persons unknown must be such as can reasonably be expected to bring the proceedings (ie, the application) to their attention.
- 220. I considered service of the application at a directions hearing on 28 April 2022. At that hearing, I made certain suggestions recorded in my order at [2] as to how the application for the injunction was to be served:

“Pursuant to CPR r. 6.27 and r. 81.4 as regards service of the Claimants’ Application dated 25 March 2022:

a. The Court is satisfied that at the date of the certificates of service, good and sufficient service of the Application has been effected on the named defendants and each of them and personal service is dispensed with subject to the Claimants’ carrying out the following additional methods within 14 days of the date of this order:

i. advertising the existence of these proceedings in the Times and Guardian newspapers, and in particular advertising the web address of the HS2 Proceedings website.

ii. where permission is granted by the relevant authority, by placing an advertisement and/or a hard copy of the papers in the proceedings 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 notice boards in the same approximate location.

iii. making social media posts on the HS2 twitter and Facebook pages advertising the existence of these proceedings and the web address of the HS2 Proceedings website.

b. Compliance with 2 (a)(i), (ii) and (iii) above will be good and sufficient service on “persons unknown”

221. The injunction at [7]-[11] provides under the heading ‘Service by Alternative Method – This Order’

“7. The Court will provide sealed copies of this Order to the Claimant’s solicitors for service (whose details are set out below).

8. Pursuant to CPR r.6.27 and r.81.4:

a. The Claimant 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 Claimant shall serve this Order upon the Second, Third and Fourth Defendants by:

i. Affixing 6 copies in prominent positions on the perimeter each of the Cash’s Pit Land (which may be the same copies identified in paragraph 8(a) above), the Harvil Road Land and the Cubbington and Crackley 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.

iv. Publishing social media posts on the HS2 twitter and Facebook platforms advertising the existence of this Order and providing a link to the HS2 Proceedings website.

c. Service of this Order on Named Defendants may be effected by personal service where practicable and/or posting a copy of this Order through the letterbox of each Named Defendant (or leaving in a separate mailbox), with a notice drawing the recipient’s attention to the fact the package contains a court order. If the premises do not have a letterbox, or mailbox, a package containing this Order may be affixed to or left at the front door or other prominent feature marked with a notice drawing the recipient’s attention to the fact that the package contains a court order and should be read urgently. The notices shall be given in prominent lettering in the form set out in Annex B. It is open to any Defendant to contact the Claimants to identify an alternative

place for service and, if they do so, it is not necessary for a notice or packages to be affixed to or left at the front door or other prominent feature.

d. The Claimants shall further advertise the existence of this Order in a prominent location on the HS2 Proceedings website, together with a link to download an electronic copy of this Order.

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

9. Service in accordance with paragraph 8 above shall:

a. be verified by certificates of service to be filed with Court;

b. be deemed effective as at the date of the certificates of service; and

c. be good and sufficient service of this Order on the Defendants and each of them and the need for personal service be dispensed with.

10. Although not expressed as a mandatory obligation due to the transient nature of the task, the Claimants will seek to maintain copies of this Order on areas of HS2 Land in proximity to potential Defendants, such as on the gates of construction compounds or areas of the HS2 Land known to be targeted by objectors to the HS2 Scheme.

11. Further, without prejudice to paragraph 9, while this Order is in force, the Claimants shall take all reasonably practicable steps to effect personal service of the Order upon any Defendant of 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.”

222. Further evidence about service is contained in Dilcock 3, [7], et seq, and Dilcock 4, [7] et seq. I can summarise this as follows.

223. Before I made my order, Ms Dilcock explained that the methods of service used by the Claimants as at that date had been based on those which had been endorsed and approved by the High Court in other cases where injunctions were sought in similar terms to those in this application. She said the methods of service to that date had been effective in publicising the application.

224. She said that there had been 1,371 views (at 24 April 2022) of the Website: Dilcock 3, [11]; By 17 May 2022 (a week or so before the main hearing, and after my directions

had come into effect) there had been 2,315 page views, of which 1,469 were from unique users: Dilcock 4, [17]. So, in round terms, there were an additional 1,000 views after the directions hearing.

225. Twitter accounts have shared information about the injunction application and/or the fundraiser to their followers. The number of followers of those accounts is 265,268: Dilcock 3, [16].
226. A non-exhaustive review of Facebook shows that information about the injunction and/or the link to a fundraiser has been posted and shared extensively across pages with thousands of followers and public groups with thousands of followers. Membership of the groups on Facebook to which the information has been shared amounts to 564,028: Dilcock 3, [17].
227. Dilcock 4, [7] – [17], sets out how the Claimants complied with the additional service requirements pursuant to my directions of 28 April 2022. Those measures are not reliant on either notice via website or social media. The Claimants say that they complement and add to the very wide broadcasting of the fact of the proceedings.
228. The Claimants submitted that the totality of notice, publication and broadcasting had been very extensive and effective in relation to the application. They submitted that service of an order by the same means would be similarly effective, and that is what the First Claimant proposes to do should an injunction be granted.
229. I agree. The extensive and inventive methods of proposed service in the injunction, in my judgment, satisfy the *Canada Goose* test, [82(1)], that I set out earlier. That this is the test for the service an order, as well as proceedings, is clear from *Cuciurean v Secretary of State for Transport* [2021] EWCA Civ 357, [14]-[15], [24]-[26], [60], [75].

Final points

230. I reject the suggestion the injunction will have an unlawful chilling effect, as D6 in particular submitted. There are safeguards built-in, which I have referred to and do not need to mention again. It is of clear geographical and temporal scope. Injunctions against defined groups of persons unknown are now commonplace, in particular in relation to large scale disruptive protests by groups of people, and the courts have fashioned a body of law, much of which I have touched on, in order to address the issues which such injunctions can raise, and to make sure they operate fairly. I also reject the suggestion that the First Claimant lacks ‘clean hands’ so as to preclude injunctive relief.

Conclusion

231. I will therefore grant the injunction in the terms sought in the draft order of 6 May 2022 in Bundle B at B049 (subject to any necessary and consequential amendments to reflect post-hearing matters and in light of this judgment).

APPENDIX 1

UNNAMED DEFENDANTS **(TAKEN FROM THE AMENDED PARTICULARS OF CLAIM** **DATED 28 APRIL 2022 – WITH TRACKED CHANGED REMOVED)**

(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

APPENDIX 2

SUMMARY OF DEFENDANTS' RESPONSES

Name	Received and reference in the papers	Summary
D6 – James Knaggs	SkA for initial hearing (05.04.22)	Definition of persons unknown is overly broad, contrary to Canada Goose. Service provisions inadequate. No foundation for relief based on trespass because not demonstrated immediate right to possession, and seeking to restrain lawful protest on highway. No imminent threat. Scope of order is large. Terms impose blanket disproportionate prohibitions on demonstrations on the highway. Chilling effect of the order.
	Defence (17.05.22)	C required to establish cause of action in trespass & nuisance across all of HS2 Land <i>and</i> existence of the power to take action to prevent such. No admission of legal rights of the C represented in maps. Denied that Cash's Pit land is illustrative of wider issues re entirety of HS2 Land. Denied there is a real and imminent risk of trespass & nuisance re HS2 Land to justify injunction. Impact and effect of injunction extends beyond the limited remit sought by HS2. Proportionality. Denial that D6 conduct re Cash's Pit has constituted trespass or public/private nuisance.
D7 – Leah Oldfield	Defence (16.05.22) [D/3]	D7s actions do not step beyond legal rights to protest, evidence does not show unlawful activity. Right to protest. Complaints about HS2 Scheme, complaints about conduct of HS2 security contractors. Asks to be removed from injunction on basis of lack of evidence
D8 – Tepcat Greycat	Email (16.05.22) [D/4]	Complaint that D8 was not identified properly in injunction application papers and that she would like name removed from schedule of Ds.
D9 – Hazel Ball	Email (13.05.22) [D/7]	Asks for name to be removed. Queries why she has been named in injunction application papers. Has only visited Cash's Pit twice, with no intention to return. Never visited Harvil Road.
D10 – IC Turner	Response (16.05.22) [D/8]	Inappropriateness of D10's inclusion as a named D (peaceful protester, no involvement with campaign this year, given proximity to route the injunction would restrict freedom of movement within vicinity). Inappropriateness of proceedings (abuse of process because of right to protest). Complaints about HS2 Scheme.
D11 – Tony Carne	Submission (13.05.22) [D/10]	Denies having ever been an occupier of Cash's Pit Land. Asks to be removed as named D.
D24 – Daniel Hooper	Email (16.05.22) [D/12]	Asks for name to be removed because already subject to wide ranging undertaking. Asks for assurance of the same by 20 th May.

D29 – Jessica Maddison	Defence (16.05.22) [D/14]	Injunction would restrict ability to access Euston station and prevent access to GP surgery and hospital. Restriction on use of footpaths, would result from being named in injunction. Would lead to her being street homeless. Lack of evidence for naming within injunction. Criminal matters re lock on protests were discontinued before trial. Complaints about HS2 contractor conduct.
D35 – Terry Sandison	Email (07.04.22) [D/15]	Complaint about lack of time to prepare for initial hearing.
	Application for more time – N244 (04.04.22)	Says he wishes to challenge HS2 on various points of working practices, queries why he is on paperwork for court but feels he hasn't received proof of claims they have to use his conduct to secure injunction. Asks for a month to consider evidence and challenge the injunction and claims against himself.
D36 – Mark Kier	Large volume of material submitted (c.3k pages) [D/36/179-D/37/2916]	Mr Kier sets out four grounds: (1) the area of land subject to the Claim is incorrect in a number of respects; (2) the protest activity is proportionate and valid and necessary to stop crimes being committed by HS2; (3) the allegations of violence and intimidation are false. The violence and intimidation emanates from HS2; (4) the project is harmful and should not have been consented.
D39 – Iain Oliver	Response to application (16.05.22) [D/16]	Complaints about alleged water pollution, wildlife crimes and theft and intimidation on HS2's behalf. Considers that injunction is wrong and a gagging order.
D46 – Wiktoria Zieniuk	Not included in bundle	Brief email provided querying why she was included.
D47 – Tom Dalton	Email (05.04.22) [D/17]	Complaint about damage caused to door from gaffatape of papers to front door. Says he is happy to promise not to violate or contest injunction as is not involved in anti HS2 campaign and hasn't been for years. (Undertaking now signed)
D54 – Hayley Pitwell	Email (04.04.22) [D/19]	Request for adjournment and extension of time to submit arguments, for a hearing and for name to be removed as D. Queries whether injunction will require her to take massive diversions when driving to Wales. Complaint about incident of action at Harvil Road that led to D56 being named in this application – dispute over factual matters (esp Jordan 1 para 29.1.10). Complaint that HS2 security contractor broke coronavirus act and D54 is suing for damages. N.b. no subsequent representations received.
D55 – Jacob Harwood	17.05.22 [D/20]	Complaint about injunction restricting ability to use Euston station, public rights of way, canals etc. Complaint that there is lack of evidence against D55 so he should be removed as named D.
D56 – Elizabeth Farbrother	11.05.22 [D/23]	Correspondence and undertaking subsequently signed.
D62 – Leanne Swateridge	Email (14.05.22) [D/23]	Complaint about reliance on crane incident at Euston. Complaints about conduct of HS2 contractors and merits of HS2 Scheme.
Joe Rukin	First witness statement (04.04.22) [D/24]	Says Stop HS2 organisation is no longer operative in practice, so emailing their address does not constitute service, and the organisation is not coordinating or organising illegal activities. Failure of service of injunction application. Scope of injunction

		is disproportionately wide, and D2 definition would cover hundreds of thousands of people on a daily basis. Complaints about GDPR re service of papers for this application. Concerns about injunction restricting normal use of highways, PRow, and private rights over land where it is held by HS2 temporarily but the original landowner has been permitted to continue to access and use it. Would criminalise people walking into their back garden.
	Second witness statement (26.04.22) [D/25]	Complains there is no active protest at Cubbington and Crackley now since clearance of natural habitats. Complains Dilcock 2 [8.11] is wrong about service of proceedings at Cubbington & Crackley Land.
Maren Strandevold	Email (04.04.22) [D/26]	Complaints about notice given for temporary possession land. Concern about temporary possession land and that there needs to be clear and unequivocal permission for those permitted to use their land subject to temporary possession to be able to continue to do so. Concerns the scope of the draft order is disproportionate.
Sally Brooks	Statement (04.04.22) [D/27]	Complaints about merits of HS2 Scheme, alleged wildlife crimes, and the need for members of the public to monitor the same
Caroline Thompson-Smith	Email (04.04.22) [D/28]	Objects to evidence of her, and that the injunction would prevent rights to freedom of expression, arts 10-11. Worry about adverse costs means she fears to engage with process.
Deborah Mallender	Statement (04.04.22) [D/29]	Complaints about merits of HS2 Scheme and conduct of HS2 Ltd and security contractors. Complaint that content of injunction has not been provided to all relevant persons.
Haydn Chick	Email (05.04.22) [D/30]	Email attachment of statement which will not open, plus article by Lord Berkeley, plus news story
Swynnerton Estates	Email (05.05.22) [D/31]	Email re whether Cash's Pit objectors had licence to occupy.
Steve and Ros Colclough	Letter (04.05.22) [D/32]	Consider themselves "persons unknown" by living nearby and using nearby PRow. Complaint that HS2 should have written to everyone on the route informing them.
Timothy Chantler	Letter (14.05.22) [D/33]	Complaints about conduct of HS2 security contractors (NET re treatment of other protesters). Objection to the injunction on the basis of right to protest etc.
Chiltern Society	Letter (16.05.22) [D/34]	Concerns about public access to PRow re HS2 Land. Concern of no adequate method to ensure a person using a footpath across HS2 Land would be aware of potential infringement. Concern that maintenance work on footpaths often requires accessing adjacent land which may constitute infringement.
Nicola Woodhouse	Email (16.05.22) [D/35]	Not lawful or practical to stop anyone accessing all land acquired by HS2. Maps provided are impossible to decipher, with land ownership not well defined. Excessive geographical scope. Notification of all relevant landowners is impossible. Residents of houses purchased by HS2 cannot move freely around their own homes, and members of the public cannot visit them.
The below statements are contained within the submission of D36 (Mark Keir)		

Val Saunders “statement in support of the defence against the Claim QB-2022-BHM-00044”	Undated [D/37/2493] (bundle D, vol F)	Merits of Scheme. Complaints about HS2 contractor conduct and alleged wildlife crimes. Protest important to hold HS2 to account.
Leo Smith “Witness statement” “statement in support of the defence...”	14.05.22 [D/37/2509-2520] (bundle D, vol F)	Merits of scheme/process of consultation. Necessity of protest to hold Scheme to account. HS2 use of NDAs re CPO. Photographs of rubbish left behind by protestors is misleading since they have been forcibly evicted. Protest mostly peaceful. Complaints about HS2 security contractor conduct. Alleged wildlife crimes. Negative impact on communities.
Misc statement – “statement in support of the defence...”	Undated [D/37/2674-2691] (bundle D, vol G)	Complaints about merits of scheme and conduct of HS2 security contractors against protesters.
Misc statement – “Seven arguments against HS2”	Undated 2692-2697	Merits of scheme. Argues for scrapping.
Brenda Bateman – “statement in support of the defence...”	Undated 2698-2699	Confusion caused by what HS2 previously said about which footpaths would be closed. Complaints about ecological impacts of Scheme, and other impacts. Complaints about use of CPO process. Right to peaceful protest should be upheld: injunction would curtail this.
Clr Carlyne Culver – “statement in support of the Defence...”	Undated 2700-2701	Complaints about conduct of Jones Hill Wood eviction. Issues over perceived delayed compensation for CPO. Need for nature protectors and right to protest.
Denise Baker – “Defence against the claim...”	Undated 2702-2703	Photojournalist – concerns that injunction would limit abilities to report fairly on issues related to environment impact of HS2. Risk of arrest of journalists. Detrimental to accountability of project and govt. Concerns over conduct of HS2 security contractors.
Gary Welch – “Statement in support of the Defence...”	Undated 2704	Criticism of merits of Scheme, and environmental impacts. Concern over closure of public foot paths recently.
Sally Brooks – “Statement in support of the Defence...”	Undated 2705-2710	Alleged wildlife crimes. Need for members of public to monitor HS2 activities. Injunction would prevent this.
Lord Tony Berkeley – “Witness Statement”; “Statement in support of the Defence...”	12.05.22 2711-2714	Doubts HS2 has sufficient land to complete the project without further Parliamentary authorisation. Doubts HS2’s land ownership position generally given alteration to maps included with injunction application. Injunction is an abuse of rights, and an abuse of the laws of the country and HS2 Bill which brought it into being.
Jessica Upton – “statement in support of the Defence...”	Undated 2715-2716	Criticism of merits of scheme, ecological impact etc. Concern that public need to be able to hold HS2 to account without being criminalised for it.
Kevin Hand – “statement in support of the Defence...”	9.05.22 2717-2718	Ecologist who provides environmental training courses to activists and protesters against HS2. Emphasises importance of public/protesters being

		able to monitor works taking place to prevent alleged wildlife crimes.
Mark Browning – “Statement in support of the Defence...”	Undated 2719	Partners brother is renting a property HS2 has compulsorily purchased near Hopwas in Tamworth area. Concern that the management of the pasture will be criminalised if injunction granted. Therefore requests exemption from the injunction.
Talia Woodin – “statement in support of the Defence...”	Undated 2724-2731	Photographer and filmmaker. Concerns about alleged wildlife crimes and assaults on activists. Injunction would disable right to protest.
Victoria Tindall – “statement in support of the Defence...”	Undated 2735	Complaint about Buckinghamshire HS2 security van monitoring ramblers near HS2 site. Concerns about privacy.
Mr & Mrs Phil Wall – “Statement”	Undated 2737-2740	Complaints about conduct of HS2 contractors regarding works in Buckinghamshire. Complaints about CPO/blight compensation issues for their property.
Susan Arnott – “In support of the Defence...”	15.5.22 2742	Merits of scheme. Protests are therefore valid.
Ann Hayward – Letter regarding RWI	6.05.22 2743-2744	Resident of Wendover. Difficulty of reading HS2 maps, so difficult to know whether trespassing or not. Complaints about HS2 contractor conduct. RWI too broad, and service would be difficult and may be insufficient meaning everyone in vicinity of HS2 works could be at risk of arrest – risk of criminalising communities. People need to know whether injunction exists and where it is, but HS2 maps are not well defined. Would be difficult to apply the order, abide by it and police it. Important for independent ecologists to monitor HS2 works.
Annie Thurgarland – “statement in support of the Defence”	15.05.22 2745-2746	Criticism of merits of scheme, especially re environmental impact. Need for public to monitor works re ecology and alleged wildlife crimes. People have a right to peaceful direct action.
Anonymous	16.05.22 2747-2751	Anonymity because concerned about intimidation. RWI would have direct impact on tenancy contractual agreement for home, as it lies within the Act Boundary and is owned by HS2. Would be entirely at the mercy of HS2 and subcontractors to interpret the contractual agreement as they chose. Concerned that they were not notified of the RWI given the enormity of impact on residents who are lessees of HS2. Vague term un-named defendants could extend to anyone deemed as trespassing on land part of homes and gardens. Concern therefore that all land within boundary could become subject to constant surveillance, undermining right to privacy. No clarity on terms of injunction regarding tenants and when they would and would not be trespassing. Complaints about ecological impact of Scheme. Complaints about conduct of HS2 security contractors.

Anonymous (near Cash's Pit occupant)	Undated 2752-2753	Complaints about impact of scheme on ability to use local area for recreation. Concerns that injunction would curtail protest right. Complaints about HS2 security contractors. Complaint that HS2 did not provide local residents with details of the injunction or proceedings.
Anonymous – “statement in support of the Defence...”	Undated 2754-2755	Criticism of merits of Scheme, argument re right to protest.

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM
THE HIGH COURT OF JUSTICE (KBD)
BIRMINGHAM DISTRICT REGISTRY

Mr Justice Julian Knowles
[2022] EWHC 2360 (KB)

B E T W E E N

MR JAMES KNAGGS

Appellant/Sixth Defendant

-and-

(1) THE SECRETARY OF STATE FOR TRANSPORT
(2) HIGH SPEED TWO (HS2) LIMITED

Respondents/Claimants

RULING ON APPLICATION FOR PERMISSION TO APPEAL

Background

1. There is an application for permission to appeal against a decision of Mr Justice Julian Knowles (“**the Judge**”) dated 20 September 2022. In short, the Judge made an Order providing the Respondents with injunctive relief restraining persons unknown and 59 named defendants from acts of protest in relation to the HS2 railway development (“**the Injunction**”).
2. The land subject to the Injunction covers the full length of the HS2 railway under construction from London to Cheshire. Two types of land are covered by the Injunction: (i) **Pink Land**, which is land to which the Respondents have either freehold or leasehold title and (ii) **Green Land**, which is land to which the Respondents do not have freehold/leasehold title but do have statutory powers of temporary possession for the purposes of the HS2 project. It is the Green Land that matters for this application.

Grounds of Appeal

3. The Appellant seeks to advance five grounds of appeal:
 - a. First, the judge erred in concluding the Respondents had sufficient interest in the entirety of the land subject to the order capable of supporting injunctive relief founded on claims in trespass and private nuisance.
 - b. Second, the judge erred in concluding that the Respondents may rely on the rights under Article 1 Protocol 1 (“A1P1”) ECHR in support of the application for injunctive relief.
 - c. Third, the judge erred in law by defining the prohibited conduct by reference to:
 - i. legal terms and a legal cause of action,
 - ii. by reference to vague terms (such as ‘slow walking’) and,
 - iii. in a disproportionate manner.
 - d. Fourth, the judge erred in law by finding that the service provisions for the order are sufficient to bring proceedings to the attention of all those affected.
 - e. Fifth, there is some other compelling reason to grant permission to appeal, because of the wider public importance of both the HS2 project and the issues arising out of the terms of the injunction.
4. For the reasons set out below, I refuse permission to appeal. On a proper analysis, none of the five grounds have a real prospect of success.

Ground 1: HS2 Has Insufficient Interest In The Green Land

The Issue

5. The Judge accepted the Respondents’ submission that HS2 had the right to immediate possession over the Green Land because the relevant statutory notices had been served. It did not matter that “*the diggers have not yet moved in*” J[78]. The Judge found that the right to possession was sufficient to maintain an action for trespass.
6. The Respondents’ right to possession of the Green Land is contained in Schedule 15 of the High Speed Rail (West Midlands – Crewe) Act 2021 (“**the Phase 2a Act**”). Schedule 15 paragraph 1(1) sets out the conditions required for the Respondents to take possession of the Green Land:

“Schedule 15

Right to enter on and take possession of land

1(1) The nominated undertaker may enter on and take possession of the land specified in the table in Schedule 16—

(a) for the purpose specified in relation to the land in column (3) of that table in connection with the authorised works specified in column (4) of the table,

(b) for the purpose of constructing such works as are mentioned in column (5) of that table in relation to the land, or

(c) otherwise for Phase 2a purposes.

(2) The nominated undertaker may (subject to paragraph 2(1)) enter on and take possession of any other land within the Act limits for Phase 2a purposes.

(3) The reference in sub-paragraph (1)(a) to the authorised works specified in column (4) of the table in Schedule 16 includes a reference to any works which are necessary or expedient for the purposes of or in connection with those works.”

7. “Phase 2a purposes” is defined at section 61 of the Phase 2a Act:

“References in this Act to anything being done or required for “Phase 2a purposes” are to the thing being done or required—

(a) for the purposes of or in connection with the works authorised by this Act,

(b) for the purposes of or in connection with trains all or part of whose journey is on Phase 2a of High Speed 2, or

(c) otherwise for the purposes of or in connection with Phase 2a of High Speed 2 or any high speed railway transport system of which Phase 2a of High Speed 2 forms or is to form part.”

8. The Schedule 16 table includes specific purposes for which access to each piece of land is required (e.g. for diversion of utilities, access to utilities, for environmental mitigation works etc). Paragraph 4(1) requires that the Respondent must give 28 days notice of their intention to take possession of the land to the owners and occupiers of the land. Paragraph 4(4) entitles the landowners and occupiers of the land to compensation for any loss they may suffer by the Respondent’s exercise of the possession power.

9. The Appellant submits that on the construction of the Phase 2a Act, the Respondents only have a legal right to possession of the land where the Schedule 15 paragraph 1(1)

conditions are met. Therefore, the natural conclusion is that at any point in time where the conditions are not met, the Respondents will have no right to possession of the land and cannot found a claim in trespass. The Appellant goes on to submit that “*where works are not scheduled to take place on land imminently then the Respondents are not only not in actual possession but have no right to such possession either immediately or imminently*” **ASA[29]**.

10. It was the Respondents’ case that all statutory notices under Schedule 15 paragraph 4(4) for the possession of the Green Land had been given (confirmed in the first witness statement of Julie Dilcock **RSA[2]**). Simply put, the Respondents have therefore exercised this statutory power and are entitled to immediate possession of all the Green Land. Moreover, this is land which is needed, and there is no statutory requirement for the land to be used ‘imminently’ **RSA[6]**. Further, they say that the definition of Phase 2a ‘purposes’ is very broad, for example it can include landscaping, advance planting and activities beyond the immediate construction of the railway **RSA[3]**. Finally, the Respondents said that the Appellant had conceded at an earlier stage of the proceedings that Schedule 15 and 16 were sufficient to found a potential trespass claim **RSA[4]**.

Analysis

11. I agree with the judge (at **J[78]**, **SJ[18]**): the Respondents plainly have sufficient interest in the Green Land to found an action in trespass and therefore to be granted injunctive relief. I consider that this was conceded by the Appellant in his written submissions of 5 April 2022. In any event, the Appellant’s proposition that Green Land can only be taken possession of where it is required ‘imminently’ is not arguable; it is simply not supported by a plain construction of the Phase 2a Act 2021.
12. Parliament has granted the Respondents the right to immediate possession of the Green Land through the Phase 2a Act. The Act has built-in procedural requirements (e.g. giving 28 days notice before taking possession) and safeguards (e.g. compensation provision and a long-stop of possession for no more than one year after the works are complete). This balances the competing interests of ensuring the land can be used for the railway construction on the one hand, and on the other, respecting the proprietary interest of the underlying leaseholder/freeholder.
13. There is no statutory wording to the effect that the exercise of the paragraph 1(1) immediate possession power (following a 28 day notice period) must be contingent on immediate action. There must be an identified purpose for possession of the Green Land

(and there is), but that purpose is not given a temporal dimension anywhere in the statute. In contrast, the Appellant's submissions seem to assume that "*for the purpose of*" necessarily implies an imminence to the fulfilment of that purpose. But that is just not what the statute says.

14. This unjustified leap of reasoning is revealed at paragraph 29 of the Appellant's skeleton argument:

"29. [...] At any point in time where this statutory condition is not met the Respondents have no right to possession of the land whatsoever. Where works are not scheduled to take place on land imminently then the Respondents are not only not in actual possession but have no right to such possession either immediately or imminently. It is therefore wrong to conclude in relation to such land that the Respondents "are entitled to immediate possession"." (emphasis added).

15. The suggestion that the statute requires any works to be scheduled to take place 'imminently' is unjustified (and indeed there is no real attempt to justify it). There is no textual support for it; nor does it make practical sense. Moreover, there are all sorts of practical difficulties with it. First, there is nothing to say what could be defined as 'imminently': 2 weeks? 2 months? Or, for a project scheduled to take 10 years, might 2 years be considered 'imminent'? Second, it must be for the contractor or relevant subcontractor to decide when to take possession of any given site, not to have his logistical planning taken over for him by the courts. Third, the qualification of 'imminence' would be impossible to patrol. Even if notice was given before works were about to 'imminently' start, if there was an unexpected delay to construction would this remove the Respondent's right to possess the land? The only requirement is for the Respondent to identify the purpose for which the land is needed, provide 28 days notice, and then they are entitled to immediate possession of that land. That is the power Parliament granted.

16. I am further confirmed in that conclusion by reading Schedules 15, 16 and section 61 together. It is clear that Parliament intended the 'purpose' condition to be interpreted broadly. That explains the inclusion of paragraph 1(1)(c) in addition to 1(1)(a) and (b) in Schedule 15 to work as a fall-back provision to catch any broader purposes that may not align with the originally stated aims of each parcel of land detailed in Schedule 16.

17. Finally, the plain meaning of the word “purposes” is not restricted to actual construction works. As is clear from Schedule 16, the purpose for which temporary possession of the land is required includes for the “*provision of access*” for construction, utility works or creation of new rights of way (see Schedule 16, Column 3). These purposes may not have a defined starting point in the same way that actual construction activities might do. This also reinforces my conclusion that the Act envisages that the land will be temporarily possessed even if there is no immediate construction activities on the land.
18. Accordingly, I consider that Ground 1 has no real prospect of success, and permission to appeal is refused.

Ground 2: The Respondents’ Rights under A1P1

The Issue

19. The Judge found that the Respondents could pray in aid A1P1 **J[125]**. He considered that he was bound by the case of *Secretary of State for Transport v Cuicurean* [2022] EWCA 661 where Lewison LJ held:

“There was some debate about whether these were themselves convention rights (given that the Secretary of State for Transport is himself a public authority and cannot therefore be a “victim” for the purposes of the Convention, and HS2 Ltd may not be regarded as a “non-governmental” organisation for that purpose). But whether or not they are convention rights, they are clearly legal rights (either proprietary or possessory) recognised by national law” (at [28], emphasis added)

20. The Appellant complains that the Judge erred in concluding that the Respondents, as a public body, may rely on A1P1 ECHR protection. The Appellant submits that the case law is clear that a ‘core public authority’, or a party exercising functions of a public nature, cannot rely on its own Convention Rights as a cause of action or as part of a EHCR proportionality assessment: see *Aston Cantlow v Wallbank* [2003] UKHL 37; *YL v Birmingham City Council and others* [2007] EWCA Civ 26. It cannot in law be ‘a victim’. This is derived from ECtHR case law which extends to ‘non-governmental organisations’.

21. The Respondents' simple response is that it is not and has never been part of their case that HS2 is a 'victim' under the ECHR. They also criticise the Appellant for developing this point in written submissions after the hearing.

Analysis

22. I do not consider that the Appellant's submissions have a real prospect of success. They are not aimed at a substantial or relevant target. A1P1 was only even potentially relevant as a counterbalancing factor to the protestors' rights under articles 10 and 11. The authorities make clear that, regardless of A1P1, ordinary proprietary or possessory rights provide an equivalent counter balance.
23. As noted above, the judge relied on paragraph 28 of *Cuciurean*. The final underlined sentence of the extract quoted at paragraph 19 above makes clear that Lewison LJ did not expressly decide whether HS2 could pray in aid A1P1 because he did not need to. That was because, however they arose, whether through A1P1 or the common law, the proprietary or possessory rights in question were on any view "*clearly legal rights*".
24. The same point has been made more recently by the Lord Chief Justice in *DPP v Cuciurean* [2022] EWHC 736 (Admin) at [84] when he said:

"84. The judge was not given the assistance she might have been with the result that a few important factors were overlooked. She did not address A1P1 and its significance. Articles 10 and 11 were not the only Convention rights involved. A1P1 pulled in the opposite direction to articles 10 and 11. At the heart of A1P1 and section 68 is protection of the owner and occupier of the Land against interference with the right to possession and to make use of that land for lawful activities without disruption or obstruction. Those lawful activities in this case had been authorised by Parliament through the 2017 Act after lengthy consideration of both the merits of the project and objections to it. The legislature has accepted that the HS2 project is in the national interest. One object of section 68 is to discourage disruption of the kind committed by the respondent, which, according to the will of Parliament, is against the public interest. The respondent (and others who hold similar views) have other methods available to them for protesting against the HS2 project which do not involve committing any offence under section 68, or indeed any offence. The Strasbourg Court has often observed that the Convention is concerned with the fair balance of competing rights. The rights enshrined in articles 10 and 11, long recognised by the Common Law, protect the expression of opinions, the right to persuade and protest and to convey strongly held views. They do not sanction a right to use guerrilla tactics endlessly to delay and increase the cost of an infrastructure project which has been subjected to the most detailed public scrutiny, including in Parliament."

25. The Judge had these issues well in mind in his judgment at [125] where he said:

“125. I am satisfied that the First Claimant can pray in aid A1P1, and the common law values they reflect, and that the approach set out in DPP v Cuciurean and other cases is binding upon me. The point raised by D6 was specifically dealt with by the Court of Appeal in *Secretary of State for Transport v Cuciurean* [2022] EWCA Civ 661, [28]...” (My emphasis)

The judge then cited the passage set out at para 19 above.

26. For completeness, I do not consider that *Attorney General’s Reference Number 1 of 2022* (cited by the Appellant in their skeleton argument for permission to appeal) is authority that public authorities could not rely on A1P1 rights. The relevant passage states:

“102. That is unsurprising because in addition to the usual questions about the applicability of a Convention right and then proportionality the A1P1 rights of the non-state owner are in play. We find it difficult to imagine that the Convention could ever be used to avoid conviction for damaging private property, even if very rarely it might be when considering damage to public property which is not significant. For domestic purposes, in our view, that is the position.”

27. On this basis, Ground 2 tilts at a windmill. The Judge did not rely solely on A1P1 but recognised these rights were reflected in ordinary property rights at common law. The Judge’s findings as to trespass and nuisance were findings of proprietary or possessory rights which were enough to found the claim for the injunction, with or without A1P1.

Ground 3: The Terms Of The Injunction

The Issues

28. The Appellant submits that the Judge erred in law by defining the terms of the injunction (i) by reference to legal terms and a legal cause of action, (ii) by reference to vague terms (such as ‘slow walking’), and (iii) in a way which is disproportionate because they do not correspond with the definition of persons unknown.

i) Legal terms/Analysis

29. The Appellant takes issue with the reference to ‘legal terms’ such as “*public right of way*”, “*lawful rights over any public highway*” and “*a lawful freehold or leasehold interest*”. Moreover, the Appellant submits that the Injunction contains an internal

inconsistency: it prohibits conduct hindering the Respondents but allows for lawful rights over the public highway which may include deliberately and intentionally obstructive conduct on that highway. The Appellant concludes this leads to uncertainty about what conduct is covered by the Injunction.

30. I disagree with the Appellant that the Injunction contains ‘legal terms’ that make it hard or unclear to understand. Whilst the terms ‘freehold’ and ‘leasehold’ are legal vocabulary, they are also commonly used and widely understood by those without legal training or advice. Similarly, I consider reference to “lawful rights” over public highway is sufficiently clear. Moreover, even though the Appellant’s heading for this ground refer to “*references to a ... cause of action*”, the Appellant does not identify any cause of action used in the language of the Injunction. There is no inconsistency.

ii) *‘Slow Walking’/Analysis*

31. The Appellant submits that ‘slow walking’ (at paragraph 5 of the Injunction) is too vague, and he relies on the comments by the Court of Appeal in *Ineos v Persons Unknown* [2019] EWCA Civ 515 (at [40]) to the effect that it is not clear what is sufficiently ‘slow’ to engage such conduct. The Judge, clearly alive to this fact, qualified this part of the Injunction with the word ‘deliberately’ (at paragraph 5(f) of the Injunction) but the Appellant contends this does not address the vagueness of this provision.

32. I do not accept that this argument is open to the Appellant, or that it has a real prospect of success.

33. It is not open to him because, before the Judge, the Appellant’s argument was that ‘slow walking’ was a recognised form of protest and should therefore not be prohibited by the Injunction. There was no question that it was too vague; on the contrary, its clarity meant that the Appellant wanted it excluded from the injunction altogether. The Appellant cannot credibly argue now that this recognised form of protest was unclear.

34. Furthermore, I do not consider that it was unclear. The word ‘deliberately’ qualifies the activity in a relevant way. Moreover, the comment in *Ineos*, which was decided before the latest raft of HS2 cases and did not include the word ‘deliberately’, could be said to be a summary of counsel’s criticisms of the injunction in that case, rather than a series of findings by the court.

35. In the later case of *National Highways*, cited below, although the express words “slow walking” were not used in the injunction, neither Lavender J (nor counsel for the protestors) raised any concerns with the wording: “*deliberately ... slowing down ... the flow of traffic*”. In my view, that also demonstrates both that this is now a well-recognised phenomenon and its inclusion is an important part of any effective injunction. I do not consider there is any material difference in the wording accepted in *National Highways* and the present injunction to found a realistic ground of appeal.

iii) Alleged Discrepancy: Analysis

36. The Appellant argues there is a discrepancy between the definition of persons unknown (which contains an ‘effect clause’) and the prohibited conduct (which does not require any such effect). The ‘effect clause’ captures individuals whose conduct has the effect of “*damaging and/or delaying and or hindering*” the HS2 works. The Appellant submits that the definition of persons unknown is narrower than the prohibited conduct because it requires it to have the effect of damaging/delaying the works. He contends that this discrepancy means an individual who ‘unintentionally’ delays the HS2 works will be caught by the Injunction, even where there is no work ongoing or disruption caused. This is said to be disproportionate.

37. I consider that the Appellant’s construction of the Injunction is untenable. In my view, the Injunction must be read as a whole. There is no inconsistency. A person reading the Injunction would have no difficulty in concluding that it prohibits them from entering the HS2 Land even where they do not cause any delay or disruption to the works. That is clearly contained in the definition of ‘persons unknown’ and cannot be ignored simply because the same detail is not repeated in the prohibited conduct section of the Injunction.

38. I therefore reject all three arguments about the terms of the Injunction. They are excessively legalistic and do not arise on a common sense view of the words used. They have no real prospect of success.

Ground 4: Service

The Issue

39. The Judge was satisfied that service of the Injunction complied with the guidance in *Canada Goose UK Retails Ltd v Persons Unknown* [2020] 1 WLR 2802 and that the terms were sufficiently clear to allow persons potentially affected to know what they must not do. The Judge repeated this finding at paragraph [26] of the Supplemental Judgment.
40. The Appellant asserts that the Judge erred in finding that the service provisions (at paragraphs 7-11 of the Injunction) were sufficient to bring the Injunction to the attention of all those affected. The Appellant points to the case of *National Highways v Person Unknown and others* [2021] EWHC 3081 (QB) where it was held to be impracticable to place notices on stakes in the ground. Instead, the broad scope of the injunction was tempered by requiring personal service on persons unknown. The Appellant suggests that the Injunction in the present case allows for the possibility that persons may fall within the definition of persons unknown and breach the terms of the Injunction without being aware of the Injunction itself (particularly as the Injunction is not restricted to protestors, but land users and land owners covered by the Injunction). The Appellant suggests that notice should be provided by post.
41. The Respondent states that the final service provisions at paragraph 2 of the Injunction were a product of the earlier debate about the service of the proceedings themselves which resulted in the order of 28 April 2022. They say that the proceedings were highly effective at bringing proceedings to the attention of those who wished to participate. The Respondent characterises this ground as an attempt to re-run earlier arguments that were never appealed. In any event, the Injunction does make a provision for personal service where this is practicable: see paragraph 11 of the Injunction.

Analysis

42. I consider that this complaint is not open to the Appellant. The service provisions in the Injunction mirrored those ordered in respect of the original proceedings in April 2022. The appellant said he was going to appeal those provisions but did not do so. Time to bring such an appeal expired in May 2022. It is too late to challenge those same service provisions now. It would be an abuse of the court process.
43. In any event, I consider that the service provisions in the Injunction were more than sufficient to comply with the guidance in *Canada Goose* and, made adequate provision for personal service. Any contrary argument has no real prospect of success.

44. Given the scope of the Injunction, it is clearly impractical for service to be effected along every piece of injunctioned land. The Appellant takes issue with the failure to provide notice by 'post', but does not explain why this is necessary in addition to the current methods of service already proposed. Crucially, in my view, at paragraph 11 the Injunction does provide for personal service where this is reasonably practicable – for example when a person unknown becomes identified or a named defendant or where the Respondents become aware of a trespasser.

Ground 5: Some Other Compelling Reason?

45. For the reasons set out above, I do not accept that any of these grounds of appeal have a real prospect of success.

46. In those circumstances, it would be pointless to allow permission to appeal simply because this is a major project and there may be issues which may become relevant to other injunctions. There has been recent Court of Appeal guidance on service (*Canada Goose, Barking and Dagenham*) and recent Divisional Court and Court of Appeal guidance on the balancing of possessory and protestors' rights (*DPP v Cuciurean* and *SoS for Transport v Cuciurean*). Both these last two arose out of HS2. It might be thought that that is sufficient guidance, at least for the moment, in this area, and that to grant permission in this case on this ground would, in the words of the Lord Chief Justice in *DPP v Cuciurean* (at [84]), be simply to sanction yet further delay and further increase the cost of a project which has been subjected to the most detailed public and Parliamentary scrutiny.

47. For all these reasons, I refuse permission to appeal.



CASE No: QB-2022-BHM-000044

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

Before Her Honour Judge Kelly Sitting in Chambers

QB-2022-BHM-000044

On Tuesday 5 March 2024

BETWEEN

1. High Speed Two (HS2) Limited, 2. The Secretary of State for Transport

Claimant

- and -

1. Persons Unknown, 2. Persons Unknown, 3. Persons Unknown, 4. Persons Unknown, 5. Ross Monaghan, 6. James Andrew Taylor, 7. Leah Oldfield, 8. Tep, 9. Hazel Ball, 10. IC Turner, 11. Tony Carne, 12. Amy Lei, 13. Tom Holmes, 14. Sam Hopkins, 15. Jey Harvey, 16. Karen Wildin, 17. Andrew McMaster, 18. William Harewood, 19. Harrison Radcliffe, 20. George Keeler, 21. William French, 22. Tristan Dixon, 23. Scarlett Rien, 24. Daniel Hooper, 25. Bethany Joy Croarkin, 26. Isla Sandford, 27. Lachlan Sandford, 28. Scott Breen, 29. Jessica Maddison, 30. Juliette Stephenson-Clarke, 31. Rory Hooper, 32. Larch Ian Albert Frank Maxey, 33. Elliot Cuciurean, 34. Paul Sandison, 35. Terry Sandison, 36. Mark Keir, 37. Thorn Ramsey, 38. Vajda Robert Mordechaj, 39. Iain Oliver, 40. Jess Walker, 41. Matt Atkinson, 42. Hannah Bennett, 43. James Ruggles, 44. Nick Grant, 45. Stuart Ackroyd, 46. Wiktoria Paulina Zieniuk, 47. Tom Dalton, 48. Conner Nichols, 49. Sebastian Roblyn Maxey, 50. Jessica Heathland-Smith, 51. Ella Dorton, 52. Karl Collins, 53. Sam Goggin, 54. Hayley Pitwell, 55. Jacob Harwood, 56. Libby Farbrother, 57. Samantha Smithson, 58. Jack Charles Oliver, 59. Charlie Inskip, 60. Xavier Gonzalez Trimmer, 61. David Buchan, 62. Leanne Swateridge, 63. Dino Misina, 64. Stefan Wright

Defendant

ORDER

IT IS ORDERED that:

1. The Claimants' application, dated 1 March 2024, shall be listed to be heard at the review hearing already listed on 15 May 2024 at 10.30am.
2. The Claimants shall effect service of the application on the defendants.

SERVICE OF THE ORDER

The court has sent sealed copies of this order **electronically through CE-File only** to:

DLA Piper UK LLP, 1 St Paul's Place, Sheffield, S1 2JX, DX: 708580 Sheffield-10,
Government Legal Department (GLD), 102 Petty France, Westminster, London
SW1H9GL
RXS/380900/378

Claim no: QB-2022-BHM-000044 in the High Court at Birmingham

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

Claim no: QB-2022-BHM-000044



QB-2022-BHM-000044

Before: HHJ Emma Kelly
Made on: 7 March 2024

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, SUBCONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES

(2) 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

(3) 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

(4) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE) AND 60 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants

ORDER

UPON the Order of Mr Justice Ritchie made on 31 May 2023 (“**Injunction Order**”) requiring at paragraph 12 reconsideration of the injunction on approximately a yearly basis.

CORE-A-134

AND UPON the Court having listed a review hearing to take place on 15 May 2024 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 (“**Second Review**”)

AND UPON the Court noting the requirement in paragraph 13 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 reading the Certificate of Service dated 1 February 2024 filed by the Claimants confirming that the Notice of Review Hearing has been placed on the HS2 Proceedings Website

AND UPON the Claimants’ application dated 27 February 2024 seeking an order for alternative service

AND UPON reading the third witness statement of Robert Shaw.

AND UPON the Court considering this application on the papers.

IT IS ORDERED THAT:

Alternative Service

1. The Claimants’ application for alternative service pursuant to CPR r. 6.15 and 6.27 is granted.
2. In this Order, the following defined terms shall apply:
 - a. The “RWI Updated Website” means the webpages at <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>.
 - b. The term “Defendants” refers to all Defendants 1 – 65.
 - c. The “Second Review Documents” means all the documents filed with the Court by the Claimants for the Review, including this Order and the Claimants’ application dated 27 February 2024 seeking an order for alternative service.

Service by Alternative Method – Second Review Documents

3. 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 RWI Updated Website, together with a link to download an electronic copy of this Order.
4. Pursuant to CPR r. 6.27, personal service is dispensed with and service of the Second Review Documents upon the Defendants shall be by:
 - a. placing the Second Review Documents on the RWI Updated Website.
 - b. causing to be made social media posts on the HS2 “X” and Facebook pages advertising the date of the Second Review and the web address of the RWI Updated Website.

- c. The Claimants shall email a copy of this Order to solicitors for D6 and any other party who has as at the date hereof provided an email address to the Claimants to the email addresses: HS2Injunction@governmentlegal.gov.uk or HS2Injunction@dlapiper.com.
 - d. Compliance with 4(a) - (c) above will be good and sufficient service on the Defendants and each of them.
5. The Claimants have liberty to apply to extend or vary this Order or for further directions.
6. Costs reserved.

Documents in the Claim and Application

7. All documents relating to the underlying proceedings, this application and the Second Review may be downloaded at: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>.
8. 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

9. 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

10. 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/380900/441

11. The Court has disposed of the Claimant's application, dated 27 February 2024, without service of a copy of the application notice. Any person not served with a copy of the application notice before this order was made may apply, within 7 days after the date on which the order was served on the person making to the application, for the order to be set aside or varied.

BY THE COURT

MADE ON 7 March 2024

N244

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>

Name of court High Court of Justice King's Bench Division Birmingham District Registry	Claim no. QB-2022-BHM-000044
Fee account no. (if applicable)	Help with Fees - Ref. no. (if applicable)
PBA:0087960	H W F - -
Warrant no. (if applicable)	
Claimant's name (including ref.) (1) High Speed Two (HS2) Limited (2) The Secretary of State for Transport (Ref: RXS/380900/441)	
Defendant's name (including ref.) (1) – Not Used (2) - (4) Three Categories of Persons Unknown (5) – Ross Monaghan and 60 other Named Defendants	
Date	1 March 2024

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 Ritchie dated 31.05.2023 (the “**Injunction**”), for a further 12 months;
- 2) permission to amend the definition of the “March 2023 HS2 Land Plans” to that in the draft order, so that it now refers to the plans provided by the Claimants’ geographic information system mapping;
- 3) permission to update the definition of “HS2 Land” to reflect land may be declared by HM Government to be surplus to the requirements of the HS2 Scheme; and
- 4) to prohibit the Defendants from causing an object (such as a drone) to enter or remain without the consent of the Claimants on, in, under or over the HS2 Land.

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

at a remote hearing

6. How long do you think the hearing will last? Is this time estimate agreed by all parties?

Day

Yes No

7. Give details of any fixed trial date or period

8. What level of Judge does your hearing need?

9. Who should be served with this application?

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

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.

11. Do you believe you, or a witness who will give evidence on your behalf, are vulnerable in any way which the court needs to consider?

Yes. Please explain in what way you or the witness are vulnerable and what steps, support or adjustments you wish the court and the judge to consider.

No

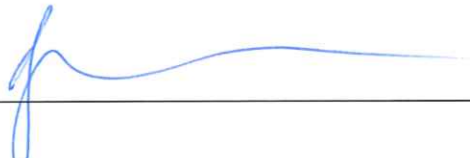
Statement of Truth

I understand that proceedings for contempt of court may be brought against a person 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.

I believe that the facts stated in section 10 (and any continuation sheets) are true.

The applicant believes that the facts stated in section 10 (and any continuation sheets) are true. I am authorised by the applicant to sign this statement.

Signature



Applicant

Litigation friend (where applicant is a child or a Protected Party)

Applicant's legal representative (as defined by CPR 2.3(1))

Date

Day

1

Month

March

Year

2024

Full name

Robert Shaw

Name of applicant's legal representative's firm

DLA Piper UK LLP

If signing on behalf of firm or company give position or office held

Solicitor

Applicant's address to which documents should be sent.

Building and street

DLA Piper UK LLP

Second line of address

Two Chamberlain Square

Town or city

Birmingham

County (optional)

Postcode

B	3		3	A	X	
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If applicable

Phone number

0114 283 3312

Fax phone number

DX number

DX 708580 Sheffield 10

Your Ref.

RXS/3809003/441

Email

rob.shaw@dlapiper.com / mary.barraclough@dlapiper.com

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.

Claim no: QB-2022-BHM-000044

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

Before:

Made on:

Between:

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

Claimants/Applicants

-and-

- (1) NOT USED**

(2) PERSONS UNKNOWN ENTERING OR REMAINING OR CAUSING AN OBJECT TO ENTER OR REMAIN WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN, UNDER OR OVER 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

AND 65 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants/Respondents

[DRAFT] ORDER

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.

BEFORE the Honourable [] sitting at the Birmingham Civil Justice Centre, on 15 May 2024.

AND UPON HEARING Counsel for the Claimants, Mr Michael Fry and Mr. Jonathan Welch and [] (“**Second Review Hearing**”).

FURTHER TO the Orders made in these proceedings by Julian Knowles J on 20 September 2022 (the “**Injunction Order**”) and Ritchie J on 31 May 2023 (“**Extension Order**”) and particularly the directions made at Schedule A of the Extension Order (“**Directions**”).

AND UPON the Claimants’ application by Application Notice dated 1 March 2024 pursuant to the provisions at paragraphs 12 and 13 of the Extension Order (“**2024 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.

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.

NOW IT IS ORDERED THAT:

Definitions

1. In this Order, the following defined terms shall apply:
 - (a) The “RWI Updated Website” means the webpages at: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>.
 - (b) The “Named Defendants” means D5 to D69 whose names appear in Annex A.
 - (c) The “Defendants” refers to all Defendants.
 - (d) The “HS2 Land Plans” means the plans which illustrate the land to which the Claimants are entitled to possession and which can be found at <https://experience.arcgis.com/experience/70c5772709be48609cd8853e93b4c93f/> and which the Claimants shall update from time to time to include:
 - (i) further land of which they have become entitled to possession for Rail Act purposes and
 - (ii) to remove land to which they are no longer entitled to possession for Rail Act purposes (save that the Claimants shall not be obliged to remove land that remains in the ownership of the Claimants but which is declared by HM Government surplus to requirements until such time that it is disposed of by the Claimants).
 - (e) The “HS2 Land” means:
 - (i) 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 HS2 Land Plans (and which shall include (until such a time as the land is no longer in the ownership of the Claimants) any such land which HM Government declare is surplus to the requirements of the HS2 Scheme); and
 - (ii) any land which the First Claimant has taken into temporary or permanent possession using its powers under Part 2 of Schedule 4 of the HS2 Acts (Interference with Highways) for Rail Act purposes and on which a copy of this Order shall be displayed at prominent locations on the land in question in accordance with paragraph 9 below.
 - (f) The “HS2 Acts” are the High Speed Rail (London – West Midlands) Act 2017 and the High Speed Rail (West Midlands – Crewe) Act 2021.
 - (g) “Rail Act purposes” means “Phase One purposes” as defined in section 67 of the High Speed Rail (London – West Midlands) Act 2017 and “Phase 2A purposes” as defined in section 61 of the High Speed Rail (West Midlands – Crewe) Act 2021.
 - (h) “Drone” means any model or remote controlled aircraft or unmanned aerial vehicle, or similar vehicle.

Injunction in force

2. With immediate effect, and until 23.59 on 31 May 2025 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;
 - (c) interfering with any sign, fence or gate on or at the perimeter of the HS2 Land; or
 - (d) flying a Drone from, into or over the HS2 Land.
3. Nothing in paragraph 2 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.
4. For the purposes of paragraph 2(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;
 - (f) deliberately slow walking in front of vehicles in the vicinity of the HS2 Land; and/or
 - (g) flying a Drone in the vicinity of an entrance or egress of the HS2 Land in a manner which slows or impedes the safe and uninterrupted passage of vehicles or persons into or from the HS2 Land.

5. For the purposes of paragraph 2(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

6. The Court will provide sealed copies of this Order to the Claimants’ solicitors for service (whose details are set out below).
7. Pursuant to CPR r.6.27 and r.81.4:
 - (a) The Claimants shall serve this Order upon the Second, Third and Fourth Defendants by:
 - (i) Advertising the existence of this Order in the Times and Guardian newspapers, and in particular advertising the web address of the RWI Updated Website, and a direct link to this Order.
 - (ii) 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.
 - (iii) Publishing social media posts on the HS2 X and Facebook platforms advertising the existence of this Order and providing a link to the RWI Updated Website.
 - (b) Service of this Order on Named Defendants may be effected by personal service where practicable and/or posting a copy of this Order through the letterbox of each Named Defendant (or leaving in a separate mailbox), with a notice drawing the recipient’s attention to the fact the package contains a court order. If the premises do not have a letterbox, or mailbox, a package containing this Order may be affixed to or left at the front door or other prominent feature marked with a notice drawing the recipient’s attention to the fact that the package contains a court order and should be read urgently. The notices shall be given in prominent lettering in the form set out in Annex B. It is open to any Defendant to contact the Claimants to identify an alternative place for service and, if they do so, it is not necessary for a notice or package to be affixed to or left at the front door or other prominent feature.
 - (c) The Claimants shall further advertise the existence of this Order in a prominent location on the RWI Updated Website, together with a link to download an electronic copy of this Order.

- (d) The Claimants shall email a copy of this Order any Defendant who has as at the date hereof provided an email address to the Claimants to the email address: HS2Injunction@governmentlegal.gov.uk or hs2injunction@dlapiper.com and requested such copies to be sent to them at that email address.
8. Service in accordance with paragraph 7 above shall:
- (a) be verified by certificates of service to be filed with Court; and
- (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.
9. Insofar as this order applies to land under 1(e)(ii) above, namely land over which the First Claimant has taken into temporary possession using its powers under Part 2 of Schedule 4 (Interference with Highways) of the HS2 Acts, a copy of this Order shall be displayed at prominent locations on the land in question clearly identifying the land, or portion of land, which is affected and such copy shall be removed promptly after any temporary possession has ceased.
10. Although not expressed as a mandatory obligation due to the transient nature of the task, the Claimants will seek to maintain copies of this Order on areas of the HS2 Land in proximity to potential Defendants, such as on the gates of construction compounds or areas of the HS2 Land known to be targeted by objectors to the HS2 Scheme.
11. Further, without prejudice to paragraph 7, while this Order is in force, the Claimants shall take all reasonably practicable steps to effect personal service of the Order upon any Defendant of 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.

Further Case Management

12. 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 (“**Yearly Review**”).
13. It will be the Claimants’ responsibility to apply for listing of the Yearly Review and to place details of the date of the Yearly Review on the RWI Updated Website. At Schedule A are directions which will apply to the next Yearly Review. Parties are advised to consider them carefully.

Applying to vary/discharge

14. 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 2 working days before the hearing of any such application) via the contact details set out below. Schedule B 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.
15. 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 or make an application under CPR r.40.9 (unless they are already named as a Defendant).

16. Any Defendant who fails to comply with paragraphs 14 or 15 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.
17. The Claimants and Named Defendants otherwise have liberty to apply to extend or vary this Order or for further directions.
18. Save as provided for above, the Claim be stayed generally with liberty to restore.

Costs

19. [There be no order as to costs as between any of the parties to the Second Review Hearing.]
20. 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

21. All documents relating to these proceedings and this Order 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
Civil Justice Centre
Priory Courts
33 Bull Street
Birmingham
B4 6DS

E: qb.birmingham@justice.gov.uk
T: 0121 681 4441
F: 01264 785 131
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/380900/441

By []

MADE ON [DATE]

ANNEX A – SCHEDULE OF DEFENDANTS

PART 1

DEFENDANT NUMBER	UNNAMED DEFENDANTS
(1)	Not used
(2)	PERSONS UNKNOWN ENTERING OR REMAINING OR CAUSING AN OBJECT TO ENTER OR REMAIN WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN, UNDER OR OVER 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 2 – Defendant 4 as a person unknown if they commit any of the prohibited acts.

PART 2

DEFENDANT NUMBER	NAMED DEFENDANTS
(5)	Not Used
(6)	Not Used
(7)	Not Used
(8)	Not Used
(9)	Not Used
(10)	Not Used
(11)	Not Used
(12)	Not Used
(13)	Not Used
(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)	Not Used
(19)	Not Used
(20)	Mr George Keeler (aka C Russ T Chav / Flem)
(21)	Not Used
(22)	Not Used
(23)	Not Used
(24)	Not Used
(25)	Not Used
(26)	Not Used
(27)	Not Used
(28)	Not Used
(29)	Not Used
(30)	Not Used
(31)	Not Used
(32)	Not Used
(33)	Not Used
(34)	Not Used
(35)	Not Used
(36)	Not Used
(37)	Not Used
(38)	Not Used
(39)	Not Used

(40)	Not Used
(41)	Not Used
(42)	Not Used
(43)	Not Used
(44)	Not Used
(45)	Not Used
(46)	Not Used
(48)	Not Used
(49)	Not Used
(50)	Not Used
(51)	Not Used
(52)	Not Used
(53)	Not Used
(54)	Not Used
(55)	Not Used
(56)	Not Used
(57)	Not Used
(58)	Not Used
(59)	Not Used
(60)	Not Used
(61)	Not Used
(62)	Not Used
(63)	Mr Dino Misina (aka Hedge Hog)
(64)	Stefan Wright (aka Albert Urtubia)
(65)	Not Used
(66)	Not Used
(67)	Not Used
(68)	Not Used
(69)	Mr Curtis Arnold (aka Daniel J Edwards / Curtis Media / DJE Media / DJE PINAC)

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/380900/441

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

SCHEDULE A – DIRECTIONS FOR YEARLY REVIEW

Definitions

1. In these Directions, the following defined terms shall apply:
 - (a) The “RWI Updated Website” means the webpages at: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>.
 - (b) The term “Defendants” refers to all Defendants, both named and persons unknown.

Further Case Management

2. The Yearly Review will be listed for one day at 10.30am on a date, between 15 and 30 May 2025 in the High Court in Birmingham, after consultation by the court with the parties, convenient to counsel for any named party.
3. Any person who wishes to address the Court at the Yearly Review must inform the Court and the Claimants of their intention to attend by 4pm on 9 May 2025 at the addresses at paragraphs 23 and 244 of the Order.
4. By 4pm on 3 March 2025, the Claimants’ must file and serve (in accordance with paragraph 15 of this Schedule) any applications relevant to the Yearly Review, a draft order, and any evidence upon which they seek to rely.
5. By 4pm on 7 April 2025, any person seeking to amend (including discharge) this Order, or oppose any applications made by the Claimants, must file and serve their written reasons in a document and indicate whether they intend to adduce evidence upon which that person seeks to rely by emailing or posting it to the Court and the Claimants at the addresses listed at paragraphs 23 and 24 of the Order.
6. Any evidence upon which a Defendant or other Applicant wishes to rely must be filed by 4pm on 18 April 2025.
7. By 4pm on 25 April 2025, the Claimants have permission to file and serve (in accordance with paragraph 15 of this Schedule) any evidence in response to any document or evidence filed in accordance with paragraphs 5 and 6 of this Schedule if so advised.
8. By 4pm on 2 May 2025, the Claimants shall cause to be placed on the RWI Updated Website a draft hearing bundle index.
9. By 4pm on 6 May 2025, 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 of the Order. 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.
10. By 4pm on 9 May 2025, the Claimants shall file a properly paginated and indexed hearing bundle with the Court by email and in hard copy and shall cause to be placed on the RWI Updated Website a copy of the same.
11. By 4pm on 12 May 2025, the Claimants and any other person seeking to address the Court at the Yearly Review shall file and serve any skeleton argument or speaking note.

12. The parties otherwise have liberty to apply to the court for further or varied directions.

Documents in the Claim and Application

13. All documents relating to these proceedings and the Yearly Review may be downloaded at: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>.
14. 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 at paragraph 24 of this Order so long as any requests include a postal address and the full name of the requestor.
15. Pursuant to CPR r.6.27, personal service is dispensed with and service of any documents relevant to the Yearly Review upon the Defendants shall be by:
 - (a) placing documents on the RWI Updated Website.
 - (b) causing to be made social media posts on the HS2 X and Facebook pages advertising the date of the Yearly Review and the web address of the RWI Updated Website.
 - (c) The Claimants shall email a copy of any documents relevant to the Yearly Review to any Defendant who has as at the date hereof provided an email address to the Claimants to the email address: HS2Injunction@governmentlegal.gov.uk or hs2injunction@dlapiper.com and requested such copies to be sent to them at that email address.
16. Compliance with paragraph 15(a) above will be good and sufficient service on the Defendants and each of them.

SCHEDULE B – STEPS TO VARY OR DISCHARGE THIS ORDER

If, in accordance with paragraphs 14 – 17 of the Order, 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 form¹;
 - (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 and any further judgment in these proceedings. A copy of the judgment of Mr. Justice Julian Knowles can be found on the RWI Updated 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 23 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 24 of this Order; and/or
 - (b) Send electronic copies of the documents to the e-mail address at paragraph 24 of the Order.
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 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

¹ 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>

- (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 Court decides that a hearing is necessary, it shall seek to schedule the hearing (accommodating availabilities of the parties) within 42 days (6 weeks).
- (iii) 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 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/procedurerules/civil/rules/part08>

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

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

Before: [JUDGE]

On: [DATE]

Between:

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

Claimants/Applicants

-and-

- (1) NOT USED

- (2) PERSONS UNKNOWN ENTERING OR REMAINING OR CAUSING AN OBJECT TO ENTER OR REMAIN WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN, UNDER OR OVER 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

AND 65 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants/Respondents

JUDGMENT ORDER

BEFORE the Honourable [] sitting at the Birmingham Civil Justice Centre, on 15th May 2024

FURTHER TO the Orders made in these proceedings by Julian Knowles J on 20 September 2022 (the “**Injunction Order**”) and Ritchie J on 31 May 2023 (“**Extension Order**”)

AND UPON the Claimants’ application by Application Notice dated [DATE] pursuant to the provisions at paragraphs 12 and 13 of the Extension Order (“**2024 Application**”).

AND UPON HEARING Counsel for the Claimants, Mr Michael Fry and Mr Jonathan Welch (“**Second Review Hearing**”).

IT IS ORDERED THAT:

1. The Claimants have permission:
 - (a) To amend the description of the HS2 Land to clarify that it includes land that was acquired in connection with the High Speed 2 Railway Scheme but which may in due course be the subject of a formal declaration as surplus to requirements and earmarked for disposal.
 - (b) To amend the description of D2 to include causing an object to enter or remain on the HS2 Land without the consent of the Claimants.
 - (c) To remove Named Defendants to the Claim, namely: D5, D6, D7, D22, D27, D28, D33, D36, D39, D48, D57, D58, D59.
 - (d) To add D69 as a Named Defendant to the Claim.

BY THE COURT

MADE ON [DATE]

Claim no: QB-2022-BHM-000044

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

Between:

(1) HIGH SPEED TWO (HS2) LIMITED
(2) THE SECRETARY OF STATE FOR TRANSPORT

Claimants/Applicants

-and-

PERSONS UNKNOWN & ORS

Defendants/Respondents

HS2 LAND PLANS

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.

HS2 Route-wide Injunction

Summary

Last Updated: 25/04/2024

What the injunction does not do

The injunction does not:

- criminalise anyone. It is a civil injunction, not a criminal one.
- prevent protest against HS2 - where that protest is lawful and not on HS2's land or preventing vehicles from getting on or off HS2's land.
- prevent freeholders or leaseholders with property interests in the HS2 land or their guests from being on the HS2 land, unless those guests then try to damage or delay HS2 on that land.
- prevent anyone from using open public rights of way. A rambler who inadvertently strays from a footpath would not be in breach of the injunction unless they then tried to delay, hinder or damage HS2.

What the injunction does

The Injunction is concerned with actions which cause damage, delay or hindrance to HS2 or its contractors. It prohibits:

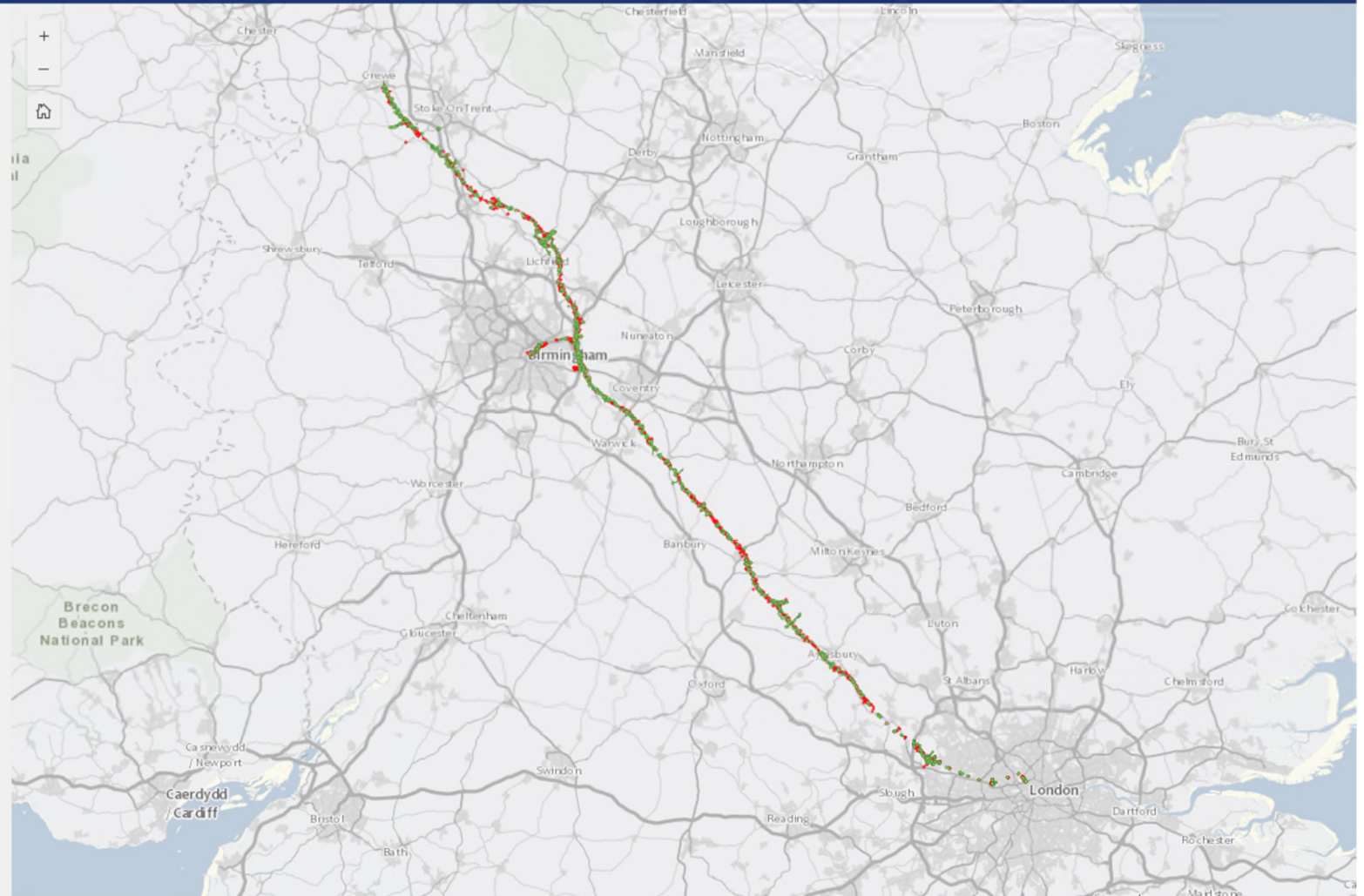
- trespass (see the link to the plans below)
- deliberately obstructing or preventing vehicles from entering or exiting HS2's land.
- interfering with any signs, fences or gates on HS2's land.

What the injunction covers

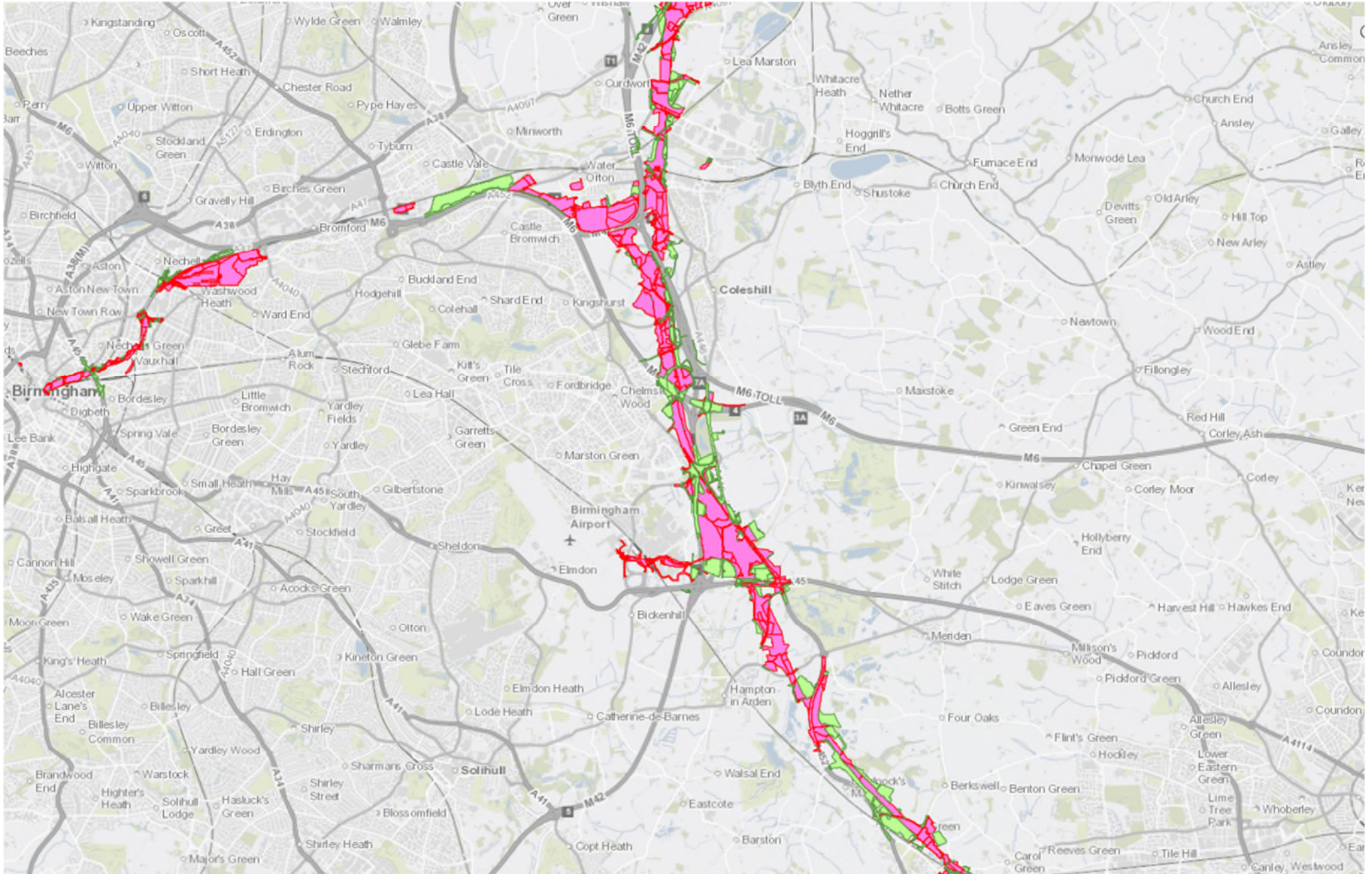
The injunction covers HS2's land as set out in the High Speed Two Injunction Mapping plans and access to that land.

The injunction also covers highways that have been closed by HS2 temporarily for works. Where that category of land is covered by the

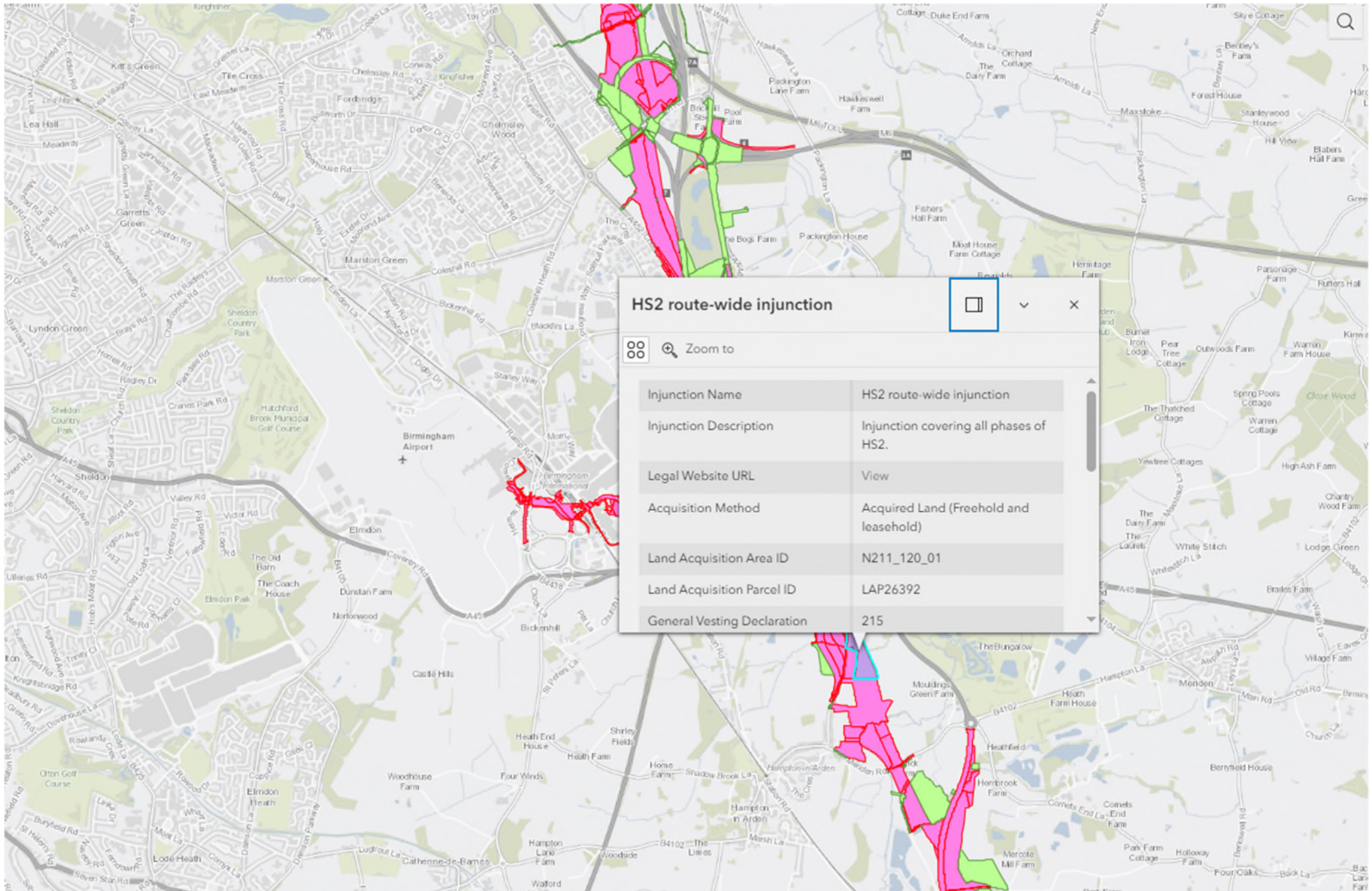
[See more here](#)



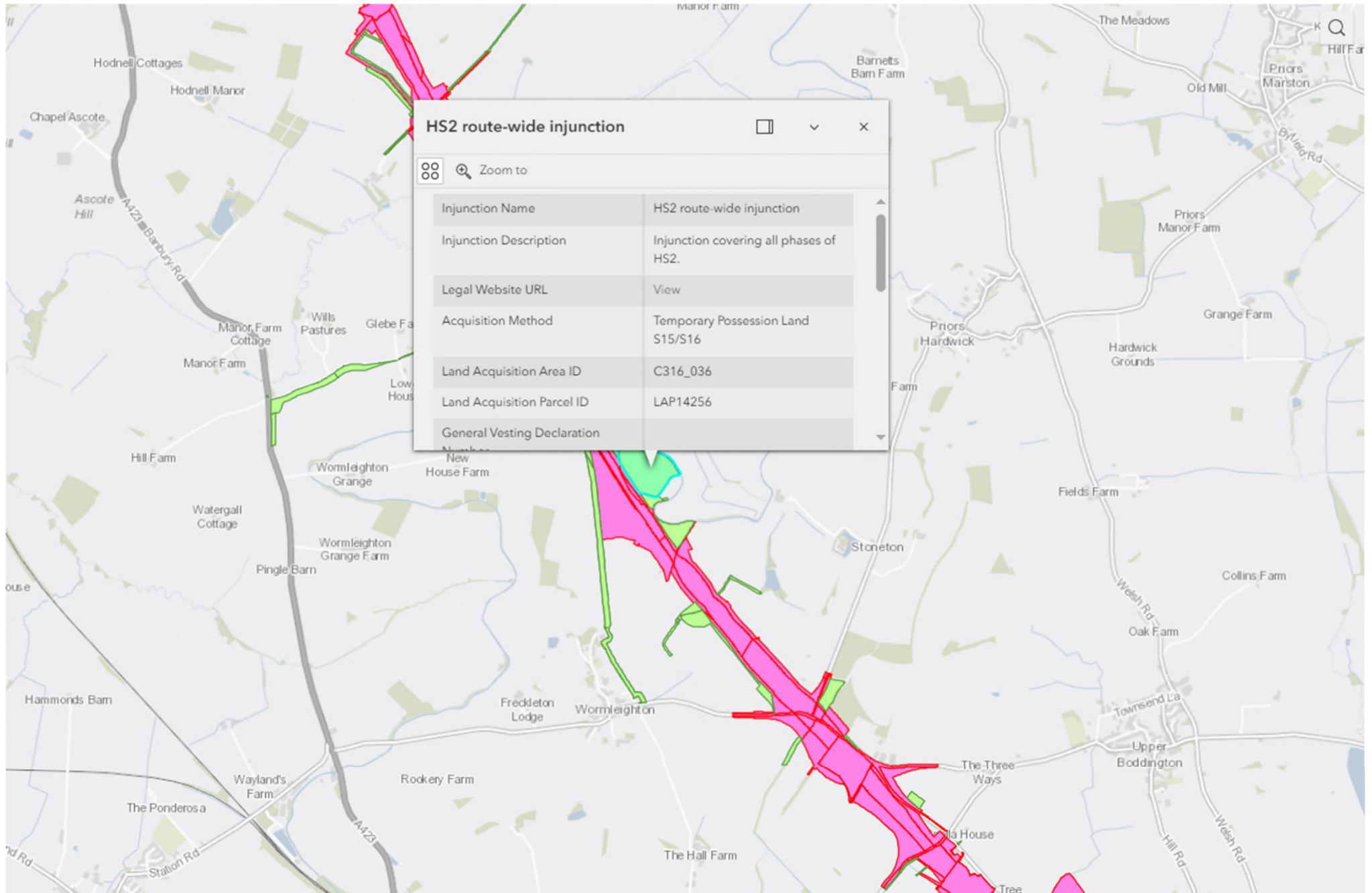
Examples of HS2 Land Plans



Examples of HS2 Land Plans



Examples of HS2 Land Plans



On behalf of: Applicants/Claimants
J.Dobson
2nd statement of witness
Exhibits: JD7
Date: 28 February 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

SECOND WITNESS STATEMENT OF JAMES DOBSON

I, **JAMES DOBSON**, Specialist Security Consultant and Advisor to the First Claimant, High Speed Two (HS2) Limited, Two Snowhill, Snow Hill Queensway, Birmingham, B4 6GA, **WILL SAY** as follows:

CORE-A-168

1. I am a Specialist Security Consultant and Advisor to the First Claimant. I advise the First Claimant on security matters, particularly matters involving activists. I have c.8 years of experience in advising clients on dealing with large scale evictions of activists and supporting infrastructure and other projects subjected to environmental activism, including the HS2 Scheme.
2. I make this statement in support of the Claimants' application to extend the injunction granted 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**").
3. This statement has been prepared with the Claimants' legal representatives.
4. This statement is made from matters that are within my own knowledge and/or (unless other sources of information are stated) knowledge gained from my review of the First Claimant's documents, incident reports logged on the First Claimant's HORACE and Trak Tik systems, reports by the First Claimant's security and legal teams and those of the First Claimant's contractors and material obtained and reviewed from open-source internet and social media platforms. In each case I believe them to be true. The contents of this statement are true to the best of my knowledge and belief. The HORACE and Trak Tik systems are online incident reporting systems used by the First Claimant to record details of health, safety, security, environmental and reputational incidents which occur as a result of, or in connection with the work of the First Claimant. However, because they are both online systems and contain information filled in by specialist security professionals, they are not resources which can be easily printed out or otherwise presented in a way that is easily understandable by a lay person. The accounts of the incidents set out below are therefore derived from those systems (and the other sources set out above) but explained in ordinary English.
5. There are now shown and produced to me marked **JD7** 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) The first to twelfth witness statements of Julie Dilcock (“**Dilcock 1**” to “**Dilcock 12**”)
 - (c) The first Witness Statement of John Groves (“**Groves 1**”)
- I have also reviewed the Second Witness Statement of John Groves (“**Groves 2**”) and the Thirteenth Witness Statement of Julie Dilcock (“**Dilcock 13**”) in draft.

Defined terms used in this statement are the same as those defined in the Particulars of Claim, the above listed statements, and my first witness statement (“**Dobson 1**”) unless separately defined in this statement.

Purpose and scope of this statement

7. In this statement I will:
- 7.1. Explain how the Claimants have reached the decision to remove some of the Defendants to these proceedings and to add new Defendants.
 - 7.2. Describe the effect of the Injunction on unlawful activity directed against the HS2 Scheme.
 - 7.3. Describe specific incidents of unlawful activity against the HS2 Scheme by activists from 17.03.2023 (being the end point for the narrative provided in Dobson 1) until 06.02.2024.
 - 7.4. Explain the continued risk of unlawful activity against the HS2 Scheme by activists and the need for extension of the Injunction.
8. As indicated, I have described unlawful activity against the HS2 Scheme by activists up to 06.02.2024. I have had to draw the line at that date because it has

proved very difficult to finalise a statement which tries to be precisely up to date as there continue to be incidents and developments.

Defendants to these proceedings

9. The rationale for who the Claimants originally named as Defendants to the proceedings was set out in Dilcock 1 (paragraphs 42 to 43). 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. As explained in Dilcock 11, further individuals were added as named Defendants to these proceedings as part of the Cash’s Pit Contempt proceedings.
10. Further Defendants were removed from the proceedings during the review of the Injunction in 2023 and for the reasons explained in Dobson 1.
11. The Claimants continue to 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.
12. The Claimants propose removing the following individuals as named Defendants to these proceedings for the reasons set out in the table below. Those removed will remain bound by any further Injunction made by the court in these proceedings against persons unknown.

Defendant Number	Name	Reason for removal
5	Mr Ross Monaghan (aka Squirrel / Ash Tree)	No evidence of continued involvement in unlawful direct action
6	Mr James Taylor (aka Jimmy Knaggs /	No evidence of continued involvement in unlawful direct action. Comments made on

Defendant Number	Name	Reason for removal
	James Knaggs / Run Away Jim)	social media evidencing lack of continued intention to disrupt the HS2 Scheme (page 3).
7	Ms Leah Oldfield	No evidence of continued involvement in unlawful direct action or continued intention to disrupt the HS2 Scheme.
22	Mr Tristan Dixon (aka Tristan Dyson)	No evidence of continued involvement in unlawful direct action as currently imprisoned. Sentenced to 23 months imprisonment for conspiracy to damage property on 26.06.2023 following involvement in pro-Palestine direct action.
27	Mr Lachlan Sandford (aka Laser / Lazer)	Convicted of aggravated trespass on 01.08.2023 for his part in the occupation in 2021 of the tunnels dug beneath land required for the HS2 Scheme at Euston Square Gardens. Sentenced to 2 months in custody suspended for 12 months. He is no longer actively engaged in direct action against the HS2 Scheme.
28	Mr Scott Breen (aka Scotty / Digger Down)	Convicted of aggravated trespass on 01.08.2023 for his part in the occupation in 2021 of the tunnels dug beneath land required for the HS2 Scheme at Euston Square Gardens. Sentenced to 3 months in custody suspended for 12 months. He is no longer actively engaged in direct action against the HS2 Scheme.
33	Mr Elliott Cuciurean (aka Jellytot)	Committed to prison for 268 days following a finding of contempt for breach of the injunction dated 11.04.2022 imposed in these proceedings and released in February 2023. Since his

Defendant Number	Name	Reason for removal
		release he has not engaged in direct action against the HS2 Scheme.
36	Mr Mark Keir	No evidence of continued involvement in unlawful direct action or continued intention to disrupt the HS2 Scheme.
39	Mr Iain Oliver (aka Pirate)	No evidence of continued involvement in unlawful direct action or continued intention to disrupt the HS2 Scheme.
48	Mr Connor Nichols	No evidence of continued involvement in unlawful direct action or continued intention to disrupt the HS2 Scheme.
57	Ms Samantha Smithson (aka Swan / Swan Lake)	No evidence of continued intention to disrupt the HS2 Scheme.
58	Ms Jack Charles Oliver	No evidence of continued involvement in unlawful direct action or continued intention to disrupt the HS2 Scheme.
59	Ms Charlie Inskip	No evidence of continued involvement in unlawful direct action or continued intention to disrupt the HS2 Scheme.

13. It remains open to these individuals to object to the Claimants' proposal to remove them as named Defendants, in which case the Claimants will agree to them remaining as named Defendants.

14. The remaining named Defendants are all considered to still present a threat of unlawful action against the HS2 Scheme. They have continued to participate in anti-HS2 activity, or to issue threats against the HS2 Scheme or to participate in unlawful direction action against other targets. In the latter cases, it is clear that these individuals are still prepared to engage in unlawful behaviour, and it is considered that were it not for the Injunction, they would engage in that

behaviour targeting the HS2 Scheme, given their previous conduct. Further information around this is set out in the following paragraphs.

- 14.1. D16 - Ms Karen Wildin. D16 has been actively engaged in direct action campaigning against the HS2 Scheme for a number of years. More recently she has been involved in direct action campaigning with Palestine Action and Just Stop Oil (“JSO”) (see **pages 4 to 13** by way of example) and has continued to make her position on unlawful direct action unequivocally clear. For example, in a post on Facebook on 23.09.2023, she stated (quoting encouragement to break the law issued by campaigner Chris Packham in a documentary that aired on Channel 4 on 20.09.2023) (**page 13**):

“What did a well know environmentalist say ?

‘Is it time to break the law ?’

Who is gaining what from being law abiding and putting up with climate and ecological collapse , the cost of living crisis etc etc ...??? Public money in its Billions wasted on a so called green HS2 , £2.4million a day subsidising DRAX to cut down the worlds trees for so called green energy... and in Leicestershire more road expansion with the Expressway.

Bankruptcy across public authorities nationwide...

We don’t like disruption ?

Do we prefer total climate and societal collapse ?

Short term disruption to prevent long term total climate , ecological and societal breakdown. Rise up !!

Take direct action

First they came for (a, b, c...)

Then they came for me’

(Martin Niemoller)

Community and solidarity over Individualism and self interest

Join the resistance !

Try juststopoil.org

Try your union

Take action !!”

In September 2023 she visited HS2 Scheme sites at Lea Marston, Water Orton and Fradley, subsequently posting a number of videos and images to her personal Facebook page and the Stop HS2 and Stop HS2 Staffordshire Facebook pages (further details are set out in the table at paragraph 19 below). The visits are believed to have been for reconnaissance purposes. Upon her initial social media post on 14.09.2023, D16 commented as follows (**page 14**):

“As a people us Brits are too obedient. People will not protest with their feet on the ground. This nightmare along with the Cost of Living Crisis and Climate and Ecological Breakdown is the responsibility of the masses as well as the responsibility of corrupt politicians and business and media tycoon”

Commenting on images she had taken and posted of the HS2 Scheme sites in Fradley on 15.09.2023 she said (**page 18**):

“Jan Don Elson this is what is odd.... when you witness how much is in place already around Water Orton and Coleshill. Maybe a few protests would help ensure it doesn't go ahead ..”

The Claimants consider that she remains a threat and should remain as a named Defendant.

- 14.2. D17 – Mr Andrew McMaster (aka Drew Robson). As described in Dobson 1, D17 was a resident at the unauthorised encampment on the Cash's Pit Land and instrumental in leading a series of direct actions targeting the HS2 Scheme from that encampment. He then relocated and founded the encampment at Closepit Plantation. D17 is a multi-cause activist and has been involved in direct action activism against the HS2 Scheme for a number of years. He has also been involved in direct action activism with the group Palestine Action (to which he returned following the imposition of the Injunction) and participated in the Kier Ends Here direct action against one of the First Claimant's contractors that is constructing a prison at HMP Full Sutton in January 2023. D17 has been actively engaged in direct action activism with the group Palestine Action since the last hearing and was arrested and is being prosecuted for aggravated trespass in one such action in November 2023 (**pages 19 to 21**).

D17 has continued to advocate for unlawful direct action against the HS2 Scheme. For example, on 02.10.2023 he posted the following to his personal

Facebook page, the Stop HS2 Facebook group and a number of other Facebook groups (**page 22**):

“HS2 NORTH CANCELLED!!!

Mixed feelings BUT mostly happy!

Sad because of the damage that HS2 has already done, but happy that it appears they are pulling out of anything North after Birmingham.

Stop HS2 (was and still is) a massive part of my life, that I will remember with great fondness.

Trying to protect ancient woodland's, waking up to the sound of felling and then hearing 100+ year old trees hitting the floor while the wildlife living in the area fled with horror.

I watched my friends (locals and StopHS2 activists) get beaten, injuncted, arrested, robbed, kidnapped and imprisoned..to me, you are all heroes!

The tunnelers below the woodland, the tree occupiers, the lock-on-ists ALL of YOU should be proud!

So many memories and so many friends who mostly I now consider as family.

Let's take a minute to think about all the people that have lost their homes, businesses, green spaces and memories. Let's think about all those ecosystems that have been obliterated and replaced with a pointless vanity project!

HS2 fuck you.

Carl Harrison and HS2... Drew AKA Arnie or D17 is smiling right at you...and yes, I'll still be back 😊

Comrades I love you all!

Also, big shout out in solidarity with #stopthetink who came to our aid when the shit hit the fan and we were sieged in by the bailiffs!

#StopHS2

Credit to the photographers that took shit of bailiffs, carrots and HS2'S private security dogs.

Your help and determination to highlight our cause is priceless.

Thank you to Mo, Martin and Debbie for your efforts 📷📸📱📹🗣️.

The fight continues.”

The Claimants consider that he remains a threat and should remain as a named Defendant.

- 14.3. D20 – Mr George Keeler (aka C Russ T Chav / Flem). D20 has been engaged in direct action campaigning against the HS2 Scheme and with Palestine Action since 2021. D20 was one of the activists present in the tunnels at the HS2 Land at Small Dean (see Jordan 1). On 31.01.2023 he was pictured on top of a tripod during the Kier Ends Here direct action campaign outside of HMP Full Sutton (see Dobson 1). D20 is part of a small group of anarchic multi-cause activists who were formerly resident within and occupied tunnels under an unauthorised encampment on HS2 Land at Small Dean in Wendover (see Jordan 1). D20 and D63 (as to which see further below) were prosecuted in connection with the tunnel occupation and on 24.5.2023 amended their pleas to guilty to obstructing or disrupting a person engaged in lawful activity part way through trial and were given a 12 month conditional discharge. D20 has been actively engaged in direct action activism with the group Palestine Action since the last hearing and was arrested for assault of an emergency worker and aggravated trespass alongside D17 in one such action in November 2023 (**pages 19 to 21**). D20 therefore remains actively engaged in direct action campaigning and there remains a risk that he will return to engaging in such activity against the HS2 Scheme. The Claimants therefore consider it appropriate that he remains a named Defendant to these proceedings.
- 14.4. D63 - Mr Dino Misina (aka Hedge Hog). This individual also uses the pseudonyms “Sascha James”, “Sasha James”, “Sascha the Hedgehog” and “Log”. D63 was an occupant of the tunnels under HS2 Land at Small Dean in Wendover and he was a resident at Closepit Plantation in May 2022. On 31.01.2023 D63 was pictured on top of a tripod during the Kier Ends Here direct action campaign outside of HMP Full Sutton (see Dobson 1). D63 was prosecuted alongside D20 in connection with the tunnel occupation at Small Dean (see above). He continues to be part of a small group of anarchic multi-cause activists opposed to the HS2 Scheme and the Claimants therefore consider it appropriate that he remains a named Defendant to these proceedings.

- 14.5. D64 - Mr Stefan Wright (aka Albert Urtubia). D64 was found in contempt on 27.07.2022 in his absence for breaching the Cotter Order by occupying tunnels under the Cash's Pit Land for 46 days. D64 was committed to prison for 336 days and a warrant issued for his arrest. His current location remains unknown and he has yet to serve his sentence. The Claimants consider it appropriate that he remains a named Defendant to these proceedings.
15. The Claimants are also seeking to add one individual as a named Defendant to the proceedings: Curtis Arnold (aka Daniel J Edwards; Curtis Media; DJE Media; DJE PINAC) as D69 ("D69"). As set out later in this statement, this individual has engaged in unlawful action disrupting and stopping works on the HS2 Scheme, causing loss and damage to the Claimants and which may not be currently prohibited by the Injunction.

Incidents and events since 17.03.2023

16. Since 17.03.2023 (when the narrative of incidents in Dobson 1 concluded), there have been no major direct action activist events or incidents targeting the HS2 Scheme that have resulted in delay of works by more than around an hour. Most of the remaining named Defendants have continued to campaign against other causes and have not undertaken action against the HS2 Scheme. There is direct evidence from activists that the reason the disruption to the HS2 Scheme has ceased is the deterrent effect of the Injunction, for example, one former occupant of the anti-HS2 encampments posted the following on social media (**page 23**):

"When I took this foto ov #HS2(sic) Curzon Street, The carrot Security shit himself and nearly had a heart attack, when he saw me.



I said "Don't worry mate, I'm not gonna do any activism on you today, the damage haz already been done. Am just taking fotos".

We laughed, and laughed and I god blessed him and wished him a good day.

Fuck am I going against that HS2 super injunction. Not one person cares from #StopHS2. Their words about wellbeing are bullshit"

17. Where incidents have occurred, they have been isolated, lacked support and been short lived. For example, when appeals for support to prevent de-vegetation in Calvert were made on social media (as described in the incident table below) and 2 children entered the worksite, not a single activist came to support them. Typically, when individuals have been informed about the Injunction, they have ceased their action, as seen at the Unite action at Old Oak Common and a lone local demonstrator at Washwood Heath (both incidents are described in the table below). There have been a small number of incidences of property damage and vandalism, as individuals have sought to harm the HS2 Scheme, but these have remained isolated.
18. The HS2 Scheme continues to see minor incidences of random trespass to land, but these have not impacted upon works, and individuals have been simply escorted from the worksite. However, following increasing media attention upon property acquired by the Second Claimant for the purposes of the HS2 Scheme, particularly in Phase 2a, the HS2 Scheme is increasingly seeing incidences of unlawful occupation of property by urban explorers and individuals and groups with affiliation to environmental activism or anti-HS2 groups. It is anticipated this “interest” will continue and the Injunction remains an important deterrent to escalation of this type of action.
19. I have set out brief details of the more significant incidents that have occurred since 17.03.2023 in the table below:

Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss
21.03.2023	Breaking and entering, damage to property and trespass	3 Urban explorers entered a hotel owned by the Second Claimant on Gilson Road in Coleshill streaming live to the “Mr Airborne” Facebook account (screenshots at pages 23 to 24).	Grimstock Hotel, Gilson Road Coleshill, Birmingham	Forced access to building causing damage and resulting in deployment of mobile security.

Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss
				Site has subsequently required additional security at cost to the Claimants.
31.03.2023	Trespass, theft and damage to property and perimeter fencing	<p>At around 08:00 hrs the First Claimant was informed that a number of persons unknown with around 10 caravans and associated vehicles forced access to land owned by the Second Claimant.</p> <p>A security team was deployed to the site and the trespassers were asked to leave and informed that security would be positioned just outside the car park they had occupied. Security also deployed to prevent further entry to the buildings on the site.</p> <p>A stand-off ensued, which lasted the whole day until the trespassers finally left around 18:00hrs (photographs at pages 25 to 26).</p>	Saltley Business Park, Birmingham	<p>Significant mobilisation of security officers (36 at the height of the incident).</p> <p>Damage to the perimeter fence and buildings on the site.</p> <p>Theft of copper pipe.</p>
10.05.2023 07.06.2023 12.06.2023 20.06.2023	Trespass, assault and damage to property	A property belonging to the Second Claimant was unlawfully occupied by a group called the “Universal	Whitmore Heath	Extensive and costly enforcement and

Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss
	perimeter fence and gates.	<p>Law Community Trust”, whose members identified as “Emovens”.</p> <p>The group threatened County Court bailiffs attempting to repossess the property with a wooden staff and threw rocks.</p> <p>On 07.06.2023 the property was repossessed under a High Court writ.</p> <p>On 12.06.2023 2 persons unknown believed to be from the same group returned to the property and threatened and threw a brick at security officers.</p> <p>On 20.06.2023 a person unknown believed to be from the same group threw a rock at the windows of the property.</p> <p>On 05.09.2023 2 persons were arrested after cutting the chain from the gates of the property and entering the grounds in a vehicle with a false VRN.</p> <p>These incidents are covered in more detail at paragraphs 21 to 35 below.</p>		subsequent security operation to protect property from further trespass. Damage to property and perimeter fence and gates.
28.05.2023	Assault, trespass and disruption to works	A local male, who had previously trespassed upon the site and assaulted security officers in November 21 and May 22, (see Dobson 1) entered a road closure area and proceeded to assault	Old Oak Common Road, London	Works were prevented for a period of around 30 minutes.

Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss
		<p>security officers who had tried to prevent him walking into the working area, shoving, punching and headbutting the security officers and using abusive homophobic language. The Police were called and attended (stills from video footage of the incident at pages 27 to 28).</p>		
01.07.2023	Trespass and damage to property	<p>Upon their return to work after the weekend, staff found wiring and piping had been vandalised on the site. Safety rails and mirrors on plant machinery had been damaged making them inoperable. The words: “HS2” and “slut” had been crudely sprayed on plant machinery. (photographs at pages 29 to 36).</p>	Westbury Viaduct, Nr Brackley	Delay of half a day to ground works and damage to plant and equipment.
08.08.2023	Trespass	<p>3 children entered the works area where de-vegetation was being undertaken and started setting up a small campsite. The children’s parents were spoken to by site security and the children left the site. Appeals to activists to get involved were made on the StopHS2 Facebook page (pages 37 to 38).</p>	Calvert, Buckinghamshire	Delay to de-vegetation works.
13.08.2023	Trespass	2 persons unknown were	Halse Copse,	Plant had to

Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss
		recorded on CCTV entering a plant storage area on HS2 Land by lifting up the fencing and crawling beneath. They proceeded to interfere with plant machinery but no damage or theft occurred (CCTV stills at pages 39 to 41).	South of Greatworth, Oxfordshire	be checked for issues relating to tampering before use to ensure that no safety issues had been caused by the trespassers.
15.08.2023	Trespass	A male was found naked within an HS2 worksite by the mobile security patrol. He explained he had been naked rambling. The male was escorted from the worksite (photograph – after he had dressed - at page 42).	Turweston Cutting nr Brackley	Mobile security patrol deployed at cost to the Claimants.
25.08.2023	Obstruction of access	A local resident blocked access to the site refusing to allow vehicles to access or egress from the site. The individual was informed of the Injunction and given a copy. Shortly afterwards, he left the gate (photograph at page 43).	Washwood Heath, Birmingham	Obstruction of access to site.
12.09.2023	Trespass	D16 and a person unknown travelled to several of the First Claimant’s sites, entering onto HS2 Land to take photographs which were subsequently posted on social media (pages 44 to 45).	Rugby Rd, Hunningham; Fosse Way, Long Itchington; Stoneleigh, Warwickshire; and Balsall	None, but believed to have been a “recce” related to the planning of potential future action.

Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss
			Common, Warwickshire	
13.09.2023	Trespass	D16 entered onto HS2 Land at the entrance to the HS2 sites at Lea Marsden and Water Orton. No disruption was caused (see pages 45 to 48).	Water Orton and Lea Marston, Warwickshire	None, but believed to have been a “recce” related to the planning of potential future action.
14.09.2023	Trespass	D16 and a person unknown visited sites in and around Fradley and Wood End Lane (pages 49 to 53).	Fradley and Wood End Lane, Staffordshire	None, but believed to have been a “recce” related to the planning of potential future action.
02.10.2023	Trespass and damage to property	Upon arrival at the site on Monday morning staff discovered that fire extinguishers had been discharged and foam was strewn across the site (photographs at pages 54 to 55).	Addison Road, Calvert	Replacement fire extinguishers required. Approx 1 hr of site clean-up.
08.10.2023	Trespass	A group of Urban Explorers called “Urban Exploration Brothers UK” entered a property owned by the Second Claimant and posted images online (pages 56 to 57).	Drayton Lane, Tamworth	Property required checking and re-securing.
15.10.2023	Trespass	A group of urban explorers trespassed upon several properties owned by the Second Claimant and took photos and posted online.	Whitmore Heath, Whitmore	Mobile security teams deployed to check on all

Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss
		<p>The posts, including 53 photos, were shared to 5 urban exploring groups, which may encourage others to trespass on the Claimants' property. The group who made the original post, Peaky Explorers, has 10,000 followers (screenshots at pages 58 to 59).</p>		properties.
26.10.2023	Trespass and damage to property and endangering contractors	<p>At 22:55 11 fireworks were fired toward the security officers within the cabin on HS2 Land at the Leather Lane crossing point near Great Missenden. The fireworks appear to be launched from HS2 Land. The incident was recorded on CCTV, stills from which are at pages 60 to 64.</p>	Leather Lane Great Missenden	Additional mobile security patrols deployed and in consequence not available for mobile patrolling.
02.11.2023	Obstruction of access	<p>At 10:30 5 members of Unite the Union carrying flags, banners and a megaphone attended the front gate of the HS2 site at Old Oak Common Road. The group proceeded to block vehicular access to the site. Onsite security informed them of the Injunction and a member of the group took a photo of the Injunction. At 10:34 an Aggregate Industries vehicle was unable to access the site due to obstruction of the entrance</p>	Old Oak Common Road, London	Obstruction of access to site.

Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss
		by the group. At 10:47 the group departed saying they would be back at various times of the day. The group have not returned to this site (photographs at pages 65 to 67).		
14.11.2023	Trespass	A farm property owned by the Second Claimant was entered by urban explorers and photographs posted on social media (page 68).	Swynnerton Staffordshire	Property required checking and re-securing.
22.11.2023	Obstruction of access	A group of 13 activists from Unite the Union blocked the access road to an HS2 Scheme logistics hub site (Facebook post at pages 69 to 70).	Channel Gate Road, Nr Old Oak Common site, London	Obstruction of access to site.
26.12.2023 to 10.01.2024	Trespass and disruption to works	D69 has flown a drone over multiple HS2 sites resulting in disruption to works in some locations. These incidents are described in more detail at paragraphs 41 to 62 below.	Multiple (see paragraph 48 below)	Delay to works.
29.12.2023	Property damage	A solar powered CCTV camera was discovered vandalised with the solar panel found broken (photograph at page 71).	A418 Oxford Road, Aylesbury	Solar panel replacement taking half a day and cost exceeding £2,000.
22.01.2024	Trespass	Urban Explorers from a group calling themselves “Night Terror TV” entered onto the HS2 site at Birmingham Interchange.	Birmingham Interchange Station site	Disruption whilst trespassers were removed

Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss
		They were subsequently escorted from site by site staff (screenshot at page 72).		from site.
23.01.2024	Trespass	Property owned by the Second Claimant trespassed upon by Urban Explorers under the handle “Dark Explores” (screenshots at pages 73 to 74).	Drayton Lane, Tamworth	Property required checking and re-securing.
06.02.2024	Trespass, obstruction of access and assault	Social Media Auditor calling himself “DJ Audits” conducted drone flight over HS2 site at 13:05. Then at approximately 13:40 entered the site entrance, antagonized security officers and when asked to leave struck a security guard 5 times before leaving the area on a bicycle (stills from security footage at pages 75 to 77).	Victoria Road, London	Assault of security guard. Access temporarily blocked whilst individual was in site entrance.

20. In addition to the summaries in the table above, I have provided some further detail about some of the incidents in the section below.

Whitmore Heath violent trespass

21. In late 2022 (and initially unbeknown to the Claimants) a group calling themselves Universal Law Community Trust (“ULCT”) took occupation without consent of a property owned by the Second Claimant in Whitmore Heath on Phase 2a of the HS2 Scheme. ULCT is a group with members across the world with an ideology based on the “Freemen of the Land” or “Sovereign Citizen”

ideologies. The group does not recognise UK law and promotes its own interpretation of the law. They offer to “buy” debt from debtors, claiming to take on the burden in exchange for “kindness tokens” or “credits” (under which debtors perform services for the group) and a tribute type system of an annual payment of a percentage of the debt allegedly “bought”. Members of the group become self-styled Minister “Emovens” and renounce their given name (or as ULCT term it “slave name”) in favour of the title: “Emoven” followed by a number. Screenshots from the ULCT website are at **pages 78 to 79** and the group are active on social media with 13,000 followers on Facebook (screenshot at **page 80**). Posts and documents written by the group are difficult to read as they use a language that they call legalese or “quantum grammar”. They write in this style frequently to deliver incantations to followers of the group.

22. The group has links to environmental activism and members of the group occupying the Whitmore Heath property made a number of anti-HS2 posts on social media and engaged with anti-HS2 groups on Facebook following their occupation of the property for example (**pages 81 to 84**):
 - 22.1. On 11.03.2023 a group member commented on another post on the Stop HS2 Staffordshire page: *“I’ve submitted a TR1 at the land registry transferring ownership of a HS2 property to myself using ULCT’s SPC over Her Majesty’s Government. HS2 then have no rights to touch it. I suggest everyone does the same and we stop this ridiculous money laundering scheme destroying our countryside”*
 - 22.2. On 16.05.2023 a group member shared a post by HS2 Rebellion on Facebook with the comment *“where are the “protectors” of this rock of light..... are we all psyopsed by the state”*.
 - 22.3. On the Stop HS2 Facebook Page on 17.05.2023, a group member posted: *“A property on the pathway of HS2 has been acquired by the universal law community trust and its garden is stunning full of trees around 400 years old ,the deer graze locally and come to the garden daily along with the rabbits , badgers and other animals it's a haven ,they wanted to spoil this. Well NO we have taken*

it back” then by the same group member on the Stop HS2 Staffordshire page on 17.05.2023: “I can't believe what they are doing 🤔 this beautiful ancient wood land and garden they are trying to destroy. i have shared a Few posts into this group for you”

23. On 10.05.2023 when a County Court Bailiff, supported by specialist security officers from the First Claimant, attempted to take possession of the property they were met with threats and violence from a group including a person who identifies as “Emoven 128” and also uses the social media name “Sukh Bir”. The group threw rocks at the bailiff and security team and one person was wielding a large wooden staff which was nearly six feet long. An image taken during this encounter is at **page 85**. Research on social media later showed that the group had called out for support ahead of the eviction (of which they had received prior notice from the court), including posts referring to a “BBQ the bailiff” party (**pages 86 to 87**) and a post that said:

“best bring your biggest bailiffs for the smallest warrior ever... we have the cable ties and onion saks at the ready and some nice sage for stuffing the beasts with.. email kindnesscredits@protonmail.com and book yourself a ring side seat”.

24. Due to the violence and threats encountered, the County Court bailiffs aborted the eviction attempt and withdrew, fearing for their safety. The throwing of stones was directly referred to by a group member in a Facebook post (**page 88**) on 11.05.2023:

“ve done a securitisation of asset that was going to be used in the same way a rapid test carved through the membrane of our brains the HS2 drills are carving through earths membrane layer and leaving us all unsubstantiated .. where are the HS2 protectors for this massive ancient sacred land and trees to help the refugees from the Uks reign to protect .. we have stopped them for now and its time to play your part .. share this post with every protector group and conversation group you are a member of .. we have our Ministry of Remedy Ellas stoke now open for our ministerial duties to be ministered from so take your debt slave religious belief and smash it like the High court enforcement group terrorists did with the rocks yesterday in their heads as they exemplified the unlawfulness and impotence that is man made presumption when it is pounded

against universal law. So let us know what time you would like to visit with an email and we will be performing sacred rites and ceremonies to protect and preserve our membranes aka trees ... see you all soon”

25. The Second Claimant then applied to the High Court for a writ of possession, which was granted on 06.06.2023. In the interim, the group continued to post on social media in increasingly disturbing terms. For example, at around 06:00 hrs on 25.05.2023, a member of the group using the social media handle “Seneferu Sando Brightstar” posted a video of the property to his Facebook page (**page 89**) in which he claimed that he was standing guard against any morning raids on the property. In the video he said:

“Minister Emoven here again, on the night shift its about four thirty four and we’re watching the grounds on this property which has been restored to the people. Under Universal Community Trust Law, errrm these are the grounds (inaudible) we’re here guarding this place for the people. Errm and as you can see this property is probably valued about one point four, one point five million. When we were able to fight of bailiffs, ten county court judges and various law enforcement and corrupt mobsters and they have withdrawn. Also I am walking down to the front gate now to do my first inspection of the morning only because we don’t want no early morning raids and we’re not gonna be caught off our guard. So here we are and this is the gate and err so far so good, so far so good. Camera pans around, and these are the grounds, this is just as a record. The battle is not over, we expect them to come back, but we are fortified with universal knowledge of their law and the laws that they are breaking. Because, all that is law, is not necessarily lawful so this resist will be made here today or this morning. Minister Emoven signing out.”

26. On 06.06.2023 another group account known as “Emoven Kanenas” outlined in a post on Facebook (**page 90**) that the gates to the property had now been electrified:

“Visitors to Ministry please note the gate is an electrified one as of today ..do not attempt to touch the gate or the posts as there is a risk of death due to high voltage caused by the rewiring of the damage caused by the High court bailiff

terrorists while invading childrens peace ful play time on the 10th (May at ST5 5TB ..reasonable force includes tasers apparently according to PACE”

27. These posts and the presence at the property of ad hoc weapons and an apparent willingness to use them caused significant concern to the Claimant’s security team planning the execution of the writ, an operation which involved a large number of enforcement officers supporting the High Court Enforcement Officer and Police attendance.

28. The enforcement was carried out on 07.06.2023 and I was in attendance. Upon arrival, the gates were found not to be electrified, but signs had been erected by the group claiming that the property had been taken into the possession of Big Blue Asset Management and that any person wishing to enter should call Emoven 010 (photographs at **pages 91 to 92**). Just inside the gates to the left within a tree was a raised viewing platform accessed by a step ladder. Upon entering the property, two male individuals were found on the ground floor and a male and a female on the first floor. The female was extremely animated and agitated, calling enforcement officers “mallakas” (“wankers” in Greek). She seemed intoxicated and incoherent and repeatedly stated that the enforcement was unlawful. The property was largely empty of possessions except for limited possessions of the group living there. Ashtrays were on almost every surface and the fire in the main reception room was still warm. The fire had been fuelled by green wood which it appeared was being cut from the trees lining the driveway of the property on an as-needed basis.

29. Outside the main property was a garage and annex block. In the main garage were tree branches which had been cut and were being logged into firewood. In another section of the garage a clear plastic Tupperware type container was found and I was present as this container was later indicated by a drug detection dog as potentially containing drugs. The contents of this container were passed to the Police. Bags of what appeared to be cannabis were also found and passed to the Police (photograph at **page 93**).

30. The two males from the ground floor left the property in a gold Toyota Yaris approximately 45 minutes after the start of the enforcement operation. This vehicle was later stopped by Police approximately 200m from the property, and impounded, with one person taken into custody (photograph at **page 94**). The remaining male left the property in a Silver Honda CRV. The female was walked out of the property and to the end of the drive after refusing to recognise the authority of the enforcement officers. Once removed from the property the female joined the male who had been stopped by Police in the gold Toyota. I was informed by security at the gate that the female finally left the area approximately one hour later in a taxi.
31. Intelligence gathered on the group suggested that there was a high likelihood that they would try to regain entry to the property following eviction and accordingly a security presence was maintained. On the morning of 09.06.2023 at around 06:30hrs I received footage from the security officers taken at around 04:35hrs of 4 persons walking past the property. Stills from this footage are at **pages 95 to 97**. Within this footage I was able to identify the individual using the handle “Emoven 128” and the two males who were present on the ground floor of the property on 07.06.2023. I was unable to properly identify the fourth male in the footage as he had obscured his face in this video. The footage demonstrated that the individuals who had been occupying the property remained in the area and continued to take an interest in the property, further confirming the risk of re-occupation.
32. On 12.06.2023 at around 23:15hrs security officers at the gate of the property were approached by 2 males on a moped dressed in black, wearing balaclavas. A brick was thrown at the security officers and one of the males is reported to have shouted, “*you’re gonna get it later*”. The moped is then reported to have proceeded on to Common Lane and then the A53.
33. On 20.06.2023 at around 00:50hrs, a brick was thrown through the rear patio door window of the property smashing the glass whilst the security officers were inside (photographs at **pages 98 to 99**). Due to the darkness, the officers were

unable to identify the culprit. The incident was reported to the Police who later attended.

34. On 20.09.2023 at 22:56hrs 2 members of the ULCT group cut through the lock on the gate of the property and entered the grounds in a blue Saab with a false VRN. Security officers escorted the trespassers from the site. Police attended and then subsequently arrested the 2 persons for going equipped to commit burglary and criminal damage after they refused to provide their identities to the Police officers. Their vehicle was seized by Police. At 23:56 a second vehicle was identified by CCTV with 2 passengers and another trespasser was identified on CCTV wearing a balaclava, light hoodie and shorts. In total 5 persons had tried to access the property.
35. The Claimants believe that members of the group remain in the area of the property and that the property and others owned by the Second Claimant remain under threat of trespass by the group.

Urban Explorers

36. “Urban exploring” is a pastime where individuals seek to explore urban sites, derelict structures, buildings, or industrial sites to which they would not ordinarily have access. Urban explorers will often look to expose security weaknesses and force access to sites and seek to deliberately place themselves in perilous situations, recording their escapades and subsequently sharing them on social media, which may, in turn, generate an income.
37. Due to the Claimants’ considerable property holding and the prominent media profile of the HS2 Scheme, land and property owned by the Claimants in connection with the HS2 Scheme is becoming an increasingly attractive target for many groups of urban explorers. Urban explorers tend to try and retain their anonymity, often operating under pseudonyms. One such individual who calls himself “Mr Airborne” has entered HS2 land and properties on approximately 12 occasions. The First Claimant became aware of this individual following his trespass on 21.03.2023 at a hotel on Gilson Road in Coleshill owned by the

Second Claimant in connection with the HS2 Scheme. During this trespass incident, 3 persons unknown forced access to the hotel by forcing a protective steel grille open (photograph at **page 100**). They then proceeded to trespass through the hotel, livestreaming the incident to Facebook (see **page 101**). I have watched the livestream video and alarms are heard activating within the property. The First Claimant's security team was deployed to the hotel.

38. After becoming aware of Mr Airborne, I reviewed social media for other incidences of trespass by him on HS2 Scheme sites. One video was of particular concern. On 19.07.2022 Mr Airborne was filmed looking across a HS2 Scheme site at Kingsbury Road towards tower cranes, and commenting, "*there's the cranes I just tried, failed*" (**page 102**). Further examination of his profile shows how on numerous occasions he has climbed high structures and tower cranes across Birmingham (**page 103**) and nationally, with local media reporting from as far as Brighton and Hove (<https://www.brightonandhovenews.org/2024/01/09/urban-explorers-on-hospital-roof-spark-police-op/>) (**pages 104 to 106**). It is clearly a significant health and safety concern for individuals to attempt to climb cranes on site and presents a risk of serious injury or death in addition to delay to works and in general, reported incidences of untethered urban explorers falling to their deaths or suffering serious injuries are becoming more frequent (example at **pages 107 to 109**).
39. Following Mr Airborne's lead (he has over 150,000 followers on Facebook as shown in the screenshot at **page 110**), several other groups and individuals have started to trespass to "explore" HS2 Scheme sites. On 15.10.2023 a group of individuals entered a property owned by the Second Claimant in Whitmore Heath, Staffordshire and recorded images from inside. They also tried to access a number of other HS2 Scheme properties. Their exploration was posted to the Peaky Explorers page which has a following of 11,000. The post was also shared to 38 other urban exploring pages on Facebook (screenshot of the post at **pages 111 to 116**).

40. The Claimants are of the view that the Injunction has so far stopped this issue from becoming an epidemic and that continuation of the protection of the Injunction is required in order to keep dangerous urban exploration activity on HS2 Scheme land and property under control.

Drone Operators and Social Media Auditors

41. Whilst arguably trespass to the airspace above HS2 Land, the Claimants do not have difficulty as a matter of principle with drone flight over HS2 Land, nor do they seek to prevent it. Many drone operators seeking to fly over HS2 Land are engineering or railway enthusiasts whose actions are driven by a desire to see how the project is progressing. In the flying of their drones, they do not cause any interference to the HS2 Scheme works or present any specific safety concerns. The First Claimant often engages with such individuals to provide further information about the ongoing works on the project and to share more widely some of the footage obtained.
42. Recently, the HS2 Scheme has increasingly come under the spotlight of public interest and social media so called “auditors”, which is of concern to the Claimants. These individuals follow a trend originating in the USA where “citizen journalists” enter sites to conduct “audits” exercising their purported first amendment rights. The footage recorded is then shared broadly on social media for revenue generation. Often the auditors will actively seek confrontation with security staff or police, with the intent of generating as many views for their online content as possible, hoping their content will “go viral”, which increases their income from platforms such as YouTube and TikTok.
43. Social Media Auditors favour the use of “toy drones” which weigh less than 250g as they are effectively not bound by Civil Aviation Authority (“CAA”) regulations, which restrict the proximity to people, property and structure to which drones may be flown. Drones above this weight must not be flown within 50m of people or 150m of property without appropriate consents. However, for drones below 250g there are no pilot registration requirements and very few statutory limitations on where they may fly. The CAA has issued a non-binding

Drone and Model Aircraft Code which provides guidance stating that pilots should “*Check for any tall structures, such as cranes, masts and wires*” and advising that pilots “*Do not fly if there are structures in the area that will mean it’s not safe or legal*” (<https://register-drones.caa.co.uk/drone-code/where-you-can-fly>). That guidance is not always followed and there is little from an aviation regulatory perspective that the Claimants can do to prevent an individual recklessly flying over their worksites, regardless of delay, disruption or safety concerns.

44. Unplanned, low level drone flights over HS2 sites pose obvious safety issues, especially on sites where cranes are operating on a daily basis:

- (a) Risk of collision with a crane or cable causing the drone to fall to the ground potentially injuring staff or visitors upon the site.
- (b) Passing in the field of vision of the operator of a tower crane or other plant or striking the operator’s cab distracting that operator’s attention and control of the crane.

In order to avoid the risks involved, works on site are stopped when unauthorised low level drone flights take place.

45. In addition to the obvious safety issues arising from reckless unplanned flights over HS2 sites, the cessation of lifting activities invariably has a schedule and cost impact. The risk is particularly acute for time-critical works undertaken during road closures or rail blockades, where there may be fines for delays or whole work packages may have to be delayed until the next closure period.

46. D69 is a self-styled “auditor” with a YouTube channel: @DJEMedia88 (<https://www.youtube.com/channel/UCc4CKDn37WDjhy-MF3eqjFw>) and also generates content on Tik Tok. Both platforms are revenue generating for D69. D69 achieved national infamy as the “Tik Tok sleuth” (see newspaper article at **pages 117 to 122**) during the search for Nicola Bulley in January and February 2023, culminating in an incident where he entered a police cordon to record the recovery of her body.

47. In December 2023, D69 began flying a small drone (a DJI Mini 3 Pro which weighs 249g) with a camera over HS2 Land. Initial flights were conducted during a period of site shut down over Christmas and did not cause any disruption. Post-Christmas the flights have persisted and have begun to disrupt HS2 Scheme works on HS2 Land. D69 has engaged in behaviour that appears to be deliberately designed to antagonise security staff working at HS2 Land and has persisted in flying his drone over active HS2 Scheme sites in a manner that interferes with works and endangers safety and despite having been advised of this and asked to desist. He uploads the video footage he takes to his YouTube channel and to Tik Tok and has explicitly stated that his motives for his actions are financial. For example, in a video recorded at the HS2 Scheme site at Old Oak Common on 26.12.2023 and uploaded to his YouTube channel he stated (at 00:07:13): *“I’ve come here to make money today, I’ve come to make money on a video”* (page 123). Furthermore, in the live chat which runs alongside YouTube videos D69 seems to almost take pride in the fact that the *“drone is causing people massive issues”* (page 124).
48. The First Claimant has recorded 12 drone flights by D69 over HS2 Land as follows (I have plotted the locations of the flights onto maps at pages 125 to 126):

Date	Location	Summary
26.12.2023	Old Oak Common, London	Attended HS2 site at Old Oak Common Road and antagonised security officers. Conducted 2 flights over the site at high and low level (lower than tower cranes). D69 was subsequently given a copy of the Injunction.
26.12.2023	Old Oak Common (Victoria Road), London	Following his flight at Old Oak Common Road, D69 moved to the Victoria Road site and proceeded to fly his drone at low height in failing light over the site.
29.12.2023	Adelaide Road Vent Shaft, London	Conducted a single flight of 30mins over the site.
29.12.2023	Xavier House,	After talking to security D69 launched his drone

Date	Location	Summary
	London	from the public footpath and conducted a flight of around 20 mins over the railway lines at London Euston.
03.01.2024	Curzon Street, Birmingham	2 flights were conducted for at least 40 mins. Flight take-off and much of the videos were taken on land held under temporary possession by the First Claimant in the site entrance. Cranes stopped working and site manager and general foreman specifically told D69 this was the case and was due to safety issues presented by his drone.
04.01.2024	BBV South Portal, Long Itchington, Southam Warwickshire	D69 walked onto land held by the First Claimant under temporary possession at this site and up to the gate. A staff member told him that he should not fly as there were cranes in operation on the site. D69 then proceeded to launch his drone from the temporary possession land and to fly over the site.
04.01.2024	BBV North Portal, Long Itchington, Southam Warwickshire	Flights were around 30 mins over the HS2 site. D69 was repeatedly informed that works were being stopped due to his drone flight.
05.01.2024	Balsall Common, Solihull, West Midlands	D69 walked onto the site in order to speak to security staff prior to flying his drone over the site at low altitude. He was informed that the Injunction was in force and then launched his drone from the bell mouth outside the site entrance. His flight was initially low and then moved to higher altitude flying deeper into the site. Flight was approximately 20 minutes.
05.01.2024	Chipping Warden, Northamptonshire	After walking along the A361 and filming the site from the perimeter fence D69 launched his drone from beside the site entrance which is positioned on GVD land. D69 flew across the site identifying plant storage areas. Flight time was under 30 mins.
09.01.2024	Washwood Heath, Birmingham	D69 was informed by staff accessing the site that he should not fly over the site. He was also informed by site staff that if he flew works would stop and

Date	Location	Summary
		that authorised flights are normally conducted at weekends. D69 then proceeded to conduct a flight over the site for approximately 15 minutes flying in close proximity to 2 cranes.
10.01.2024	Moorhall Road, Harefield, Uxbridge	D69 conducted flights for over an hour. His edited footage was 1hr 20 mins in total. During the flight he was restricted to flying below 45m due to the proximity to Denham Aerodrome. This meant much of the flight was just above deck height on the viaduct being constructed as part of the HS2 Scheme. D69 was informed that his drone is causing a safety hazard and disrupting a major transport project by security officers.
10.01.2024	Rocky Lane, Wendover	D69 launched his drone from Rocky Lane crossing beside a pylon, he then flew south towards the cranes constructing Wendover Dean Viaduct. The flight was around 20 minutes in total. D69 was repeatedly told he should not fly in the vicinity of the cranes.

49. Due to the sheer volume of visits, and considerable length of videos recorded and uploaded to You Tube, I have only described 2 incidents in detail in the following paragraphs, in order to illustrate the issues that D69's activities present for the Claimants, their contractors and the HS2 Scheme. I have viewed the videos of all the above listed incidents. A common theme in all videos is that D69 approaches staff at the front gate of the sites, he is initially quite personable but will look to increasingly antagonise staff, as the following examples show.
50. Whilst it is unpleasant and undesirable for staff and contractors to be antagonised as they go about their work and the Claimants would wish to prevent it, the most significant concern for the Claimants is that the low flying of the drone over active HS2 sites presents a risk to works and to health and safety. D69 has been flying the drone at heights as low as c.20 to 60ft over sites with cranes in operation, creating a risk that a crane will strike the drone and that it will

subsequently fall and cause injury to those working below or that the crane operator will be distracted and that an accident will ensue. In order to mitigate the risk, the Claimants' contractors have to suspend crane movements whilst the drone is over a site, causing delay to works. D69's presence, interactions with staff and invasive drone flights have resulted in delay and disruption at HS2 Scheme sites at Curzon Street and the North Portal of the Long Itchington Wood tunnel near Southam. D69 has repeatedly been informed that the presence of his drone can stop works, including at Curzon Street 03.01.2024, Long Itchington North Portal 04.01.2024 and Washwood Heath on 09.01.2024.

51. D69 disrupted lifting operations and works at Curzon Street in Birmingham for approximately one hour on 03.01.2024. D69 recorded his interactions with staff, and flights above the site, publishing the video to YouTube on 09.01.2024 (<https://www.youtube.com/watch?v=y85e24f8O04>). As at 21.01.2024 the video had received in excess of 57,000 views. A summary of his visit and the video is below. Time stamps referenced in this description are to sections of that video.
52. Upon approaching the site gate, which is located on HS2 Land covered by the Injunction, D69 (at 00:00:55) identified a copy of the Injunction and touched it, saying "*we've got the same court injunction here*". A security officer challenged D69 (at 00:15:44), telling him: "*you can't fly your drone over, they'll call people*". D69 responding stating his intention to go ahead anyway: "*that's what I'm telling you, I am going over, I've got to mate*". D69 then launched his drone from the site entrance (see still at **page 127**) and the video footage switched to the drone's on-board camera. A voice from a member of the HS2 site team off screen can be heard saying (at 00:16:38): "*eh mate watch out for that gate, we've got wagons coming in 'n' out here*".
53. During his second flight (at 00:26:18) after changing the drone battery D69 flew at a lower altitude close to the tower cranes on the site (still at **page 128**). As a result, for safety reasons to avoid the risk of striking the drone and it falling and injuring someone, the tower cranes had to stop working, delaying works on the site. At 00:33:40 the drone begins to descend quickly to a lower altitude and by 00:33:44 the drone can be clearly seen below the operating height of the tower cranes (still at **page 128**). At 00:33:46 the drone is at the height of the Curzon

viaduct deck, which is just 20 feet (6 metres) high (still at **page 129**). At 00:36:40 the drone descends lower still, filming the site manager walking to the gate (still at **page 129**). D69 remarks, *“why do I get a feeling, that guy there is gonna come and talk to us, I don’t know, I just get a feeling”*. The site manager approaches D69 and says (at 00:37:27), *“you can’t fly inside the site, you can crash with the cranes, there’s cranes moving, there’s lifting equipment”*. D69 responds *“I’m not going to crash into cranes am I, I’m a pilot”*. The site manager responds, *“I cannot control that”*. D69 states *“you can’t control what I do, if I crash it that’s me, that’s my problem”*. The site manager then responds, *“yeah but this is my site, and I’m responsible for everything that goes on and what happens”*.

54. D69 goes on to mock the site manager, boasting about having flown all over the site and the site manager again requests that D69 does not enter the site with the drone again. By this point the battery on the drone is running low and there is an audible beeping indicating that the battery is below 15%. The fact that the drone battery is this low is of particular concern. D69’s drone has a “return to home” function (<https://www.droneblog.com/dji-mini-3-pro-return-to-home/> - an extract from this website is at **page 131**) and will attempt to return to its operator at 15% battery. At 10% battery the operator will not be able to control the drone and it will automatically return. In such instances if the drone’s return to home altitude is below the height of equipment such as cranes or structures there is a serious risk of collision as the drone will return to the take off point. D69 also explains the return to home function of his drone himself later in the video at 00:45:00.
55. The site manager continues to emphasise the safety risk to the site of flying the drone over and to request that no further flights take place whilst D69 changes the battery in the drone. The site manager explains the process for planned drone flights over the site saying, *“in order to fly drones above here, we have a special procedure, we have a risk assessment, a method statement, have people that are flying, we clear the site of people that are working, in case drones fell”*. D69 continues to mock the site manager and says, *“the thing is a saw an aeroplane fly over earlier, quite low, what’s the difference?”*. The argument is patently

ridiculous given that the minimum flight altitude over Birmingham City Centre is 5,000ft. The site manager informs D69 that he will need to call the police.

56. Once he has finished changing the batteries, D69 again launches the drone and flies it low over the site manager on the site. At 00:42:27 D69 recaps the conversation with the site manager, *"I see his point, if the drone falls it's a safety issue for him, but unfortunately it's not their problem. They can't control the airspace, let's just fly down here, to show him that we are gonna fly over the site"*. The drone is then seen flying in close proximity to the tower cranes at 00:42:52 (still at **page 130**) and at 00:43:01 the drone is right by the jib of the tower crane (still at **page 130**). D69 is approached by a site foreman who asks (00:44.10), *"what's the reason you're going low?"* D69 responds, *"I've been high, it's not the intention to be low, it just from here, you have a look, you can see everything from there, if I go too high you can't see a lot"*. The foreman then says, *"what I'm worried is the crane's gonna be up and running, that one and that one"* (pointing to the tower cranes). D69 responds, *"yeah I'm gonna move away from the crane now, got to be careful because you've got 2 tower cranes which are quite low"*.
57. D69 has now been outside the site for over 45 minutes and both the site manager and general foreman have left the site to request he doesn't fly over the site and avoids the tower cranes. D69 continues to invasively film the staff on site - at 00:48:00 he uses a zoom camera to film a conversation between the site foreman and other staff on the stairs of the site office building. Eventually, at 00:48:38 D69 lands his drone for the final time in the carriageway of Curzon Street.
58. D69 then proceeds to stand in the entrance attempting to talk to security officers, then pressing the buzzer speaking to the site administration staff, seemingly trying to ascertain if Police have been called. At 00:52:57 a mobile security vehicle arrives. D69 comments to the camera (00:54:23), *"anyway back to flying the drone, not that we are flying the drone, but we are gonna pretend to fly the drone"* referring to the security team and D69 then says at 00:54:50, *"he's gonna ask me where the drone is, and I'm gonna say the drone is in the sky. The*

drone is in the bag at the moment, but I'm gonna tell him the drone is in the sky".
This demonstrates D69's deliberate intention to cause disruption.

59. The following day, on 04.01.2024, D69 disrupted works at an HS2 site in Southam in the West Midlands. At Southam is a short tunnel beneath Long Itchington Wood with worksites at the South and North Tunnel Portals. D69 visited the North and South portals of the Long Itchington Wood tunnel that day. D69 recorded his interactions with staff, and flights above the site, publishing the video to YouTube on 05.01.2024 (https://www.youtube.com/watch?v=o8IsuHvIa_E&t=2474s). As at 31.01.2024 the video had received in excess of 40,000 views. A summary of his visit and the video is below. Time stamps referenced in this description are to sections of that video.
60. D69 was warned by site staff that flying the drone over the site could disrupt works and that he needed to apply for permission to fly. D69 disregarded the warnings and conducted two flights over the site. During the first flight a security team arrives and he says (at 00:20:27), *"Interesting and we've now got security over here you see on the Drone, it's causing a right drama, we are going to get the Drone back in a second let's just, uh let's just show you guys the security guys over here."* D69 then proceeds to fly low over the security team, attempting to antagonise them, before stopping to change the drone's battery.
61. The security team inform him (at 00:31:24) that works on site have stopped as a result of the drone flight, *"because of the drone, they have stopped working."* D69 responds, *"Why've they stopped working, that's not my problem they've stopped working."* He then says, *"Unfortunately, I'm going to take the drone back over; I have to, I haven't seen everything yet"*. The conversation continues, culminating in the security officer plainly telling D69 that if he takes the drone back over, staff will have to stop work. At 00:32:40 D69 says, *"I'm letting you know okay I am taking it back over"*. The security officer responds, *"no you can't"* and D69 responds, *"I'm taking the drone back over"*. The security officer says, *"I said you can't"* and D69 responds, *"I'm saying I can"*. The security officer reiterates the disruption to works and D69 retorts, *"that's not my problem mate I'm sorry to interrupt the workers but that's not my issue"* and says, *"so*

every time an airplane flies over do they stop work?”. D69 then proceeds to launch the drone over the site again. At 00:38:57 he says, “to be honest we didn’t need to take the drone back up, but just proving a point that we are allowed to do this activity, and we will exercise our rights to fly the drone”.

62. The Claimants seek an amendment to the Injunction to clarify that the unauthorised flying of drones over HS2 sites in such a way as to disrupt works is prohibited in order to deter further disruption to the HS2 Scheme by this activity.

Displacement of activists and unlawful direct action

63. The Injunction has provided welcome relief to the Claimants from the sustained unlawful activity targeting the HS2 Scheme that they were previously experiencing.
64. However, the Claimants are very aware that the activists who were engaged in unlawful direct action against the HS2 Scheme have not necessarily moved away from this type of activity (but have instead displaced to target other “causes”) and as a result, the Claimants adjudge that the risk of them returning to target the HS2 Scheme again remains high in the event that injunctive relief is not continued. At paragraph 14 above, I have given details of the specific position with regard to each of the named Defendants to these proceedings that the Claimants are intending to retain.
65. Following the imposition of the Injunction and the clearance of the Swynnerton Camps, several of these transient multi-cause activists moved across to and are currently engaged in other campaigns. Critically, where actions have been conducted against the HS2 Scheme care has been taken not to breach the terms of the Injunction, whereas actions against other targets have seen a more “gloves off” approach, with the activists conducting disruptive, destructive and occasionally violent direct action, which in some cases is more akin to domestic extremism. By way of example, D16 taking part in a recorded panel discussion entitled “How to shut down a weapons factory w/Palestine Action on 24.01.24

said the following about what “protest” by the Palestine Action group actually meant (**page 132**):

"But yeah as Palestine Action what we do is we target the weapons companies, and when I say target we go in eh hard, we break the windows, we smash up vehicles, we pour paint. We fill fire extinguishers with red paint um and gas them and then we blast them all over the windows. Smash windows and throw flares through."

I have set out some examples of campaigns against other targets in which anti-HS2 activists have been involved in the paragraphs that follow.

66. In general, the Injunction has been highly effective at protecting the HS2 Scheme from the extreme disruption and associated health and safety risks and costs to the public purse that had been experienced prior to its imposition. The extension of the Injunction by way of the order made on 31 May 2023 to land temporarily taken during road closures under Schedule 4 of the HS2 Acts has also been extremely effective.
67. The Claimants’ contractors undertake dozens of road closures each year to facilitate works on the HS2 Scheme. Many of these are considered routine and unlikely to be targeted by direct action activism. However, historically, direct-action activism has targeted road closures when either there are works activities taking place that activists consider to be contentious (e.g. de-vegetation works) or where there is opportunity for disruption to cause a significant or costly delay to the project. For example, on 30.12.2021 D6 climbed onto a vehicle delivering tarmac to works on the M42 (which was closed under Schedule 4), as a result the vehicle could no longer move, effectively blocking all works access during time critical operations (see Jordan 1 para 29.8.1). In February 2023 Caroline Thompson Smith and Christopher Butcher’s nascent tactics to disrupt de-vegetation works on the A418 in Aylesbury had the potential to severely disrupt works, requiring additional road closures and further disruption to the public (see Dobson 1). Some individuals undoubtedly still consider direct action activism in and around road closures an opportunity to disrupt the HS2 Scheme, for example the following comment was made on Facebook in response to a post on 06.10.2023 calling for continued action against the HS2 Scheme (**page 7**):

“HS2 is down. Now is the perfect time to kick it!

Don't forget their injunction rarely covers the sections of road they close, which can often be freely protested at”

68. Mindful of this, the First Claimant and its contractors carefully consider on a case by case basis whether to deploy the Injunction in accordance with the terms of the court's order over any particular road closure, based on an assessment of the likely risk and impact of direct action disruption. At the time of writing the Injunction has been deployed at 12 locations, on 14 occasions (see **page 133**). As a result, there has been no disruption to works involving Schedule 4 road closures since the amendment of the Injunction to include this provision.
69. In general, the HS2 Scheme has continued to see significantly reduced levels of trespass and disruptive direct action activism since the extension of the Injunction by Mr Justice Ritchie on 31.05.2023. This is quite remarkable when considered against the backdrop of surging disruptive activism nationally. Early in 2023 the direct action campaign group Extinction Rebellion notably announced that “they quit”. This was actually an attempt to position themselves as more mainstream, leaving a space for other organisations to engage in more disruptive action, seeking to achieve what is called radical flank effect. This is where radical groups and actions draw attention to the more reasonable moderate groups. The strategic shift and rise of the radical flank is no secret amongst environmental campaigners, so much so that the camping areas used by Just Stop Oil at the 2023 Green Gathering were labelled the “Radical Flank” (**page 134**).
70. In September 2023, direct action activism (specifically being more disruptive and “breaking the law”) became mainstream news, following veteran presenter and environmentalist Chris Packham headlining a 45 min documentary entitled “Is It Time to Break the Law” (**page 135**). The documentary culminated in Packham stating the following: *“It's time to make up my own mind and decide if it's time to break the law. What are we going to do about it? An overwhelming number of people recognise that we are in danger, they fear for their own lives, children frightened for future of life on earth. No government, no political party has significantly addressed the issue. They haven't been listening to us, the climate*

activists. Now, I'm not asking for anyone to break the law, there are so many lawful ways to get involved: raise your voice, sign a petition, banners, go on a march, lobby your local MP. However, for me myself, when significant and obvious danger so I've got to raise my voice. If you're an activist that's already made a decision that yes, you're going to break the law, so long as no-one is hurt and there's no lasting environmental damage. Then you'll have my support, personally I think I've reached a point where I now consider it the ethically responsible thing to do".

71. Shortly after this documentary aired, Just Stop Oil launched a slow walking campaign on the streets of London between October and December 2023, resulting in 657 arrests of Just Stop Oil activists by the Metropolitan Police in London (**pages 136 to 137**). Palestine Action, another group with whom many of the transient multi-cause activists identify, has also been exceptionally active in conducting direct action following the latest Israel and Palestine hostilities, as set out further below.

Palestine Action

72. Palestine Action are a direct action group who have targeted arms manufacturers and latterly businesses with commercial interests in Israel. Actions against arms producers have been destructive, violent and damaging.
73. The links between the anti-HS2 and Palestine Action activists were covered extensively in Dobson 1. This trend has continued. On 28.05.2023 D17 was arrested for breaching Section 14 of the Public Order Act 1986 at a direct action campaign outside Elbit Systems factory in Leicester (**page 138**). More recently, D17 and D20 were arrested for aggravated trespass, possession of a Class C drug and assault of an emergency worker whilst taking part in direct action in Manchester on 22.11.2023. This direct action centred around the targeting of the land management company involved in managing Elbit Systems' property and included occupation of the roof of the company's building in Manchester (**page**

138). D17 posted the following statement about the action on Facebook and Instagram on 22.12.2023 (page 139):

“Today, as the death toll in Gaza passed 20000, I attended Manchester magistrates court to plead NOT GUILTY to charges ranging from criminal damage to aggravated trespass against Fisher German, after I occupied the rooftop of their building some weeks back.

My case has been listed for trial next December 2024.

My actions were part of a wider campaign against fisher German and their links with Elbit systems. Elbit systems is Israel’s largest weapons manufacturer and its weapons are being used to murder, collectively punish and ethnically cleanse the population of Palestine right now!

Since the rooftop occupation, Fisher German has announced that they have divested from working with Elbit systems and its subsidiary factory UAV (unmanned aerial vehicles) engines.

This comes following Palestine Actions two and a half year campaign against the Landlord company as well as being targeted by other groups such as YFFP (youth front for Palestine) and Manchester Palestine Action.

PS 🍌 PS

We got the express building to chuck IO Associates out!

We got IO Associates to drop Elbit!

We shut down the factory in Oldham!

We shut down the HQ in London!

We got Fisher German to drop them!

We got the website design company to drop them in recent days!

We are winning trials and we are making history!

We are getting stronger and growing in numbers!

We won't simply go away!

Together, we will #ShutElbitDown!

#ShutElbitDown

#FreePalestinian #EndTheSiegeOfGaza #ShutElbitDown #joinpalestineaction

#GazaMassacre #FreePalestine #PalestineWillBeFree #IsraeliCrimes #WestBank

#WarCrimes”

74. D17 continues to actively campaign as part of the group and is regularly joined by other former HS2 activists (see **page 140** for example, which shows the direct action blockading of Starbucks in Manchester on 09.12.2023).
75. In addition, D16 has also been taking part in direct action activism as part of Palestine Action, recently obstructing access to Essex Court Chambers on 11.01.2024, which was claimed to be a response to Professor Malcolm Shaw KC acting on behalf of Israel at the Hague (**page 141**).
76. So entrenched are the links between the campaigns that a Facebook group established by the former Wendover Active Resistance Camp (relating to the digging and occupation of tunnels under HS2 Land at Small Dean in Buckinghamshire in 2021, described in Jordan 1) recently launched a live video of a Palestine Action protest in London on 13.01.2024 (**page 142**).
77. Accordingly, a number of known former anti-HS2 activists who participated in highly disruptive and costly direct action campaigning against the HS2 Scheme remain involved in direct action campaigning and there remains a significant risk that they would return to target the HS2 Scheme if the Injunction were no longer in place.

JSO

78. JSO have remained the most active direct action environmental activist group in the UK in the last 12 months, with their most recent campaign resulting 657 arrests. The group are seeking to achieve a radical flank effect, whereby their cause is amplified through radical dramatic and disruptive direct action. The group remains attractive to prominent activists who had previously been active against the HS2 Scheme, some of whom are or were named Defendants in this case or are subject to undertakings given to the court not to engage in unlawful direct action against the HS2 Scheme.
79. Notably D16 has continued to campaign as part of JSO, regularly taking part in direct action, for example:

- 79.1. On 28.04.2023 D16 was involved in a “slow walk” disrupting traffic in Central London (**page 143**).
- 79.2. On 21.09.2023 D16, alongside, another former Stop HS2 activist, undertook a direct action protest outside the North Warwickshire Council Offices blocking access to the building for a short period, purportedly in retaliation for the injunction imposed in relation to Kingsbury Oil Terminal (**pages 144 to 145**).
- 79.3. On 24.10.2023 D16 and others attended the offices of DLA Piper UK LLP (who act for the Claimants in relation to these proceedings) and occupied the building’s foyer.
- 79.4. On 05.12.2023 D16, as part of a group of 5 JSO activists, again attended the offices of DLA Piper UK LLP with banners, disrupting a corporate presentation event before being removed by security officers (**pages 9 to 12**).
80. By way of further example, former named D32 to these proceedings, Larch Maxey, is now a prominent organiser and campaigner with JSO (see for example, the article from the Guardian Newspaper at **pages 146 to 149**). Dr Maxey was one of the founders of the anti-HS2 direct action campaign group HS2 Rebellion and was involved in a number of highly disruptive and costly direct action campaign, which only ceased when he was placed under an undertaking to the court not to engage in such activity against the HS2 Scheme in order to conclude proceedings for contempt for breach of an injunction (imposed over Euston Square Gardens in London),. That undertaking will lapse on 31 December 2024.

Ongoing risk of unlawful conduct and need for continued injunctive relief

81. By reason of the foregoing, the Claimants consider that there is a real and imminent risk of further unlawful conduct and a need for injunctive relief to continue in order to protect the Claimants’ rights.
82. As discussed above, key leaders and veteran environmental activists who had been campaigning against the HS2 Scheme are not currently doing so because they are either bound by undertakings (some of which will lapse at the end of this year) or deterred by the Injunction. A combination of the making of the Injunction and committal to prison of D33 has dispersed multi-cause activists to

other groups, but crucially, they have not moved away from direct action campaigning altogether and there is a real threat that they will return if the Injunction is not continued.

83. Mr Justice Julian Knowles also found that the activists intended to continue to try to disrupt the HS2 Scheme without limit and that an extensive injunction was justified by that clearly stated intention and necessary to allow the unhindered completion of the HS2 Scheme. Phase One of the HS2 Scheme is currently projected to be completed between 2029 and 2033.

84. The Injunction has proved exceptionally successful thus far in reducing the significant hinderance previously caused to works on the HS2 Scheme by unlawful direct action campaigning. The objectives of many of the activists opposed to the HS2 Scheme to cause delay, damage and cost remain unchanged. Whilst many are now more likely to be more guarded online following the heavy use of social media evidence in Jordan 1, incidences of individuals threatening to trespass or encouraging guerrilla tactics do still occur.

85. For example:

85.1. On 06.01.2023 the Facebook account “Carl Woods” posted as follows (**page 1 to 3**): *“I beseech you all to continue to protest for a FULL scrapping of #HS2. The devastation from Euston to Litchfield is beyond comprehension: it's destruction of the most wicked kind. While scrapping the whole of HS2 will not fully restore what has been needlessly vandalised, we can rewild where we can, give back to rightful land and property owners where desired and reuse elsewhere in ways that are beneficial to the environment and communities...AND....importantly, stop further destruction, biodiversity loss and carbon emissions from the continuing construction and then use of HS2. Sunak is already reneging on his £34 Bn commitment to Network North and private investment is being sought to finance completion of Phase 1 from Euston to Birmingham. This ignores the fact that private investors will be reluctant to invest in a clearly unstable and undeliverable project - never mind the fact that Euston simply isn't big enough to accomodate the platforms and station HS2*

Phase 1 demands! And with 80% of the budget for Phase 1 already blown with at best only 20% of itnot including the most expensive tracklaying part for which they will struggle to find the skilled workforce leading to yet further delays,lwhere is the money for completing Phase 1 going to come from?

I don't what to quote Penny Mordants, erm, unusually repetitive conference speech....but we must continue the fight together. Indeed now is the time for a final push, for increasing the momentum and exploiting the traction that has been presented by cancelling Phase 2 and a recognition by Rishi in his speech that we the protesters, had it right all along.

Let's #StopHS2”

- 85.2. Commenting upon the above post when shared to the Anti HS2 (SOC) Facebook group, one person said (**page 5**):

“I've said this from the off.

Even if we don't stop them in time and they fell every single tree between Bloomsbury and Birmingham we can stop the fu kers making money from doing so.*

(And on the bright side the bill for blowing up the bits they do finish is dropping all the time.)”

- 85.3. Commenting upon the above post when shared to the Stop HS2 Facebook group, one person said (**page 7**):

“HS2 is down. Now is the perfect time to kick it!

Don't forget their injunction rarely covers the sections of road they close, which can often be freely protested at”

86. Many of the core group of anti-HS2 activists are also still engaged in direct action activism in the locality of Phase 2, with D17 and D20 being arrested as recently as November 2023 for aggravated trespass as part of the Palestine Action campaign in Manchester (**pages 19 to 20**). D16 obstructed access to the offices of the law firm acting for the Claimants in these proceedings as recently as October and December 2023 as part of a direct action campaign (**pages 9 to 12**).

87. Significantly, many of the core group of activists who established camps and caused significant disruption within Phase 2a are still residing within 45 minutes travel, therefore the removal of the protection afforded by the Injunction to this phase of the HS2 Scheme risks presenting a soft underbelly, vulnerable to direct action without consequence. An effective “free shot” to allow those who oppose the HS2 Scheme to continue to cause cost to the Scheme and therefore to the public purse.
88. The object of environmental activism and direct action is to initiate political change through actions which either increase public awareness of a campaign e.g. spectacular bridge climbs or increase the cost and complexity of a scheme, impacting upon its financial or political viability.
89. As is clearly demonstrated in the evidence previously submitted in support of the imposition and retention of the Injunction, many of the activists who have campaigned against the HS2 Scheme have focussed upon creating the maximum delay or cost, for the minimum consequence. D6 outlined how activists will seek to exploit vulnerabilities and loopholes in injunction orders, when discussing a Balfour Beatty application for an injunction relating to obstruction of just a single gate at Swynnerton on Phase 2a of the HS2 Scheme (paragraph 21.12 of Jordan 1):
“What that means is actually, if they actually do get the injunction here that we’ll incur massive fines, up to £35,000 each just for breaking that said injunction. So that would mean, if they get it, which they won’t, that we won’t be able to come to this gate. I mean, but [laughs] little do Balfour Beatty know, they are a national company and it will cost them an arm and a leg because it’s just one gate and we will just hit all the other gates.”
90. As described in paragraphs 21 to 35 above, in 2023, a group known as Universal Community Law Trust with links to other environmental activist campaigns began targeting Phase 2a of the HS2 Scheme in particular, resulting in a violent and costly eviction operation. They have continued to issue threats against the project.

91. More recently, linked to the Prime Minister's announcement on 04.10.23 regarding Phase 2a of the HS2 Scheme, a former occupant of several of the anti HS2 encampments who goes by the online handle "Lousy Badger" advocated the use of "hit and run" tactics against the HS2 Scheme (**page 150**):
- "We need to be giving the information, and then if we need to do action then we hit and we run. We hit hard, we hit fast and we get the fuck out of dodge. We don't set up camps, we don't do things like that, they don't work anymore, do you know what I mean, they didn't - that's not what saved this line, it may have contributed to some of it, the delaying of bits of it, but what's actually happened is the men in power, or supposed power have seen that it's the monies getting hit. And that's where we need to hit them."*
92. Discussions between activists have been picked up on social media about seeking to re-enter the HS2 land at Cash's Pit that was the subject of a prolonged tunnel occupation costing £8.5 million to evict in 2022 (**pages 151 to 152**). There have also been threats issued by activists to take back land since the 4 October announcement for example (**page 153**):
- "We need to come together and destroy everything that has been done, so we can rewild effectively, smash up any concrete that has been laid and replace it with plants and shrubs etc.... Plant trees to make up for the devastation hs2 has caused"*
93. The networks, relationships and desire to return to direct action activism against the HS2 Scheme remain extant. For example, on 02.10.2023 following media speculation about the cancellation of the HS2 Scheme ahead of the Prime Minister's 04.10.2023 announcement, D17 posted a lengthy statement on social media (**page 22**). Critically with regard to returning to direct action activism he said:
- "HS2 fuck you.
Carl Harrison and HS2... Drew AKA Arnie or D17 is smiling right at you...and yes, I'll still be back 😊"*
94. The Claimants do not seek to stifle anti-HS2 views and respect the right to engage in lawful protest and to express views that are opposed to the HS2


Scheme. The Injunction has significantly reduced the cost of delay, disruption and security to the taxpayer of dealing with unlawful direct action campaigning. It has also, in some respects, changed the way that protest against the HS2 Scheme is conducted, encouraging those who wish to voice views in opposition to the HS2 Scheme to do so in lawful ways.

95. By way of example, between 21.04.2023 and 24.04.2023 members of HS2 Rebellion joined a larger event organised by Extinction Rebellion called “the Big One”. The Stop HS2 elephant (or a skeleton of its former self) took part in marches across London, including protesting outside the Department For Transport and the Palace of Westminster (**pages 154 to 156**). According to Extinction Rebellion, The Big One event was facilitated by the Metropolitan Police and no activists were arrested over the 4 days (**page 157**). Images of the event posted on the HS2 Rebellion Facebook page show that the march was well attended and appears facilitated by Police.
96. On 14.07.2023 Sarah Green, a well-known anti-HS2 activist and former defendant to previous injunctive proceedings taken by the Claimants to prevent trespass and obstruction of access, undertook a peaceful protest and assembly alongside Baroness Jenny Jones of the Green Party outside Ruislip Gardens underground station. An image of the group holding a banner outside the Ruislip Gardens underground station is at **page 158**.
97. The Claimants seek the Court’s assistance to try to ensure that the Defendants do not again resort to unlawful direct action activity. Not only is that conduct unlawful, but it is extremely disruptive, dangerous, costly and unpleasant and difficult for those engaged in work on the HS2 Scheme. The activity engaged in by the Defendants historically and to which they threaten to return if the Injunction is not maintained in the manner sought by the Claimants is an attempt, not to articulate views, but a hard-fought and continuous campaign to try to compel the Claimants to stop the work they are mandated to do by Act of Parliament.

98. The Claimants reasonably fear a return to the levels of unlawful activity experienced prior to the application for the Injunction if it is allowed to lapse, with the significant health and safety risks, detrimental effects on staff and contractors, drain on police and other emergency service resources, delays to the HS2 Scheme and significant financial losses to the taxpayer that would bring.
99. The incidents that occurred historically have caused injury to persons working on the HS2 Scheme and eye-watering levels of loss (all borne by the public purse) via damage to property, suspension and delay of works and the need to incur the costs of specialist security to respond to and deal with incidents. A significant amount of police time and resources and time and resources of the other emergency services has also been expended. The incidents are distressing to the Claimants' contractors, sub-contractors and employees and put their health, safety and wellbeing at risk. It remains the case that the Defendants do not have the consent or permission of the Claimants to enter onto the HS2 Land and the Claimants do not want the Defendants on the HS2 Land. The evidence suggests that the Defendants – or some of them – remain intent upon causing loss and damage to the HS2 Scheme and therefore to the Claimants by unlawful means and are actively seeking ways to do so outside of the bounds of the activities that are currently restrained by the Injunction.
100. The Claimants therefore seek the continued assistance of the Court in preventing further incidents, loss and damage.

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed:.....
JAMES DOBSON
Dated: 28 February 2024

On behalf of: Applicants/Claimants
J.Groves
2nd statement of witness
Exhibits: JG2
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

SECOND WITNESS STATEMENT OF JOHN GROVES

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

CORE-A-217

Introduction

1. I am the First Claimant's Chief Security and Resilience Officer. I am accountable for the delivery of corporate security support to the First Claimant in line with its security strategy, and the provision of advice on all security related matters. This includes incident response, business continuity, cyber security, information assurance, physical security, personal security, personnel security and security of the future railway. I am the senior representative on behalf of the First Claimant dealing with external security partners, such as the police, security representatives at the Department for Transport, National Protective Security Authority and relevant security authorities and agencies. I have been in this role since March 2022. Prior to this I have extensive experience of security and resilience operations, with over 20 years' experience leading the security and resilience functions of the Bank of England, UK Parliament and Government departments including Defra, No.10 Downing Street and the Home Office.
2. I am authorised to make this statement in support of the Claimants' application to extend the injunction granted 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**").
3. This statement has been prepared with the Claimants' legal representatives.
4. This statement is made from matters that are within my own knowledge and/or (unless other sources of information are stated) knowledge gained from my review of the First Claimant's documents, incident reports logged on the First Claimant's HORACE and Trak Tik systems (these systems are explained in Dobson 2), reports by the First Claimant's security and legal teams and those of the First Claimant's contractors, as well as material obtained and reviewed from open-source internet and social media platforms. In each case I believe them to be true. The contents of this statement are true to the best of my knowledge and belief.
5. There are now shown and produced to me marked **JG2** 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 to twelfth witness statements of Julie Dilcock (“**Dilcock 1**” to “**Dilcock 12**”)

I have also reviewed the Thirteenth witness Statement of Julie Dilcock (“**Dilcock 13**”) 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, the above listed statements, and my first witness statement (“**Groves 1**”) unless separately defined in this statement.

Purpose and scope of this statement

7. In this statement I will:

7.1. Update the court on the reduced impact of unlawful direct action by activists upon the HS2 Scheme since the last renewal of the Injunction.

7.2. Set out the modelling that the First Claimant’s security team has carried out to forecast the expected level and impact of unlawful direct action by activists against the HS2 Scheme were the Injunction not to be continued.

7.3. Explain the pattern of unlawful direct action by activists that has emerged since the renewal of the Injunction.

Reduced Impact on the HS2 Scheme

8. In Jordan 1 my predecessor, Richard Jordan, outlined to the court that the Claimants had incurred costs totalling **£121.62m** up to the end of December 2021 in dealing with unlawful direct action protest across Phase One of the HS2 Scheme (Jordan 1, para 14).

9. As I explained in Groves 1, costs continued to escalate until Q3 2022, when there was a notable change in the number and severity of incidents and the costs associated with dealing with those incidents. At **page 1** is a graph showing the change in direct action

protest related incidents over time, from which it can be seen that there is a direct relationship between the imposition of the Injunction in September 2022 and the dramatic drop off of direct action incidents and a commensurate dramatic drop off in the costs associated with dealing with such incidents. Following on from the detail given in Groves 1:

9.1. Q2 2023. A total of 34 incidents were recorded in this quarter, and the cost to HS2 Ltd is recorded at **£0.55million**.

9.2. Q3 2023. Only 9 incidents were recorded at a cost to HS2 Ltd of **£0.66million**.

9.3. Q4 2023. Only 6 incidents were recorded at a cost of **£0.10million** to HS2 Ltd.

10. The cumulative cost to the HS2 Scheme of dealing with direct action to date is plotted as a green line on the graphs presented at **pages 1 and 2** and the change in cost is correlated to gradient. When the line is steeper, spend in that period is higher, if the gradient levels-off spend is reducing. The graphs clearly show that since 01.10.22 the total cost has plateaued, and that the Injunction has had a significant impact in reducing the amount of taxpayer money being spent on dealing with unlawful direct action against the HS2 Scheme.
11. A further impact of the Injunction that is not captured by the financial figures is the change in the working environment for staff and contractors. In Jordan 1, the hostile, intimidating and often violent and dangerous work environment created by unlawful direct action for the Claimants' staff and contractors was described. The feedback from our staff and contractors is that the significant reduction in unlawful direct action activity has changed the perception of those working across the HS2 Scheme, who feel safer and no longer face the previous extraordinary levels of abuse whilst doing their jobs.
12. In addition to a dramatic reduction in reactive security costs, the cost to the taxpayer of proactive security has also been significantly reduced as a result of the deterrent effect of the Injunction – this is particularly the case on Phase 2a of the HS2 Scheme, where much of the land held is difficult to secure by physical means. I have explained below the projected additional costs for proactive security on Phase 2a (where, as explained in Dilcock 13 there are ongoing works notwithstanding the announcement

that construction of that part of the HS2 Scheme would not be proceeding) were the Injunction not to continue.

Forecasted Future Activity

13. The graph at **page 2** shows the security team's forecast as to the expected trajectory of direct action incidents and associated costs should the Injunction not continue. This is based on the security team's assessment that the levels would be analogous to the experience in late 2019 going into 2020. It is projected that the Claimants could incur **£29 million** in security related costs alone (i.e. not including the costs caused by programme delay and damage to land, property, works and equipment, as to which see further below) to the end of Q4 2024, of which **£7 million** is anticipated additional proactive security costs for Phase 2a. In producing this forecast the following factors were considered:

- 13.1. The proficiency of the activists taking direct action against the projects has increased with time.
- 13.2. Many of the activists opposed to the HS2 Scheme have not abandoned direct action altogether. Instead, they are currently campaigning against other causes (as explained in Dobson 1 and Dobson 2), and it is considered that there is a significant likelihood that these individuals may return if the deterrent effect of the Injunction were removed.
- 13.3. The time required by activists to regain momentum would be less than the time it took to first build momentum in the earlier years of the project. The campaign would be able to cross recruit and grow from other groups such as JSO and Palestine Action, where many of the leaders who were so instrumental in the anti-HS2 campaign through 2020 and 2021 are currently actively campaigning.
- 13.4. The recent media coverage around the Government's decision not to proceed with construction on Phase 2 of the HS2 Scheme will undoubtedly encourage activists to believe that their unlawful direct action may yet succeed in having the whole of the HS2 Scheme "cancelled" (despite clear Government statements to the contrary) and may increase potential support for activists from some quarters. This could create fertile ground for the re-establishment of camps. In this sense 2023-24 may be considered analogous to 2020 when the Oakervee

Review and delays around the issuing of notice to proceed coincided with significant camp establishment on Phase One.

- 13.5. A primary motivation for activists remains the desire to cause increased costs to the HS2 Scheme in order to seek to undermine its viability and in that respect activists would be likely to take action against any part of the route where that could be most easily achieved, regardless of the status of that part of the route.
 - 13.6. The Government announcement around Phase 2 of the project has caused localised issues with unhappy former landowners or those who claim to campaign on their behalf which could translate into a return to direct action if the Injunction is not continued.
 - 13.7. The current security provisions deployed by contractors within Phase 2a are predicated upon the deterrent effect of continued injunctive relief. Deterrence is the first principle of security as set out in the Government issued National Protective Security Authority guidance. If the Injunction were not to be continued on Phase 2a, early estimates suggest that additional annual proactive security costs for Phase 2a could be £12million in order to increase both operational and physical security controls commensurate with the changed threat landscape.
14. Even minor delay and disruption to complex civil engineering works, has the potential to cause a significant impact upon both cost and schedule, affecting the Claimants, the public purse and potentially the general public - specifically road and rail users. By way of example, the clearance of the protestor camp at Small Dean in Wendover (covered in detail at Jordan 1 para 63) was undertaken with just hours to spare from an HS2 Scheme programme perspective. Had activists managed to remain within the tunnels for just a few more hours the potential cost and schedule impact upon the program would have been severe due to the dependency upon railway line closures to deliver the viaduct construction works in this area. At the time, it was estimated that the design and cost implications of missing the booked track possession window could well have exceeded £2million per month and that the programme could have been delayed by 12 months.
15. Many of the First Claimant's works around highways, utilities and railways are undertaken within narrow, time limited operating windows and booked closures for the

existing infrastructure. At Small Dean the First Claimant's work could have realistically been delayed for a year as the main works could only be conducted during an extended rail blockade over the Christmas period, and these works were dependent upon the completion of the preliminary works that the activists were delaying by occupying underground tunnels.

16. More recently the First Claimant's contractors have been engaged in complex bridge works crossing motorways in and around Birmingham. These works often require the full weekend closure of the motorway, with works being undertaken to very tight schedules to allow the re-opening of the motorway prior to peak commuter traffic on Monday morning. During such complex works, any delay, either by activists conducting direct action, such as climbing upon a vehicle, or by social media auditors flying drones at low levels, preventing safe lifting operations, will result in a significant and potentially severe delay to the schedule.
17. A reasonable worst-case example for this type of work could see the First Claimants' contractors being unable to undertake a bridge push (an operation where the main span of the bridge is pushed from one abutment to the other over the motorway) as planned. If such a scenario were to occur, then this operation would have to be delayed until another motorway closure, resulting in the traffic management, National Highways booking, bridge launch contractor, crane operators and other costs being duplicated. In total, a failed weekend bridge push would likely incur costs in the region of £200,000 and also result in additional public disruption as a result of additional road closures.

Unlawful Activity Since the granting of the Injunction

18. The incidents that have been experienced since the Injunction was last renewed (described in detail in Dobson 2) can be summarised as follows:
 - 18.1. Vandalism and criminal damage committed during the hours of darkness, for example graffiti sprayed on plant and machinery or windows smashed, or fireworks fired into sites (by trespassing).
 - 18.2. Direct action where activists have occupied property causing damage to the property and costs in removing them.

18.3. So-called “Urban Explorers” who break into land or property to film themselves on it, causing damage to the property and presenting a health and safety risk.

18.4. So called “Auditors” flying drones at low level over active work sites causing interference with the operation of equipment such as cranes.

19. Whilst unwelcome, many of the types of activity set out at paragraph 18.1 are anticipated on a project of this size and nature and are in large part low level and opportunistic and likely to remain that way so long as the Injunction remains in place. The particular issue that the project has been experiencing with drones flown by so-called “Auditors” and the disruption that has caused is explained in detail in Dobson 2. This is an emerging and potentially significant issue that the Claimants are requesting that the court addresses by way of amendment to the Injunction. I see this as a growing security threat to the project and I consider that the issue will spread and become more prevalent causing more significant disruption if the activity is not restrained by the court. We have involved the police in the incidents where works on site have had to stop as a result of unauthorised drone flights and the view has been expressed that the activity may constitute a breach of section 6 of the Public Order Act 2023. However, that Act is in its infancy and untested. It remains to be seen whether prosecutions will be brought or will be successful.

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed:.....

JOHN GROVES

Dated: 28 February 2024

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:

CORE-A-225

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

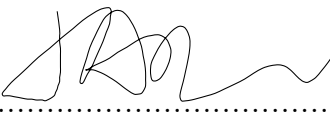
27. In Dilcock 11 I outlined the stages of construction of the HS2 Scheme and broadly what was involved in those stages. In order assist with orientation I have exhibited a map showing the route of the HS2 Scheme at **page 1**.
28. It remains the case that Phase One is in peak construction with over 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

On behalf of: Applicants/Claimants
R. Shaw
3rd statement of witness
Exhibits: RXS3
Date: 27 February 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

THIRD WITNESS STATEMENT OF ROBERT SHAW

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

CORE-A-235

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 27 February 2024 seeking an order for alternative service.
3. There is now produced and shown to me marked **RXS3** 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> ("**RWI Updated Website**"). Page numbers without qualification refer to that exhibit.
4. On 20 September 2022 an injunction was granted by Mr. Justice Julian Knowles in order to restrain trespass and nuisance on land acquired for the HS2 railway scheme ("**Original Order**").
5. Prior to the Original Order being made, but as part of these same proceedings, on 11 April 2024 Mr. Justice Cotter granted a precursor geographically constrained interim injunction in relation to a piece of land acquired by the Claimants for the HS2 Scheme known as "Cash's Pit" ("**Cash's Pit Injunction**").
6. An application for permission to appeal the Original Order was made by Mr Knaggs (D6) and refused by the Court of Appeal by order made on 9 December 2022. Coulson LJ issued a ruling on the application ("**Ruling**").
7. The service provisions for the Original Order were considered on the papers by the Court of Appeal. The Ruling makes plain that the service provisions in the Injunction Order were appropriate, indeed "*...more than sufficient to comply with the guidance in Canada Goose*" (see paragraph 43 of the Ruling). A copy of the Ruling is at pages 1 to 12 of RXS3.
8. In particular, the Ruling recognised that "*[g]iven the scope of the Injunction, it is clearly impractical for service to be effected along every piece of injuncted land*" (see paragraph 44 of the Ruling).

9. The Original Order contained a sunset date of 31 May 2023 and required that it 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 the injunction.
10. On 10 March 2023 the Claimants applied, inter alia, to extend the sunset clause in the Original Order by 12 months (**“First Review Application”**).
11. The First Review Application was heard by Mr. Justice Ritchie on 16 May 2023 and on 31 May 2023 Mr. Justice Ritchie made an order varying the Original Order and extending the sunset date to 31 May 2024 (**“Injunction Order”**). A copy of the Injunction Order is at pages 13 to 30 of RXS3.
12. Paragraph 12 of the Injunction Order provides that it shall 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 the Injunction Order (**“Yearly Review”**).
13. Schedule A sets out Directions for the Yearly Review of the Injunction Order. In particular paragraph 5 of Schedule A provides that the Claimants are to file and serve *“(in accordance with paragraph 3(a) of this Schedule)”* any applications relevant to the Yearly Review.
14. The Claimants intend to file an application to be dealt with at the Yearly Review seeking, inter alia, to extend the sunset date by a further 12 months (**“Second Review Application”**).
15. On 27 January 2024 the court issued a Notice of Hearing listing the Yearly Review for 15 May 2024. The Claimants have placed a copy of the Notice of Hearing on the RWI Updated Website as required by paragraph 13 of the Injunction Order. A copy of the Notice of Hearing and Certificate of Service confirming service thereof are at pages 31 to 36 of RXS3.
16. When the Injunction Order was prepared in draft by counsel for the Claimants, Schedule A contained provisions setting out how the Claimants should serve any applications relevant to the “Yearly Review”. However, due to what I believe was an

unintentional revision of the draft order in conjunction with counsel for D6 not all of those service provisions were incorporated into the final order that was sealed by the court.

17. Indeed as can be seen in Schedule A:

- 17.1. paragraphs 5 and 8 state that the Claimant is to serve “*(in accordance with paragraph 3(a) of this Schedule)*”; and
- 17.2. paragraph 1.b. states “*and (b) above will be good and sufficient service on the Defendants and each of them.*”

However, Schedule A is missing the specific provision directing how service is to be effected.

18. At pages 37 to 63 of RXS3 is an email from the Claimants’ counsel Richard Kimblin KC attaching the Claimants’ markup of the draft order for submitting to Mr. Justice Ritchie. This contained at Schedule A the following provisions for service in respect of the Yearly Review:

- 3. *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 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.*
 - c. *Compliance with 3(a) and (b) above will be good and sufficient service on the Defendants and each of them.*
- 4. *The Claimants shall email a copy of this Order to solicitors for D6 and any other party who has as at the date hereof provided an email address to the Claimants to the email addresses: HS2Injunction@governmentlegal.gov.uk or HS2Injunction@dlapiper.com.*

19. These provisions are identical to some of those at paragraphs (7.(a)iii), (c) and (d)) for service of the Injunction Order. They also mirror some of the service provisions ordered by HHJ Kelly in a Directions Order dated 15 March 2023 (a copy of which is at pages 64 to 72 of RXS3) that was made prior to the Claimants submitting the First Review Application. See paragraphs 6.a. and d. and 8. of the Directions Order.
20. At pages 73 to 98 of RXS3 is an email from counsel for Defendant No.6, Stephen Simblet KC, putting forwards an amended draft order. Whilst Mr. Simblet KC's email mentions the changes to Schedule A, it does not disagree with the service provisions proposed by the Claimants. However, parts of the service provisions appear to have fallen out of the draft order, but with those references mentioned at paragraph 17 above retained.
21. It is the Claimants' position that the parties intended for the service provisions for the Yearly Review to be as they proposed in their draft of the order.
22. The Court is asked to make a direction for alternative service for the following reasons:
 - 22.1. It is apparent that the service provisions were not an issue between the parties, and appear to have been excluded from the draft order submitted to the Court in error.
 - 22.2. Some order for alternative service will be required in respect of persons unknown.
 - 22.3. The Defendants are itinerant activists, known to move from place to place.
 - 22.4. The Defendants tend not to have fixed abodes, places of work or other permanent addresses whereby the Claimants would be able to serve them in a reasonable and proportionate time.

22.5. The Claimants submit that in circumstances where individuals have already breached and been committed in relation to the Cash's Pit Injunction, there is a real risk that the Defendants will seek to evade service simply to run up costs for the Claimants.

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: 27 February 2024

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

BETWEEN:

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

Claimants

- and -

PERSONS UNKNOWN & OTHERS

Defendants

SCHEDULE OF NAMED DEFENDANTS TO BE REMOVED OR ADDED

PART 1 - NAMED DEFENDANTS TO BE REMOVED

Defendant Number	Name
5	Mr Ross Monaghan (aka Squirrel / Ash Tree)
7	Ms Leah Oldfield
22	Mr Tristan Dixon (aka Tristan Dyson)
27	Mr Lachlan Sandford (aka Laser / Lazer)
28	Mr Scott Breen (aka Scotty / Digger Down)

Defendant Number	Name
33	Mr Elliott Cuciurean (aka Jellytot)
36	Mr Mark Keir
39	Mr Iain Oliver (aka Pirate)
48	Mr Connor Nichols
57	Ms Samantha Smithson (aka Swan / Swan Lake)
58	Mr Jack Charles Oliver
59	Ms Charlie Inskip

PART 2 - NAMED DEFENDANTS TO BE ADDED

Not applicable

IN THE HIGH COURT OF JUSTICE (QBD)
BIRMINGHAM DISTRICT REGISTRY
Between

Claim no.: QB-2022-BHM-000044

(1) HIGH SPEED TWO (HS2) LIMITED
(2) THE SECRETARY OF STATE FOR TRANSPORT **Claimants**

and

(1) PERSONS UNKNOWN
(2) MR ROSS MONAGHAN AND 58 OTHER NAMED DEFENDANTS
Defendants

WRITTEN REASONS FOR SEEKING TO AMEND ORDER AND OPPOSE CLAIMANTS' APPLICATIONS ON BEHALF OF SIXTH DEFENDANT JAMES KNAGGS

1. This document is served in compliance with paragraph 6 of Schedule A to the Claimants' order.
2. The Sixth Defendant notes that the Claimants' Application and Draft Order seeks to remove his name from proceedings that the Claimants began against him as a named Defendant. To that extent, while Sixth Defendant is content to no longer take an active part in the claim, and agrees with the Claimants that on their own evidence, they can no longer maintain an injunction against him (see paragraph 12-13 Second Witness Statement of James Dobson) the court must resolve the claim that the Claimants brought against the Sixth Defendant by requiring the Claimants to resolve this properly and in accordance with the rules. The Sixth Defendant contends that, as a party to the claim, while it is right that the Claimants have decided not to pursue their case against him, that the Claimants must apply to discontinue against him, and that they require the permission of the court to do this.
3. The Sixth Defendant notes that the Claimants contend that he would still be bound by the injunction, and he understands that. In those circumstances, the Sixth Defendant is obviously entitled to make representations in relation to the terms of the order, and whether it should be maintained. That being the position, the Sixth Defendant will invite the court to take account of the known circumstances pertaining to the HS2 scheme, and the fact that the Prime Minister of the United Kingdom announced several months ago that part of the project, namely the northern leg of the scheme, is to be abandoned.

4. The Sixth Defendant contends that this means that the Claimants can no longer demonstrate a compelling need for injunctive relief in relation to the northern section of the HS2 Scheme. This should mean:
 - (i) the terms of the injunction should be modified to reflect that the Claimants are not entitled to injunctive relief in relation to the acquisition of land for that part of the route;
 - (ii) This can be achieved by changing paragraph 1 (e), 1 (f) and 1 (g) of the existing (and proposed, renewed) order;
 - (iii) Suitable modifications might be:
 - (1) Paragraph 1 (e) (ii) should remove the plural from HS2 Acts;
 - (2) Paragraph 1 (f) should remove the plural and refer only to the High Speed Rail (London- West Midlands) Act 2017;
 - (3) Paragraph 1 (g) should remove the words after “2017”.

5. Further, and independently of that, it is clear that the injunction was granted on particular findings of fact and a particular basis rehearsed before Knowles J and subsequently before Ritchie J. The Sixth Defendant understands that those findings of fact were made by the court at the time, but this is an interim injunction of a draconian nature, binding everyone in the world. Those who obtain such injunctions are subject to ongoing responsibilities to the court. The Claimants have been throughout under a continuing duty to the court in relation to an injunction of this type to make all relevant disclosures to the court. Their failure to inform the court of the formal abandonment by the Prime Minister of the United Kingdom of the HS2 northern leg (and for a simple statement of the truism that the Second Claimant acts on the Government’s behalf in this claim- see judgment of Knowles J at paragraph 2) means that the court must consider carefully whether to remain any of the injunction to remain in force, since the usual sanction for material non- disclosure is the discharge of an injunction.

Signed...J.Knaggs.....Dated...11/05/2023.....

.....

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

Between:

(1) HIGH SPEED TWO (HS2) LIMITED
(2) THE SECRETARY OF STATE FOR TRANSPORT

Claimants

-and-

CURTIS ARNOLD
(AKA DANIEL J EDWARDS / CURTIS MEDIA / DJE MEDIA / DJE PINAC)

Defendant

FINAL ORDER AND UNDERTAKINGS

PENAL NOTICE

If you the within named Defendant disobey the undertakings set out in this order or instruct (which includes training, coaching, teaching or educating) others to do the acts which you have undertaken not to do, you may be held to be in contempt of court and may be imprisoned, fined or have your assets seized.

Any other person who knows of this order and does anything which helps or permits the Defendant to breach the undertakings set out in this order may also be held in contempt of court and may be imprisoned, fined or have their assets seized.

IMPORTANT NOTICE TO THE DEFENDANT

This order prohibits you from doing the acts set out in paragraph 4 below. You should read it very carefully.

FURTHER TO the Orders made in these proceedings by Julian Knowles J on 20 September 2022 (the "Injunction Order") and by Ritchie J on 31 May 2023 (the "Extension Order").

AND UPON the Claimants' application by Application Notice pursuant to the provisions at paragraphs 12 and 13 of the Extension Order ("2024 Application").

AND UPON Curtis Arnold (aka Daniel J Edwards / Curtis Media / DJE Media / DJE PINAC) giving undertakings to the Court as set out below.

AND UPON Curtis Arnold (aka Daniel J Edwards / Curtis Media / DJE Media / DJE PINAC) confirming that he understands and acknowledges that he may nevertheless become Defendant 2, 3 or 4 to these proceedings as a person unknown if he commits any of the acts prohibited in any order of the Court made in these proceedings against those Defendants.

IT IS ORDERED THAT:

1. The Claimants' 2024 Application as against Curtis Arnold (aka Daniel J Edwards / Curtis Media / DJE Media / DJE PINAC) only is dismissed.
2. There be no order as to costs between the parties.
3. Service of this Order may be effected, as an alternative, by electronic means by email to Curtis Arnold (aka Daniel J Edwards / Curtis Media / DJE Media / DJE PINAC) at [REDACTED] or at any other email address provided by Curtis Arnold (aka Daniel J Edwards / Curtis Media / DJE Media / DJE PINAC) to the Claimants solicitors at HS2Injunction@dlapiper.com and such service shall be deemed to be good and sufficient service on Curtis Arnold (aka Daniel J Edwards / Curtis Media / DJE Media / DJE PINAC).

UNDERTAKINGS TO THE COURT

In this Order:

- the “**HS2 Land**” means all of the land acquired or held by the Claimants in connection with the High Speed 2 Railway Scheme (as defined in the Extension Order and by the court in any order made pursuant to the 2024 Application). The extent of the HS2 Land as at the date of these undertakings is shown coloured pink and green on the March 2023 HS2 Land Plans which are available electronically on the RWI Updated Website at: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>, and
 - the “**HS2 Acts**” means the High Speed Rail (London – West Midlands) Act 2017 and the High Speed Rail (West Midlands – Crewe) Act 2021.
4. Curtis Arnold (aka Daniel J Edwards / Curtis Media / DJE Media / DJE PINAC) undertakes to the Court promising as follows:
 - a. Not to enter or remain upon the HS2 Land;

- b. Not to deliberately obstruct or otherwise interfere with the free movement of vehicles, equipment or persons accessing or egressing the HS2 Land;
- c. Not to interfere with any fence or gate on or at the perimeter of the HS2 Land; or
- d. Not to fly a drone(s) or other model or remote controlled aircraft(s) or unmanned aerial vehicle(s) into or over the HS2 Land.

AND TO BE BOUND BY THESE PROMISES UNTIL 31 MAY 2025

- 5. Curtis Arnold's (aka Daniel J Edwards / Curtis Media / DJE Media / DJE PINAC) promises at paragraph 4 do not prevent Curtis Arnold (aka Daniel J Edwards / Curtis Media / DJE Media / DJE PINAC) from:
 - a. Exercising his rights of way over any open public right of way over the HS2 Land; or
 - b. Exercising his lawful rights over any public highway.

STATEMENT

I understand the undertakings that I have given, and that if I break any of my promises to the Court I may be fined, my assets may be seized, or I may be sent to prison for contempt of court.

Curtis Arnold (aka Daniel J Edwards / Curtis Media / DJE Media / DJE PINAC)

Date:

5/3/24



We consent to an order in these terms

DLA PIPER UK LLP

Solicitors for the Claimants

Date:

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 18 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants

RE-AMENDED PARTICULARS OF CLAIM

ADDENDUM TO PARTICULARS OF CLAIM

- I. On 20 September 2022, Mr Justice Julian Knowles gave judgment in these proceedings: [2022] EWHC 2360 (KB).

II. At [217], Julian Knowles J held:

“I am satisfied that it is more likely than not that the Claimants would establish at trial that the Defendants’ actions constitute trespass and nuisance and that they will continue to commit them unless restrained. There is an abundance of evidence that leads to the conclusion that there is a real and imminent risk of the tortious behaviour continuing in the way it has done in recent years across the HS2 Land. I am satisfied the Claimants would obtain a final injunction.”

III. At [230]:

“I reject the suggestion the injunction will have an unlawful chilling effect, as D6 in particular submitted. There are safeguards built-in, which I have referred to and do not need to mention again. It is of clear geographical and temporal scope. Injunctions against defined groups of persons unknown are now commonplace, in particular in relation to large scale disruptive protests by groups of people, and the courts have fashioned a body of law, much of which I have touched on, in order to address the issues which such injunctions can raise, and to make sure they operate fairly. I also reject the suggestion that the First Claimant lacks ‘clean hands’ so as to preclude injunctive relief.”

IV. In consequence of his findings, the learned judge granted an interim injunction by order dated 20 September 2022 (“**Injunction**”) with provision for a review on a yearly basis (“**Review Hearing**”). The learned judge stayed this Claim generally with liberty to restore.

V. In order for the stayed Claim to be understood, the Claimants have not edited the substance of the Amended Particulars of Claim filed on 26 April 2022 and set out below. Instead, the Claimants provide this update and additional pleading in a form which makes the current position easier to understand. A reference to a paragraph of the Amended Particulars of Claim is in the form “paragraph x APOC”.

VI. The Claimants wish to add the further land to the Injunction, which is referenced at paragraph 6 APOC and to facilitate this, new plans have been produced showing the land of which the Claimants are entitled to possession as at March 2023 (the “**March 2023 HS2 Land Plans**”). The plans span 275 sheets (including index maps to assist

with orientation). Producing the plans in hard copy and multiple times would generate a very large amount of paper and navigation of the plans is also easier electronically. Accordingly, the plans (along with copies of all other documents relating to this case) have been placed online on the RWI Updated Website. The Claimants seek permission to update the definition of “HS2 Land” to reference the March 2023 HS2 Land Plans.

- VII. The Claimants seek further permission to include within the definition of “HS2 Land” that land taken into temporary or permanent possession using its powers under Part 2 of Schedule 4 of the HS2 Acts for Rail Act purposes.
- VIII. “Rail Act purposes” means “Phase One purposes” as defined in section 67 of the High Speed Rail (London – West Midlands) Act 2017 and “Phase 2A purposes” as defined in section 61 of the High Speed Rail (West Midlands – Crewe) Act 2021.
- IX. **Dilcock 11** explains the history of these proceedings, and updates the position in respect of the HS2 Scheme. **Dobson 1** provides further details of the defendants, explains the effectiveness of the Injunction, identifies updated tactics used by activists to target the HS2 Scheme and explains the continued risk to the HS2 Scheme. **Groves 1** provides further details of the impact of the Injunction Order and the emerging pattern and feared impact of further targeting of the HS2 Scheme.

Introduction

1. The First Claimant (“**HS2**”) is the nominated undertaker (“**Nominated Undertaker**”) appointed by the Secretary of State for Transport under:
 - 1.1. section 45 of the High Speed Rail (London – West Midlands) Act 2017 (the “**Phase One Act**”) by way of the High Speed Rail (London-West Midlands) (Nomination) Order 2017; and
 - 1.2. section 42 of the High Speed Rail (West Midlands - Crewe) Act 2021 (the “**Phase 2a Act**”) by way of the High Speed Rail (West Midlands - Crewe) (Nomination) Order 2021.

Together the “**HS2 Acts**” to construct the High Speed Two Railway Scheme (commonly referred to as “HS2” and referred to in these Particulars as: the “**HS2 Scheme**”).

2. The Second Claimant is the Secretary of State for Transport (“the **SoS**”).
3. The Claimants are entitled as Nominated Undertaker, alternatively as the freehold or leasehold owner, to prevent trespass and nuisance to the use of, and access to, land acquired or held in connection with the HS2 Scheme (the “**HS2 Land**”).
4. Those Defendants who have been identified and joined individually as Defendants to these proceedings are set out in Annex 1 to these Particulars. Where necessary the Defendants whose names appear in Annex 1 are referred to as “the Named Defendants”, whilst reference to “the Defendants” includes both the Named Defendants and those persons unknown who have not yet been individually identified.
5. The Defendants have taken part in a series of unlawful actions against the HS2 Land since October 2017 (the “**Anti-HS2 Action**”). The Anti-HS2 Action to date has included blocking access to the HS2 Land, damaging HS2’s vehicles, trespassing on land, and digging and occupying tunnels and building fortifications on the HS2 Land without permission. Some of the Anti-HS2 Action has led to criminal charges, and in respect of other Anti-HS2 Action, the Court has granted injunctive relief and committal orders.
6. The Claimants produced plans showing the HS2 Land coloured Pink, Blue and Green. Those plans span 283 pages and are best viewed electronically and have therefore been uploaded to: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> (the “**HS2 Land Plans**”). As a matter of form they were introduced as Exhibit JAD1 to **Dilcock 1**. The plans have been revised as set out in **Dilcock 3**. That part of the HS2 Land over which a possession order has been granted, being land known as Cash’s Pit, Staffordshire (the “**Cash’s Pit Land**”) is shown coloured orange on Plan A annexed to the Order of Cotter J dated 11 April 2022.
7. The Claimants have previously obtained several interim injunctions preventing unlawful trespass and nuisance in claims: PT-2018-000098 (Harvil Road); PT-2020-BHM-000017 (Cubbington and Crackley); CO/361/2021 (Euston, Steyn J) and PT-2021-000132 (Euston, Mann J). In respect of PT-2020-BHM-000017 (Cubbington and Crackley), a committal order has been made against a named defendant, Mr Cuciurean (D33). In respect of CO/361/2021 and PT-2021-000132 (Euston, Steyn J and Mann J), the Claimants have issued committal proceedings against 5 named defendants. Those committal proceedings were discontinued by the First Claimant after wide-

ranging undertakings and apologies were provided by each of the 5 defendants to the court.

8. Presently, the First Claimant is faced with a significant unlawful trespass and obstruction of access in respect of the Cash's Pit Land which serves to illustrate the issues the Claimants face in respect of such unlawful activity along the route of the HS2 Scheme. On 11 April 2022, Mr Justice Cotter made a possession order and granted injunctive and declaratory relief in respect of the Cash's Pit Land. The Claimants seek continuance of that Order. The facts giving rise to the need for that Order are illustrative of the wider issues which the Claimants face: there are other significant Anti-HS2 Action activities which nevertheless continue to take place along the HS2 Land and experience has shown that the removal of the Defendants from the Cash's Pit Land is highly likely to mean that the issues are simply displaced to another part of the HS2 Land.
9. In accordance with the HS2 Acts, (Schedule 16 and Schedule 15 respectively) the Claimants are entitled to take temporary possession of certain identified land. That right to possession is a statutory right to possession, bespoke to HS2, and HS2 does not acquire title to the land in question. In effect, the statutory right to possession under the HS2 Acts overlays the existing title and is good against anyone on the land – including the owner of the land.
10. As set out in these Particulars of Claim, the Claimants are only concerned with the Anti-HS2 Action. For the avoidance of any doubt, the Claimants do not seek an injunction against any person with a lawful freehold or leasehold interest in land over which the Claimants have taken temporary possession.

Trespass to the Cash's Pit Land

11. The circumstances in which the Cash's Pit Land has been occupied are as follows:
 - 11.1. The Claimants believe a fluctuating group of individuals have been occupying the Cash's Pit Land (or part of it) since around March 2021. At present it is understood that there are in the region of 15 to 20 adults in occupation of the Cash's Pit Land, but numbers fluctuate on a daily basis. The Claimants have no specific information about the presence or otherwise of children on the Cash's Pit Land.

11.2. Many of the Cash's Pit Named Defendants are known to the First Claimant's security team and have trespassed upon other HS2 Land owned by the Second Claimant and/or land to which the First Claimant is entitled to possession on previous occasions across both Phase One and Phase 2a of the HS2 Scheme. The First Defendant and all of the Cash's Pit Named Defendants (together: the "**Cash's Pit Defendants**") are trespassers on the Cash's Pit Land and save for the Cash's Pit Named Defendants, their identities are not known.

11.3. It is not known precisely how or where the Cash's Pit Defendants gained access to the Cash's Pit Land, but access would likely have been gained easily given the nature of the Cash's Pit Land as open (albeit heavily wooded) land.

11.4. An encampment has been established on the Cash's Pit Land comprising a number of structures including tents, wooden structures (incorporating towers) and structures in trees. The Cash's Pit Defendants are understood to be opposed to the continuation of the HS2 Scheme on environmental, economic or other grounds. It is to be inferred from their conduct that the Cash's Pit Defendants by their unlawful trespass wish to prevent or delay or render more difficult and expensive works on the Cash's Pit Land and other HS2 Land in the area by the Claimants and their contractors.

11.5. The encampment on the Cash's Pit Land has been used by the Cash's Pit Defendants as a base of operations for action attempting to block access to and disrupt HS2 Scheme works on other land in the vicinity. Severe disruption has been caused to the First Claimant's contractor Balfour Beatty and necessitated them seeking injunctive relief to restrain the interference with their access. On 17 March 2022, the Court granted the injunction, which is exhibited to **Dilcock 1**. The encampment has also been used as a base of operations for sporadic incidents of trespass on other HS2 Land in the vicinity of the encampment on which works are being carried out by Cadent Gas to divert a gas pipeline. Some of these incidents are described in detail in **Jordan 1**.

12. On 23 February 2022, the First Claimant gave the occupiers of the Cash's Pit Land written notice to vacate and warned that Court proceedings would be issued if the Cash's Pit Land was not vacated. The circumstances of that notice are set out at

paragraph 46 of **Dilcock 1**. The Cash's Pit Defendants (or some of them) remain in occupation of the Cash's Pit Land without the consent of the First Claimant.

13. Dilcock 3 sets out the Claimants' service of the Cotter J Order.

Trespass and nuisance

14. As set out at paragraph 3 above, the Claimants have a right to possession of the HS2 Land.

15. The Anti-HS2 Action involves trespass on the HS2 Land; disruption of the works on the HS2 Land; and disruption of the use of roads in the vicinity of the HS2 Land causing inconvenience and danger to the Claimants and to other road users.

16. In particular, the Anti-HS2 Action has:

16.1. On numerous occasions created immediate threats to life, putting at risk the lives of those engaging in the action, the Claimants, their agents, servants, contractors, sub-contractors, group companies, licensees, invitees and employees and potentially emergency services personnel.

16.2. Caused disruption, delay and nuisance to the Claimants, their agents, servants, contractors, sub-contractors, group companies, licensees, invitees and employees on the HS2 Land.

16.3. Prevented the Claimants, their agents, servants, contractors, sub-contractors, group companies, licensees, invitees and employees and members of the public from exercising their ordinary rights to use the public highway or inconvenienced them in so doing.

17. Further, the Defendants' conduct:

17.1. Is an unlawful trespass on the HS2 Land in circumstances where they are bare trespassers.

- 17.2. In respect of obstruction of access to the HS2 Land has exceeded the rights of the public to use the public highway and is in itself a trespass against the relevant highway authority.
- 17.3. Has endangered the life, health, property or comfort of the public and/or obstructs the public in the exercise of rights common to all Her Majesty's subjects such that a public nuisance has been created, and the Claimants have suffered particular damage over and above the general inconvenience and injury suffered by the public in expending (i) costs incurred in additional internal managerial and staffing time in order to deal with the protest action; (ii) costs and losses incurred as a result of delays to the HS2 Scheme programme; and (ii) other costs incurred in remedying the wrongs and seeking to prevent further wrongs.
- 17.4. Threatens, unless restrained, to continue the actions under preceding subparagraphs and to cause an interference with the reasonable use of the HS2 Land amounting to a private nuisance.
18. The Claimants reasonably fear that the Cash's Pit Defendants will not comply with the order for possession or declaration made by the Court and in particular that they will refuse to leave any structures on or tunnels that they have constructed under the Cash's Pit Land, placing themselves and those trying to remove them at significant risk. To date, there has been no indication that the Cash's Pit Defendants have complied with the Order of Cotter J.
19. The Claimants also reasonably fear that, having removed the Cash's Pit Defendants from the Cash's Pit Land, the Defendants will return to trespass on or cause nuisance to the Cash's Pit Land or on other parts of the HS2 Land. The Claimants also, based on previous experience, reasonably fear that the Defendants will interfere with the access of the Claimants, their agents, servants, contractors, sub-contractors, group companies, licensees, invitees and/or employees to and from the HS2 Land and/or interfere with the fencing or gates at the perimeter of the HS2 Land.
20. By reason of the matters set out herein and in **Dilcock 1** and **Jordan 1**, there is a real and imminent risk of trespass and nuisance continuing to be committed in respect of the Cash's Pit Land and the HS2 Land.

21. The Defendants have openly stated an intention to continue to take part in direct action protest against the HS2 Scheme, through further protest action similar to that described herein unless restrained by this Honourable Court.

22. Accordingly, the Claimants apply, by way of the Application Notice and supporting witness evidence accompanying this claim, for final injunctive relief requiring the Cash's Pit Defendants to leave the Cash's Pit Land, declaratory relief and an order restraining the Defendants from trespassing upon or interfering with access to or the fencing and gates at the perimeter of the HS2 Land.

RE-AMENDED PRAYER AND THE CLAIMANTS CLAIM:

- (1) Interim injunctive relief in the terms of the draft Order;
- (2) Costs;
- (3) Further and other relief.

RICHARD KIMBLIN KC
MICHAEL FRY

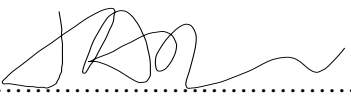
Dated this 26th day of April 2022

Re-Amendments dated this 26th day of July 2023

STATEMENT OF TRUTH

The Claimants believe that the facts stated in these Particulars of Claim are true. The Claimants 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.

I am duly authorised by the Claimants to sign this statement.

Signed:  Position or office held: Head Counsel –
Claimants' Solicitor L&P Disputes HS2 ltd

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T: 0114 283 3312

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Ref: RXS/380900/401

SCHEDULE OF NAMED DEFENDANTS

DEFENDANT NUMBER	NAMED DEFENDANTS
(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)	Not Used
(12)	Not Used
(13)	Not Used
(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)	Not Used
(19)	Not Used
(20)	Mr George Keeler (aka C Russ T Chav / Flem)
(21)	Not Used
(22)	Mr Tristan Dixon (aka Tristan Dyson)
(23)	Not Used
(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)	Not Used
(32)	Not Used
(33)	Mr Elliot Cuciurean (aka Jellytot)
(34)	Not Used
(35)	Not Used
(36)	Mr Mark Keir

DEFENDANT NUMBER	NAMED DEFENDANTS
(37)	Not Used
(38)	Not Used
(39)	Mr Iain Oliver (aka Pirate)
(40)	Not Used
(41)	Not Used
(42)	Not Used
(43)	Not Used
(44)	Not Used
(45)	Not Used
(46)	Not Used
(47)	Not Used
(48)	Mr Conner Nichols
(49)	Not Used
(50)	Not Used
(51)	Not Used
(52)	Not Used
(53)	Not Used
(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)	Not Used
(61)	Not Used
(62)	Not Used
(63)	Mr Dino Misina (aka Hedge Hog)
(64)	Stefan Wright (aka Albert Urtubia)
(65)	Not Used