

**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

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

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On behalf of: Applicants/Claimants
R.Jordan
1st statement of witness
Exhibits: RJ1 and RJ2
Date:23 March 2022

**IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY**

Claim No. QB-2022-BHM-000044

BETWEEN:

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

Claimants

- and -

- (1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND KNOWN AS LAND AT CASH'S PIT, STAFFORDSHIRE SHOWN COLOURED ORANGE ON PLAN A ANNEXED TO THE PARTICULARS OF CLAIM ("THE CASH'S PIT LAND")**
- (2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND ACQUIRED OR HELD BY THE CLAIMANTS IN CONNECTION WITH THE HIGH SPEED TWO RAILWAY SCHEME SHOWN COLOURED PINK, GREEN AND BLUE ON THE PLAN ANNEXED TO THE APPLICATION NOTICE ("THE HS2 LAND")**
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND BY THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP**

COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT WITHOUT THE CONSENT OF THE CLAIMANTS

(4) PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS

(5) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE) AND 58 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants

WITNESS STATEMENT OF RICHARD JOSEPH JORDAN

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

Introduction

1. I am the First Claimant's Interim Quality and Assurance Director and I am accountable for assuring the HS2 Railway will integrate, and be constructed and delivered into operation, to meet cost and schedule constraints, as well as Government, stakeholder and regulatory requirements. I am also accountable for providing our business wide management system, providing strategic direction for quality and for setting the arrangements for complying with and assuring that the First Claimant meets its obligations of 'Managing Public Money'.

2. At the time of the majority of the events described in this witness statement, I was the First Claimant's Chief Security and Resilience Officer. In that role, I was 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 included incident response, business continuity, cyber security, information assurance, physical security, personal security, personnel security and security of the future railway. I was 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, Centre for Protection of National Infrastructure and relevant security authorities and agencies. I had been in that role for over four and a half years. Previously, I was a consultant on defence and security projects, and served as a British Army officer for 21 years. In my military career I commanded 103rd Regiment Royal Artillery in which role I worked on projects including the security of the 2012 Olympics at Old Trafford. I have extensive experience of security and resilience operations, and I have completed the Advanced Command and Staff Course at the Joint Services Command and Staff College.
3. I am authorised to make this statement in support of the Claimants' application for an injunction in respect of the HS2 Land.
4. This statement has been prepared with the Claimants' legal representatives.
5. 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, 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. The HORACE system, in particular, is an important source of the information I set out below. HORACE is an online incident reporting system 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 it is both an online system and contains information filled in by specialist security professionals, it is not a resource which can be easily printed out or otherwise presented in a way that is easily understandable by a lay person. The Trak Tik system presents similar issues. 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.

6. There are now shown and produced to me marked **RJ1** true copies of documents to which I shall refer in this statement and which can be found at <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> . Page numbers without qualification refer to that exhibit. In this statement I also refer to video evidence which has been collated as numbered videos and marked **RJ2**. The videos can be viewed at: <https://vimeo.com/showcase/exhibit-rj2> and references in this statement to video numbers in bold are references to that exhibit.
7. In preparing this statement I have read the Witness Statement of Julie Amber Dilcock (“**Dilcock 1**”) in draft. Defined terms used in this statement are the same as those defined in the Particulars of Claim and in Dilcock 1, unless separately defined in this statement.

Purpose and scope of this statement

8. In this statement I will:
 - 8.1 Provide a history of protestor action against the HS2 Scheme;
 - 8.2 Explain the continued risk of unlawful protestor action against the HS2 Scheme and the need for an injunction.
 - 8.3 Explain the nature, aims and impact of direct action protest;
 - 8.4 Describe specific incidents of unlawful action by activists against the HS2 Scheme up to around 16 March 2022; and
 - 8.5 Explain how the First Claimant has come to identify the persons who have been added as named defendants to these proceedings;

9. As just indicated, I provide an explanation of protestor activity at the HS2 Land up to 16 March 2022. I have had to draw the line at that date (and for some data at 31 December 2021 or 28 February 2022 – where this is the case it is indicated), because it has proved very difficult to finalise a statement which tries to be precisely up to date as there continue to be regular incidents and developments at the HS2 Land. In respect of other incidents, given the frequency with which incidents occur, if necessary I will provide an updating witness statement to the Court before any future hearing in order to provide the Court with information on any important developments which have occurred between 16 March 2022 and that date.

Opposition to the HS2 Scheme

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.
14. At **page 1** 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.
16. The illustration at **page 1** just shows the data for Phase One of the HS2 Scheme. Activists have also begun targeting Phase 2a of the HS2 Scheme and as detailed later in this statement, we are seeing the same individuals that have organised and perpetrated unlawful acts on Phase One, also organising and perpetrating unlawful acts on Phase 2a. The graphic illustration at **page 3** shows the general trend of escalating incidents on Phase 2a.
17. At **page 4** is an illustration showing the escalation in incidents involving certain types of violence and crime on Phase One and Phase 2a of the HS2 Scheme between the beginning of February 2019 and the end of January 2022. Most categories show a generally increasing number of incidents involving these categories. Note that the figures show the number of incidents involving that type of activity and therefore where a single incident involves more than one type of activity, that incident will appear in more than one category. The acts perpetrated by the activists are not only frequently unlawful on a civil level, but regularly cross the line into criminal activity and include acts of violence. It is extremely disturbing to note the generally escalating trend in criminal and violent activity against the HS2 Scheme, which creates an immensely unpleasant and intimidating working environment for our staff and contractors.

18. At **page 5** is a “heat map” which shows the geographical location of security reports across the whole of Phase One and Phase 2a of the HS2 Scheme just for the period January 2020 to date, covering reports on incidents that had an impact on operational activity and also incidents where the First Claimant’s security team or contractor security teams were able to manage the incident so that there was no impact on operational activity. The total number of reports shown on the heat map is 4,013. The data clearly shows that the whole of Phase One of the HS2 Scheme from London in the south to Birmingham in the north has been subject to significant and sustained unlawful direct action protest over the last 2 and a quarter years (the period covered by the heat map) at a significant cost to the tax-payer and toll on those working on the HS2 Scheme. Phase One continues to be targeted by activists, with no sign that unlawful activity will cease unless restrained by the Court. The data also shows that Phase 2a of the HS2 Scheme is also being targeted by activists, with a generally increasing trend in the number and severity of incidents. Again, 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.
19. In order to assist with orientation, a separate map is at **page 6** showing the locations across the route of the HS2 Scheme of the sites where the example incidents set out in this statement took place. This map is referred to throughout this statement.
20. It is reasonably feared by the Claimants that this unlawful activity will only continue and worsen if left unchecked by the Court. In particular, the forthcoming eviction of the unlawful encampment trespassing on the Cash’s Pit Land will displace the activists trespassing on that land and the Claimants have good reason to believe that the Cash’s Pit Defendants will move to try to occupy other HS2 Land as they have done previously. For example, prior to entering onto the Cash’s Pit Land, D5; D17 to D20; and D22 were in occupation of an unlawful encampment dubbed “the WAR Camp” on HS2 Land in Wendover, Buckinghamshire and known by the Claimants (and labelled on the map at **page 6**) as Small Dean (“**Small Dean**”) and D31 was in occupation of HS2 Land at

Euston Square Gardens, London. A number of individuals who were in occupation of Euston Square Gardens (including D24, D25, D26 and D28) subsequently spent time in occupation of Small Dean. D32 has been involved in trespass and other incidents on HS2 Land at multiple locations across Phase One, including Harvil Road, Crackley & Cubbington Wood and Euston Square Gardens. The locations of these sites are shown on the map at **page 6**.

21. 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.
- 21.1 Examples of the multiple threats made against the HS2 Scheme when direct action first began at HS2 Land at Harvil Road in Hillingdon, including threats by D36, D37 and D38 are at **pages 7 to 9** and include references such as "*let's build an army*" and "*Let loose hell on HS2*". Threats issued by D36 in 2019 were recorded by the Judge, Mr Justice Holland QC, in his judgment ([2019] EWHC 1437 (CH)) given on 16.05.2019 in proceedings to extend the Harvil Road Injunction (in which he was the Fourth Defendant) as follows:

79. Then there were, in particular, a number of statements made by the Fourth Defendant which are also recorded in that same exhibit. I believe this one is from Facebook and it records the Fourth Defendant saying in relation to the incident which resulted in the charge of aggravated trespass:

"Two arrested. Still need people here. Need to hold them up at every opportunity."

Then he is also recorded as saying on 28th April, whilst addressing a lady called Lainey Round, as follows:

"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."

80. I also note from his own witness statement that the Fourth Defendant says as follows. In paragraph 3 he says this:

"Yet again, I find myself here defending not just my honesty and my integrity but that of all those millions out there who hate HS2."

He says in paragraph 20 as follows:

"But that pales next to contempt of youth, of our children and their children, of our future and contempt of the planet we all share."

And at 21:

"I will NOT stand by. My daughter, who knows she has little chance of reaching my age, deserves all my energy and all my activism to end such horrible conceit."

Paragraph 23 of that statement is as follows:

"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.

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**.

- 21.3 Interview with the Guardian on 13.02.2021 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."* A copy of the article is at **pages 10 to 12**.
- 21.4 In March 2021 D32 obstructed the First Claimant's works at Wormwood Scrubs and put a call out on Twitter on 24.03.2021 asking for support to prevent HS2 route-wide. He also suggested targeting the First Claimant's supply chain. A screenshot of the tweet is at **page 13** and copy of the video is at **Video 2**.
- 21.5 Post by D33 on Facebook on 28.07.2021 sharing with other activists maps of the HS2 Scheme route that he had transcribed onto OS maps: *"This gives a good idea of where HS2 are working ... Feel free to use in whatever way you see fit, share, edit, download, whatever..."*. A copy of the post is at **page 14**.
- 21.6 Interview with the BBC given by D24 (Report Map at **page 33**) on 15.11.2021 following his removal from tunnels under HS2 Land in Wendover, in which he said: *"If we look back to the 90s, we stopped the road-building programme [using] tactics like tunnelling, in fact that probably was the [thing] that broke the camel's back. So we can stop it [HS2] with this tactic which will save the country billions of pounds... they just have to reverse it."* A copy of the article is at **pages 15 to 16**.

- 21.7 Post on the Bluebell Woods Protection Camp Facebook page on 16.11.2021: *“Come and join and support the resistance as we put the final nails in the coffin of HS2”*. A copy of the post is at **page 17**.
- 21.8 Post on the Bluebell Woods Protection Camp Facebook page on 26.11.2021 with a link to a “Go Fund Me” fundraising page, saying: *“Please click below to help us continue blocking gates, building camps and momentum GROWS ever stronger so we can stop hs2!!!”*. A copy of this post is at **page 17**. Screenshots of the Go Fund Me page are at **pages 18 to 21**. Another post on the same page on 14.02.2022 stated: *“As usual we have been mega busy building and preparing for the fateful day they try and evict us! This costs time, resources and money. It’s great to see all the work and structures popping up everywhere! To that end, We really need your help with a few supplies and would really appreciate some help! We are so close to raising enough money for a minibus so that we can effectively protest in the local and wider areas alike as well as move people and resources enabling us to set up more camps needed to fight this ecocidal project!”* A copy of that post is at **page 25**.
- 21.9 D25 has been involved in multiple incidents against the HS2 Scheme, including occupying tunnels on HS2 Land at Euston Square Gardens and a lock-on at the Chiltern tunnel portal. D25 was also arrested for aggravated trespass and causing damage to the Arconic building in Birmingham (an article about that action is at **page 34**). On 05.12.2021 D25 placed a post on Facebook (which was also widely shared by a number of other activists) intimating that direct action had resulted in cancellation of projects and stating in relation to various sections of the HS2 Scheme: *“YOU’RE NEXT”*. A copy of the post is at **page 22**.
- 21.10 On 02.01.2022, information was posted on the Bluebell Woods Protection Camp Facebook page about property held by the HS2 Scheme and a threat made to squat in that property: *“So we could potentially squat some of those properties that might now be empty? Them being a ltd company they’d have to fight through the courts to evict ...”*. A copy of that post is at **page 23**.
- 21.11 Facebook post by D29 (who has been involved in multiple incidents against the HS2 Scheme, including occupying tunnels on HS2 Land at Euston Square

Gardens – see paragraph 50 onwards below - and a lock-on at the Chiltern tunnel portal (the location of which is shown on the map at **page 6**) – see paragraphs 29.6.4 to 29.6.5 below) on 27.01.2022 in which she stated: *“HS2 is a classist project that is only upheld because of the minimum wage workers. HS2 is a classist project that has thieved far more from working class people than many could even comprehend. Resist HS2, smash classism in the face.”*. A copy of that post is at **page 24**.

- 21.12 Statement by D6 (Report Map at **page 35**) on 23.02.2022 and livestreamed on Facebook discussing the injunction applied for by Balfour Beatty to restrain obstruction of access to their compound at Swynnerton (from which they carry out works on the HS2 Scheme) and fundraising for a minibus (from 1 min and 11 seconds): *“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. To that end, that’s why we’re trying to raise money for a minibus because if they do get this injunction then we can carry on this game and we can hit every HS2, every Balfour Beatty gate and with that it’s just lawful peaceful protest using our freedom of expression and assembly. So bring it on HS2. I’m gonna put the crowd-funder on the thing. I really, really need help to get this minibus. We’re really close. We’ve been saving all of that money. It does cost quite a lot to get the insurance on that for quite a few of us. But with that we can get more camps. We can get more gates that we can be seen and get everywhere we need to be. So please help, please give us support. And obviously we need money to fight this. We need money to fight this injunction, you know, look at this paperwork. So, yep, please come – just come and help us. Come and help us build. Come and help us dig. Come just be part of us. Come for a cup of tea. Come for a meal. Come have a chat. Come let us know what your concerns are. Thanks very much.”* A copy of the video is at **Video 3** and a screenshot of the post in which the video appeared is at **page 26**.

21.13 Statement by D6 on 24.02.2022 and recorded on video by D6 and uploaded to social media during service of the temporary possession notice and notice to vacate on the Cash's Pit Land, in which he said: *"They want to evict us. They're going to spend about £4 million evicting us from this place – and for what? They don't need it. They don't need it until 2024. They just – it's coz we're a nuisance. Because protest – using your human rights, freedom of assembly, freedom of expression is a nuisance for private industry. So they're going to take your tax-payers' money to make us homeless. But, the thing is, we'll just move on. And we'll just do it again and again and again. You know? So what's the point? What's the point in spending all that money and move it along? Tell you what the point is: it's because we're two sides of the same fucking arse cheek and we just make them a load of money. That's the point. They can't just leave us alone to peacefully protest, they want to make money out of it. Your tax-payer's money. Then they'll blame us for spending that, but they choose to spend it every single step of the way".* A copy of the video is **Video 4**. D6 was explicit about the intention of activists to trespass "again and again and again". In a reply to a comment on the same post, D6 said: *we can fight the injunction and we will resist and fight the eviction, we need all Hands to the pump but we're ready, we won't go down easy and this isn't the end of us, our camps or the protests."* A copy of that post is at **page 26**.

21.14 On 10.03.2022 D17 (Report Map at **page 36**), D18 (Report Map at **page 37**), D19, D31, D63 and a number of persons unknown spent the morning trespassing on HS2 Land adjacent to the Cash's Pit Land, where works are being carried out for a gas diversion by Cadent Gas and land on which archaeological works for the HS2 Scheme are taking place. This incident is described in detail at paragraph 78. 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.” D17 makes 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. A still from the video is at **page 27** and a copy of the video is **Video 5**.

22. On 16.03.2022 a post was placed on the Bluebell Woods Protection Camp Facebook page detailing the timetable for their “Open Weekend – The Last Stand” which included:

- “Climbing, traverses and nets”
- “Tree house building, barricading + more”
- “HS2 map study”
- “Climbing workshop”

Most of the activities appear to be designed to teach people techniques for resisting eviction. “HS2 map study” is likely to involve planning to target further HS2 Land in the future and may be related to the post by D33 on 28 July 2021 described at paragraph 20.5 above (and exhibited at **page 14**), A copy of the post is at **pages 28 to 30** and a copy of the Facebook event created for the open weekend is at **page 31**.

23. The unlawful activities of the Defendants regularly cross the line into the criminal and there have been hundreds of arrests since 2017 for offences committed on or in the vicinity of HS2 land. Commonly activists are arrested for aggravated trespass and criminal damage. Arrest data can be difficult to obtain and collate, but by way of illustration in the period from November 2019 to October 2020 129 individuals were arrested for offences linked to anti-HS2 activity covering 407 offences. The burden placed on the police – across multiple forces including: the Metropolitan Police, Thames Valley Police, Warwickshire Police and Staffordshire Police as a result of the geographical spread of illegal activity against the HS2 Scheme – is tremendous. Much of the period cited above was at the height of the pandemic when policing was particularly challenging and resources of the emergency services severely stretched. Both the police and the CPS have struggled to deal with the volume and nature of the illegal activity targeted at the HS2 Scheme and it has become increasingly incumbent upon the Claimants to seek civil law remedies to deal with the issues faced.
24. The Claimants have sought and obtained injunctions on prior occasions to restrain unlawful trespass and obstruction action by the Defendants at HS2 Land at Harvil Rd in Hillingdon (claim number: PT-20018-000098) and at land in Warwickshire known as Cubbington & Crackley (claim number: PT-2020-BHM-000017). The details of those injunctions and copies of the current orders are set out in **Dilcock 1**. Whilst those injunctions have been successful in reducing the number of incidents of unlawful trespass and obstruction on the land that they cover, some action has continued and, it is anticipated will continue and escalate if this land does not remain the subject of injunctive relief. Injuncting specific sites also, inevitably, has the effect of displacing unlawful direct action onto other parts of the HS2 Land not covered by an injunction. Given the scale of the issues faced

by the Claimants and the fact that fundamentally the Defendants have no right to enter onto the HS2 Land or to disrupt access to and from the HS2 Land, the Claimants consider that they are justified in asking the Court to impose an injunction restraining unlawful trespass and obstruction across the whole of the HS2 Land.

25. The Claimants anticipate that unless the Court takes steps to restrain the unlawful activity, the number of incidents will continue to increase significantly as more sites where work is being carried out are opened up and accordingly that the cost to the tax-payer of dealing with these incidents will also continue to increase significantly.
26. Whilst the identities of some of the individuals involved in unlawful action targeted at the HS2 Scheme are known to the Claimants – in particular those who have repeatedly engaged in action over a prolonged period and some of whom have been arrested and prosecuted for criminal offences committed during such action - the identities of many of those involved are not known to the Claimants and new individuals become involved on a regular basis such that the people involved are fluctuating.
27. The Claimants have named as Defendants to this application individuals known to the Claimants (sometimes only by pseudonyms) in the following categories:
 - 27.1 Individuals identified as believed to be in occupation of the Bluebell Wood Land whether permanently or from time to time (D5 to D20, D22, D31 and D63);
 - 27.2 The named defendants in the Harvil Rd Injunction (D28; D32 to D34; and D36 to D59);
 - 27.3 The named defendants in the Cubbington & Crackley Injunction (D32 to D35);
 - 27.4 Individuals not already named as a result of being in one of the above categories and whose participation in incidents is described in this statement.

“Direct Action” Protest

28. Direct Action protest against the HS2 Scheme takes many forms. I explain in the following paragraphs what the more commonly encountered forms of such action look like and provide examples perpetrated against the HS2 Scheme across Phase One and Phase 2a in order to illustrate the issues that the Claimants face and the need for injunctive relief. The over-arching aim of activists is to delay and disrupt work on the project and to force the Claimants to incur significant additional costs. By way of example, in the words of an activist, at **Video 6** is a video posted on Facebook by D5 on 24.02.2022, in which he gives an overview of the tactics they intend to use to delay and disrupt the First Claimant when seeking to possess the Cash’s Pit Land. He says: *“We have been served notice at Bluebell Woods. This morning some men dressed in black and another man who would not identify himself have pinned notice to the front of the camp – official paperwork saying that they plan to take temporary possession of the land and notice to vacate, which means they want us off. We have seen it before if you have followed what’s happened on the HS2 line, it means HS2 ... if you have seen what’s happened before, it means HS2 are coming. That means this woodland – all of this behind me – and the line all the way from here to Crewe is under threat of being felled this summer. They are moving on us in the next 28 days. So, what can we do? Dig in. That’s what I’m gonna say straight away simply... We have got 28 days to be here, to dig in and to build a resistance. It is time for gloves off. Diversity of tactics. They are going to come in and destroy the things that are important to us – the very eco-systems that we rely on. We are not going to sit back passively and allow this to happen. It’s time to get over-ground, underground, into lock-ons, to sit in roads. In 28 days’ time the only way to stop them taking this woodland is to have it full of hundreds of people ready to resist. Ready to put it on the line and ready to be arrested. Ready to go to court and stand up and fight for the rights. We have seen it time and time again. The justification of our actions on the HS2 line. Look at what happened in the Chilterns. Look at how many convictions they have got. Look at how – there are court cases ongoing – look at how it has been proven that Natural England and HS2 not only lied to the Government and the public in order to fell ancient woodland and do irreversible damage. That they acted criminally. We have not been convicted for our actions*

standing against those evictions. We have not been taken to Court. We are not in prison for our actions. We are not the criminals. HS2 are coming to Bluebell Woods in 28 days. We have an opportunity to now build an active – not passive – resistance. To get underground. To get over-ground. To deploy diversity of tactics. The fight is only just beginning in Staffordshire. They want us gone before felling season. It's all very coincidental. If we allow that, everything that happens here will be irreversible ecocide. If you allow that – it's not time to give up the rest of your lives and stop going to work and damaging your reputations in your communities. It's time to take 28 days out of your life and be here and be ready to put it on the line for the people of Staffordshire and the people who have put it on the line over the last few years on this campaign. It's time to resist.”

29. I want to emphasise (as illustrated in the graphics of overall incident numbers referred to above) that there have been multiple incidents of these types across the length of the route of the HS2 Scheme and that they are too numerous to detail each and every one in this statement.

29.1 Trespass

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. Often the trespass is combined with one of the other forms of action designed to hinder the removal of the activists and further disrupt works, such as:

29.1.1 **Breaching fencing and damaging equipment.** By way of example, a significant incident occurred on 31.10.2020 (Halloween) at one of the First Claimant's sites on the HS2 Land, in the area of Cubbington & Crackley Woods in Warwickshire. At around 20:00hrs circa 30 to 40 unknown activists entered the site by cutting through and damaging the perimeter fencing. Once the activists were on site, they assaulted 2 security officers and dazzled their body-worn cameras with lasers. A fire was started in a skip and 6 vehicles and a marquee were damaged. In addition, a number of electronic items including body worn cameras, radios and chargers were stolen. Photographs of some of the damage caused are at **page 40**. Activists also tore down and damaged fencing at Jones Hill Wood in a violent incident on 30.04.2021 and which is described in more detail at paragraph 49 and shown in **Video 8**.

29.1.2 **Climbing and occupying trees on the trespassed land.** The occupation of trees by activists has been a feature of direct action protest against the HS2 Scheme across the whole route. For example,

it has featured at the First Claimant's sites at Harvil Road, Euston Square Gardens, Denham Country Park, Leather Lane, Jones' Hill Wood, Small Dean, Poor's Piece, Crackley Woods and Cash's Pit (the locations of which are shown on the map at **page 6**). Such is the prevalence of this type of action that it would be impossible to cover in detail each and every occurrence. Like other types of direct action, the occupation of trees is focused upon creating the maximum delay, disruption and cost to the Claimants. In this instance height is used as a mechanism to achieve this: as explained below in relation to other types of at-height action, the conducting of action at height requires specially trained and equipped personnel to effect a safe removal. Often the occupation of the tree is combined with other direct action techniques such as a lock-ons to make removal even more difficult, lengthy and dangerous. Some activists in trees will physically fight with specialist removal teams to prevent their removal. **Video 9** was taken at the First Claimant's land known as Poor's Piece Wood near Aylesbury in Buckinghamshire on 25.02.2021 and shows the quite incredible danger in which individuals are willing to place themselves and the First Claimant's removal teams. Between 11 and 16 seconds in that video an activist can be seen grappling with one of the removal team as he is removed from a tree into the basket of a cherry picker machine, putting himself and the member of the removal team at risk of injury. An article from Buckinghamshire Live first published on 24.02.2021 (and since updated) about the eviction is at **pages 41 to 47** (D27 was occupying one of the tree houses and can be seen in image 5 in the article).

- 29.1.3 By way of further example of the occupation of trees on HS2 Land, D5 entered onto HS2 Land at Leather Lane on 22.02.2021 and climbed and occupied an oak tree that was scheduled for felling. The location of this incident is shown on the map at **page 6**. D5 posted a video on Facebook on the morning of 23.02.2021 seeking support (a screenshot of this is at **page 48**). Following this, several activists' vehicles then entered upon the site and persons unknown occupied

other oak trees located approximately 200m to the north to try to prevent de-vegetation works scheduled as part of the works for the HS2 Scheme. Within days a small camp with tree houses and structures erected beneath the tree D5 was occupying and amongst the tree line to the south had been established and the occupation can be seen in a video taken by a security patrol on 05.03.2021 at **Video 10**. In addition, a field latrine was dug just beside the tree occupied by D5, an image of this is at **page 49**. The First Claimant and its contractor jointly undertook a clearance operation on the morning of 10.03.21 to evict the activists trespassing on the land and remove the structures they had constructed. Due to the poor weather and apparently having caught the trespassing activists by surprise, this operation was completed in a day. D5 and D8 and further persons unknown were escorted from the land by the First Claimant's security contractor. The cost of the clearance operation was almost half a million pounds. Photographs and screenshots of social media posts relating to this incident are at **pages 50 to 52**. Although the camp at Leather Lane was cleared, a significant security presence has had to be retained at the site thereafter because of the ongoing threat of reoccupation due to its location (just 1km south of Jones Hill Wood) and the opposition to the remaining de-vegetation works required. Further examples of action in trees are set out in the section on protest at height below.

- 29.1.4 **Climbing onto vehicles on the trespassed land** (often referred to by activists as vehicle "surfing"). An example of this occurred on 30.12.2021, when the First Claimant's contractors were carrying out preparatory works for the forthcoming box-slide of the Marston Box Bridge over the M42. The First Claimant had taken temporary possession of the section of the M42 between junctions 9 and 10 for the works and the road had been closed to the public using powers granted to the First Claimant under Schedule 4 of the Phase One Act. D6 trespassed on the works area and climbed onto a lorry delivering tarmac for the works. He remained on the vehicle for an hour, during which time the vehicle was unable to move for safety reasons and

unable to complete the delivery of the tarmac, which was time sensitive and risked the whole load becoming unviable to use for the surfacing works. The vehicle blocked the entrance to the HS2 Scheme works, meaning no other vehicles could enter or leave the site until a new entry point could be opened. A report with photographs compiled by the First Claimant's contractor's security team can be found at **page 53**. A video taken by D6 of himself on top of the lorry and uploaded to social media is at **Video 11**. D16 also committed acts of trespass during the First Claimant's M42 works and was arrested.

29.1.5 **Climbing under vehicles on the trespassed land.** For example, in a particularly serious incident on 02.10.2017, an activist gained access to HS2 Land at Harvil Road in Hillingdon and crawled underneath a 13-ton tracked excavation machine, which was parked on soft earth in readiness for carrying out tree removals and ground clearance activities on the site. She attached herself to a bracket on the excavator chassis using plastic handcuffs. D36, D38 and two other activists also gained access to the HS2 Land. One of them climbed up the machine to a height of around 2.5m. Two others placed themselves adjacent to each of the machine's tracks, the net effect being that the machine could not move without injuring them. The activist under the machine was at particularly significant risk of injury, having placed herself beneath a 13-tonne machine standing on soft earth, meaning that had the machine sunk into the earth under its own weight, she could have been crushed. Had she not been identified in this area, the machine operator would not have been able to see her. The activists remained under the machine overnight and into the following day, refusing to leave when requested to do so and were eventually removed by the First Claimant's security team. An article from the Guardian Newspaper about the incident is at **pages 54 to 55**.

29.1.6 **Climbing onto equipment.** This has been a common feature of the unlawful activity against the HS2 Scheme. Climbing onto equipment uses height as the primary mechanism for delay, which requires

specialist teams to remove the activist from the top of the equipment, creating delay and disruption. This delay may also be compounded as the equipment which has been climbed must then be inspected for sabotage or accidental damage prior to future use. This inspection is key to ensuring, for example, that hoses and lines have not been tampered with. The importance of this is highlighted by the incidences that have been discovered of activists tampering with and damaging plant across the HS2 Scheme (see for example paragraph 29.1.1 and).

- 29.1.7 By way of a particularly shocking and dangerous example of climbing onto equipment, D62 climbed a 150ft crane working on an HS2 Scheme site at Euston Station in the early hours of the morning on 05.09.2020. In a video interview uploaded to social media, D62 explained how she breached security and gained access to the construction site and climbed the crane in order to unfurl an anti-HS2 banner: *“Basically we have been planning this for a while because we wanted to do a banner drop and the main reason is is to get out more awareness about HS2 and the ruin they have caused so far and the fact that they have acted in corrupt ways. They have acted above the law many times. The crane’s a great opportunity because it’s a good way of using utilising what they’re using against them. I kind of got up at 3am this morning and then tried to get in through one of the gates and got caught, ran off and climbed over a different corner of it and ended up in the compound and then once I was in the compound – this was probably about half past 3 / quarter to 4 at this point – I basically got inside and just climbed up from there. Once I was on the ladders I was ok and I actually reached a point where it was a little bit unsafe because I had to go on the outside of the ladder to get up, yeah [laughs] that’s how I ended up up here. But the main reason is is that our goal is to create awareness around HS2 and what they’re doing so that we can stop them in their tracks before they keep causing any more devastation to the landscape. I do this for everybody. I do this for future generations, because it’s for all of us, like, we’re all*

sharing this environment together and it's really important. We've already built enough transport links on green space. We don't have enough woodland in the UK as it is, like, we don't need to keep on building infrastructure, building transport links. We need to work with what we've already got. You've got companies like HS2 that work outside the parameters of the law it seems and get away with doing whatever they like – [laughs] including assaults on protestors. I will continue to keep protesting for as long as it takes.” A copy of the video is at **Video 12**. D62 remained on the crane, putting herself in danger (exacerbated by the fact that she was not eating and would have been in a weakened state as a result) and stopping work on the site until the following Monday morning. She was also speaking on the phone to a crane operator, trying to find out how to start the crane, which would have created an unbelievably dangerous situation. In order to guard against this, the electricity supply to the crane had to be cut, which in turn meant that the flashing light that was on top of the crane to warn aircraft of its presence no longer functioned. Accordingly, aircraft – including the air ambulance – had to be diverted away from the area for the duration of the incident. Screenshots from social media, a media article and a piece by the group HS2 Rebellion on the incident are at **pages 56 to 63** (the contact details at the end of the HS2 Rebellion piece are D32's). More recently in **Video 46** taken on 10.03.2022, D17 clearly outlines the purpose of such protest and shows how hard groups of activists will work to climb on equipment.

- 29.1.8 **Using lock-on devices on the trespassed land.** For example, when the First Claimant commenced action to take possession of Euston Square Gardens in January 2021, D24 to D32 (the “**ESG Defendants**”) occupied tunnels that had been dug beneath the land in order to resist eviction. This incident is described in more detail from paragraph 50 below. In order to hinder the progress of the enforcement team seeking to safely remove them, the ESG Defendants erected a barricade in the down-shaft leading into the

tunnels and when that barricade was removed by the enforcement team, they found D27 with his arm in a lock-on device, blocking access to the tunnel complex. The lock-on device consisted of a concrete filled steel tube into which D27 had locked his arm. This tube was itself placed inside a steel safe filled with concrete and steel reinforced bars which was dug into the base of the tunnel. D27 was asked to release voluntarily and would not do so. The enforcement team were therefore obliged to work to try to cut D27 safely out of the device. D27 was at considerable risk of harm in the cold wet conditions underground and the circulation to his arm was put at risk by his refusal to release. There were serious concerns for his health amongst the enforcement team and the paramedics present on site. It was some two days before the enforcement team were able to release D27 from the lock-on device (he then retreated into the tunnel complex with the arm-tube part of the device still on his arm) and during that time it was not possible to make progress into the tunnel complex to attempt to safely remove the other ESG Defendants. Photographs of the lock-on device and D27 in the arm tube are at **pages 64 to 69**. The enforcement team working to remove the ESG Defendants safely from the dangerous and unstable tunnel complex that the ESG Defendants had dug were put at considerable risk during this operation and the use of the lock-on device to prolong the trespass increased the time that the team were forced to spend in those dangerous conditions. D27 himself described this incident in an interview he gave to the Guardian following his removal from the tunnels, a copy of which is at **pages 10 to 12**. The operation took place at the height of the Covid-19 pandemic and matters were made worse when D32 poured a 4 pint milk container full of urine into the sump that had been created with the removal of concrete around the lock-on device and where the enforcement officer working to remove D27 was lying. This urine also contaminated the surrounding area. D32 undertook this action in full knowledge that enforcement officers would have to come into contact with a bio-hazard for a considerable amount of time and during the Covid-19 pandemic.

29.1.9 **Theft, property damage and abusing staff and contractors.** Those trespassing on HS2 Land have also engaged in acts of theft of items belonging to the First Claimant or its contractors. An example of this is given at paragraph 29.1.1. By way of further example, on 16.12.2019 a security camera at the HS2 Land at Harvil Road in Hillingdon picked up images of a trespasser walking through the site. This alerted the security teams who monitored the incident. Images are at **page 70** and show the back of a person unknown wearing a puffer style coat, jeans, a woolly hat and carrying a large dark rucksack. The Claimants have not been able to identify this individual. The camera showed the trespasser walking towards the fencing at the rear of the site before stepping through it. As the trespasser stepped through the fence, the security team noticed that a different security camera appeared to have been removed from its mounting and taken by the individual. Whilst the camera was showing as connected at the time of the incident, images from the camera were consistent with it having been placed in a bag as no detail could be identified in the images. The site security officer investigated the area and reported that the fencing at the rear of the site had been cut and that the camera was missing. The theft and property damage were reported to the police (incident reference number 1274 16/12/19).

29.1.10 The abuse of the First Claimant's staff & contractors has been an almost constant feature of the activism experienced against the HS2 Scheme. This abuse creates fear and concern for those working on the HS2 Land. Understandably, staff and contractors are often reluctant to "run the gauntlet" and risk being confronted and identified upon social media. Ultimately this intimidation disrupts and increases cost as the First Claimant must find workarounds, deploy additional security resources and reassure its supply chain. The fears of staff and contractors are unfortunately well-founded and by way of example, the following show just some of the extreme behaviours encountered during the works on HS2 Land at Harvil Road in late 2019 and early

2020 when the First Claimant's staff and contractors were subjected to quite disgusting abuse:

- (a) On 24.11.2019 three male persons unknown approached West Gate 3. One of them aggressively pushed and pulled the fence when approached by a security officer and tried to reach through the fence to grab the officer and attempted to jump over the fencing to hit the officer. He then proceeded to make threats against the officer, stating he knew who he was and that he should "*watch [his] back*" as he would "*get*" him. He then repeatedly punched the fence which caused his right hand to start bleeding, then he started punching himself in the face screaming the words: "*you have assaulted me, you have assaulted me*". He produced his mobile phone and started recording the security officer and then filmed his hand saying: "*this man assaulted me and cut my hand*".
- (b) On 01.04.2020 D33 (Report Map at **page 71**) walked in front of a security vehicle at HS2 Land to slow it and was then joined by D44, who started fencing the vehicle in with fencing taken from the site perimeter such that, within minutes, the vehicle was fully surrounded by Heras fencing. The individuals then placed cones in front of the vehicle and fence supporting blocks around the front and back wheels so that it was prevented from moving. D33 then spat on a sponge and smeared the vehicle with it. For context, this incident occurred in the height of the Covid 19 pandemic. The incident lasted for over an hour and half before D33 and D44 and another person unknown left the site and the security team were able to safely remove all obstacles around the vehicle. Twenty-seven fencing panels were removed by the activists during the incident, nine of which were damaged.
- (c) On the night of 13.05.2020, two unknown males and D54 were trespassing on HS2 Land in the Harvil Road area and became aggressive when challenged by security. D54 refused to leave

the HS2 Land and shouted and swore at the security officer. She slapped him in the face, punched him and spat in his face during the incident, which again took place during the height of the Covid pandemic. Upon eventually being removed from the HS2 Land, D54 was arrested for assault.

29.2 Obstruction of access

This typically involves obstruction of either the Claimants' private rights of way or the Claimants' right to access HS2 Land from the public highway. All forms of obstruction of access cause disruption and delay to the HS2 Scheme and have financial implications for the Claimants. It is sometimes combined with trespass and with the other forms of direct action described below, for example by using lock-on action to obstruct bell-mouth entrances to sites and compounds. The following are examples of obstruction incidents experienced on the HS2 Scheme:

29.2.1 On 29.09.2021 D17 and D22 trespassed on the HS2 Scheme worksite at London Road in Buckinghamshire (the location of which is shown on the map at **page 6** marked as "Small Dean") and obstructed access. D17 and D22 entered onto HS2 Land at 06:35hrs. They lay down in the bell-mouth entrance in front of the main compound gates restricting the flow of vehicles moving in and out of the site and refused to leave when told they were trespassing and asked to leave by the First Claimant's security team. The trespass lasted for almost 8 hours with the individuals having 'locked-on' (a technique described in more detail in paragraph 29.5 below) by locking their arms together inside a beer barrel filled with cement. Photographs of the incident (including a photograph of the lock on device used) as well as a social media posts by D17 documenting the incident are at **pages 72 to 75**. The individuals eventually left site voluntarily around 14:00hrs. This action prevented vehicles from accessing the site via this entrance, meaning that welfare facilities for those working on the site could not be maintained properly and in particular, toilets could not be emptied. A diesel delivery could not access the site and those working on the

site were unable to gain access to park and had to park elsewhere. One vehicle was trapped in the site for the duration of the incident.

29.2.2 On 19.04.2021 4 activists (including D24) conducted 2 lock-on protests at sites located either side of the A41 in Aylesbury (the location of which is shown on the map at **page 6**). A presentation on this incident including more detailed location information and photographs is at **pages 76 to 78**. The devices deployed were of complex construction including steel inner pipes within a concrete filled barrel with hidden expanding foam cannisters, one of which subsequently exploded on a Thames Valley Police officer (a photograph of the officer covered in foam is at **page 78**). Fortunately, no injuries were sustained in the removal, however, it is clear that had the Police team not been using protective shields, this may not have been the case. This action blocked the access to 2 HS2 Scheme sites, being a batching plant producing cement and a construction site. Whilst an exact figure is not readily available for the costs incurred as a result of the closure of these sites, it is considered by the First Claimant that the costs will have been significantly in excess of £50,000.

29.2.3 On a number of occasions activists have engaged in slow-walking protests. Slow-walking is the practice of walking slowly in front vehicles and delaying their access and egress to and from work sites, ultimately disrupting the opposed project and increasing cost. Slow-walking actions may also be used to facilitate other direct action tactics, including slowing a vehicle to such a speed that it is possible to climb. For example, on 20.11.2020, D31 climbed upon a Bauer Keller Piling Rig being transported upon a low-loader leaving one of the First Claimant's sites on HS2 Land at Edgcott Road near Quainton in Buckinghamshire (the location of which is shown on the map at **page 6**). Photographs of the incident are at **pages 79 to 80**. The exit of the low-loader from the site was initially obstructed by D24 and D45 slow-walking in front of it in order to afford D31 (who is D24's

son) the opportunity to climb onto it. Once D31 was on the vehicle, it was obliged to come to a complete halt for safety reasons until D31 could be removed. Shortly after the vehicle had stopped, D45 also super glued himself to the vehicle at ground level. D31 remained on top of the vehicle for approximately 6 hours before Police were able to remove him; D45 was removed shortly beforehand. As a result of this action the B classification road remained closed throughout, as the positioning of the abnormal load meant that no traffic could pass. A video showing the vehicle stopped in the highway is **Video 13**. This subsequently closed one of the main access routes to the village of Quainton. Once D31 and D45 were finally removed, an escorted convoy then proceeded along the route, where a further attempt was made to block it using a minibus driven by D28. The minibus was intercepted by police and confiscated.

29.2.4 Sit down and stand up actions within site entrance bell mouths have become a common feature of the campaign against the HS2 Scheme. By way of example, on 30.10.2020 a theatrical group called the Red Rebels who are part of the Extinction Rebellion group slowed traffic and then blocked access at one the First Claimant's sites at Gawcott Road in Calvert Buckinghamshire (the location of which is shown on the map at **page 6**). A video of the incident uploaded to social media is at **Video 14** and screenshots from the video are at **page 81**. The group conducted a procession along the highway before stopping at the site entrance and blocking the access for around 1 hour. Access to the site was blocked in 3 ways on 30.10.2020:

29.2.4.1 Boat Protest: a small boat was dropped at the entrance to block the access and egress to the site. This had to be removed by the First Claimant's contractor. The boat, which had been removed by the time of the subsequent actions by activists, can be seen in **Video 14** just inside the site entrance.

29.2.4.2 Standing in the Site Entrance: the Red Rebels stood in the site entrance obstructing access. HGVs unable to gain access to the site can be clearly seen driving past the site in **Video 14**.

29.2.4.3 “Die In” action: Simply, a “die in” is where a group of activists lie on the ground imitating death. In this instance, they blocked both lanes of the public highway at Gawcott Road blocking both works and local traffic.

29.3 Damage to buildings, vehicles and equipment

Where activists perceive that non-violent direct action protests may not be achieving the desired effect, action has on occasion escalated to directly damaging equipment. Such damage may be conducted overtly as seen at Crackley Woods (and detailed in para 29.1.1) when activists breached the site perimeter, assaulted security officers, started a fire and damaged plant machinery. Activists also engage in more covert activity. For example, incidents experienced in the Small Dean and Jones Hill Woods areas were not immediately obvious.

29.3.1 In the cases at Small Dean and Jones Hill Wood, hydraulic hoses had been cut and they were only discovered upon the first parade of the vehicle. This action prevented the use of those machines the following day. It is only the attention to detail of the operator which prevented potential further equipment damage and/or the spillage of fuel and hydraulic fluids on to the ground. Two images of the cut hoses are included in the contractors safety alert at **page 82**, which was issued after the Small Dean and Jones Hill Wood incidents.

29.3.2 By way of further example, on the morning of 06.05.2021 D32 and D60 scaled a building known as “The Podium” at 1 Eversholt Street in London (the location of which is shown on the map at **page 6**), which is one of the First Claimant’s offices. The activists climbed onto the canopy above the main entrance to the building and used ladders to reach further up the building. Once on the building, they proceeded to use fire extinguishers filled with pink paint to spray

across the front of the building. In addition to this, windows were also broken. An estimated £30,000 in damage was done to the building. In order to delay their removal, the activists climbed ladders to put themselves in more precarious positions and make removal more dangerous and D60 glued his hand to the building. The individuals remained on the building throughout the day and overnight into the following day before finally being removed. They were arrested by the police upon being removed from the building. Video footage of the individuals on The Podium is at **Video 15** and **Video 16**. Screenshots from social media posts about the incident and photographs are at **pages 83 to 85**. An article on the incident that appeared in the Metro is at **pages 86 to 89**.

29.4 Ecological and environmental damage

Activists regularly cause damage to the environment, ecological harm and interfere with environmental mitigation and compensation works being carried out as part of the HS2 Scheme. Typically, these incidents occur at works locations within close proximity unauthorised camps. Examples of this include:

29.4.1 **Spiking trees.** The act of putting screws and nails in trees. This is designed to delay tree-felling works and can cause significant safety hazards to the First Claimant's arborists. The metallic screws and nails are hazardous to the de-vegetation teams: striking a metal object can damage chainsaws and cause them to kick (when a chainsaw kicks back putting the operator in danger) or result in debris being launched at high speed as a result of striking the nail/screw. Metallic objects placed within branches damage chipping machines as they jam the internal mechanism. The activists' tree-spiking activities are also indiscriminate as they do not have a comprehensive understanding of the de-vegetation works that are to be undertaken. Accordingly, they often spike trees that are not scheduled for felling, which can (contrary, it seems, to the belief of some of the Defendants – see for example a note nailed to a tree in Wendover by activists at **page 90**) cause long-term harm to the trees. Photographs of spiked trees and a

safety alert about the practice are at **pages 91 to 94**. A photograph of a warning written on a white board by activists about spiked trees found at Small Dean is at **page 95**.

29.4.2 **Interference with badger mitigation works.** Activists have on a number of occasions in the area of Jones Hill Wood and Crackley Woods, damaged and removed the one-way gates placed over badger setts. The gates are designed to ensure the setts are empty prior to start of works. Actions which damage the mitigation works therefore delay and disrupt the programme and are undertaken by activists in full knowledge that the clock restarts if the mitigations are damaged. At **pages 96 to 101** are examples of sabotage to badger mitigation works on the HS2 Scheme. The document has been redacted due to the legal restrictions on publicising the specific locations of badger setts.

29.4.3 **Waste and fly tipping.** Upon the clearance of activist's camps, the First Claimant has been required to clear exceptional quantities of human waste, rubbish and general detritus. Examples of this can be seen at **pages 102 to 107**.

29.4.4 **Damage caused by establishing and occupying unauthorised encampments and constructing structures in trees.** Activists often target woodland for the establishment of unauthorised encampments (for example, Jones Hill Wood and the Cash's Pit Land). The Claimants' environmental compensation works to reduce the impact of the HS2 Scheme include initiatives to translocate the soils from Ancient Woodland environments on the route in order to preserve the seed bed. Occupation of this land by activists destroys the integrity of the soils and sabotages the translocation programme. By way of example, a summary of the compensation plan for Jones Hill Wood is at **page 108**. The occupation by the Defendants of HS2 Land at Jones Hill Wood caused huge damage to the important soil structure at that location that supports the Ancient Woodland habitats and prevented some areas of woodland soils from be translocated due the their poor state, reducing the overall effectiveness of the subsequent

compensation measures planned at this location prior to clearance activities. The photographs at **pages 109 to 110** show that the occupation of the activists effectively turned the soil into a soup-like consistency. Those photos also show the large quantity of waste that was left on the land, further compromising the soils. Activists also import often large quantities of scrap wood from other locations and use it to build structures both on the ground and in the trees. That wood imports microbes and bacteria that are harmful to the woodland habitat. This imported wood can be seen in numerous photos exhibited to this statement including those at **pages 102 to 107**. Activists also dig open latrines in these habitats which again disturbs the microbial balance of the woodland ecosystems. A photograph of a latrine dug on HS2 Land at Leather Lane by activists is at **page 105**.

29.5 Lock-ons

This is a form of protest where a person or persons attach themselves to an object and / or to each other. The immediate purpose of such protests has invariably been to obstruct the movement of vehicles or equipment with the individuals' bodies, and to delay their removal via the use of lock-on devices. Lock-on protests are commonly used to prevent access to sites or deny the use of machinery or in conjunction with tunnelling or protest at height (as to which, see further below) to delay removal of the individuals. The individuals who are "locked-on" are usually in a position where they are trespassing on HS2 Land or unlawfully interfering with the Claimants' private access rights or their rights to access HS2 Land from the public highway. In my experience of such incidents, devices by which the activists attach themselves include:

29.5.1 **Chains and padlocks.** Activists occupying trees and tunnels commonly use chains to delay and disrupt their removal. For example D26 attached a chain to her ankle to prevent her removal from the tunnel at Euston Square Gardens. A copy of a video uploaded to social media of this is at **Video 17**. During the same incident, D24 chained himself to an acrow prop supporting part of the tunnel structure and D30 laid on top of him in order to make their removal

from the tunnel complex more difficult and dangerous as pulling on them would have pulled on the acrow prop and risked precipitating a collapse. A video showing this is at **Video 18** and a still from the video in which the chain can be clearly seen is at **page 111**.

29.5.2 **Bicycle locks/ D-locks.** Activists often use substantial locks such as D-locks to attach themselves to items such as trees, gates or fences in order to make it more difficult to remove them. The keys to these devices are often disposed of elsewhere, away from the lock. For example, on 10/10/2017 approximately 20 trespassers entered onto HS2 Land at Harvil Road in what appeared to be a distraction technique to allow D38 and another individual to enter the land from a different direction and attach themselves to trees. D38 looped a bicycle D-lock around his neck and attached it to a branch of a tree. All work on site ceased as a result of the trespass and in view of the risks to the safety of the trespassers. They both refused to leave when asked to do so. Because of the proximity of the D-lock to D38's neck, it was not possible to cut the device off and the First Claimant's specialist security team had to cut the branch of the tree to which he had attached himself in order to remove him. A copy of the article that appeared online regarding the incident is at **pages 112 to 114**. The early parts of the incident were filmed and livestreamed and later uploaded to YouTube and screenshots from the videos and other social media posts relating to the incident are at **pages 115 to 117**. D38 made a clear statement on video of the trespassers' intention to continue repeatedly trespassing with a view to stopping the works on HS2 Land:

“It's quite funny that the police don't want to come in because as long as we not evicted properly by police we can come in and out whenever we like and stop the works again and again and again and again...”

29.5.3 **Elaborate devices manufactured specifically for the purpose.** These often consist of multiple layers of different materials such as different metals, concrete, plastic, bitumen and others. The use of

numerous layers of different materials is intended to delay the removal team, who may require different cutting equipment to cut through the different materials and to create hazards (for example, bitumen is flammable and could be ignited via the use of mechanical cutting equipment). In the case of arm-tube type devices, the term “lock-on” is something of a misnomer. Invariably the activists’ arms are not “locked” to anything – rather their hands or wrists are attached by clips or carabiners to a secure point in the middle of the device, but the protestor can unclip themselves or ‘self-release’ at any time. The devices are often extremely heavy to try to ensure that the individuals locked-on cannot be lifted and removed whilst still in the device without risking causing them injury. The lock-ons described at paragraph 29.1.8, 29.2.1 and 29.2.2 were of this type.

29.6 Protest at height

Activists will often seek to protest at height whether located on HS2 Land or on an access route. The objective of such an action is to cause maximum disruption through delaying their removal. Such actions are undertaken cognisant that positioning oneself at height requires specialist removal. At heights removal teams are often not readily available, therefore the activist is almost guaranteed a more substantial period of disruption than many actions conducted at ground level. Protest at height is sometimes compounded by locking-on, or utilising an inherently unstable structure which makes removal precarious. There have been a large number of such incidents targeting the HS2 Scheme. At **page 134 to 135** are photos of aerial structures that have been constructed in the trees at the Cash’s Pit Land. What is clear is that they are located at such a height that falling could prove fatal. For context, one activist tragically died when falling from such a platform at an environmental protest in the Hambacher Forest in Germany on 20.09.2018. A copy of an article about this incident is at **page 134**. The structures used by activists may be far more complex than a simple tree house. In the following paragraphs I have given some examples of the different types.

29.6.1 **Tree houses / make-shift structures in trees.** These have been a consistent feature of the activists’ occupation of the HS2 Land across

the route of the HS2 Scheme. Examples have been encountered at Harvil Road, Euston Square Gardens, Leather Lane, Jones Hill Wood, Small Dean, Poor's Piece, Crackley & Cubbington and Cash's Pit. Activists have constructed a range of structures in trees ranging from rudimentary make-shift platforms to substantial lookout towers and tree houses. These structures serve a number of purposes: they are difficult, costly, dangerous and slow to evict - as with other forms of occupation (particularly at height) difficulty of extraction is used as a mechanism to increase time and cost to the Claimants. The structures are often used as accommodation and they also afford the occupiers with improved vantage points over the First Claimant's works and / or early warning of any impending enforcement action. The removal of activists from these structures is extremely dangerous in any circumstances and such violence has been encountered during eviction operations that on occasion police have had to intervene. This occurred during the "battle of the bean can" at Jones Hill wood where D8 and D24 fought with Police and had to be forcefully removed by specialist officers from Thames Valley Police (this eviction operation is described in more detail from paragraph 44 below) and the eviction at Poor's Piece: see 29.1.2). The tree houses are often well provisioned ahead of an anticipated eviction operation to enable to occupants to hold out against the removal team for the maximum amount of time, for example during the eviction operation at Small Dean where the commencement of the enforcement operation seemingly caught the activists by surprise, the First Claimant was able to take possession of a tree house before it could be occupied by activists. The tree house was found to be provisioned with food to sustain occupiers through an enforcement (a picture of what was found in the tree house is at **page 133** and the items can be seen labelled: "only for eviction time"). These structures lack sanitation facilities and considerable quantities of human waste are often encountered in the immediate vicinity, increasing the unpleasant and hazardous nature of removal for removal teams. This human waste is also thrown or poured on officers seeking to evict the occupants, as

happened at the Jones' Hill Wood (a photograph of a bag containing faeces that was thrown at officers by activists is at **page 137**) and Poor's Piece evictions. Images of structures in trees from across the HS2 Scheme route are at **pages 118 to 135**. A video showing the eviction of tree structures at Euston Square Gardens in January 2021 is at **Video 19**. D46 and D49 and two others removed from tree structures at Euston Square Gardens were subsequently convicted of aggravated trespass.

29.6.2 **Vehicles and Equipment.** For example, in the early hours of the morning on 12.05.2021 D17 trespassed on HS2 Land at Jones Hill Wood in Buckinghamshire and climbed onto a digger on HS2 Land. Whilst on top of the digger D17 filmed himself and the removal team and a copy of one of those videos (which was posted by D17 on Facebook) is at **Video 20**. He occupied the digger for over 11 hours, during which time it was unable to move and work in the vicinity ceased for safety reasons. A post by D17 on Facebook after he was subsequently convicted of aggravated trespass and criminal damage and given a 12 month conditional discharge is at **pages 138 to 142** and includes photographs of D17 on the digger. In the post and despite having just received a criminal conviction, D17 says: "*I will NEVER stop fighting HS2*". D17 also filmed an unknown female who trespassed on land at Harvil Rd and climbed onto a digger on 08.08.2020. A copy of that video is at **Video 21**. Further examples of climbing on vehicles and equipment are given at paragraphs 29.1.4, 29.1.7 and 29.2.3.

29.6.3 **Towers.** The construction of towers within protest camps is extremely common. Towers are constructed to delay the removal of the activists from the camps. The most considerable tower constructed by activists on HS2 Land was at Small Dean and was dubbed "the temple" by activists. That tower was approximately 13m tall (photographs of the tower are at **page 144**). It was located above the entrance to a tunnel complex dug by activists. The tower was

constructed from a combination of scaffolding poles, scrap wood and pallets. In addition, rooms within the tower were protected with barbed wire and booby trapped with cans of expanding foam and razor wire. **Video 22** was taken by activists and uploaded to social media showing one such booby-trapped-room dubbed by the activists as the “trippy hell room”. A stills from the video and a social media post about the room are at **page 145**. Rooms such as this are constructed in a manner specifically designed to further endanger those undertaking the operation to dismantle the tower and remove the activists at height. The position of the tower at Small Dean over the entrance to the tunnel complex afforded the activists additional time in which to continue digging further and deeper tunnels whilst the removal team worked to dismantle the tower. It also allowed the activists the opportunity to come up for air from the tunnels during that time. The tower was found to conceal an estimated 35 tons of excavated chalk spoil from the tunnel complex. This spoil was loosely packed into retaining walls in the tower, which required shoring before removal works to avoid collapse of the tower onto the tunnel complex and the activists occupying it. Tower structures were also constructed at Poor’s Piece as shown in the photographs at **page 146**. Photographs of towers constructed by activists on HS2 Land are at **pages 143 to 148**.

29.6.4 **Tripods.** A tripod is a form of aerial protest where activists use 3 poles - either scaffolding or bamboo - to form a tripod platform upon which they can sit. The resultant structures are precarious, and it is difficult and time-consuming to remove the activists occupying them. Like other forms of aerial protest, tripods require specialist teams to remove the individual, thus delaying their removal and increasing the disruption to the First Claimant and their contractors. An example of a tripod protest was the action conducted at the Chiltern Tunnel Portal (the location of which is shown on the plan at **page 6**) on 09.10.2020. Tripods were deployed by activists as part of an Extinction Rebellion action which also incorporated “Beacons” and which blocked the

access to the site for the day. As part of the action, D25 and D29 conducted a lock-on under the base of one of the tripods in which they locked their arms together in a tube and D25 also attached herself to the tripod with a climbing rope. Screen shots from social media about the action and photographs of the tripods and the lock-on are at **pages 149 to 153**.

29.6.5 **Beacons.** Like tripods, beacons are another form of aerial protest. Beacons are, however, less stable, being formed of multiple pieces of scaffolding arranged in a more random configuration than a tripod. As a result of the increased instability, they are more difficult and time consuming from which to remove activists. The beacons deployed in the action at the Chiltern tunnel portal on 09.10.2020 can be seen in the image at **page 149**. D24 also occupied a beacon at Denham Country Park in the Colne Valley to obstruct works on the HS2 Scheme in December 2020. An article from the Guardian about the incident and additional photographs are at **pages 154 to 158**. D24 was convicted of aggravated trespass for the incident in November 2021.

29.7 Tunnels

Like aerial protests, tunnels are intended to delay the removal of trespassing activists for as long as possible. By placing themselves and those trying to remove them safely in ever increasing danger, the tunnellers are able to cause maximum delay and disruption and increase the cost and complexity of removal. Air quality is often poor inside make-shift tunnels and sometimes potentially deadly (deadly levels of carbon monoxide and dioxide were found in tunnels at Small Dean, for example) and the removal team have to provide an air supply into the tunnels to avoid the occupants being overcome and experiencing breathing difficulties. The tunnels can be extremely deep and are often not shored or are inadequately shored in a make-shift fashion, creating a very real risk of collapse. For example, the tunnels encountered at Small Dean (which is described in more detail from paragraph 56 below) were in excess of 7m in depth and were not shored, but reliant upon the self-supporting nature of the ground. Removal of activists from tunnels requires specially trained and equipped teams and mine rescue support

who first and foremost have to work to ensure the safety of the activists who have placed themselves in danger within the tunnels. Once the rescue team have located the activists in the tunnels, the activists often still fight and struggle with the team seeking to remove them and create further dangerous situations to try to prevent their removal (for example, filling in the tunnels behind them, effectively entombing themselves as D18 to D21 and D24 did at Small Dean; or chaining themselves to supporting structures such as acrow props as D24 and D30 did at Euston Square Gardens – see paragraph 29.5.1 above). The Claimants regularly encounter tunnel occupation as a tactic used by activists to resist eviction from HS2 Land. The two most serious examples were at Euston Square Gardens in London (which is described in more detail from paragraph 50 below) and Small Dean in Buckinghamshire and are described in detail elsewhere in this statement. The First Claimant also believes that tunnels have been dug under the encampment at Cash’s Pit as there have been several references made to underground resistance to eviction.

29.8 Abusive behaviour towards staff and contractors

Whilst many of the tactics deployed by activists can be described as non-violent, all too often and for example when works operations are conducted in close proximity to unlawful encampments or activists feel their non-violent tactics are being ineffective or where activists have been using drugs and alcohol, their conduct and behaviour worsens. Abuse aimed at security officers can be extremely personal and upsetting – see for example the behaviours highlighted at paragraph 29.1.9. I have described some further examples of the abusive behaviour experienced by those working on the HS2 Scheme in the following paragraphs.

29.8.1 On 18.02.2021, the First Claimant’s contractor was conducting vegetation clearance works close to the WAR Camp at Small Dean. Whilst conducting these works, a number of activists (including D5) became abusive towards security staff. In one exchange, a female security officer was told by an unknown female activist that “*people like them should have their wombs removed*”. On the same evening another security officer was abused by activists for being an armed

forces veteran and called a “*murderer and a war criminal*”. Copies of videos showing these incidents are **Video 23** and **Video 24**.

29.8.2 On 26.03.2021, a number of activists (including D5) assaulted security staff working on HS2 Land at a site known as the Rifle Range opposite the unlawful encampment at Small Dean (known as Small Dean). As a result, one security officer required attention in hospital for a CAT scan with a suspected concussion. At **page 159** are images of some of the officers after the incident, including one officer’s broken thumb. Body-worn camera footage of the incident is at **Video 25**.

29.8.3 Faeces / human waste and a smoke grenade were also thrown at and over the First Claimant’s contractors working directly opposite the WAR Camp at Small Dean on 12.05.21. At least 5 persons unknown in white coveralls approached the security officers working opposite the activists’ camp and proceeded to throw a smoke grenade and water balloons filled with what appeared to be human waste. Images of the areas where the balloons landed, and where one security officer was struck are at **pages 160 to 163**. A still recorded from the body worn camera of one of the security officers is at **page 164**. Following this incident, the First Claimants’ contractor deemed it necessary to install emergency showers at sites within the vicinity of the WAR Camp so that its staff could quickly decontaminate themselves. Faeces were also thrown at the First Claimant’s contractors by activists at Jones Hill Wood.

29.8.4 Activists have been observed carrying weapons on a number of occasions during incidents on the route of the HS2 Scheme. For example, D61 has been found trespassing on HS2 Land on at least two occasions whilst carrying a weapon: at Small Dean on 01.06.2020 he was arrested in possession of a machete; and on 6.11.2020 he was arrested having been found trespassing on HS2 Land in the Wendover area in possession of a knife. A photograph taken by the security team showing the knife in D61’s possession is at **page 166**. Activists have

also been observed carrying knives and scissors in incidents at Jones Hill Wood described in more detail from paragraph 49. An image of an individual with a knife at Jones Hill Wood is at **page 165**.

Detailed descriptions of repeated and extreme direct action at certain HS2 Scheme sites

30. This section sets out in detail the repeated and sustained incidents of direct action that have been targeted against certain HS2 Scheme sites and also describes in detail some of the most extreme incidents experienced on the HS2 Scheme to date. These are by way of illustration of the nature and scale of the problem and the reason for seeking the assistance of the Court by way of injunctive relief.

Harvil Road

31. The plan referred to in the current injunction order made in August 2020 is at **page 167** in order to assist with orientation. Direct action activity began at the HS2 Land in the Harvil Road area of Hillingdon in October 2017 during enabling works on the land. Incidents of repeated trespass and obstruction of access quickly escalated from the early incidents described at paragraphs 29.1.5 and 29.1.8 above. Between October 2017 and January 2018 there were 31 separate incidents of trespass to land and vehicles and obstruction of the highway and access thereto, including:

Date	Occurrence
24.10.2017	Two activists entered onto HS2 Land separately and simultaneously at different locations. Both lay down, both were asked to leave voluntarily and refused and were thereafter removed by security
04.11.2017	15 unknown activists, many aggressive, rushed the north compound entrance. About 7 persons unknown gained access and progressed about 5 metres into the site before they were repelled by security
11.11.2017	10 trespassers including D36 entered the site. They were asked to leave by security and refused and sat in a circle and linked arms. A specialist removal team had to attend to remove them.
17.11.2017	An activist climbed onto an excavator being delivered on the back of a low-loader vehicle whilst it was stationary in the

Date	Occurrence
	bell-mouth entrance to the north compound. She remained there for a number of hours, during which the vehicle was unable to move.
28.11.2017	An activist lay in the bell-mouth entrance to the northern compound stopping access to and egress from the site. She was later joined by three other activists.
04.12.2017	Approximately 11 trespassers including D36 and D37 entered onto the bell-mouth entrance to the northern compound. D37 climbed onto a truck making a delivery which drove away. He then jumped off the truck and returned to the bell-mouth where he lay down obstructing access.

32. The Claimants applied for and were granted an injunction restraining trespass and obstruction of access in February 2018.

33. The February 2018 injunction had a marked impact on the number of incidents at this site. It was almost entirely effective in deterring the named defendants to that action from engaging in further acts of trespass and obstruction. Between February 2018 and May 2019 (when the Claimants returned to court to renew the injunction and to extend it to further HS2 Land that had been taken into possession in the area since the injunction had first been imposed and some of which had then been subject to trespass) there had been just a further 17 incidents of note including:

Date	Occurrence
21.05.2018	An unknown activist broke through the perimeter fence adjacent to the south compound entrance and entered onto the site.
13.11.2018	Trespass by two unknown activists on the site.
22.11.2018	Trespass by a female activist who interfered with ecological surveys being carried out by the First Claimant's contractor
27.11.2018 to 29.11.2018	Repeated acts of trespass by a group of up to 11 activists and obstruction of access preventing vehicles from entering and leaving the site.
11.12.2018	Two female activists entered onto the site. One climbed on top of a digger and refused to come down and the other attached herself to the front of the digger using a D-lock around her neck. The digger was unable to move or carry out any further work until the individuals were removed.
27.04.2019	An activist approached the north compound entrance gates and verbally harangued the security officer on duty there, using offensive and racist language and made threats to kill and trace the officers. The incident lasted for 45 minutes. A male

Date	Occurrence
	activist also obstructed security contractors attempting to leave the site via the north compound entrance.
29.04.2019	A number of incidents throughout the day during which activists prevented access to and egress from the site by standing, sitting and lying in front of vehicles in the bell-mouth entrance to the north compound. These actions obstructed both delivery vehicles and the vehicles belonging to the contractors working on the land.
30.04.2019	A group of activists blocked the gate at the north compound entrance preventing a lorry from leaving and contractors from entering for a period of over two hours spanning most of the morning.
03.05.2019	A group of activists approached the gates of the north compound entrance. One individual locked herself onto the middle gate of the north compound entrance by placing a D-lock around her upper arm and through the gate to secure herself in place and then placing her arm in a plastic tube with a nail driven through it to which she glued her hand in order to make removal of her arm from the D-lock difficult. This resulted in the gates being unable to be opened.

34. The High Court found that all of the above incidents had occurred and was satisfied that the injunction should be extended to the additional land and remain in place for a further year. A short further extension was then granted in May 2020 before the matter was again before the Court in August 2020 when the Claimants applied to renew the injunction and to extend it to further HS2 Land that had been taken into possession since May 2019.
35. Between May 2019 and September 2020 the nature of the works being carried out on the HS2 Land in this area had become complex, involving the installation of a new high pressure gas main; the decommissioning of an existing overhead power line and the installation of a new and diverted overhead power line; the construction of new utility conduits; the realignment of Harvil Road and Dews Lane; the construction of a viaduct to carry the new railway line; and the construction of part of a tunnel also to carry the new railway line. This provides a good illustration of the complexity and diversity of the work that is routinely being carried out on the HS2 Land across the route. The works involved teams of different contractors and were being carried out under a number of constraints (including ecological constraints) that meant they must be carried out pursuant to

a quite regimented timetable, with delays having serious onward consequences. The presence of unauthorised persons on sites of this nature presents a health and safety hazard and necessarily prevents works. As at August 2020, the estimated additional costs of the development at Harvil Road by reason of the delays and additional security expenses caused by activist activity was almost £16million.

36. Between May 2019 and May 2020 there were over 60 incidents of incursion and/or obstruction in relation to the land at Harvil Road (which by that time again comprised both land covered by the 2019 injunction and other land that had come into the Claimants' possession since that injunction was imposed). The various incidents involved: climbing over or cutting through the fences at the Harvil Road site; unauthorised incursions into the site by individuals, small groups, or larger groups of 12 to 15 people; obstruction by one or more people of the bell-mouths between the various gates and the public highway to prevent vehicular access into or out of the site; damage to locks on the various gates to prevent there being opened; the placing of padlocks and chains around the gates to prevent there being opened; people sitting on or in front of machinery on the site to prevent its operation; people attempting to lock themselves onto gates and machinery to prevent opening or operation; walking slowly in front of vehicles on the Harvil road to prevent vehicular passage; tampering with and damaging plant; the climbing of trees both on and in the vicinity of the site and the construction of tree platforms; the rigging of lines between trees on an off the site. Photographs of some of the incidents are at **pages 168 to 172**. Many of these incidents were accompanied by threats and aggressive behaviour and three examples of such behaviour are set out at paragraph 29.1.10 above. The incidents that took place during this period included an incident on 19.11.2019 involving a lock-on in which D36 and D28 had secured themselves to a steel pipe filled with concrete and other materials with another pipe inside into which they had inserted their arms and secured themselves to each other. The incident took place in the bell-mouth of the West Gate 3 entrance and commenced at 07:05 hrs. The action prevented contractors from leaving or entering the site until the individuals were removed late that afternoon by a Metropolitan Police specialist team. Photographs of the incident are at **pages 173 to 174**.

37. The injunction was renewed and extended by the High Court in August 2020, with a long-stop date of 4 September 2022. The Claimants consider that the HS2 Land in this area remains a target for unlawful activity by activists and that – as was observed by the Judge at paragraph 57 of the Judgment delivered when the injunction was renewed in August 2020 - the action will likely continue in this area until the HS2 Scheme works in Hillingdon are complete.

Cubbington & Crackley

38. Plans A, B and C referred to in the current injunction order made in May 2021 are at **pages 175 to 177** in order to assist with orientation. Direct action activity began at the HS2 Land in the Cubbington & Crackley Woods area of Warwickshire in September 2019 during enabling works on the land for the HS2 Scheme. Two unauthorised encampments were established fairly swiftly in the locations shown on the plan at **page 177** and there were incidents of repeated trespass, disruption of works and damage to fencing by activists. Photographs of the encampments are at **pages 178 to 189**.
39. In February 2020, the Claimants applied to the High Court for a possession order and an injunction to restrain further trespass. The claim was heard on 17 March 2020 the Claimants were granted possession, declaratory relief and injunctive relief by The Hon Mrs Justice Andrews, who said in her judgment that she was *“satisfied that there is enough evidence to demonstrate a real risk of further trespass on the land in future by persons who are opposed to the HS2 project”*.
40. The Hon Mrs Justice Andrews’ judgment was prophetic. The order was breached – including by D32 and by D33 committing 12 breaches of the order between 04.04.2020 and 16.04.2020. Furthermore, the First Claimants’ contractors were subjected to a horrific sustained attack by 30 to 40 persons unknown on 31.10.20 (see 29.1.1 above).
41. D33 was found in contempt for committing 12 breaches of the injunction order between 4.04.20 and 16.04.20. A total of 17 incidents were recorded, an extract from the judgement of The Honourable Mr Justice Marcus Smith on 13.10.2020 sets out the timeline of the service of the order, clearance of the camp, arrival of D33 and subsequent breaches of the order and I have reproduced that here as it

serves both as a useful summary of what occurred in this location and the nature of the incidents that were experienced after the injunction was first imposed (noting that Mr Justice Marcus Smith found that all of these incidents occurred as described, save for incident 4, in respect of which he was not satisfied as to location):

Date	Occurrence
17 March 2020	The Order was granted by Andrews J.
24 March 2020	The injunction under the Order came into force from 4:00pm and the Writ is issued.
25 March 2020	The date of service of the Order, pursuant to its terms.
26 March 2020	Eviction action pursuant to the Writ took place on the Crackley Land. Camp 1 was closed down; and Camp 2 commenced effective operation.
26 March 2020	PROW165X is closed.
4 April 2020	Mr Cuciurean arrived at Camp 2. Incidents 1 to 4 took place during the evening of 4 April 2020. Incident 5 – which is related – took place in the early hours of 5 April 2020.
8:30pm	<p>Incident 1</p> <p>Mr Cucuirean entered Area A of Crackley Land (East) either by climbing the Hoarding Fence or by going round it through a gap in the Heras fence panels between Point 2 and Point 3.</p> <p>Mr Cuciurean entered the Strip between the Hoarding Fence and the TPROW Fencing. He unclipped one of the Heras fence panels comprising the TPROW Fencing and entered on to the TPROW.</p> <p>He was asked to leave, and was told that he was on land in breach of an order of the court. He refused to leave, was restrained and arrested. He was then “de-arrested”, when it was clear that Warwickshire police would not attend.</p> <p>Mr Cuciurean was released at about 9:00pm.</p>
9:35pm	<p>Incident 2</p> <p>Mr Cucuirean entered Area A of Crackley Land (East) either by climbing the Hoarding Fence or by going round it through a gap in the Heras fence panels between Point 2 and Point 3.</p> <p>He walked in the Strip between the Hoarding Fence and the TPROW Fencing. He did not enter upon the TPROW. His activities were monitored by the Claimants’ agents.</p>

Date	Occurrence
	When they sought to approach him, he retreated back over the Hoarding Fence.
10:45pm	<p>Incident 3</p> <p>Mr Cuciurean entered Area A of the Crackley Land, traversing the Strip between the Hoarding Fence and the TPROW Fencing. He did not enter upon the TPROW. His movements were monitored by two of the Claimants' enforcement officers. Through the TPROW Fencing, Mr Cuciurean was told he was trespassing.</p> <p>Mr Cuciurean exited the Crackley Land by climbing over the Hoarding Fence and returning to Camp 2.</p>
11:25pm	<p>Incident 4</p> <p>This Incident took place at the perimeter of Crackley Land (East) between Points 2 and 3. A Heras fence panel was pulled over by protestors. It was later retrieved and re-installed.</p> <p>Mr Cuciurean was one of the protestors detained but not arrested. Mr Cuciurean and the others were released and returned to Camp 2.</p> <p>I am not satisfied so that I am sure that Mr Cuciurean himself was involved in physically pulling down the Heras fence panel. That would, in my judgment, have involved entering upon the Crackley Land. However, Mr Cuciurean may have been supporting others whilst standing outside the Crackley Land. I am not satisfied so that I am sure that Mr Cuciurean was on the Crackley Land.</p>
5 April 2020	Although Incident 5 formed part of the pattern of Incidents taking place on 4 April, it occurred after midnight. Incidents 6, 7 and 8 occurred later on that day.
00:25am	<p>Incident 5</p> <p>Mr Cuciurean and two other protestors were reported as being by the Heras fence panels between Points 2 and 3. That would not necessarily have involved entering the Crackley Land. Mr Cuciurean then climbed the Hoarding Fence (between Points 3 and 4), and approached the TPROW Fencing, walking on the Strip, but he did not enter the TPROW.</p> <p>The protestors were reminded that they were on the Claimants' land, although I have insufficient evidence as to the exact words used.</p> <p>Two of the Claimants' enforcement officers removed a Heras fence panel from the TPROW Fencing in order to arrest Mr Cuciurean. Mr Cuciurean retreated to Camp 2.</p>

Date	Occurrence
10:52am	<p>Incident 6</p> <p>Mr Cuciurean removed the clips from a Heras fence panel forming part of the perimeter between Points 2 and 3, and removed the panel from the fence line abutting the Hoarding Fence. He (with others) entered upon the Crackley Land.</p> <p>Mr Bovan informed Mr Cuciurean that he was on the Crackley Land. Mr Bovan attempted to reinstate the Heras fence panel that had been removed, and the protestors (including Mr Cuciurean) left the Crackley Land and returned to Camp 2.</p>
10:55am	<p>Incident 7</p> <p>Mr Cuciurean and other protestors entered the Crackley Land at the same place – and by the same means – as in Incident 6. Mr Bovan again attempted to reinstate the Heras fence panel, and the protestors (including Mr Cucuirean) again retreated to Camp 2.</p>
11:25am	<p>Incident 8</p> <p>Incident 8 was very similar to Incidents 6 and 7, albeit that this Incident involved the removal of <u>two</u> Heras fence panels from the perimeter between Points 2 and 3. Attempts were made to restore the perimeter fence panels, which was met by resistance from the protesters, including Mr Cuciurean. The protestors took Heras fence panels intended to fill the gap created back to Camp 2.</p> <p>There was a subsequent further attempt by Mr Cuciurean to enter upon the Crackley Land in the same way. Mr Cuciurean was repelled by the Claimants’ officers, but not detained.</p>
7 Apr 2020	Incidents 9, 10 and 11 all took place on 7 April 2020.
12:24pm	<p>Incident 9</p> <p>The Schedule describes this as a “specimen example of repeated acts of contempt”. Incident 9 concerned Mr Cuciurean climbing the Post and Wire Fence on the Northern border of the Crackley Land between Points 7 and 8. It is said that Mr Cuciurean did this on a daily basis, in order to distract the Claimants’ staff or to facilitate others entering the Land or to examine the fences for weaknesses.</p> <p>I am satisfied that Incident 9 took place, as described. However, I am not prepared to include it as a “specimen example”, and it must stand alone. Equally, I am not satisfied as to Mr Cuciurean’s precise motives in entering the Crackley Land here.</p>

Date	Occurrence
1:32pm	<p>Incident 10</p> <p>Mr Cuciurean entered Area A of Crackley Land (East) either by climbing the Hoarding Fence or by going round it through a gap in the Heras fence panels between Point 2 and Point 3.</p> <p>He walked in the Strip between the Hoarding Fence and the TPROW Fencing. He did not enter upon the TPROW.</p> <p>Mr Cuciurean and another protestor attempted to remove Heras fence panels and the footers that keep them upright. When approached by the Claimants' enforcement officers, they left the Crackley Land and returned to Camp 2.</p>
1:39pm	<p>Incident 11</p> <p>Mr Cuciurean entered Area A of Crackley Land (East) either by climbing the Hoarding Fence or by going round it through a gap in the Heras fence panels between Point 2 and Point 3.</p> <p>He walked in the area between the Hoarding Fence and the TPROW Fencing and penetrated the TPROW Fencing, entering upon the TPROW.</p>
14 April 2020	Incidents 12 and 13 took place on 14 April 2020.
2:33pm	<p>Incident 12</p> <p>Incident 12 is <i>mutatis mutandis</i> the same as Incident 9.</p>
1:58pm	<p>Incident 13</p> <p>Mr Cucuirean entered Area A of Crackley Land (East) either by climbing the Hoarding Fence or by going round it through a gap in the Heras fence panels between Point 2 and Point 3.</p> <p>He walked in the Strip between the Hoarding Fence and the TPROW Fencing. He did not enter upon the TPROW.</p>
15 April 2020	
11:50am	<p>Incident 14</p> <p>This is the Incident described in paragraph 12(3)(c) above, where Mr Mr Cuciurean penetrated <i>Ad Hoc</i> Fencing within the Crackley Land (East) and locked himself to the boom of a machine used by the Claimants for the HS2 works.</p>
17 April 2020	
15:24pm	<p>Incident 15</p> <p>Mr Cuciurean and other persons penetrated <i>Ad Hoc</i> Fencing on the Crackley Land (East).</p>

Date	Occurrence
21 Apr 2020	
10:40am	<p>Incident 16</p> <p>Mr Cuciurean, one of a group of around 12 protestors, penetrated <i>Ad Hoc</i> Fencing on the Crackley Land (East). Mr Cuciurean was asked to leave on several occasions and warned of arrest. He resisted removal from the site, and was arrested. There was interference with the works going on in relation to the HS2 Scheme, and those works were disrupted.</p>
26 Apr 2020	
7:30am	<p>Incident 17</p> <p>Mr Cuciurean and four other protestors climbed trees on Crackley Land (East). They were warned that they were trespassing by Mr Bovan and asked to climb down. They declined to do so, and specialist climbers had to be deployed by the Claimants to remove them, using “cherry pickers”. There was interference with the works going on in relation to the HS2 Scheme, and those works were disrupted.</p>

42. Proceedings were also brought by the Claimants against D32, who breached the terms of the injunction. Those proceedings were settled, with D32 admitting the breaches and giving a wide-ranging undertaking on 10.11.2021 not to breach Court orders made in respect of land on the HS2 Scheme and not to trespass or obstruct the Claimants’ access. A copy of the undertaking is at **pages 190 to 192**. D32 has been named in respect of the present application because the Claimants are applying to discharge the injunctions currently in place over Harvil Road and Cubbington & Crackley and to instead have that land covered by the new injunction sought under this application. D32 is a named defendant in respect of both of those other sets of proceedings and therefore must be named in this application. However, in view of the undertaking given by D32, the Claimants are willing to agree that he be removed as a named Defendant to the present application if he so wishes.
43. The Cubbington & Crackley injunction was most recently renewed and extended by the High Court on 03.05.2021, with a long-stop date of 31.10.2022. The Claimants consider that on the basis of prior incidents and their geographic spread

that the HS2 Land in this area remains a target for unlawful activity for as long works in connection with the HS2 Scheme are being undertaken.

Jones Hill Wood

44. Shortly after the establishment of the WAR Camp at Small Dean, D5 and other activists established an encampment in Jones Hill Wood around 03.03.2020. The camp partly occupied land required by the Claimants for the construction of the Wendover Dean viaduct as part of the HS2 Scheme. At its largest, the camp occupied a total area of just under 4 acres, approximately 2 of which were located on HS2 Land. The camp contained numerous tree houses, a tower and a tunnel. Images of some of the tree structures are at **pages 119 to 121**.
45. That part of the camp on HS2 Land was cleared of activists in a lengthy, dangerous and sometime violent enforcement operation carried out between the 01.10.2020 and 10.10.2020. The clearance operation at Jones Hill Wood saw aggressive and violent resistance, with activists fighting with firstly the First Claimant's removal team and latterly Thames Valley Police, who were forced to step in as a result of the extreme behaviour of the activists in seeking to resist eviction. At **Video 26** is a video taken on 03.10.20 shows an example of the dangerous and extreme measures deployed by activists - here grappling with and kicking a member of the removal team who was in a cherry picker at a height of over 20m attempting to remove the activist from a tree. A still image of an activist climbing on the outside of a cherry picker during attempts to remove them from the trees is at **page 193**.
46. **Video 27** shows some of the smoke bombs thrown by activists during the enforcement action and the height of the tree houses within the camp.
47. The enforcement operation at Jones Hill Wood culminated in what was dubbed by activists as "the Battle of the Beancan", during which D18 and D24 fought with Police and had to be forcefully removed by specialist officers from Thames Valley Police. This can be seen in **Video 27** which heavily features D5. A BBC article about the arrests made during the operation is at **pages 194 to 195**.

48. The costs of the enforcement operation to evict the unauthorised encampment in Jones Hill Wood were almost £1.5 million.
49. Following the completion of the enforcement operation and despite the removal of the encampment from the HS2 Land, direct action persisted whenever the First Claimants undertook vegetation clearance in the area. These actions were often complex and co-ordinated, notably the action of 07.04.2021 included multiple lock-on protests to block access routes whilst other persons unknown trespassed upon trees situated on the HS2 Land. Some examples of the incidents which followed the clearance of the camp at Jones Hill Woods are outlined below:

Date	Occurrence
05.03.2021	Large number of persons unknown trespassed on HS2 land sought to prevent the erection of fencing. Security removed a number of trespassers from the land. A video of this incident is at Video 28 .
07.04.2021	Complex multi-faceted direct action consisting of lock on protests blocking the highway routes to access the HS2 Land in this area (the locations of the lock-ons are shown on the slide at page 196) and tree climbing on HS2 Land. This action saw lock on protests deployed at 06:30hrs at multiple points preventing highway access to Jones Hill Wood (a video showing one of the lock-ons is at Video 29), designed to prevent the security shift change over and also the arrival of de-vegetation teams. The obstruction action also sought to prevent the arrival of the First Claimant's specialist climbing team. Once access was blocked, other persons unknown then began entering the HS2 Land using ropes across the tree canopy. The activists who occupied the trees also carried with them supplies and building materials in an attempt to re occupy the HS2 Land. As a result of this action, a day's work at Jones Hill Wood was lost and the First Claimant was forced to deploy a specialist climbing team and additional security, who finally removed the activists after they had occupied the trees for over 5hrs.
09.04.2021	a large group of activists damaged fencing, assaulted security officers, blocked an access gate and tried to force access onto the site using ladders, images of this incident are at pages 197 to 199 .
30.04.2021	persons unknown (the group covered their faces and wore white coveralls) attempted to breach the fence line at Jones Hill Wood to prevent de-vegetation works. A video taken during this incident is at Video 8 . This action resulted in considerable damage to the security fencing, which can be seen buckling in the image at page 200 . During the course of this incident a female person unknown was seen carrying

Date	Occurrence
	scissors and another person unknown was observed carrying a knife whilst trying to access the works area (photograph at pages 165 and 200). As a result of this incident, security officers operating within the Wendover area (including the sites at Jones Hill Wood, Leather Lane and Small Dean) were subsequently equipped with body armour for their protection.
12.05.2021	D17 climbed upon a digger working at the Jones Hill Wood site and remained for over 11hrs, thus preventing the driver and machine working for the day (this incident is described in more detail at paragraph 29.6.2 above).

Euston Square Gardens

50. A number of individuals moved onto Euston Square Gardens in London in September 2020 and rapidly established a tented camp that evolved into wooden defensive structures that could not be seen into or accessed by anyone but the occupants. Tents and wooden platforms with tarpaulin covers were also erected in trees. The occupants became so aggressive to the Claimant's security officers that foot patrols into the gardens were stopped in October 2020 because of the threat to personal safety, and it wasn't judged safe enough to recommence them until January 2021, when an operation to take possession of the land from the ESG Defendants and others who were occupying the land commenced. It took a month to complete the eviction of the trespassers from Euston Square Gardens in extremely dangerous conditions and at a cost (enforcement operation cost only – not including costs of delay to the scheduled works) to the public purse of approximately £3.4million pounds.
51. Urine and faeces were regularly removed from the tunnel complex by the removal team at the request of the ESG Defendants to try to keep conditions underground as sanitary as possible and to try to prevent the spread of disease. The operation took place during the height of the Covid-19 pandemic which significantly increased the risks involved to both the ESG Defendants and the removal team and placed a significant strain on the already over-stretched emergency services. An overview of some of the resistance encountered during the operation is set out in the following paragraphs.

52. The Claimants had no knowledge of tunnels under the encampment in Euston Square Gardens until the BBC released an online article titled “HS2 protesters dig tunnel to thwart Euston eviction” on 26.01.2021 (a copy of which is at **pages 201 to 204**), the day before the eviction of the surface camp and tree occupation was scheduled to take place. The stated intention of those who created the tunnel complex, as referenced in the BBC article, was to prevent the eviction of the camp. D26 stated in her BBC interview that, “...it is about *delaying and stopping HS2*.” A copy of the video imbedded in that article showing inside the tunnels is at **Video 30**. A video compilation put together by XR and uploaded to YouTube of the first few days of the enforcement operation from the point of view of the activists is at **Video 31**.
53. On entering the encampment on 27.01.2021 the enforcement team located the tunnel head, protected by a cover. They were informed by D28 and D32 speaking from the tunnel below that they had attached themselves to the cover with nooses around their necks and if opening was attempted, that would endanger their lives. This highly reckless and dangerous action set the tone for the behaviour of the ESG Defendants throughout the operation to remove them from the tunnels. They resisted and obstructed the specialist confined spaces team (“CST”) trying to remove them at every opportunity and continued to dig further dangerous and inadequately shored tunnels to try to evade the CST. A plan showing the layout of the tunnel complex as dug by the ESG Defendants is attached at **page 205**, although it should be noted that this plan was produced using information gathered during the extraction operation and after it was completed. The knowledge of the CST and the First Claimant and the other authorities involved in the extraction operation as to the layout and structure of the tunnels during the operation was limited and constantly evolving and it is important to appreciate how difficult and dangerous that made the extraction operation for those involved. A further plan is at **page 206** and shows both the tunnels created by the ESG Defendants and also the tunnels and nine access shafts created by the CST as part of the extraction operation. Finally, at **page 207** is a CAD drawing of the tunnel complex with some approximate dimensions to give an indication of size.

54. A selection of photographs from inside the tunnels and showing various of the ESG Defendants are at **pages 208 to 217** and give some idea of how cramped and dangerous the conditions were. The ESG Defendants were repeatedly warned that they were trespassing and in danger and required to leave the tunnel complex and refused to do so. The majority left only when cornered by the CST.
55. The following are some of the matters that arose during the course of the eviction operation:
- 55.1 The ESG Defendants barricaded the drop-shaft, preventing access to and egress from the tunnel complex in case of an emergency. When that barricade was eventually removed by the CST (who were obstructed by the ESG Defendants throughout the process) they then had the lock-on described at paragraph 29.1.7 above to deal with.
- 55.2 The ESG Defendants continued to dig throughout the removal operation and to deposit large quantities of spoil at the entrance to the tunnel they were digging, blocking their means of egress from the tunnel. At times they cannibalised their own shoring within their tunnels to achieve progression and in so doing so severely weakened parts of their tunnel system and in constructing with the bear minimal amount of shoring, they increased the chances of a major collapse for both themselves and the CST. They also deliberately pushed spoil towards the CST to impede their progress. An example of this can be seen in **Video 32** taken at 21:02hrs on 19.02.2021, D30 can be seen pushing spoil with her feet towards a CST member and can be heard laughing and asking: *“How’s this pace for you lads?”* and *“do you want it [understood to be a reference to the spoil that she was pushing out] to come a bit faster?”*. This activity continued for several hours. She was clearly deliberately trying to obstruct and hamper the work of the CST as they tried to remove the Tunnel Occupants from the tunnels.
- 55.3 On 14.02.2021 the police spoke to D32 from the top of Drop Shaft 1 and 2. A member of the CST took videos of the exchange, copies of two of which are at **Video 33 and Video 34**. **Video 33** contains the following refusal by D32 to cooperate to leave the tunnels as ordered by the High Court:

PS Hirst: *“you don’t fancy coming out?”*

D32: *“I would love to come out, yes”*

PS Hirst: *“come on”*

D32: *“as soon as we cancel HS2 and start taking appropriate action on the climate emergency”*

PS Hirst: *“I don’t think that’s about to happen”*

As can be seen from the videos, Maxey was at the entrance to the West Tunnel at the bottom of Drop Shaft 2 and could have been safely winched out of the tunnels at that time if he had agreed to cooperate. In fact, he confirmed to PC Hirst that all the Tunnel Occupants were safe and well and could leave at any time they wished (see **Video 34**).

55.4 Also on 14.02.2021, D26 passed a note to the CST which said:

*To Brett’s Tunnel Team
Dear Brett’s A team
Happy Valentines day!
Thank you for always
being there for us in
the downshaft even though
we know it must be hard and cold & wet
sometimes. To be honest,
you’re very close to
the best tunnel team
any of us has ever
been evicted by. (it
would be better if we
could get some food tho)
We have an extra
special surprise coming
up for you so be
careful where you dig!
Loads of love,
Dan – Swampy
Blue, Nemo x
& Larch x
The Rat*

A photograph of the note is at **pages 218 to 219**. This demonstrated the flippant attitude of the ESG Defendants to the dangerous situation in which they had placed themselves and the CST. The last section of the note appears to be a threat.

- 55.5 On 16.02.2021 D32 obstructed the CST works to shore up and make safe the tunnel complex and struck out at the CST with a piece of ply-wood. A video taken by one of the CST team during this incident is at **Video 35** and D32's hand can be seen in the area where the CST are working. On this date D32 also forcibly removed from one of the ground penetrating radar team his mobile phone and refused to return it until 18.02.2021, when it was eventually returned broken.
- 55.6 On 18.02.21 and 19.02.21, two videos made by D26 were uploaded to You Tube in which she gave a "guided tour" of the tunnels in which she talked about digging and a collapse that had taken place. Copies of those videos are **Video 36** and **Video 37**.
- 55.7 On 19.02.2021 two members of the CST were working on shoring up the south side entrance from Drop Shaft 4 into Chamber 4, which was occupied by D32. The existing timbers and shoring put in place by the Tunnel Occupants was of poor quality and made up of many small pieces of plywood and support timbers. One CST member was half a body length into Chamber 4 and the other was sitting to the side of his legs. This was a difficult area to work in as the tunnel floor sloped down into Chamber 4. The work was made very difficult due to the interference of D32 who was constantly attempting to remove the CST's hand tools as they were actually using them. D32 appeared acutely aware that the CST were making good progress and pulled a piece of flat timber out of the side wall, this resulted in a small amount of earth falling in from above and then began frantically trying to construct a door or barrier to his position out of a flat piece of timber and a metal road sign which he was hammering into shape around the timber. No more than 5 minutes later, a large section of the ceiling directly above the CST members' location suddenly collapsed onto one of the CST members' back. It formed a peaked mound of spoil which the other CST member was able to quickly begin removing by pushing it to the sides until the buried CST member was able to move and they both quickly removed themselves from that location. In the opinion of the very experienced CST members involved, the ceiling collapse was a direct result of D32 removing the side piece of timber moments before it happened. D32 took a series of videos during this incident and uploaded them to You Tube and two of these videos are **Video 38** and **Video 39**.

55.8 The last of the ESG Defendants (D25) was finally removed from the tunnel complex on 26.02.2021, bringing this long, extremely dangerous and costly incident to a thankfully safe conclusion.

55.9 Five of the ESG Defendants (D24, D25, D26, D30 and D32) defied the terms of two injunctions made by the High Court requiring that they cease tunnelling activity and co-operate to leave tunnels safely and the First Claimant has brought contempt proceedings against those individuals.

Small Dean

56. The WAR Camp at Small Dean just south of the town of Wendover was established on or around 04.01.2020. The location of this camp is marked on the plan at **page 6** and more detailed plans showing some of the HS2 Land in this area are at **pages 220 to 221**. The camp was first occupied by a small group of transient activists, including D5 who had previously been resident at anti-fracking camps in the North of England until November 2019. The camp initially occupied a small sliver of land owned by Buckinghamshire Council (and later leased to the First Claimant). However, the occupation progressively grew and expanded northward onto the adjacent HS2 Land. By the time the Claimants' operation to take possession of the occupied land commenced, D5, D17 to D26, D28, D36 and D39 and a number of other persons unknown had been in occupation at one point or another. Attempts by activists to occupy further HS2 Land to the West were prevented by the First Claimant's contractor. Photographs of the encampment constructed by the activists – which included a bar – are at **pages 222 to 236**. The extent of the occupation can be seen in the aerial photographs at **pages 222 to 228**.

57. The trespass upon HS2 Land in this area was characterised by a series of violent and abusive actions by activists, some of which I have described in more detail below and culminated in a long, dangerous and costly eviction operation (also described below). An overview of some of the incidents that took place at this location is at **pages 237 to 241** and examples are set out below:

Date	Occurrence
30.01.2021	The First Claimant's contractors were undertaking vegetation clearance works to install fencing and secure land known as the golden triangle. A number of activists, including D5, assaulted security officers and one female person unknown was arrested for assault and possession of cannabis. Contractors were forced to cease work that day as a result of the incident.
02.02.2021	A security manager employed by one of the First Claimant's contractors had his car windscreen damaged by a stone fired by activists from a slingshot. In addition, 80 fence panels were destroyed in one night as activists repeatedly tried to breach the site perimeter. A security overview report of the incidents that night is at page 242 (the report also covers incidents on 04.02.2021).
03.02.2021	Small tree houses erected by activists appeared on part of the HS2 Land known as "the golden triangle" (the land marked 19385 on the plan at page 221) and a joint operation between the First Claimant's specialist security supplier and the First Claimant's contractor was required in order to re-take that land to avoid the extent of the unauthorised occupation spreading further and to establish a secure perimeter.
18.02.2021	Whilst protecting contractors undertaking further vegetation clearance, security staff were subjected to quite horrific abuse. A female security officer was told by an unknown female activist that people like her should have their wombs removed. Another security officer (an armed forces veteran) was called a war criminal. These incidents are described in more detail and videos exhibited at paragraph 29.8.1 above.
26.03.2021	As described at paragraph 28.10.2 above, security officers working for one of the First Claimant's contractors were pelted by activists with water balloons which were believed to be filled with urine. One officer was punched to the face and approximately 15 activists assaulted security officers. The use of bodily fluids as weapons during the Covid 19 pandemic was a particularly disturbing feature of this incident.
04.05.2021	When attempting to conduct de-vegetation works in the highway the First Claimant's contractors were pelted with stones. The window of one vehicle was smashed and a set of temporary traffic lights were also smashed. It was unsafe for works to continue in view of the conduct of the activists and works ceased. A one-page briefing on the incident, including photographs is at page 243 . As a result of this incident, the contractor instigated a 50m exclusion zone away from the WAR Camp for works until the camp was subsequently cleared in October 2021.

58. On 10.10.2021 the First Claimant alongside their main works contractors commenced a significant enforcement operation to clear the camp at Small Dean. This operation encountered a complex tunnelling system, a 13m tower incorporating highly dangerous booby-trapped rooms dubbed “hell rooms” by activists and a further tower, built around a tree on which activists had suspended a bathtub containing two individuals in a lock-on (photographs at **pages 245 to 246**). I have set out in the following paragraphs a short overview of the clearance operation, which took over a month and cost the First Claimant just under £5million in security and enforcement costs alone (in addition to other costs that are set out at paragraphs 70 to 71 below). Photographs from the enforcement operation are at **pages 244 to 265**.
59. 10.10.2021 – Enforcement operation commenced early in the morning, discovering an occupied tower in the Northern part of the occupied land and the main camp tower (dubbed “the temple” by the activists) occupied by activists including D18 to D24. Located beneath the main camp tower the entrance to a tunnel system was identified. Within the base of the tower an estimated 17m³ of chalk spoil was packed within pallet walls. Initial works to shore the pallet retaining walls were undertaken, as there was an estimated 30t of spoil packed within the pallet walls. Within approximately 5hrs an unknown activist emerged from the tunnels claiming he felt unwell. The First Claimant’s contractor’s specialist security team began to dismantle the northern tower identifying 2 activists locked on at a height of around 5m and another 2 activists locked on at a height of around 4m in a bathtub. Works to remove the bath-tub lock-on were suspended as light failed and resumed the following morning.
60. 11.10.21 – Work resumed on the removal of the 2 activists within the bath-tub lock on, who were lowered within the bath by a spider crane to ground level before being unlocked. The continuing fencing and lifting operations necessitated a lane closure daily from 09:30hrs to 16:00hrs. Whilst necessary for the safety of the security, protestor removal staff and fencing, this created a significant impact upon traffic in the local area. Once the northern tower was cleared the climbing teams began working upon the main tower. Upon initial examination of the main tower it was established that it had been both extensively fortified, and that there

were also significant hazards present, namely the “trippy hell room” (this is discussed at paragraph 29.6.3 above).

61. The dismantling of the main tower commenced on 12.10.2021 and was obstructed throughout by the activists in occupation, who would re-build parts of the tower overnight (as the removal team could not safely work on the structure during the hours of darkness. Activists were also coming and going from the encampment overnight by trespassing across the live railway line adjacent to the occupied land, putting themselves and the railway in significant danger.
62. On 13.10.2021, the First Claimant’s security team entered the main encampment and found no-one in occupation. Security had been controlling the entrance to the encampment since the eviction operation commenced and not allowing anyone to enter. It appeared that the activists had been caught by surprise and not been able to occupy areas in time that they had otherwise intended to occupy to resist eviction. A tree house was located that was provisioned with food marked as being specifically for an eviction (see paragraph 2.6.1 above) and tunnels were located, one of which contained a lock-on device, but upon surveying them it was apparent that they were empty. The enforcement team placed air monitoring devices into the tunnels when they were discovered and found deadly levels of carbon monoxide and dioxide – a product of rainwater reacting with the chalk substrata in the area. Had anyone been in occupation of the tunnels, there was a significant risk that they would have been overcome and possibly have died. The main camp was secured by security to prevent activists from entering.
63. On 15.10.2022, with the tower having been reduced to around four fifths of its original height, the activists deployed D22 in a lock-on to slow the progress of the team dismantling the tower. D22 was removed from the lock-on device on 16.10.2022 and he was then taken from the tower. At that point, the remaining activists (D18 to D21 and D24) retreated into the tunnels under the tower and closed the tunnel lid, save for D23, who locked-on to the lid on the tunnel entrance underneath scaffolding bars to delay access by the removal team. Two videos posted on Facebook by the activists featuring D24 explaining that this was what they were doing are at **Video 40** and **Video 41**. The dismantling of the tower was

then completed on 16.10.2022 leaving only the base (photo at **page 248**). The removal team also had to clear large amounts of spoil left by the activists before they could safely commence the tunnel removal operation. The lock-on was removed on 18.10.2021 and D23 removed from the land. The removal team asked the activists in the tunnel to allow them to pass an air monitoring device into the tunnel as there were concerns about the air quality, but the activists refused to open the tunnel lid for this purpose. The removal team were eventually able to get a device into the tunnel, but not until some days later.

64. The tunnel lid was removed on 20.10.2021 and the removal team began the process and digging and shoring down-shafts and entering the tunnel complex to try to remove the activists. The tunnels dug by the activists were not properly shored and were unsafe and this slowed the progress of the removal team who were required to shore the tunnels as they proceeded. **Video 42** was taken by the removal team on 25.10.2022 and serves to illustrate the dangerous confined space of the activists' tunnels. The activists continued to dig further and deeper tunnels as the enforcement team worked. **Video 43** was recorded by D24 and posted on Facebook on 20.10.2021. It shows D19 and D21 speaking and demonstrates the flippant attitude of the activists to the dangerous situation they had created.
65. The activists in the tunnels evaded and resisted removal throughout the operation and were at times abusive towards the removal team. They backfilled the tunnel complex behind them with spoil, blocking their only means of safe egress in the event of an emergency. They were warned repeatedly by the High Court Enforcement Officers in the removal team that the land was subject to a writ of possession and that they were committing an offence by obstructing the execution of the writ. During the course of the eviction a tree that was not otherwise scheduled for felling had to be felled because it was found to be over one of the activists' chambers and presented a safety risk. The activists were advised that the tree would need to be felled for this reason and did not elect to leave the tunnels to avoid the otherwise needless felling of the tree. A picture of the tree is at **page 250**.
66. On 08.11.2021, the removal team broke through into the activists' tunnel complex and split the group in two. A photograph taken that day (**page 251**) shows D19

in one side of the tunnel and on 09.11.2021, one half of the split group (comprising D19, D20 and D21) were removed from the tunnels. Pictures of them taken following their removal are at **page 252 and 253**. They were arrested by Thames Valley Police. D18 and D24 remained in the tunnels and continued to dig.

67. By 12.11.2021, the removal team had caught up to the two remaining activists. In order to make it more difficult to remove them, the activists lay head to head in the tunnel and placed a noose around both their necks, meaning that the removal team could not pull on the feet of D18 (seen inside a sleeping bag in the photograph at **page 257**) without risking injury to both of them. The removal team had to dig around them to get to their heads.
68. On 13.10.2021, D18 and D24 were removed from a final lock-on (which is shown in the photograph at **page 258** following its removal) and then removed from the tunnel.
69. The eviction at Small Dean in total took over 1 month. Whilst the initial clearance of activists above ground (less those in the main tower) was quite swift, the hard core of activists who had barricaded themselves into the tower and the tunnel system below had spent considerable time laying in supplies and had established a strategy of staying above ground for as long as possible before entering the tunnels. The tunnels they had dug were substantial. The First Claimant's CDM team produced a 3D map of the tunnel complex and a video showing this is at **Video 44**. The tunnel complex was found to extend to a depth of 7 meters underground. The clearance of the camp at Small Dean, was not only disruptive to the First Claimant, but also the local community; such was the height of the tower that had been constructed that the north bound lane of the A413 had to be closed to accommodate a crane. This road is the main A road between Wendover and London and this lane closure resulted in significant tail- backs on a daily basis.
70. The presence of the activists below ground prevented the First Claimants' main works contractor from undertaking piling works on the weekends of the 29.10.2021 and 05.11.2021 utilising planned railway closures. The last two

activists to leave the tunnels did so on 13 Nov 21. By that point, the First Claimants main works contractor had been forced to cancel 2 weekends of works on the adjacent railway line at a cost of over £130,000. Had the camp not been cleared in time to remove the adjacent bridge during the Christmas railway blockade, the First Claimant could have feasibly lost 1 year of schedule and the financial implications of such a delay would have been extensive.

71. The security costs incurred by the contractor over the course of the operation exceeded £2million. The costs incurred by the First Claimant in removing the activists from Small Dean were just under £5million.

Cash's Pit Land and other HS2 Land in the Swynnerton area

72. The activist camp at Cash's Pit was established around March 2021. The camp is located within a square woodland of approximately 4 acres and which is referred to be the activists occupying it as "Bluebell Wood" (see maps at pages 6 and 266). The camp is just north of the A51 which has a speed limit of 60mph and a short distance along the A51 from a compound used by the First Claimant's contractor Balfour Beatty for the purposes of HS2 Scheme works in this area. Within the trees, activists have constructed a number of structures at heights of up to 20m. In addition to the structures within the trees a 2-story building has been constructed approximately 10m from the road-side and a post box has been set up at the entrance to the encampment. To assist with orientation, the approximate location of the entrance is marked with an X on the plan at **page 266**. Photographs of the encampment are exhibited to **Dilcock 1**. In **Video 6 D5** infers that there are tunnels located within the camp, saying that they need to resist the eviction "*over-ground and underground*".
73. D5 to D2; D22 and D63 have all been observed in occupation of the Cash's Pit Land at various times. It is not possible for the Claimants to gain access to the encampment and it is therefore not known precisely how many activists are in occupation at the present time, but the observation of the security teams of the First Claimant is that activists come and go from the encampment and numbers fluctuate.

74. Activists have used the encampment in this location as a base for repeated and sustained direct action disrupting access to and egress from and work at and in the vicinity of the nearby compound of the First Claimant's contractor Balfour Beatty. Typically, the gates of the compound are obstructed for around 2 hours a day, during which time vehicles are prevented from entering or leaving. Balfour Beatty sought and were granted an injunction on 17.03.2022 restraining the obstruction of access to and egress from the compound and it is hoped that the injunction will improve working conditions at that site.
75. Activists based at the encampment have also engaged in repeated trespass upon and disruption of works on HS2 Land in the area. Examples of the action that has been taken recently are set out in the following paragraphs.
76. Cadent Gas are carrying out works for a diversion and there are archaeological works being carried out (both in connection with the scheme) on land in the area that has been taken into temporary possession by the First Claimant. A plan showing the land coloured green is at **page [cadent gas land]** (the "Cadent Gas Land")
77. On 09.03.2022 a number of activists including D17 and D63 obstructed access to and egress from the Cadent Gas Land. The obstruction is shown in a video uploaded to Facebook by D17 in which he explains what the activists are doing: *"We are doing multiple gate blocks today ... now, as you can see, more of us have just appeared outside what is now another compound ... we are disrupting the works as well as you can see. We've blocked this gate here in front of you. We've also blocked the gate down at the other site near to Bluebell Woods Protection Camp. So there's multiple blockades going on at the moment. IRT [sic. Incident Response Team] are inside this compound, so they can't get down to the other compound to sort out our friends down there. If anyone in the area's free or you're half an hour away in the car or something like that, get yourself down to Bluebell, come and have a chat with us. Go on Bluebell Woods Protection Camp Facebook page, share this video. We've got an open day coming soon, will check in on the date on that now, so will let you know. But yeah, get down here. Come and join us ... yesterday there was lost of people getting dragged around fields,*

things like that so we'll see what the day brings, but for now the sun's shining and the sky is blue and fuck you HS2" A copy of the video is at **Video 45**.

78. On 10.03.2022 the Cadent Gas Land was the subject of a complex and aggressive action whereby access to their works was initially blocked by a group including D17, D18 and D19. Later D17 and D19 repeatedly attempted to climb upon an excavator conducting works on the site. A live stream shared by D17 on Facebook, a copy of which is at **Video 46**, shows persons unknown and D19 running at a line of the First Claimants' security officers, and D17 clearly states *"the staff are surrounding the digger, as soon as any of us get an opportunity we are gonna (sic) go for it"*. D19 is seen being physically carried away from the digger following an unsuccessful attempt to climb it in the first 10 seconds (stills at **pages 268 to 269**). D17 then encourages others to join *"if anyone from the gate fancies a bit of a run around, then feel free to walk up and join us"*. D17 goes further and states *"when one of us gets an opportunity we are going to take this machine"*. D17 then states *"due to the number of protestors heading towards the machine someone has told the machine driver to stop the work, which to us is as effective as somebody being on top of it as ultimately it's stopping the work"*.
79. On 14.03.2022 a number of unknown activists in red coveralls took part in a mass trespass on the same HS2 Land. D17 filmed much of this action and posted it publicly on Facebook and a copy is at **Video 47**. Notably, in his video he passes a set of ladders to an unknown male to prevent them being seized. D17 states: *"the aim of the game is to stop HS2 from actively working today and you better bet your arse we are going to do it"*. Throughout the course of the 22-minute video numerous activists in red jump suits are seen running across the HS2 Land, knocking over fencing, running away with fencing and kicking at security guards who are attempting to remove them from the land. It is clear from the video that it would be unsafe to undertake substantial works as simply installing a fence is fraught with issues.

Ongoing risk of unlawful conduct and need for injunctive relief

80. The Claimants do not seek to stifle anti-HS2 views and respect the right to engage in lawful protest and to express views that are opposed to the HS2 Scheme. The

Claimants seek the Court's assistance to try to ensure that the Defendants do not resort to unlawful direct action activity. Not only is that conduct unlawful, but it is extremely disruptive, dangerous, costly and unpleasant and difficult for those engage in work on the HS2 Land. The activity of the Defendants is an attempt, not to articulate views, but a hard-fought and continuous campaign to try to compel the Claimants to stop the work they are mandated to do by an Act of Parliament. It is no exaggeration to say that the Defendants appear to be seeking to engage in a war of attrition with the Claimants – of which the security personnel on the ground are at the front line. The very considerable deployment of police resources has also been required and continues to be required.

81. The incidents that have already occurred have caused injury to persons working on the HS2 Scheme and eye-watering levels of loss (all borne by the public purse) and damage 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. 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.
82. Given the large number of incidents of trespass, obstruction and damage experienced by the Claimants on the HS2 Land over the course of the last four and a half years and the stated commitment (often expressed in violent language) of the Defendants to continue with the unlawful activity, the Claimants reasonably fear that the HS2 Land remains at significant risk of trespass by the Defendants and that incidents of damage to fences, gates, vehicles and equipment and obstruction access will continue. In fact, the Claimants consider it likely that unlawful activity by the Defendants will only continue to escalate (as it has done since October 2017) if unchecked by the Court as works on the HS2 Land progress. The acts of trespass and obstruction are often accompanied by incidents of verbal harassment and physical intimidation of staff and contractors, including some violent acts. The Defendants' activities place both themselves and the

Claimants' contractors, sub-contractors and employees at significant risk of injury or even death and that is an overriding concern that has led to the Claimants' decision to seek the assistance of the Court in preventing further incidents.

83. The Claimants are therefore asking the Court to make an injunction in the form attached to the Application Notice.

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:.....

RICHARD JOSEPH JORDAN

Dated:.....23 March 2022....

On behalf of: Claimants
J.A.Dilcock
1st statement of witness
Exhibits: JAD1 to JAD3
Date: 25 March 2022

**IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY**

Claim No. QB-2022-BHM-000044

BETWEEN:

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

Claimants

- and -

- (1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND KNOWN AS LAND AT CASH'S PIT, STAFFORDSHIRE SHOWN COLOURED ORANGE ON PLAN A ANNEXED TO THE PARTICULARS OF CLAIM ("THE CASH'S PIT LAND")**
- (2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND ACQUIRED OR HELD BY THE CLAIMANTS IN CONNECTION WITH THE HIGH SPEED TWO RAILWAY SCHEME SHOWN COLOURED PINK, GREEN AND BLUE ON THE PLAN ANNEXED TO THE APPLICATION NOTICE ("THE HS2 LAND")**
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND BY THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP**

COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT WITHOUT THE CONSENT OF THE CLAIMANTS

(4) PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS

(5) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE) AND 58 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants

**WITNESS STATEMENT OF JULIE AMBER DILCOCK
&
STATEMENT OF SUITABILITY TO ISSUE IN THE HIGH COURT PURSUANT
TO CPR r.55.3(2)**

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

Introduction

1. I am a solicitor of the Senior Courts of England and Wales and employed by the First Claimant as Litigation Counsel (Land & Property). 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 Government Legal Department (“**HS2’s**

Solicitors”) in relation to the conduct of these proceedings. Prior to being appointed as Litigation Counsel for the First Claimant I was a solicitor employed by the firm Eversheds Sutherland (Intl) LLP for 13 years and in that role I advised the Claimants on contentious property matters, including possession claims against trespassers and seeking injunctive relief. I am authorised to make this, my First Witness Statement, on behalf of the Claimants.

2. I make this statement in support of the First Claimant’s claim for possession of land at Cash’s Pit, Staffordshire (the “**Cash’s Pit Land**”) and the Claimants’ application for an injunction restraining unlawful activity over land acquired or held by the Claimants (the “**HS2 Land**”) in connection with the High Speed Two Railway Scheme (commonly referred to as “HS2” and referred to in this statement as: the “**HS2 Scheme**”). Defined terms used in the Particulars of Claim have been adopted in this statement with the same meanings. I confirm that the contents of the Particulars of Claim are true to the best of my knowledge and belief.
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, 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. The HORACE and Trak Tik systems are explained in the Witness Statement of Richard Jordan (“**Jordan 1**”).
5. There are now shown and produced to me marked **JAD1, JAD2 and JAD3** true copies of documents to which I shall refer in this statement.
6. In preparing this statement have read **Jordan 1** in draft.

Statement of suitability

7. I note that paragraph 1.3 of Practice Direction 55A and paragraph 6 of the Practice Note given by the Chancery Division and Queens Bench Division in London concerning Possession Claims Against Trespassers indicates that it may be appropriate to issue possession claims in the High Court where:
 - 7.1 there are complicated disputes of fact;
 - 7.2 there are points of law of general importance; or
 - 7.3 the claim is against trespass is and there is substantial risk of public disturbance or of serious harm to persons or property which properly require immediate determination.
8. With that guidance in mind, the reasons that the Claimants consider these proceedings to be suitable for determination by the High Court are:
 - 8.1 The actions of the Defendants are directed at the obstruction of the HS2 Scheme - a major high profile national infrastructure project. Whilst the factual issues raised are not necessarily complicated, they are weighty, high profile and of considerable public interest and importance. Further, the Claimants are seeking injunctive relief over a large geographical area in order to protect a national infrastructure project from sustained unlawful action and in the context of the expenditure of extremely significant sums of public money on dealing with these issues (as discussed in **Jordan 1**). Injunctive relief is also sought against categories of persons unknown – a matter in which the higher courts have had considerable interest of late.
 - 8.2 The claim raises somewhat unusual and important issues of law, in that the Claimants have the advantage of particular statutory rights and powers upon which they rely, granted under the High Speed Rail (London - West Midlands) Act 2017 (the “**Phase One Act**”) and the High Speed Rail (West Midlands - Crew) Act 2021 (the “**Phase 2a Act**”) (together: the “**HS2 Acts**”).
 - 8.3 It is anticipated that the Defendants may wish to raise arguments under the Human Rights Act 1996 concerning their rights to protest and these are issues of

general importance, although the Claimants will say that they are not complex issues or issues which present any arguable defence in the context of these claims.

8.4 As explained in **Jordan 1**, the Claimants' experience of dealing with unauthorised encampments such as the one on the Cash's Pit Land that is the subject of these proceedings is that the Defendants take extreme steps to resist eviction and to make the process as difficult and dangerous as possible. The First Claimant was required (paragraph 4(1) of Schedule 16 of the Phase One Act and Schedule 15 of the Phase 2a Act) to give the Cash's Pit Defendants not less than 28 days' notice that it intended to take possession of the Cash's Pit Land. The Cash's Pit Defendants have been explicit on social media and in mainstream media (see for example **Jordan 1** and the article at **pages 1 to 3 of JAD3**) that they have been spending that time fortifying the encampment and digging tunnels to resist eviction. D18, D19 and D20 also did this at HS2 Land at Small Dean in Wendover (this is described in **Jordan 1**). The matter is therefore urgent. There are also significant concerns for the safety of the Cash's Pit Defendants whom the Claimants consider (based on previous experience) are likely to be occupying dangerous structures in trees and make-shift un-shored underground tunnels and to be at risk of serious harm. It is imperative that they are required to leave as soon as possible for their own safety.

8.5 I would also note that similar proceedings concerning HS2 Land, which raise similar issues to these proceedings, have been addressed by the High Court in recent years. See in particular: *Secretary of State for Transport -v- Persons Unknown* [2018] EWHC 1404 (Ch) and [2019] EWHC 1437 (Ch). The Claimants' application for an injunction asks that injunctions made in those proceedings and other High Court proceedings are discharged in favour of the land in question being covered by the injunction sought in these proceedings. Such an application can only be dealt with by the High Court.

Purpose and scope of this statement

9. In this statement I will:

9.1 Explain the legislative framework of the HS2 Scheme;

- 9.2 Explain the basis upon which the Claimants come to be entitled to possession of the HS2 Land;
- 9.3 Describe the injunctions already in place over parts of the HS2 Land and the reasons for the Claimants' application to consolidate those into the injunction sought in these proceedings;
- 9.4 Explain how the Claimants reached the decision as to which individuals are the Named Defendants;
- 9.5 Address the question of how the Claimants propose to effect service of these proceedings and the injunction application; and
- 9.6 Describe the entitlement of the First Claimant to possession of the Cash's Pit Land; the circumstances of the trespass at the Cash's Pit Land and the need for a possession order and injunction to restrain further trespass.

The HS2 Scheme

10. In this section I have explained the different means by which the Claimants have acquired or gained the right to possession of the HS2 Land under the HS2 Acts; the discretionary schemes created by the Government (the "**Discretionary Schemes**"); acquisition by consent; and the taking of leases.

Phase One

11. Construction of Phase One of the HS2 Scheme is authorised by the Phase One Act.
12. The Government and the First Claimant engaged in extensive consultation and engagement prior to deposition the Bill that led to the Phase One Act with Parliament and - as it was a hybrid Bill - it was also subject to a petitioning process during which almost three and a half thousand petitions were considered by Select Committees. The Claimants are committed to continuing engagement with stakeholders on the HS2 Scheme as it progresses. In addition, the HS2 Code of Construction Practice requires community engagement, particularly focussing on those who may be affected by construction impacts.

13. The Phase One Act was the culmination of nearly five years of work, including an Environmental Impact Assessment, the results of which were reported in an Environmental Statement submitted alongside the Bill. The First Claimant has also published Environmental Minimum Requirements, which set out the environmental and sustainability commitments that will be observed in the construction of the Scheme. All of these documents are publicly available online at: <https://www.gov.uk/government/collections/hs2-phase-one-environmental-statement-documents> and <https://www.gov.uk/government/publications/environmental-minimum-requirements> .
14. On 24 February 2017 the First Claimant was appointed as nominated undertaker pursuant to section 45 of the Phase One Act by way of the High Speed Rail (London-West Midlands) (Nomination) Order 2017. The Second Claimant is responsible for the successful delivery of the HS2 Scheme.
15. 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 by way of General Vesting Declaration (“GVD”) or the Notice to Treat (“NTT”) and Notice of Entry (“NoE”) procedure.
16. Section 15 and Schedule 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.

Phase 2a

17. Construction of Phase 2a of the HS2 Scheme is authorised by the Phase 2a Act.
18. The Government and the First Claimant engaged in extensive consultation and engagement prior to deposition the Bill that led to the Phase 2a Act with Parliament and - as it was a hybrid Bill - it was also subject to a petitioning process during which around three hundred and forty petitions were considered by Select Committees. The Claimants are committed to continuing engagement with stakeholders on the HS2 Scheme as it progresses. In addition, the HS2 Code

of Construction Practice requires community engagement, particularly focussing on those who may be affected by construction impacts.

19. The Phase 2a Act was the culmination of nearly five years of work, including an Environmental Impact Assessment, the results of which were reported in an Environmental Statement submitted alongside the Bill. In addition, Supplementary Environmental Statements and Additional Provision Environmental Statements were submitted during the Bill's passage through Parliament. The First Claimant has also published Environmental Minimum Requirements, which set out the environmental and sustainability commitments that will be observed in the construction of the Scheme. All of these documents are publicly available online at: <https://www.gov.uk/government/collections/hs2-phase-2a-supplementary-environmental-statement-and-additional-provision-environmental-statement> and <https://www.gov.uk/government/publications/environmental-minimum-requirements-for-hs2-phase-2a>.
20. On 12 February 2021 the First Claimant was appointed as nominated undertaker pursuant to section 42 of the Phase 2a Act by way of the High Speed Rail (West Midlands - Crewe) (Nomination) Order 2021. The First Claimant is responsible for the successful delivery of the HS2 Scheme.
21. 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. The First Claimant may acquire by way of General Vesting Declaration ("GVD") or the Notice to Treat ("NTT") and Notice of Entry ("NoE") procedure.
22. Section 13 and Schedule 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.

Statutory Blight

23. 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 via the statutory blight regime under Chapter II of the Town and Country Planning Act 1990.

Discretionary Schemes

24. The First Claimant has acquired other parts of the HS2 Land via transactions under the various Discretionary Schemes set up by the Government to assist property owners affected by the HS2 Scheme. The details of the various Discretionary Schemes are publicly available online at: <https://www.gov.uk/claim-compensation-if-affected-by-hs2>
25. Further parts of the HS2 Land have been acquired from landowners by consent and without the need to exercise powers.
26. Finally, the Claimants hold some of the HS2 Land under leases – most notably, the First Claimant’s registered office at Snowhill in Birmingham and its office at the Podium in Euston, both of which have been subject to trespass and (in the case of The Podium) criminal damage by activists opposed to the HS2 Scheme (the incident of trespass and criminal damage at The Podium on 06.05.2021 is described in more detail in **Jordan 1**).

Legitimacy

27. The Claimants accept that the HS2 Scheme is a controversial and high-profile project, and that some people feel very strongly against it. However, the Claimants have a duty, imposed by Parliament, to deliver the HS2 Scheme. As the High Court confirmed in the case of *R(Packham) v Secretary of State for Transport [2020] EWHC 829 (Admin)*, there is a strong public interest in the works proceeding, and it is not for individuals to seek to undermine the democratic decisions of Parliament in defiance of court orders seeking to protect that democratic mandate.

The HS2 Land

28. The HS2 Land covers a large area and for the purposes of bringing this claim, the Claimants have produced a set of coloured plans to show the HS2 Land and illustrate the basis of the Claimants’ right to possession of it. The plans span 283

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 supporting this claim and the injunction application) have been placed online at: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> (the “**HS2 Land Plans**”), but for ease of reference are also referred to in this statement as **Exhibit JAD1**. The Claimants have also produced spreadsheets setting out the basis of the Claimants’ right to possession of the HS2 Land. These also run into hundreds of pages and accordingly have also been placed online at the same link. For ease of reference, these are referred to in this statement as **Exhibit JAD2**. These documents are related only to the Claimants’ application for an injunction. The details of the First Claimant’s right to possession of the Cash’s Pit Land (over which the First Claimant seeks a possession order) are set out in the Particulars and in this Witness Statement and copies of the relevant notices and other evidence in support of the claim for possession are at **Exhibit JAD3**, a copy of which will be served in hard copy with the proceedings in accordance with CPR r.55.6. The evidence in support of the possession claim will also be placed online at <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> and will therefore also be available electronically to anyone who wishes to have a copy.

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**.
34. A variety of works for the HS2 Scheme are taking place or are scheduled to take place on the HS2 Land at any given time and throughout the years that it will take to construct the HS2 Scheme, which include (depending on the stage which that part of the project has reached) initial site clearance, the diversion of utilities, access road construction, demolition works, survey and environmental mitigation works and main works construction operations.

35. On site, there is a large amount of heavy plant and more will be added as works progress. The dangers posed by that machinery to unauthorised individuals entering onto the HS2 Land are obvious. All staff and contractors working on the site are provided with intensive training and inductions so they understand the hazards posed by working on site. They are provided with appropriate personal protective equipment, including high visibility clothing. Without such familiarisation anyone entering the site puts themselves at risk when in the vicinity of hazardous operations. The Claimants are acutely aware of the hazards associated with major construction sites and wish to ensure that only those competent to do so and with a full understanding of all site hazards enter the sites. Again, the Claimants have serious concerns that if the activities of the Defendants continue, there is a high likelihood that someone will be seriously injured. As set out in **Jordan 1**, it is very often the case that the Defendants do not simply enter onto the HS2 Land, but that they actively seek to interfere with the heavy plant on site during operation.
36. Further, the activities that the Defendants undertake on land ahead of The First Claimant's construction operations also pose a significant risk of injury or death. The Defendants have engaged in the digging of very deep and dangerous make-shift tunnels which carry a high risk of collapse or issues such as carbon-monoxide / dioxide poisoning. They have engaged in the erection of large make-shift structures both from ground level and in trees, which are unstable and risk collapse or a fall from height. These structures are also often "booby-trapped" by the Defendants with material such as razor wire in order to hamper the work of teams trying to remove the Defendants from them and which risk causing serious injury to both the Defendants and those seeking to remove them. Examples of this conduct are set out in **Jordan 1**.

Consolidation of other injunctions

37. There are currently two injunctions in place over areas of the HS2 Land to restrain unlawful activity by those opposed to the HS2 Scheme.
38. The first relates to land in the Harvil Road area of Hillingdon and was first imposed by the High Court in February 2018 in proceedings under claim number

PT-2018-000098. The Court reviewed the injunction and extended it both in terms of the land covered and in duration by way of an order dated 4 September 2020, a copy of which is at **pages 4 to 16 of JAD3** (the “**Harvil Rd Injunction**”). Those proceedings are awaiting the listing of a CMC to set directions to take the matter to trial. Named Defendants D28; D32 to D34; and D36 to D59 are the named defendants to those proceedings.

39. The second relates to land at South Cubbington Woods, Crackley Wood, Birches Wood and Broadwells Wood in Warwickshire and was first imposed by the High Court in March 2020 in proceedings under claim number PT-2020-BHM-000017. The Court reviewed and extended it by way of an order made on 13 April 2021, a copy of which is at **pages 17 to 29 of JAD1** (the “**Cubbington & Crackley Injunction**”). Those proceedings are stayed with liberty to apply. Named Defendants D32 to D35 are the named defendants to those proceedings.
40. The Court will note that the terms of the Harvil Rd Injunction and the terms of the Cubbington & Crackley Injunction are not the same.
41. Should the Court see fit to grant the injunction sought by way of application in these proceedings, the Claimants are of the view that it would be expedient and would assist with certainty for those affected by the injunctions and would ensure efficient use of Court time going forward for the land covered by the Harvil Rd Injunction and the Cubbington & Crackley Injunction to be included in the new injunction and for these two pre-existing injunctions to be discharged and the proceedings relating to them discontinued. The Claimants consider that there would be no prejudice to the named defendants in claim numbers PT-2018-000098 and PT-2020-BHM-000017 in this course of action and their rights to challenge the injunction (even if they only wished to challenge it in relation to the land comprised in the pre-existing injunctions) will remain under the proposed new injunction. The Claimants apply accordingly.

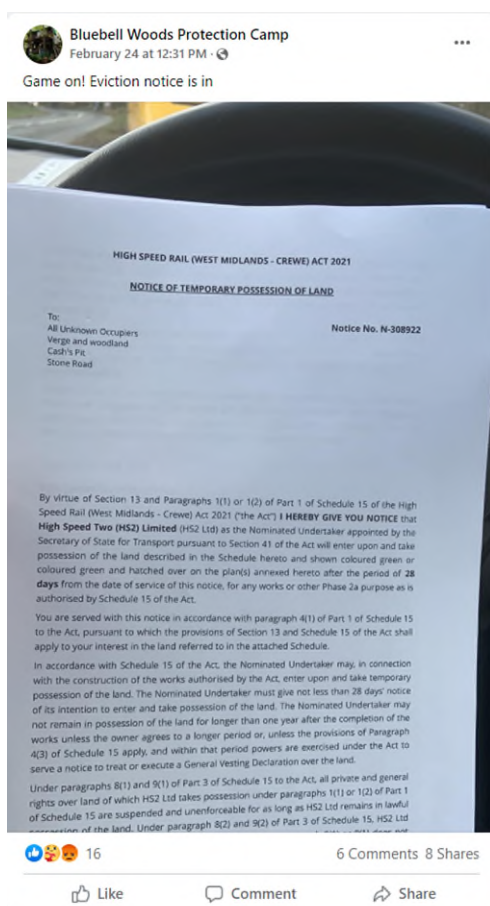
Named Defendants

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.
47. Following service of the notices at the Cash's Pit Land, the Defendants posted on social media acknowledging receipt of the notices as follows:



D6 also filmed service as it was taking place (see **Jordan 1**). Since the Notices were served there have been further Facebook posts about the Notices and indicating an intention not to vacate and to resist eviction. Examples of further Facebook posts exhibited to **Jordan 1**.

48. The Cash's Pit Land abuts the A51 highway and part of the verge of the highway forms part of the Cash's Pit Land, to which the First Claimant is entitled to possession as described above. The Cash's Pit Defendants have also occupied part of the verge. To the extent that there were any public rights of way over the verge, any such rights have been temporarily stopped up pursuant to section 3 and Schedule 4, Part 2 of the Phase 2a Act. Copies of the relevant documents relating to the temporary stopping up of public rights over the verge land are at **pages 113 to 115 of JAD3**.
49. As detailed in the Particulars of Claim, the Cash's Pit Land is heavily wooded and has been occupied by individuals who are opposed to the HS2 Scheme and

whom the First Claimant understands to have been occupying since early 2021. Persons unknown come and go at the Cash's Pit Land and as such there is a fluctuating population of trespassers. The First Claimant believes that the Cash's Pit Defendants are in occupation of the Cash's Pit Land, either permanently or from time to time, in addition to a number of persons unknown.

50. Access to the Cash's Pit Land is currently restricted due to the ongoing trespass, but the Defendants have posted comments and pictures on social media and on a website: <https://www.aggravatedtrespass.com/blog/bluebell-woods-protection-camp-staffordshire> that show large make-shift structures erected on the land and indicate that tunnels are being dug. The local planning authority has informed the First Claimant that complaints have been received about unauthorised development on the land in breach of planning regulations in respect of the unauthorised encampment. Pictures of the unauthorised encampment, which give an indication of the nature and scale of the trespass are at **pages 113 to 124 of JAD3**.
51. In addition to occupying the Cash's Pit Land with the express intention of delaying the First Claimant in taking possession and commencing works, since October 2021, the Cash's Pit Defendants have been using the Cash's Pit Land as a base from which to launch action to disrupt works being carried out on the HS2 Scheme by the First Claimant's contractor Balfour Beatty ("BB") from a nearby works compound. The Cash's Pit Defendants regularly post on social media about their actions to obstruct and disrupt access to and works at the BB compound and encourage others to engage in obstructive and disruptive action. Examples of such social media posts are exhibited to **Jordan 1**. Typically, the Cash's Pit Defendants assemble in the entrance to the BB compound each day for around two hours at a time and obstruct vehicles seeking to enter and leave the compound. On 17.03.2021 BB obtained an injunction from the High Court to restrain interference with their access to and egress from their site compound and a copy of the order made by the High Court is at **pages 125 to 133 of JAD3**.
52. The encampment on the Cash's Pit Land Land was also used as a base to launch action to disrupt HS2 Scheme works on the M42 in December 2021. That action included D6 climbing onto a lorry delivering tarmac for the works, preventing it

from moving for an hour or so and jeopardising the viability of the load. The details of this and other disruptive actions are set out in detail in **Jordan 1**.

53. The First Claimant is entitled to possession of the whole of the Cash's Pit Land and accordingly seeks a possession order forthwith and a declaration from the Court to that effect, in the hope that it may assist in simplifying any further processes to recover possession of the Cash's Pit Land if they are dispossessed by further acts of trespass in the future

Ongoing risk of unlawful conduct and need for injunctive relief

54. The Claimants consider that there is a real risk that the Cash's Pit Defendants will not comply with an order for possession made by the Court and that an injunction is required mandating that the Cash's Pit Defendants leave the Cash's Pit Land immediately. The Claimants reasonably fear that having been evicted from the Cash's Pit Land, the Cash's Pit Defendants will either seek to re-enter the Cash's Pit Land or trespass upon or obstruct access to other parts of the HS2 Land. By way of example, D17 to D20 and D22, who are believed to be or have been in occupation of the Cash's Pit Land, were all trespassers on Phase One HS2 Land at Small Dean in Wendover (which is on Phase One of the HS2 Scheme) before then moving to occupy the Cash's Pit Land (which is on Phase 2a of the HS2 Scheme and is some 130 miles by vehicle from the Wendover site). D22 resisted eviction and obstructed High Court Enforcement Officers executing a writ of possession at Wendover by placing himself in a lock-on device. D18, D19 and D20 occupied and continued to dig tunnels underground at the same site to resist eviction and obstruct High Court Enforcement Officers executing a writ of possession. These incidents are described in more detail in **Jordan 1**.
55. The Claimants also consider that there is a real risk that other Defendants will trespass on or obstruct access to the Cash's Pit Land or other parts of the HS2 Land and the reasons for this belief are set out in **Jordan 1**.
56. Accordingly, the Claimants ask the Court to impose an injunction in the terms sought in the Application Notice.

Service

57. In so far as these proceedings are simply possession proceedings against trespassers who are persons unknown, a means for service is set out in CPR r.55.6.
58. In addition to an order for possession, however, the Claimants seek inter alia injunctive relief restraining future trespass and declaratory relief confirming their right to possession (I note here for completeness that the purpose of seeking that declaratory relief is that it may assist in securing possession more swiftly in the future if there is a future trespass, as it was suggested by Lord Rodger in *SoS for the Environment -v-v Meier* [2009] UKSC 11 at [93] that a party with the benefit of such a declaration could obtain the benefit of a writ of restitution in the event of future trespass.
59. In addition, injunctive relief on an interim basis is sought by the application notice which accompanies the claim. It will therefore be necessary to serve the Application as well as the Claim. Further:
- 59.1 It is necessary to serve the documents on the Named Defendants as well as the persons unknown.
- 59.2 It will be necessary to serve any order made upon the hearing on those defendants as well.
60. In those circumstances, the Claimants propose to ask the Court retrospectively to approve the steps taken to draw these proceedings to the Defendants' attention (to the extent necessary) under CPR r.6.15 and 6.27. The Claimants also ask the Court to approve (prospectively) certain steps to serve any order that the Court makes upon the Defendants.
61. Service – particularly service on the Named Defendants – is far from straightforward in these proceedings. Many of the Named Defendants have no fixed address and move regularly between different protest camps up and down the country. They are a transient population. Many have given pseudonyms and are difficult to 'track down'. Accordingly, in the past, service by conventional means has been difficult to execute. The activists do not tend to live at their fixed abode, and even if their location can be established, often they are in difficult to


reach places, residing in trees, or in tunnels underground (examples of this conduct are set out in Jordan 1). Where service is physical and site notices are displayed, often the notices are ‘ripped down’. These, in my experience, are often attempts to frustrate effective service.

62. Ultimately, the question, for service, is whether all practicable steps have been taken to notify “the person” against whom relief is sought.
63. The steps that the Claimants intend to take to serve these proceedings are similar to those they intend to take to serve any order made by the Court following the hearing as set out at paragraph 11 of the draft order accompanying the application. Once these proceedings have been served, updated evidence will be filed to confirm what has been done. The rationale for the steps proposed is broadly self-explanatory, but to expand briefly:
 - 63.1 The claimants wish to seek to ensure so far as possible that the proceedings and relief sought in them come to the attention of all those in occupation of HS2 Land at the moment as well as those who can reasonably be expected to want to trespass upon HS2 Land in the future.
 - 63.2 The Cash’s Pit Land has an unauthorised encampment on it at the present time. Documents left at that camp will no doubt come to the attention of those who occupy it. It is proposed to leave copies of the Court proceedings addressed to the occupiers at the camp on the Cash’s Pit Land and addressed individually by name to D5 to D20, D22, D31 and D63.
 - 63.3 In addition, it is proposed to leave copies of the Court proceedings in conspicuous locations around the perimeter of the Cash's Pit Land so that persons who might be coming onto the land or considering doing so can access them.
 - 63.4 The proceedings will also be advertised on the HS2 section of the .gov website at: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> and copies of all documents in these proceedings will be available on that website.

- 63.5 The claimants are also in possession of service information provided by D28; D32 to D34; and D36 to D59 in respect of the proceedings for the Harvil Rd Injunction and D32 to D35 in respect of proceedings relating to the the Cubbington & Crackley Injunction and will effect service of copies of these Court proceedings on those defendants using the information provided by them for service in those other proceedings.
- 63.6 In addition, emails will be sent two email addresses for two of the groups who are involved in coordinating action against the HS2 Scheme using the following email addresses (which are publicised by those groups as a method of contacting them): HS2Rebellion@gmail.com and info@stophs2.org .
64. For completeness, I should add that the Claimants have considered whether steps might be taken to draw these proceedings to the attention of affected parties via social media. In my experience of seeking to effect such service in similar cases in the past, however, those steps are regularly unsuccessful in that the intended recipients will often block messages from unknown or (from their perspective) undesirable contacts. However, the claimants will consider whether a link to the website hosting all of the Court documents can be placed on social media via a Facebook post and / or a Tweet from the accounts of the First Claimant. An update on this will be provided to the court along with an update on all methods of service affected, ahead of the hearing.

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:.....

JULIE AMBER DILCOCK

Dated:.....25 March 2022.....

On behalf of: Claimants
J.A.Dilcock
2nd statement of witness
Exhibits: JAD4 and JAD5
Date: 1 April 2022

Claim No. QBD-2022-BHM-000044

**IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY**

BETWEEN:

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

Claimants

- and -

- (1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND KNOWN AS LAND AT CASH'S PIT, STAFFORDSHIRE SHOWN COLOURED ORANGE ON PLAN A ANNEXED TO THE PARTICULARS OF CLAIM ("THE CASH'S PIT LAND")**
- (2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND ACQUIRED OR HELD BY THE CLAIMANTS IN CONNECTION WITH THE HIGH SPEED TWO RAILWAY SCHEME SHOWN COLOURED PINK, GREEN AND BLUE ON THE PLAN ANNEXED TO THE APPLICATION NOTICE ("THE HS2 LAND")**
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND BY THE CLAIMANTS, THEIR AGENTS,**

SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT WITHOUT THE CONSENT OF THE CLAIMANTS

(4) PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS

(5) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE) AND 58 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants

SECOND 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:

Introduction

1. I am a solicitor of the Senior Courts of England and Wales and employed by the First Claimant as Litigation Counsel (Land & Property). 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, Government Legal Department, in relation

to the conduct of these proceedings. I am authorised to make this, my Second Witness Statement, on behalf of the Claimants.

2. Defined terms used in the Particulars of Claim, my First Witness Statement (“**Dilcock 1**”) and **Jordan 1** have been adopted in this statement with the same meanings.
3. I make this statement, in support of the First Claimant’s claim for possession and the Claimants’ application for an injunction dated 25.03.2022 (the “**Proceedings**”) and in order to further update the Court on:
 - 3.1 the steps taken by the Claimants to serve the Proceedings and supporting documents; and
 - 3.2 additional matters that have arisen since I gave **Dilcock 1**.
4. This statement has been prepared with the Claimants’ legal representatives.
5. 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, 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. The HORACE and Trak Tik systems are explained in the Witness Statement of Richard Jordan (“**Jordan 1**”).
6. There are now shown and produced to me marked **JAD4** true copies of documents to which I shall refer in this statement. Page numbers without qualification refer to that exhibit. In this statement I also refer to video evidence which has been collated as numbered videos and marked **JAD5**. The videos can be viewed at: <https://vimeo.com/showcase/exhibit-jad5> and references in this statement to video numbers in bold are references to that exhibit. The index for the videos in that exhibit is at **page 38**. A copy of this statement and Exhibit JAD4 and a link to **JAD5** are being uploaded to:

<https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> .

Service of the Proceedings

7. The detail of service of the Proceedings is set out in the Certificates of Service and accompanying statements given by the process servers and HS2's Solicitors, all of which will be filed with the Court ahead of the hearing on 5.04.2022 and copies of which will be in the Hearing Bundle.
8. In summary, however:
 - 8.1 The Court issued Notice of Hearing to HS2's Solicitors on the afternoon of 30.03.2022. That document was uploaded to the website: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> along with all of the other documents in the Proceedings and that website went live at around 15:24 that afternoon. The website contains the following documents freely available for anyone to download (a screen shot of website is at **pages 1 to 3**):
 - (a) Sealed Claim Form
 - (b) Particulars of Claim
 - (c) Plan A
 - (d) Schedule of Defendants
 - (e) Sealed N244 Application Notice
 - (f) Draft Order
 - (g) HS2 Land Plans – Part 1
 - (h) HS2 Land Plans – Part 2
 - (i) Table 1 – HS2 Acquired Land GVDs
 - (j) Table 2 – HS2 GVDs with Title Numbers
 - (k) Table 3 – HS2 Acquired Land non-GVDs
 - (l) Table 4 – HS2 Temporary Possession

- (m) Witness Statement of Julie Dilcock
- (n) Exhibit JAD3
- (o) Witness Statement of Richard Jordan
- (p) Exhibit RJ1
- (q) Notice of Hearing on 5 April 2022
- (r) Text with link as follows: Video exhibit RJ2 can be found by following this link: [Exhibit RJ2](#). The following exhibits contain strong and/or abusive language and scenes of violence that some viewers may find disturbing. Viewer discretion advised.

Clicking on the [Exhibit RJ2](#) link takes the user to the following site: <https://vimeo.com/showcase/exhibit-rj2> where the video exhibits to **Jordan 1** can be viewed. The web host identified that the videos may contain “mature” content and requires that users log in or create a free account before viewing the material. The Claimants also considered that both the written and video evidence contained material that some people may find disturbing or offensive and an appropriate warning has been placed both on the .gov website and on the Vimeo website.

- 8.2 Hard copies of the Proceedings were finalised for handing over to couriers to deliver for service by process servers.
- 8.3 At 19:34, HS2’s Solicitors sent an email to the contacts listed on the website: <https://stophs2.org/contacts> and to: HS2Rebellion@gmail.com and to email addresses provided by or obtained for certain of the named defendants to the Harvil Road Injunction proceedings and to the email address of the solicitor that represented D24, D25, D26, D30 and D32 in contempt proceedings in respect of Euston Square Gardens (as set out in the relevant Certificates of Service filed with the Court). The text of that email was as follows:

To whom it may concern

Take notice that High Speed Two (HS2) Limited and the Secretary of State for Transport ("the Claimants") have issued proceedings in the High Court seeking an order for possession over land at Cash's Pit, Staffordshire and an injunction over land on the route of the High Speed Rail project known as HS2. A hearing has been listed on 5 April 2022 at:

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

There is no requirement that you attend, but you may do so if you wish.

Copies of all of the documents filed with the Court in this case are available at:
<https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings>

The Claimants' solicitors can be contacted using the following details:

The Treasury Solicitor,
Government Legal Department,
102 Petty France,
Westminster,
London SW1H 9GL

E: HS2Injunction@governmentlegal.gov.uk
T: 020 7210 3000 (ask for Mr Nwanodi/Mr Yaman/Ms C Davis)
DX: 123234 Westminster 12
R: Z2202274/ACN/DS3

Regards,

For the Treasury Solicitor

A copy of the email is at **page 4**.

- 8.4 That email was delivered to all recipients, save for as indicated by the bounce-backs received, none of which were for email addresses held for specific named defendants. Copies of the bounce-backs can be provided separately to the Court if required.
- 8.5 Hard copies of the Proceedings as follows:
- (a) Notice of Hearing
 - (b) Sealed Claim Form
 - (c) Particulars of Claim
 - (d) Plan A
 - (e) Schedule of Defendants
 - (f) Sealed N244 Application Notice

- (g) Draft Order
- (h) Witness Statement of Julie Dilcock containing link to the website mentioned above and explaining that the HS2 Land Plans and Tables could be found at that website.
- (i) Exhibit JAD3
- (j) Witness Statement of Richard Jordan, containing link to the website mentioned above and explaining that Exhibit RJ1 could be found there and a direct link to the Vimeo site hosting Exhibit RJ2.

were delivered to process servers by courier on the morning of 31.03.2022. Service was effected that same day as set out in the Certificates of Service and is summarised below.

- 8.6 Service was effected on D24, D25, D26, D32, D34, D36, D40, D43, D44, D47 and D56 by hand delivering copies to postal addresses they had provided in the Harvil Rd Injunction proceedings or which had been obtained during the contempt proceedings relating to Euston Square Gardens. The details of these addresses are set out in the individual Certificates of Service, along with the time of service. Service by this method was completed by 16:30 on 31.03.2022, save for D26 whose package was delivered at 17:54. These service packs also contained covering letters addressed to each of these Defendants with the following wording:

Service of Possession proceedings in relation to the land known as Cash's Pit, Staffordshire and injunction proceedings relating to land on the route of the High Speed Two Rail Scheme (commonly referred to as HS2)

Claim No QB-2022-BHM-000044

Date of Hearing 5 April 2022

By way of service, please find enclosed:

1. Notice of Hearing
2. Claim Form, Particulars of Claim and enclosures
3. Application Notice (please note that the plans referred to are at:
<https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings>)
4. Draft Order
5. Witness Statement of Richard Jordan (please note that the exhibits to this statement are at:
<https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings>)
6. Witness Statement of Julie Dilcock and Exhibit JAD 3 (please note that exhibits JAD1 and JAD2 are at:
<https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings>)

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

The Claimants' solicitors can be contacted at the above postal address, by email to hs2injunction@governmentlegal.gov.uk or telephone call to 020 7210 3000.

We strongly recommend you seek independent legal advice immediately.

Yours sincerely,

For the Treasury Solicitor

Encs

Copies of the covering letters placed in each pack are appended to the relevant Certificates of Service.

8.7 On 31.03.2022 copies of the Proceedings in clear plastic wallets with a cover sheet addressing them: "To the Occupiers" were served on the Cash's Pit Land as follows (photographs are appended to the relevant Certificate of Service):

8.7.1 At around 10:04, four copies were attached to wooden stakes in the ground along the front of the unauthorised encampment situated on the Cash's Pit Land and known by the Defendants as "Bluebell Wood Protection Camp", adjacent to the road.

8.7.2 At around 10:15, three copies were attached to posts and trees on the west side of the wood.

8.7.3 At around 10:21, two copies were attached to trees on the east side of the wood. During the placement of these copies, the process server

noticed D18 on the tower structure at the back of the encampment and shouted up to him that papers had been placed in the post box and that he should read them.

- 8.8 At around 10:09 copies of the Proceedings in individual envelopes addressed by name to each of the Cash's Pit Named Defendants (i.e. D5 to D20, D22, D31 and D63) were left in the "post box" constructed by the Cash's Pit Defendants at the front of the encampment. A copy of the papers in a clear plastic wallet addressed "To the Occupiers" was also left in the post box. Photographs are appended to the relevant Certificate of Service. Each envelope also contained a covering letter addressed to the respective defendants, the content of which was the same as set out at paragraph 8.6 above.
- 8.9 The process server encountered D17 filming on his mobile phone during service, who indicated to the process server that he understood that papers were being served. The process server informed him that papers for him had been placed in the post box and that he should read them as soon as possible.
- 8.10 At around 10:50 10 copies of the Proceedings in clear plastic wallets were served by affixing to the fences in prominent positions close to the entrance gates at the land covered by the Harvil Rd Injunction.
- 8.11 At around 14:00 10 copies of the Proceedings in clear plastic wallets were served by affixing to the fences in prominent positions at the land covered by the Cubbington & Crackley Injunction.
9. Accordingly, the Claimants have made extensive efforts to ensure that the Proceedings have come to the attention of those who may be interested in them, and the Claimants believe that they have taken all practicable steps to draw these proceedings to the attention of those who may be affected by them.
10. In the remainder of my statement I will endeavour to update the Court on other matters which may relevant to the possession claim and injunction application.

Unauthorised encampment on Cash's Pit Land

11. The First Claimant became entitled to possession of the Cash's Pit Land on 24 March 2022, following expiry of the period of notice given in the temporary possession notices served pursuant to paragraph 4(1) of Schedule 15 of the Phase 2a Act (copies of which are at **pages 30 to 97 of JAD3** exhibited to **Dilcock 1**) The Cash's Pit Defendants have been preparing the encampment to resist eviction and have given interviews to the media and posted on social media about this. Copies of relevant social media posts and articles are at **pages 4 to 25**. The Cash's Pit Defendants have confirmed that they have dug tunnels under the encampment as part of their resistance and provided footage of the tunnels (and D18 in them) to ITV (a copy of the ITV news report is **Video 1 of JAD5**. Stills from the report showing the tunnels and the satellite encampment referred to below are at **pages 16 to 21**). The Cash's Pit Defendants have barricaded and blocked the entrances into the encampment and a number of them who had been perpetrating unlawful acts of trespass and obstruction on HS2 Land in the vicinity of the encampment have not been seen over the last few days and are believed to be barricaded inside awaiting the commencement of an eviction operation. D6 was interviewed by ITV and appears in **Video 1**, where he says: *"We've got tunnels everywhere, we've got people everywhere, we've got treehouses everywhere, we've got people ready to lock-on"*. D7 also appears in **Video 1** and says: *"That camp is fully prepared for an eviction. Like, it's built for so many reasons. The line is going straight through that woodland. It's obliterating it. So, we know they're gonna want it, like, they're desperate to have it for their train, but it's heartbreaking."*
12. As a result of the attention of the Defendants turning to the preparation for a possible eviction and also as a result of the appreciable effect of the injunction obtained by Balfour Beatty on 17.03.2022 (referenced in and exhibited to **Dilcock 1**), activity levels in the area have decreased in the last few days. Notably, the obstruction of the entrance to the Balfour Beatty compound has ceased.

Satellite encampment and interference with works

13. A number of the Defendants, including D6 and D17, have begun to establish a satellite encampment on land adjacent to the Cadent Gas Land. The approximate

location of this encampment is shown marked with a cross on the plan at **page 26**. A number of structures have been erected both at ground level and in the trees and tents have been pitched. The encampment is currently on land in third party ownership and adjacent to other land in respect of which the First Claimant has served notices pursuant to paragraph 4(1) of Schedule 15 of the Phase 2a Act.

14. The Defendants have been using the satellite encampment as a base to trespass on the Cadent Gas Land and to interfere with works on that land. For example, on 25 March 2022 in action that lasted for a number of hours, the Defendants interfered with fencing operations on the Cadent Gas Land at the boundary between that land and the land on which the satellite encampment is situated. D6 and D17 took a number of videos during this and posted them on Facebook. D17's posts included the words: "Numbers needed" and "Numbers would be amazing!", which I understand to be him encouraging others to come and join the incident. Copies of the posts are at **pages 24 to 25**.
15. In a video posted by D17 at 09:46 and another by D6 at 9:51 (copies at **Video 2 and Video 3 of JAD5**) D19 (wearing a grey hoodie) can be seen interfering with the fencing. D6 speaks over **Video 3** throughout and towards the end says: *"If you wanna come down here and have a little bit of a game of touch rugby, you can. If you wanna come film it, if you wanna come document it, if you wanna come support the other camp, Bluebell that's gonna get imminently evicted, you can. We've got lots of building to do, lots of digging to do, we've got all the wood, all the food, all the accommodation, all the lock-ons, all the trick and surprises, so get yourself down here. If you can't, donate to our go fund me and we'll use that for our tricks and surprises. Thank you."*
16. In a further video (copy at **Video 4 of JAD5**) posted by D6 at 11:18, D19 can again be seen interfering with the fencing works and D6 speaks over the video, saying: *"Obviously we don't want any work to [sic] be done... it's just about the delay and cost, time and showing them for what it is"* he then goes on to talk about the satellite encampment: *"So this is part of the new camp, Bluebell B, it's beautiful, it's just massive, so many beautiful trees. All these oaks like, I can't wait til the summer. Also got lots of bluebells just about to poke through and so that's why we've chose this place as a secondary camp base because the Bluebell*


original is just at the top of the hill, not far away, that's just about to get evicted, but that's all ready to go. I mean if anyone wants to come and support that, they're welcome. Everything, there's food, there's water, there's all the structures, there's tunnels, you can build your own structure, you can come just support, do livestreams, do cooking. Just be present, but yeah, or you can come here and help us build a new camp, which is also going to have all the tricks and surprises. So yeah, nuts, anyway, please tune in later and let us give you updates. If you'd like to share, that would be great. If you could also donate to our fundraiser, that goes towards our nails, tools, poly prop, things like that we need to build tunnels and all that stuff, so thank you."

17. In a video taken by D17 and posted at 11:27 (copy at **Video 5 of JAD5**) a number of individuals (including D6, D7 and D19) can be seen trespassing and heard acknowledging that they are trespassing. There is a heated exchange as the First Claimant's security and the police try to get the trespassers to leave the land. The trespassers and D17 hurl foul-mouthed abuse at the First Claimant's security personnel.
18. At a hearing on 28.03.2022, Linden J approved the terms of an Order agreed between the First Claimant and the ESG Defendants in respect of contempt proceedings brought against them for breach of injunctions imposed by the High Court in relation to their occupation of tunnels under Euston Square Gardens. A copy of the order is at **pages 27 to 29**. The ESG Defendants admitted breaching the injunctions in question and apologised to the Court for their contempt. They gave undertakings in the terms set out in the Order not to interfere with the HS2 Scheme. In respect of D32, these undertakings replace the ones referred to at paragraph 42 of **Jordan 1**. In view of these undertakings, the Claimants are willing to agree that any of the ESG Defendants who wish to be removed as a named Defendants to the present application may be so removed.
19. The Claimants are aware that the HS2 Scheme is not the only target of direct action protest at the moment, and similar protective and wide-ranging interim injunctive relief has been granted recently in respect of oil refineries by Butcher J. A copy of that Order, which was made on 21.03.2022 is at **pages 30 to 37**. The annexures are too large to exhibit here, but are publicly available at:

https://www.dropbox.com/sh/t46plo3shfzuce4/AADX3thH5X_6JF8aCCFr2vZea?dl=0.

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: .....

JULIE AMBER DILCOCK

Dated:.....1 April 2022.....

On behalf of: Claimants
J.A.Dilcock
3rd statement of witness
Exhibits: JAD6 and JAD7
Date: 26 April 2022

Claim No. QBD-2022-BHM-000044

**IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY**

BETWEEN:

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

Claimants

- and -

- (1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND KNOWN AS LAND AT CASH'S PIT, STAFFORDSHIRE SHOWN COLOURED ORGANGE 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")**
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT IN CONNECTION WITH THE HS2 SCHEME 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 AND EQUIPMENT WITHOUT THE CONSENT OF THE CLAIMANTS

(4) PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS

(5) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE) AND 58 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants

THIRD 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:

Introduction

1. I am a solicitor of the Senior Courts of England and Wales and employed by the First Claimant as Litigation Counsel (Land & Property). 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, Government Legal Department, in relation to the conduct of these proceedings. I am authorised to make this, my Third Witness Statement, on behalf of the Claimants.

2. Defined terms used in the Particulars of Claim, **Dilcock 1**, **Jordan 1** and my second witness statement (“**Dilcock 2**”) have been adopted in this statement with the same meanings.
3. I make this statement, in support of the Claimants’ application for an injunction dated 25.03.2022 (“the **Application**”) and in order to further update the Court on:
 - 3.1 the position with regard to service of the Application and how effective service has been;
 - 3.2 information relevant to the Court’s consideration of any further service steps;
 - 3.3 amendments to the HS2 Land Plans;
 - 3.4 amendments to the pleadings; and
 - 3.5 the situation at the Cash’s Pit Land since service of the Order made by the Court on 11.04.2022.
4. This statement has been prepared with the Claimants’ legal representatives.
5. 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, 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. The HORACE and Trak Tik systems are explained in **Jordan 1**.
6. There are now shown and produced to me marked **JAD6** true copies of documents to which I shall refer in this statement. Page numbers without qualification refer to that exhibit. In this statement I also refer to video evidence which has been collated as numbered videos and marked **JAD7**. The videos can be viewed at: <https://vimeo.com/showcase/exhibit-jad7> and references in this statement to video numbers in bold are references to that exhibit. The index for the videos in that exhibit is at **page 82**. A copy of this statement and Exhibit JAD6 and a link to **JAD7** are being uploaded to:

<https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> (the “**RWI Website**”).

Effectiveness of service

7. The methods by which the Claimants have sought to serve the Application and supporting evidence were selected based on methods that had been endorsed and approved by the High Court in other cases in which injunctions on terms similar to that sought by way of the Application were granted. This includes cases of which I have personally had conduct (*Cuadrilla Bowland Ltd -v- Persons Unknown* [2018] 5 WLUK 628; *Cuadrilla Bowland Ltd -v- Persons Unknown* [2018] WLUK 223; *SSfT and High Speed Two (HS2) Limited -v- Persons Unknown* [2018] EWHC 1404 (Ch); *SSfT and High Speed Two (HS2) Limited -v- Persons Unknown* [2019] EWHC 1437 (Ch)) and other cases brought by the Claimants (*SSfT and High Speed Two (HS2) Limited -v- Persons Unknown* [2020] EWHC 671 (Ch); *SSfT and High Speed Two (HS2) Limited -v- Persons Unknown* [2020] [PT-2018-000098 – unreported, copy in authorities bundle]; *SSfT and High Speed Two (HS2) Limited -v- Persons Unknown* [2021] EWHC 821 (Ch)).
8. In my experience of previous cases, these methods have proved to be highly effective in ensuring that the proceedings come to the attention of those who would be interested in them and resulted in all hearings in those cases being attended by persons opposed to the applications and representations being made by them and on their behalf. Those who tend to be interested in applications such as the Application are those who are opposed to the HS2 Scheme and who have either engaged in the activity that it is sought to prohibit or are supportive of those who have done so or would do so in the future.
9. As the Court saw at the hearing in this case on 5.04.2022, approximately 23 individuals attended the hearing – including a number of the Named Defendants (I did not make a complete survey of the individuals in attendance, but certainly noted the presence of D6, D16, D24, D33, D36, D39 and D62) – and addressed the Court. D6 instructed Counsel who made submissions on his behalf.
10. 10 individuals made contact with the Court or the First Claimant or the Claimants’ legal representatives about the Application before or after the hearings

on 5.04.2022 and 11.04.2022. Many of those have made submissions opposing the Application. The Claimants have considered all these submissions carefully.

11. As at 24.04.2022 the RWI Website had received 1,371 views, 841 of which were from unique users. The RWI Website has a facility for those interested in the material on it to sign up to receive notifications when the page is updated, so it is very easy for anyone who wants to follow the proceedings to ensure that they are made aware whenever something new is uploaded.
12. A link to the RWI Website also appears in the footer of every single page on the <https://www.hs2.org.uk/> website, including the “in your area” sections which provide people with information about how the HS2 Scheme impacts specific areas. On this point, the submissions by Mr Rukin in his witness statement dated 04.04.2022 are, respectfully, incorrect. I have circled the link in the screenshot of the footer on **page 1**. This link has been there since the RWI Website went live on 30.03.2022.
13. Following the hearings on 05.04.2022 and 11.04.2022 in this case, the Application has been publicised extensively via social media by persons and groups opposed to the Application. It is impossible to capture and describe every single mention of the Application and any exercise in trying to capture some of the coverage is necessarily only going to be a sampling exercise and only of “open-source” material. It is therefore safe to assume that the reach of information about the injunction that we can see by way of a non-exhaustive trawl of some open-source social media is only a fraction of the actual reach by way of open-source and closed groups.
14. Accordingly, I present the following by way of illustration that there is extremely widespread knowledge of the Application and that the service has been effective in ensuring that the Application comes to the attention of those who are interested in it.
15. The First Claimant has carried out a review of limited open-source social media based on posts about the Defendants’ efforts to raise funds to “fight” the Application. The Defendants have set up a crowd-funding campaign via the website Crowd Justice to raise funds and the link has been shared extensively

across social media. The fundraiser can be found here:

<https://www.crowdjustice.com/case/stop-hs2s-route-wide-injunction/?fbclid=IwAR00-1kKdjT0395Eh2PXRj2327DksERaNSjubTez8l3od34wW9iKZU-jytk>. A

screenshot of the page as at 23.04.2022 is at **pages 2 to 4**. At the time that screen shot was taken, the campaign had raised £15,620 from 277 pledges, which include pledges made both by individuals on their own account and on behalf of whole groups opposed to the HS2 Scheme (for example, the “HS2 Amersham Action Group” – their pledge can be seen in the bottom right of the screen shot on **page 2**). The amount of money raised and number of pledges shows extensive awareness of the Application amongst people and groups prepared to donate money for the purposes of opposing the Application.

Twitter

16. A non-exhaustive review of Twitter for sharing of information about the Application and the fundraiser shows that information about the injunction and / or the link to the fundraiser has been tweeted by several groups and individuals who have considerable amounts of followers, including a member of the House of Lords and one of the co-founders of the group Extinction Rebellion. The following table sets out some of the Twitter accounts that have shared information about the Application and/or the fundraiser to their followers and the number of followers that they have – a combined total of **265,268**:

Group/Individual Name	Twitter Handle	No of followers
StopHS2	@stophs2	12400
HS2 Rebellion	@hs2rebellion	11600
Greenham Women Everywhere	@greenhamwomen	1631
Adam Wagner	@adamwagner1	116200
Baroness Jenny Jones	@greenjennyjones	58100
Mark Keir	@markkeir6	1705
Gail Bradbrook	@gailbradbrook	8122
Resist UK	@resistuk1	5907
SusanChubb#FBPA#RejoinEU	@susanchubb1	7787
Momo Mclean	@momomclean	3955
Roland C Powell	@rolandcpowell	8819
Anarchism News	@anarchism_news	1392

Mani Isna La #Nativelivesmatter	@mikecoulson48	25900
XRUK Live	@XRUK_Live	1,750
Total		265,268

Screenshots of relevant Tweets from each of the above accounts and showing the number of followers that they have are at **pages 5 to 18**.

Facebook

17. A non-exhaustive review of Facebook for sharing of information about the Application and the fundraiser shows that information about the injunction and / or the link to the fundraiser has been posted and shared extensively across pages with thousands of followers and public groups with thousands of followers. The link to the fundraiser has been shared on Facebook almost daily since it was set up. The link has been pinned to the top of the Bluebell Woods Protection Camp page and that has been shared 64 times by individuals on their own Facebook accounts (and will therefore have reached the thousands of “friends” that they have and into numerous other groups). The following tables set out just a sample of the pages and groups to which posts about the fundraiser have been shared and the number of members or followers that they had as at 23.04.2022. They show reach across anti-HS2 groups and pages but also into groups and pages related to campaigning on other causes such as nuclear waste and oil and gas exploration as well as wider movements such as Extinction Rebellion. The total number of members and followers of this sample is **626,149**.

Group Names	No of Members
TWO - True World Order	7
Stop HS2	12200
Stop HS2 Lymm	709
Anti HS2 SOC (Save Our Countryside)	5900
Crewe Against HS2	22
XR Farmers	1400
S.O.S Biscathorpe (anti Oil and Gas exploration page)	570
No Nuke Dump in Lincolnshire (anti nuclear waste group)	3700
SO WHAT (Swillington, Oulton & Woodlesford HS2 Action Together)	1300
Quinton vs HS2	363
High Legh against HS2	108
Rising Up (North)	1900
Campaigners against HS2 (resisths2)	1200
Wornington Tree Protection Camp	282
Poors Piece Conservation Project	773
Stop HS2 Memes	147
Save Roald Dahl Woods From HS2	4000
Leeds for Climate	1800
XR Real Rebel Reports	799
Stop HS2 Shropshire Group	28
XR Events and Actions UK	4400
The Bucks Herald: HS2 Enough is Enough campaign	3000
Extinction Rebellion Huddersfield	805
Save Our Green Space, Newcastle, Staffs	1100
Tree-Hugging Mung Bean Munching Eco Freaks	760
Bluebell Woods Protection Camp	1300
Stop HS2 Staffordshire - Group	2000
Screw You HS2	2500
Screw You HS2 Euston Square Gardens	4048
Steeple Claydon Forum	5000
Total	62,121

Page Names	Likes	Followers
Marshalls Marking		2800
Stop HS2	18694	19425
Kill The Bill Coventry	252	267
Bluebell Woods Protection Camp	1188	1343
HS2 Rebellion	19388	22502
W.A.R Camp Page	3321	3859
Save Cubbington Woods - Stop HS2	4353	4832
Extinction Rebellion UK	Not available	71,000
Extinction Rebellion	Not available	438,000
Totals	47196	564,028

Screen shots showing the numbers of members of the relevant groups and followers of the relevant pages and the posts being shared are at **pages 19 to 66**.

18. Individuals have also made and widely shared videos about the Application and the fundraiser. For example, on 12.04.2022, D17 shared a livestream video (a copy of which is at **Video 1**) in which he encouraged people to go to the encampment on the Cash's Pit Land (in breach of the injunction imposed by the Court on 11.04.2022) and to donate to the fundraiser: *"get yourself down to Bluebell Woods Protection Camp, because that's facing eviction. Get yourself down to Bluebell Woods B so we can support the eviction and continue to hold HS2 to account and continue to fight them, and scream and make noise"*

So er we've got a fundraiser that can be found on Bluebell Woods Protection Camp, 2 fundraisers in fact, one which is for the court costs have come up, as HS2 are trying to get a route wide injunction, so there's (sic) currently people in court who are fighting that. So get yourselves onto Bluebell Woods Protection Camp page and fucking donate to that, that one's a biggie."

19. Caroline Thomson-Smith who was in attendance at the hearing on 05.04.2022 and sent submissions to the Court by email ahead of the hearing, recorded and shared 2 live streams before and after the proceedings and these were recorded from outside the court and posted on the HS2 Rebellion Facebook page which has 19,389 followers (screenshots at **page 67**). The first video received 1300 views garnered 83 reactions and 42 comments, this video was shared to another

48 accounts. The second video recorded following the hearing was viewed 1100 times, shared to 20 accounts and received 82 reactions.

20. By way of further example, a livestream taken via the HS2 Rebellion Facebook account at an XR protest outside the Bank of England over which an activist ran a commentary about the Application has been widely shared. On the HS2 Rebellion Facebook page which has 19,389 followers (screenshot at **page 68**), it has received 914 views. A copy of that video is at **Video 2**. A video of an Extinction Rebellion banner-drop at Marble Arch in London was livestreamed to the Bluebell Woods Protection Camp page with a link to the fundraiser and received 1,600 views and was shared 83 times (screenshot at **page 68**).

Instagram

21. Information about the injunction, the fundraiser and the Court hearings has also been shared extensively on Instagram. For example, multiple posts by the HS2 Rebellion Instagram account which has 11,400 followers and the STOP HS2 NORTH Instagram account which has 871 followers. Screenshots of the relevant accounts and posts are at **pages 69 to 76**.

YouTube

22. On 15.04.2022, Extinction Rebellion UK livestreamed a video entitled: Day 7 of the April Rebellion in which an individual going by the name “Adamacio” talked about the Application and encouraged people to donate to fight it. A clip of the relevant section of the video is at **Video 3**. That has been shared widely on social media, including the following (screenshots included in the relevant sections above):

Shared by	Platform	Views
Extinction Rebellion UK	YouTube	4230
@XRUKLive	Twitter	6220
Extinction Rebellion	Facebook	5900
Extinction Rebellion UK	Facebook	5900
HS2 Rebellion	Facebook	1000
Total		23,250

Other websites

23. In addition to social media, information about the application is also being shared on other websites. Again, it is impossible to give an exhaustive account of its wider dissemination via the internet, but I have seen details of the Application on the following websites (screenshots at **pages 76 to 80**):

https://www.hs2rebellion.earth/	Describes itself as “ <i>An alliance of groups resisting HS2, the ecocidal and carbon intensive High Speed train line that will cost the UK taxpayer more than £200 billion</i> ”
www.en.squat.net	
www.anarchistfederation.net	
https://www.bucks.radio/news/local-news/hs2-seeks-140-mile-long-injunction-to-deter-protesters/	

24. If you Google: “HS2 route-wide injunction”, the first result is the RW Website. If you Google “HS2”, the first result is the website www.hs2.org.uk, which contains a link to the RWI Website on the footer of every page as set out above and the third result is to the HS2 section of the .gov website, which has a link to the RWI Website.

25. In light of the foregoing, the Claimants believe that notice of the making of the Application has reached a very large number of people who would be interested in the Application.

26. The Claimants are aware from the previous hearings and the written submissions that have been received that there are concerns around notification of the owners of land that is subject to temporary possession notices in circumstances where those landowners would be caught by the proposed injunction and the Claimants’ proposals for dealing with this issue are set out further below.

Explanation of the temporary possession regime

27. At paragraphs 16 and 22 of **Dilcock 1**, I set out the provisions of the Phase One Act and the Phase 2a Act respectively that give the First Claimant the right to take temporary possession of land. The statutory sections referred to in those

paragraphs contain the complete regime for this process and the process has also been the subject of detailed consideration by the High Court on a number of other occasions (Mr Justice Barling in February 2018; Mr Justice Holland in May 2019 and August 2020; Mrs Justice Andrews in March 2020; and Mr Justice Mann in February 2022) and for those reasons I did not go into detail about the operation of the regime in **Dilcock 1**. However, it was apparent at the hearings on 05.04.2022 and 11.04.2022 that it was not well understood. In this section I have therefore set out the process in more detail. I also respectfully refer to the analysis of the Honourable Judges in the aforementioned cases.

28. The regimes under the Phase One Act and the Phase 2a Act are identical – the only distinction being that the Phase One Act confers a power to take temporary possession of land for Phase One purposes and the Phase 2a Act confers a power to take temporary possession of land for Phase 2a purposes. The First Claimant is currently concerned with the regime contained in Part 1 of Schedule 16 of the Phase One Act and Schedule 15 of the Phase 2a Act, which confers a power to take temporary possession of land within Act limits for construction works. There are also powers in both Acts to take temporary possession of land for maintenance of works, which will come into play when the railway is built.

29. Phase One purposes is defined in the Phase One Act at section 67 as follows:

References in this Act to anything being done or required for “Phase One 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 One of High Speed 2, or

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

30. Phase 2a purposes is defined in the Phase 2a Act at section 61 as follows:

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.

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.

Position of landowners of temporary possession land

35. It can be seen from the foregoing that 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.
36. The purpose for which the First Claimant seeks an injunction in respect of the temporary possession land is very clearly set out in Jordan 2. The Claimants have been subjected to a sustained, costly and often dangerous and violent campaign of direct action aimed at causing damage to the HS2 Scheme with the aim of delaying works or stopping them altogether. The Claimants reasonably fear based on their experience over the last 4 and a half years that the unlawful activity will continue if not restrained by the Court and that someone will be seriously injured or die if it is allowed to continue unchecked. It is that activity that the Claimants seek to restrain by the Application. The Claimants have no desire or need for injunctive relief against landowners who (no matter how strongly they

may feel about the HS2 Scheme) do not seek to damage and obstruct the HS2 Scheme by unlawful means.

37. The Claimants have taken note of the submissions made by and on behalf of landowners and have proposed an amended form of draft order that specifically excludes freeholders and leaseholders of temporary possession land from the operation of the injunction.
38. In view of this amendment, the Claimants respectfully submit that there is no reason to seek to serve notice of these proceedings on the owners of the temporary possession land as these proceedings do not affect them. There are over 1,800 separate parties who are owners of that land and contacting them would cause unnecessary distress and confusion in circumstances where the proceedings do not affect them.

Amendments to the HS2 Land Plans

39. At paragraphs 28 to 33 of Dilcock 1, I introduced the HS2 Land Plans and explained the different categories of land shown on them. At paragraph 30 I explained that at the time that the First Claimant issued the Application, it did not have a GIS data set to enable land that the Claimants had let to third parties (the “**Let Estate**”) to be removed from the Pink Land. This was not ideal and the Claimants have worked to produce that data set in the interim and have now been able to remove the Let Estate from the mapping. We have therefore produced a revised set of plans and uploaded them to the RWI Website (the “Revised HS2 Land Plans”) and revised tables to reflect the removed data set. The First Claimant has also simplified the colouring given that the possession order over the Cash’s Pit Land has now been dealt with and there is no requirement for that land to be shown coloured orange on the plans for the route-wide injunction application. That land is now green on the Revised HS2 Land Plans as it is temporary possession land. The land that was blue has been turned pink as the distinction of that as land that the First Claimant held under leases was an artificial one in the context of the Application. I confirm that whilst land has been removed from the coloured land over which the injunction is sought as set out above, no land has been added. In order to avoid any unnecessary confusion, it

is proposed that the First Claimant will remove the original HS2 Land Plans from the RWI Website and move forward with the Revised HS2 Land Plans. The draft order sought has also been amended to reflect this.

Amendments to the pleadings

40. The Claimants are proposing to amend the Claim Form, Particulars and draft order in line with points in which the Court expressed interest at the previous two hearings, to remove matters already dealt with by the order of 11.04.2022 and to make explicit the carve-out for freeholders and leaseholders of temporary possession land.

The position at Cash's Pit

41. The possession order and injunction made by the Court on 11.04.2022 (the "**Possession Order**") was sealed and sent to the Claimants for service on the afternoon of 12.04.2022 and served on 12.04.2022 and 13.04.2022 as set out in the certificates of service that were filed with the Court on the afternoon of 13.04.2022. For completeness, I have summarised what was done by way of service below.
42. A copy of the Possession Order was uploaded to the RWI Website at 16:22 on 12.04.2022.
43. Copies of the Possession Order in clear plastic wallets were attached to wooden stakes in the ground at the points marked A, B and C and on the boundaries marked NORTH, SOUTH, WEST, EAST on the plan at **page 81**. 21 copies, each with a cover sheet addressed individually by name to D1, D5, D6, D7, D8, D9, D10, D11, D12, D13, D14, D15, D16, D17, D18, D19, D20, D22, D31, and D63 and "The Occupiers" were placed in the post box at the entrance to the unauthorised encampment situated on the Cash's Pit Land. Two copies were attached to the entrance of the unauthorised encampment.
44. A number of individuals (the precise number is currently unknown) remain in occupation of the unauthorised encampment. On 14.04.2022 the First Claimant's security team began making twice daily verbal announcements standing next to

the structure in the encampment inhabited by the individuals, warning about the fact that the injunction was in place and that by remaining on the land the individuals were breaching it. The announcement has been made twice every day since that date and is as follows:

The giving of this warning to you is being recorded.

This land is subject to a High Court injunction, which has been served in accordance with the directions of the Court and is binding on you. Further copies are available on request.

On 11 April 2022, the High Court made an order forbidding you from entering or remaining on this land and requiring you to remove yourselves from the land immediately.

The order also requires you to cease all tunnelling activity on the land and to immediately leave and not return to any tunnels on the land. You must not do anything on the land to encourage or assist any tunnelling activity on the land.

The order also prohibits you from:

- *Interfering with any works, construction of activity in connection with the HS2 Scheme on the land;*
- *Interfering with any notice, fence or gate at the perimeter of the land;*
- *Causing damage to property on the land belonging to parties connected with the HS2 Scheme;*
- *Climbing onto or attaching yourselves to vehicles, plant or machinery on the land in connection with the HS2 Scheme.*

The Order bears a penal notice warning you that if you disobey the order you may be held to be in contempt of Court and may be imprisoned, fined or have your assets seized.

By remaining on the land, you are disobeying the Order.

Leave immediately and do not return.

45. The terms of the injunction have been also been breached on a number of occasions by various individuals who have entered onto the land subject to the injunction and remained on it without the consent of the Claimants. Each time someone is seen on the land by the First Claimant's security team in breach in the

injunction, they are challenged by the security team and the following warning is issued:

This land is subject to a High Court injunction, forbidding you from entering or remaining on this land and requiring you to remove yourselves from the land immediately. If you disobey the order you may be held to be in contempt of Court and may be imprisoned, fined or have your assets seized.

By remaining on the land, you are disobeying the Order.


Leave immediately and do not return.

46. Evidence of the breaches of the injunction – including videos and photographs - have been gathered by the First Claimant’s security team and are being reviewed by the First Claimant’s legal team for the purposes of bringing proceedings for contempt of Court. The Claimant has video and photographic evidence of the individuals named as D16 and D61 breaching the injunction and receiving warnings (the latter on multiple occasions), along with other persons unknown, some of whom the First Claimant has subsequently been able to identify (including one individual who took a child into the encampment in breach of the injunction – an incident that has been reported to Staffordshire County Council’s child welfare team) and some of whom remain unidentified.
47. In view of the fact that individuals have remained in occupation of the Cash’s Pit Land in breach of the Possession Order and in breach of the injunction contained in the Possession Order, it will be necessary for a writ of possession to be executed and for an eviction to take place.
48. In addition to breaches of the injunction, there have also been a number of incidents of trespass on the other HS2 Land in the vicinity of the Cash’s Pit Land. In particular a number of individuals have trespassed across the field to the east of the Cash’s Pit Land – crossing it to enter and leave the Cash’s Pit Land.

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: 

JULIE AMBER DILCOCK

Dated:.....26 April 2022.....

On behalf of: Claimants
J.A.Dilcock
4th statement of witness
Exhibits: JAD8
Date: 19 May 2022

Claim No. QBD-2022-BHM-000044

**IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY
Between:**

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

Claimants

-and-

- (1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND KNOWN AS LAND AT CASH'S PIT, STAFFORDSHIRE SHOWN COLOURED ORANGE ON PLAN A ANNEXED TO THE ORDER DATED 11 APRIL 2022 ("THE CASH'S PIT LAND")**
- (2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND ACQUIRED OR HELD BY THE CLAIMANTS IN CONNECTION WITH THE HIGH SPEED TWO RAILWAY SCHEME SHOWN COLOURED PINK, AND GREEN ON THE HS2 LAND PLANS AT <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> ("THE HS2 LAND") WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES**
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND IN CONNECTION WITH THE HS2 SCHEME WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT, WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITHOUT THE CONSENT OF THE CLAIMANTS**
- (4) PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS**
- (5) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE) AND 58 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM**

Defendants

FOURTH 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:

Introduction

1. I am a solicitor of the Senior Courts of England and Wales and employed by the First Claimant as Litigation Counsel (Land & Property). 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, previously Government Legal Department and latterly DLA Piper UK LLP, in relation to the conduct of these proceedings. I am authorised to make this, my Fourth Witness Statement, on behalf of the Claimants.
2. Defined terms used in the Particulars of Claim, **Jordan 1, Dilcock 1, Dilcock 2** and my third witness statement ("**Dilcock 3**") have been adopted in this statement with the same meanings.
3. I make this statement, in support of the Claimants' application for an injunction dated 25.03.2022 ("the **Application**") and in order to:
 - 3.1 further update the Court on the position with regard to service of the Application;
 - 3.2 address points raised in submissions filed by the Defendants; and
 - 3.3 update the Court as to the situation at the Cash's Pit Land since I gave Dilcock 3.
4. This statement has been prepared with the Claimants' legal representatives.
5. 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, 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. The HORACE and Trak Tik systems are explained in **Jordan 1**.

6. There are now shown and produced to me marked **JAD8** true copies of documents to which I shall refer in this statement. Page numbers without qualification refer to that exhibit.

Service of the proceedings

7. Following the Directions hearing on 28 April 2022, Mr Justice Julian Knowles ordered the Claimants to take various additional steps to serve the Application (paragraph 2 of the order dated 28 April 2022 (“the **Directions Order**”). I confirm that the Claimants have complied with the steps set out in paragraph 2 of the Directions Order and I have set out the details of that compliance in this statement. Certificates of service have been filed with the Court in respect of the service effected.
8. In compliance with paragraph 2 (iii) of the Directions Order, on 28.04.2022 at 15:00 a tweet was issued from the First Claimant’s twitter account (<https://twitter.com/hs2ltd>) advertising the existence of these proceedings and providing the web address of the HS2 Proceedings website. A screen shot of the tweet is at **page 1**. Also at 15:00 on 28.04.2022, a post was issued on the First Claimant’s Facebook page (<https://facebook.com/HS2ltd>) advertising the existence of these proceedings and providing the web address of the HS2 Proceedings website. A screen shot of the post is at **page 2**.
9. In compliance with paragraph 2(i) of the Directions Order, the First Claimant requested that a notice be published in The Times newspaper advertising the existence of these proceedings and including the address of the HS2 Proceedings website. On 05.05.2022 the notice was published on page 53 of The Times newspaper. A copy of the page of The Times newspaper bearing the notice is at **page 3**.
10. Also in compliance with paragraph 2(i) of the Directions Order, the First Claimant requested that a notice be published in The Guardian newspaper advertising the existence of these proceedings and including the address of the

HS2 Proceedings website. On 07.05.2022 the notice was published on page 50 of The Guardian newspaper. A copy of the page of The Guardian Newspaper bearing the notice is at **page 4**. The First Claimant's instructions were that the notice should be placed in the Legal Notices section of the paper, but The Guardian mistakenly placed it in the Classified section. In view of the mistake, The Guardian also published the notice a second time in the newspaper on 14.05.2022 on page 19. A copy of the page of The Guardian newspaper from 14.05.2022 bearing the notice is at **page 5**.

11. In compliance with paragraph 2(ii) of the Directions Order, myself and members of our community engagement team identified libraries along the route of Phase One and Phase 2a of the HS2 Scheme (these being the sections of the route over which the injunction is being sought) and made contact either with the local authority with responsibility for them or with them direct to request that they display a notice advertising the existence of the proceedings and hard copies of the following documents ("the **Display Bundle**"):
- (a) Notice advertising the proceedings and web address for the HS2 Proceedings website ("the **Advertising Notice**") (a copy of this is at **page 6**);
 - (b) Claim Form
 - (c) Amended Particulars of Claim
 - (d) Schedule of Defendants
 - (e) Application Notice
 - (f) Amended draft Order dated 6 May 2022
 - (g) Revised HS2 Land Plans
 - (h) Revised Tables
 - (i) First Witness statement of Julie Dilcock
 - (j) Exhibit JAD3
 - (k) Witness statement of Richard Jordan
 - (l) Exhibit RJ1
 - (m) Second witness statement of Julie Dilcock

- (n) Exhibit JAD4
 - (o) Order dated 5 April 2022
 - (p) Order dated 11 April 2022
 - (q) Third Witness statement of Julie Dilcock
 - (r) Exhibit JAD6
 - (s) Order dated 28 April 2022
12. We mostly received a positive response, with only one of the libraries contacted (Ealing) declining to give permission.
13. Multiple copies of the Display Bundle were printed and compiled in lever-arch folders (the plans were printed in A3 and placed in an A3 folder) and sent out to the libraries, who were asked to place the Display Bundle on public display as soon as they were received. The libraries were also asked to confirm back to us the date on which the Display Bundle had been placed on display and, if possible, to provide a photograph showing the documents in situ. In total, the documents were sent to 18 libraries along the line of the route. At **pages 7 to 8** is a table setting out the details of the libraries, the date on which the Display Bundle was delivered to them and the date on which the Display Bundle was placed on display in the library (the latter being confirmed by the libraries in question, save for in the case of the Library of Birmingham, where the documents were taken there by a member of the First Claimant's staff and placed on display with the permission of the library). At **pages 8 to 25** are copies of email confirmations received from libraries, and photographs taken of the Advertising Notice and Display Bundle in libraries.
14. In addition, the First Claimant's community engagement team contacted a number of Parish and local councils on Phase 2a to ask that the Advertising Notice be placed on their notice boards. Much of the route of Phase 2a is rural and there are therefore fewer libraries distributed along it into which the Display Bundle could be placed (and far fewer than the one approximately every 10 miles suggested in the Directions Order). In light of this, the First Claimant wished to take additional steps to ensure that the Advertising Notice was displayed along the route. At **page 26** is a table setting out the Parish and local councils that were

contacted and the locations in which they confirmed that a copy of the Advertising Notice would be displayed. Some Parish Councils provided detailed written confirmations of when and where the Advertising Notice had been displayed and provided photographs and where these confirmations were received they have been included at **pages 27 to 43**.

15. In order to provide a visual representation of the distribution of the locations where the Advertising Notice and Display Bundle have been displayed, I asked our GIS team to plot the locations onto a maps of the route of Phase One and Phase 2a and these are at **page 167 and page 168** respectively.
16. To summarise: the Advertising Notice and Display Bundle were sent to and have been made publicly available for inspection at 18 libraries along the route of Phase One and Phase 2a of the HS2 Scheme. The Advertising Notice has, in addition (despite not being a requirement of the Directions Order as the Advertising Notice and Display Bundle had been placed in more than 14 libraries), been displayed on 22 Parish or local council notice boards and on Parish or local council websites and Facebook pages and on one further library notice board (Lichfield Library). The First Claimant therefore submits that it has complied with the requirements of paragraph 2(ii) of the Directions Order.
17. I can confirm that as at 17.05.2022 the HS2 Proceedings website had received a total of 2,315 page views, 1,469 of which were from unique users.

Submissions by the Defendants

18. Submissions have been filed by a number of the Named Defendants and also by a number of other interested persons, which further demonstrates that the proceedings have come to the attention of those interested in them. Not all of those submissions were also served on the Claimants as required by paragraph 8 of the Directions Order, but have been subsequently forwarded on to the Claimants' solicitors by the Court. It is not appropriate or necessary for me to address every one of those submissions in this statement, but there are some points that I should address.

19. Firstly, a number of the Named Defendants have requested that their names be removed from the proceedings. These requests have been accompanied by various submissions, but involve the suggestion that the individuals do not intend to engage in unlawful activity against the HS2 Scheme going forward. The Claimants have offered to agree an undertaking, to be given to the Court, with those individuals as to their future conduct to enable their names to be removed from the proceedings. Copies of the exchanges with the relevant individuals and signed undertakings are included in Hearing Bundle D. Where undertakings have been agreed with individuals, their names have been removed from the Schedule of Defendants and the words “not used” placed against their former defendant number.
20. D36 has submitted very lengthy submissions dated 16.05.2022 and associated exhibits (in addition to an earlier witness statement dated 04.04.2022 and similarly lengthy exhibits), which are centred around what he terms 4 “Grounds of Defence” and in which he repeatedly accuses the Claimants of lying. I do not propose to argue the Claimant’s case through this witness statement, however, in his “Ground One” he has raised points around the Claimants’ title to parcels of land, to which I am responding.
21. Much of D36’s Ground One involves a comparison that he says he has carried out between the original HS2 Land Plans and the Revised HS2 Land Plans. In the Directions Order, the Claimants were given permission to remove the original HS2 Land Plans and associated tables from the HS2 Proceedings website and to replace them with the Revised HS2 Land Plans and associated revised tables on the basis that it is the revised documents that will be relied upon. This permission was given following submissions by Leading Counsel and on the basis of the contents of Dilcock 3. In Dilcock 3, I explained the changes that had been made to the plans and associated tables, namely:
- (a) The First Claimant had been able to build the necessary data set for the GIS system to enable it to remove the Let Estate from the plans. On the original HS2 Land Plans, the Let Estate had been included in the land coloured pink. The First Claimant accepts that this was not ideal, but at the time of issuing the Application, it lacked the necessary data set to remove it. The

tenants of that land and anyone lawfully present on that land as a result of it having been let by the Claimants would not, in any event, have been caught by the terms of the proposed injunction because they were there with the Claimants' consent. However, the First Claimant would rather have excluded the land in question entirely from the plans and worked following issue of the Application to build the data set to do that. The Let Estate has therefore now been removed from the Revised HS2 Land Plans

- (b) The Cash's Pit Land, which was formerly coloured orange, has reverted to green as it is land held under temporary possession and the distinction in colour was for the purposes of the possession claim, which has concluded.
- (c) The blue colouring, which had been used on the original plans to denote some of the land to which the Claimants hold a leasehold title was removed and the land in question has instead been coloured pink. The distinction between freehold and leasehold titles was not relevant to the terms of the injunction sought and it was desirable to simplify the colouring on the plans accordingly.

22. The contents of D36's submissions suggest that he may not have read Dilcock 3. The removal of the Let Estate from the plans and the fact that the Claimants do not seek an injunction over it, does not mean that the Claimants do not own that land or that they "lied" about it in any way. I had already clearly set out the position with regard to the Let Estate in Dilcock 1 (at paragraph 30), which was filed with the Application.

23. D36 has also made a number of submissions (for example, paragraphs 9 and 10 of his Ground One) questioning why parcels of land that he considers ought to have been included in the Application have not been included by the Claimants. I would stress that I have not been through these submissions in detail and would simply comment that it is not a matter for D36 to decide which land the Claimants should include in the Application or to question our rights over land that is not the subject matter of this application.

24. D36 has also raised issues where land coloured pink is land in respect of which the Claimants have acquired a leasehold title. It remains the case that the

Claimants have acquired that land and are entitled to possession of it. Whether the Claimants' title is freehold or leasehold is immaterial for the purposes of the Application.

25. As to paragraph 15 of D36's Ground One, the Claimant's are not required to explain why land is not included in the Application, nor are they required to explain why specifically they require land that has been acquired. D36 has questioned whether this land has been correctly designated on the plan and I can confirm that it has been acquired. The land in question forms part of Land Acquisition Area ("LAA"): C112_035_01. It appears on map 32L1 (on which the LAA number is clearly labelled) and is coloured pink. If you search Revised Table 1 for "C112_035_01", you find a list of the Land Acquisition Parcel ("LAP") numbers for the plots of land within that LAA, the relevant Land Registry title numbers, the relevant GVD number and the date on which the land vested in the Second Claimant pursuant to the GVD. It was acquired by the Second Claimant by GVD 573, which vested the land in the Second Claimant on 15.01.2022. I have included a copy of GVD 573 and the relevant registered title (BM455886) at **pages 44 to 59**. For completeness – and whilst noting that it is entirely irrelevant to the Application – the Claimants first took possession of this land under Schedule 16 temporary possession powers, prior to the later acquisition by GVD. This is not unusual for the project and is specifically envisaged by the provisions of Schedule 16.
26. As to paragraph 18 of D36's Ground One, the Claimants are not required to respond to unsubstantiated allegations of damage and breach of the Environmental Statement and which are not relevant to the issues before the Court in the Application. To the extent that this paragraph is intended to question the Claimants' rights over the section of road shown on map 36, I confirm as follows:
27. There are a number of LAAs in this area – which is the Chalfont St Giles vent shaft site and associated access. The road is LAA C122_169_01. It appears on map 36 (on which the LAA number is clearly labelled) and is coloured pink. If you search Revised Table 1 for "C122_169_01" you find a list of the Land Acquisition Parcel ("LAP") numbers for the plots of land within that LAA, the

relevant Land Registry title numbers, the relevant GVD number and the date on which the land vested in the Second Claimant pursuant to the GVD. It was acquired by the Second Claimant by GVD 562, which vested the land in the Second Claimant on 06.01.2022. I have included a copy of GVD 562 and the relevant registered title (BM455192) at **pages 60 to 70**. Note that highway maintainable at the public expense is excluded from the title, as is usual practice where the surface and “scrapings” are as a matter of law vested in the relevant highway authority under statute. The Claimants have separate powers for dealing with permanent and temporary stopping up of highways to suspend or remove the public rights over them for the purposes of works connected with the HS2 Scheme and these are found in Schedule 4 of the each of the HS2 Acts. Where those powers are exercised, the rights of the public to enter onto and pass and repass along that land are suspended or removed (depending upon whether temporary or permanent powers are being exercised). I mention this merely for completeness. As set out on the face of the draft order sought by the Claimants’, the proposed injunction does not:

- (a) Prevent any person from exercising their rights over any open public right of way over the HS2 Land;
- (b) Affect any private rights of access over the HS2 Land; or
- (c) Prevent any person from exercising their lawful rights over any public highway.

28. As to paragraph 20 of D36’s Ground One, I am unclear why D36 considers this plan to be “sinister”. In answer to his question as to why it is included: it is there because part of LAA C122_146 is shown on it (left-hand side of the map).

29. As to paragraph 32 of D36’s Ground One, he has answered his own question as to LL04 by exhibiting a copy of the relevant lease himself. I am afraid that I was unable to understand the queries that followed that, which are presented as follows:

“C212_093_R02/ C212_026. Different status? Why? C212_097, C212_101 Why?”

and consequently I have not been able to address them. The balance of that paragraph then relates to properties within the Let Estate.

30. As to paragraph 52 of D36's Ground One, to the extent that this is questioning our present right to temporary possession of LAA C241_143 (our present right being the only relevant matter for the purposes of the Application), if you search Revised Table 4 for "C241_143" you find a list of the LAPs within that LAA and details of the temporary possession notices that were served. I have exhibited copies of the relevant temporary possession notices (being: N-088579; N-088580; N-088581; N-088582; and N088583) and associated proofs of service at **pages 71 to 144**. These have been redacted to remove the personal data of the recipients of the notices. Should the Court require sight of unredacted copies, the Claimants will provide them.
31. As to paragraph 53 of D36's Ground One, the Claimants were not provided with the exhibit referred to (G1 Exhibit 16) and the paragraph does not specify to which land D36 is referring. I have therefore been unable to address the query.
32. For completeness, I would add that copies of the GVDs made by the Second Claimant in respect of the HS2 Scheme are published and are publicly available at: <https://www.gov.uk/government/collections/hs2-compulsory-purchase-general-vesting-declarations>

The position at the Cash's Pit Land

33. The operation to take possession of the Cash's Pit Land under the writ of possession issued by the High Court (a copy of which is at **pages 145 to 158**) commenced at 04:10 on 10 May 2022. The delay in commencing the enforcement was due to the requirement for and availability of police resource to support the operation, the planning for which was impacted by the adjournment of the possession proceedings on 05.04.2022 and the possession order not then being made until 11.04.2022.
34. As described in Dilcock 3, prior to commencement of the enforcement operation, regular warnings had been delivered to those still occupying the Cash's Pit Land

and those seen entering it, that they were breaching the injunction imposed by the High Court on 11.04.2022.

35. I do not intend to give granular detail about the operation in this statement as I am providing this by way of an update only and I am also concerned not to prejudice the ongoing enforcement operation, but I consider it important that the Court is aware of the general position.
36. As at the date of this statement, the enforcement operation is ongoing and at least 4 individuals are in occupation of a tunnel complex (“the Main Tunnel”) on the Cash’s Pit Land and are refusing to leave, despite not being trapped and being able to leave at any time they choose. They have repeatedly been warned by the High Court Enforcement Officers carrying out the eviction that the injunction is in place and that they are breaching it. The individuals in the Main Tunnel include D18 and D33, the latter of whom was in Court and made submissions to the Judge when the injunction was imposed. A photograph of the head of the Main Tunnel is at **page 159**.
37. The condition of the ground into which the Main Tunnel complex has been dug is poor and unstable and it is not considered safe for members of the enforcement team to enter at the present time. The structure that had been built over the Main Tunnel was also found to be unsound and unsafe and has had to be braced and supported by the enforcement team to prevent collapse over the Main Tunnel head. A photograph of the structure taken in December 2019 and posted on the Bluebell Woods Protection Camp Facebook group is at **page 160** along with a photograph taken on the morning of 10.05.2022 – you can see that the “east wing” of the structure had already collapsed at some point prior to the commencement of the enforcement operation (it is lying on the ground on its side on the left of the second picture). The enforcement team are monitoring the air quality in the Main Tunnel and carrying out purges where quality drops below acceptable levels. Introducing air into the Main Tunnel on a more regular basis risks drying out the soil in the Main Tunnel complex and further destabilising the tunnels, increasing the risk of collapse. The Main Tunnel occupants have been regularly closing an internal hatch that they have constructed in the Main Tunnel and when they do, the air quality drops due to reduced circulation. They have been

repeatedly warned by the enforcement team and the mines rescue team that they should stop doing this, but have continued. The issues with air quality are also further exacerbated by the fact that the Main Tunnel occupants are smoking in the Main Tunnel. The Claimants and the enforcement teams working on their behalf and the emergency services are therefore once again dealing with a situation created by the Defendants the presents significant risks to their safety and the safety of the activists underground.

38. In addition to the individuals in the tunnel described above, another male person unknown was found in occupation of another short tunnel on the Cash's Pit Land and refused to leave despite being warned about the injunction. He then eventually left on the night of 12.05.2022.
39. D31 was found in the structure built over the Main Tunnel when the enforcement team entered and was issued with a warning about the terms of the injunction. He climbed a tree above the structure and entered a treehouse that had been built there at a height of approximately 15m and placed himself into a lock-on device to make his removal more difficult. He was removed by the specialist climbing team around 08:30 on 10.05.2022. Photographs of D31 in the lock-on in the treehouse are at **pages 161 to 162**.
40. D62, who was also in Court when the injunction was imposed, was found hiding in the structure above the Main Tunnel around 7 hours after the enforcement operation commenced and was removed from the land. A photograph of D62 being escorted from the Cash's Pit land following her removal is at **page 163**.
41. Contempt proceedings are being prepared against the individuals who have breached the injunction, including the individuals in the Main Tunnel, and are anticipated to be issued shortly.
42. The enforcement team taking possession of Cash's Pit have found that a number of the trees have been "spiked" with nails – some trees have been found to have in excess of ten nails in them. The practice of "spiking" trees is described in Jordan 1 at paragraph 29.4.1 and damages equipment and can cause serious injury to individuals carrying out de-vegetation works. Photographs of spiked trees

found on the Cash's Pit Land and a sign placed by the Cash's Pit Defendants "warning" about spiking are at **page 164 to 166**.

43. Activists displaced from the Cash's Pit Land remain in the area at present and have trespassed on other land in the temporary possession of the First Claimant and on land owned by the Swynnerton Estate.

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:.....

JULIE AMBER DILCOCK

Dated:.....19 May 2022.....

On behalf of: Claimants
Timothy Robins
1st statement of witness
Exhibits: None
Date: 26 May 2022

Claim No. QBD-2022-BHM-000044

**IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY
Between:**

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

Claimants

-and-

- (1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND KNOWN AS LAND AT CASH'S PIT, STAFFORDSHIRE SHOWN COLOURED ORANGE ON PLAN A ANNEXED TO THE ORDER DATED 11 APRIL 2022 ("THE CASH'S PIT LAND")**
- (2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND ACQUIRED OR HELD BY THE CLAIMANTS IN CONNECTION WITH THE HIGH SPEED TWO RAILWAY SCHEME SHOWN COLOURED PINK, AND GREEN ON THE HS2 LAND PLANS AT <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> ("THE HS2 LAND") WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES**
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND IN CONNECTION WITH THE HS2 SCHEME WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT, WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITHOUT THE CONSENT OF THE CLAIMANTS**
- (4) PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS**
- (5) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE) AND 58 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM**

Defendants

WITNESS STATEMENT OF TIMOTHY ROBINS

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

1. I am the First Claimant's Head of Environment - Route Wide for Phase One. Until recently I managed a team of environmental managers and specialist responsible for working with our Enabling Works Contractors to deliver works in accordance with our environmental requirements. It was under these contracts that the majority of the ecological mitigation works undertaken to date have been delivered. I am authorised to make this statement on behalf of the Claimants.
2. This statement has been prepared with the Claimants' legal representatives. 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. The contents of this statement are true to the best of my knowledge and belief.
3. I understand from the Claimants' legal representatives that a number of allegations were made in Court today by named defendants and other individuals that the First Claimant has been prosecuted / fined for "wildlife crimes".
4. I understand that those making the allegations did not precisely define what "wildlife crime" for which they alleged that the First Claimant had been prosecuted.
5. The Crown Prosecution Service says: "*Wildlife crime can be defined as any action which contravenes current legislation governing the protection of wild animals and plants.*" (see: <https://www.cps.gov.uk/legal-guidance/wildlife-offences#:~:text=Wildlife%20crime%20can%20be%20defined,Hunting%20Act%202004%20legal%20guidance>). In the absence of a definition from those making the allegations, I have adopted this definition for the purposes of this statement ("**Wildlife Crime**").

6. I confirm that the First Claimant has never been prosecuted (whether by the police or any other relevant regulatory or other body such as the Environment Agency or Natural England) for a Wildlife Crime. It follows, but again I confirm for completeness, that the First Claimant has never been fined in relation to the commission of a Wildlife Crime.

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:.....*Tim Robins*.....

TIMOTHY ROBINS

Dated:.....26 May 2022.....

On behalf of: Claimants
J.A.Dilcock
5th statement of witness
Exhibits: None
Date: 8 June 2022

Claim No. QBD-2022-BHM-000044

**IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY
Between:**

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

Claimants

-and-

**(18) WILLIAM HAREWOOD (AKA SACHEL / SACHEL BAGGINS)
(31) RORY HOOPER
(33) ELLIOT CUCIUREAN (AKA JELLYTOT)
(61) DAVID BUCHAN (AKA DAVID HOLLIDAY)
(62) LEANNE SWATERIDGE (AKA FLOWERY ZEBRA)**

Defendants

**(64) STEFAN WRIGHT
(65) LIAM WALTERS**

Proposed Defendants

FIFTH 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:

Introduction

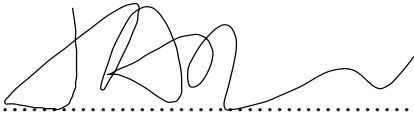
1. I am a solicitor of the Senior Courts of England and Wales and employed by the First Claimant as Litigation Counsel (Land & Property). My role involves advising the First Claimant and instructing and assisting external legal advisers advising and representing the First Claimant and in that capacity my role includes instructing our external legal advisers, previously Government Legal Department and latterly DLA Piper UK LLP, in relation to the conduct of these proceedings. I am authorised to make this, my Fifth Witness Statement, on behalf of the Claimants.

2. I make this brief statement, in support of the Claimants' application dated 8 June 2022 ("the **Committal Application**") to commit the above listed Defendants and Proposed Defendants for breach of the terms of the order of Cotter, J in this matter dated 11.04.2022 ("the **Cotter Order**") in order to explain the urgency of the Committal Application and the format in which it has been submitted in light of that urgency.
3. 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, reports by the First Claimant's security and legal teams and those of the First Claimant's contractors. In each case I believe them to be true. In preparing this statement, I have read the affidavit of James Dobson ("**Dobson 1**") filed with the Committal Application.
4. This statement has been prepared with the Claimants' legal representatives.
5. The Committal Application has been made on an urgent basis. D18, D33, D64 and D65 are currently underground in dangerous make-shift tunnels dug by activists under the Cash's Pit Land. They are in breach of the Cotter Order and despite (as set out in Dobson 1) repeated warnings that they are breaching the Cotter Order and that their safety, health and well-being are at serious risk, they are refusing to come out.
6. As set out in Dobson 1 and the report on the ground conditions at the Cash's Pit Land exhibited thereto, the ground in the Cash's Pit Land is loose sandy soil, with small pebbles within. The soil is free draining and when dry, the soils are exceptionally loose. The soil structure loses stability as it dries out and this significantly increases the risk of collapse within the tunnels occupied by D18, D33, D64 and D65. As explained in Dobson 1, the First Claimant, its contractors and the High Court Enforcement team are not able to safely enter the tunnels in order to seek to remove the occupants and the safety and potentially the lives of the occupants and those would need to enter the tunnels to try to rescue them would be at significant risk if there were to be a collapse.
7. The weather over the next few days is anticipated to be dry and that is expected to cause further drying of the soil conditions.

8. Even absent the risk of collapse, as set out in Dobson 1, there are very serious risks to the health and wellbeing of the tunnel occupants caused by being in that confined space for a lengthy period.
9. It is hoped by the Claimants that issuing the Committal Application and serving it on the tunnel occupants with notice of a Directions Hearing will serve to incentivise the tunnel occupants to leave the tunnel safely.
10. In the circumstances, the Committal Application has been made and filed on an urgent basis and with only one of the accompanying affidavits (Dobson 1). Other evidence has been referred to in the Statement of Case and is being finalised for swearing. It is anticipated that it will be ready to file and serve (if the tunnel occupants should regrettably remain in the tunnel notwithstanding or their whereabouts is otherwise known) by the first half of next week. The Claimants seek the Court's permission to file and serve that additional evidence as soon as it is available and will seek permission for the necessary amendments to the Statement of Case to reflect this at the Directions Hearing.

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: 

JULIE AMBER DILCOCK

Dated:8 June 2022.....

On behalf of: Claimants
J.A.Dilcock
6th statement of witness
Exhibits: None
Date: 13 June 2022

Claim No. QBD-2022-BHM-000044

**IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY
Between:**

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

Claimants

-and-

**(18) WILLIAM HAREWOOD (AKA SACHEL / SACHEL BAGGINS)
(31) RORY HOOPER
(33) ELLIOT CUCIUREAN (AKA JELLYTOT)
(61) DAVID BUCHAN (AKA DAVID HOLLIDAY)
(62) LEANNE SWATERIDGE (AKA FLOWERY ZEBRA)**

Defendants

**(64) STEFAN WRIGHT
(65) LIAM WALTERS**

Proposed Defendants

SIXTH 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:

Introduction

1. I am a solicitor of the Senior Courts of England and Wales and employed by the First Claimant as Litigation Counsel (Land & Property). 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 Sixth Witness Statement, on behalf of the Claimants.
2. I make this brief statement, in support of the Claimants' application dated 8 June 2022 ("the **Committal Application**") to commit the above listed Defendants and

Proposed Defendants for breach of the terms of the order of Cotter, J in this matter dated 11.04.2022 (“the **Cotter Order**”) in order to provide some further updated information to the Court about the situation with regard D18, D33, D64 and D65 (“the **Tunnel Occupants**”).

3. 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, reports by the First Claimant's security and legal teams and those of the First Claimant's contractors. In each case I believe them to be true.
4. This statement has been prepared with the Claimants’ legal representatives.
5. As at the date of this statement, the Tunnel Occupants remain underground in dangerous make-shift tunnels dug by activists under the Cash’s Pit Land. They continue to breach of the Cotter Order.
6. The Committal Application was served on the Tunnel Occupants at 16:15 on 09.06.2022 as described in the Certificate of Service given by Karl Harrison and filed with the Court. I drafted a statement for Karl to deliver when he served the Application, which included notification of the date, time and location of the directions hearing and a warning that the Tunnel Occupants should attend. Karl delivered that statement to the Tunnel Occupants when he effected service and this was videoed. I have reviewed that video and I understand that DLA Piper UK LLP are providing a copy to the Court with the skeleton argument for the directions hearing.
7. Following service, I discussed with members of the First Claimant’s security team, the giving of further warnings to the Tunnel Occupants about the directions hearing and the need to attend. Our hope was that they would be encouraged to leave the dangerous situation in the tunnel to take legal advice and attend the hearing. I drafted the following warning for the security team:

Proceedings have been issued and served on you for contempt of court for breach of the injunction. A hearing has been listed for 2pm on 14 June 2022 at the High Court in Birmingham, which you should attend. The court is likely to take a very


dim view of your conduct if you continue to breach the injunction order having been served with the proceedings. You are strongly advised to leave the tunnel immediately and to seek legal advice in relation to the documents that have been served upon you.

8. The above warning was passed to the High Court Enforcement (“**HCE**”) team that are monitoring the tunnel entrance with instructions to add it to warnings already being given to the Tunnel Occupants about the offences they are committing under section 10 of the Criminal Law Act 1977 and breaching the Cotter Order. The HCE team are part of the enforcement team currently on the Cash’s Pit Land, which also includes the First Claimant’s security team and contractors, the Mines Rescue Services team and paramedics (“the **Enforcement Team**”).
9. From 18:00 on 10.06.2022 the above warning has been issued to the Tunnel Occupants by being read into the Tunnel Entrance by a member of the HCE team on an hourly basis. The Enforcement Team know that the Tunnel Occupants can hear them as there is regular communication between the Tunnel Occupants and those monitoring them on the surface. I visited the Enforcement Team at the Cash’s Pit Land on 11.06.2022 and spoke with the members of the Mines Rescue Services Team, who, for example, told me that the Tunnel Occupants speak to them and co-operate with taking the hose required for the air purging down into the tunnel.
10. The giving of the warning is being logged on the HCE team’s operational log. I requested and received an update from the Enforcement Team this morning (13.06.2022) and was informed that as at 08:00 on 13.06.2022, the above warning had been issued 62 times to the Tunnel Occupants. The Tunnel Occupants are therefore well-aware that the directions hearing has been listed and the potential consequences of non-attendance. Unfortunately, this has not encouraged the Tunnel Occupants to leave the tunnel.
11. The Enforcement Team has in place a plan for effecting a rescue of the Tunnel Occupants in the event that a rescue situation should arise – for example, if it were to become apparent that a collapse had occurred. The existence of this plan

and an outline of what it would involve have been described to me by the First Claimant's Head of Physical Security, who is part of the Enforcement Team on the ground at the Cash's Pit Land. The details of that plan remain confidential for operational security reasons, but would involve the rapid digging of a shaft, which, it was explained to me during my site visit on 11.06.2022, would need to be some distance from the Shaft 1 entrance as the original entrance dug by the activists was wider than can now be seen and had subsequently been backfilled with excavated material, making it unstable. The activists have also placed a concrete "cap" around the top of the smaller entrance, which would make digging a parallel down-shaft extremely difficult and increase the risk that the process would destabilise the tunnel system below and cause further collapses. The rescue team would need to dig their shaft and shore it rapidly and then dig across to the intercept the activists' tunnel system, shoring as they went, under extreme time pressure, to try to effect a rescue. The process would involve exposing the HCE, Mines Rescue Services and emergency services team to significant levels of risk.

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:.....

JULIE AMBER DILCOCK

Dated:.....13 June 2022.....

On behalf of: the Claimants
Julie Amber Dilcock
Statement No: 7
Exhibit: JAD10

Date: 25 July 2022

Claim No: QB-2022-BHM000044

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

BETWEEN:

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

Claimants

- and -

- (18) WILLIAM HAREWOOD (AKA SACHEL/SACHEL BAGGINS)**
(31) RORY HOOPER
(33) ELLIOT CUCIUREAN (AKA JELLYTOT)
(61) DAVID BUCHAN (AKA DAVID HOLLIDAY)
(62) LEANNE SWATERIDGE (AKA FLOWERY ZEBRA)
(64) STEFAN WRIGHT
(65) LIAM WALTERS

Defendants

**SEVENTH 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:

Introduction

1. I am a solicitor of the Senior Courts of England and Wales and employed by the First Claimant as Litigation Counsel (Land & Property). 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 Seventh Witness Statement, on behalf of the Claimants.

2. I make this brief statement, in support of the Claimants' application dated 8 June 2022 ("the **Committal Application**") to commit the above listed Defendants for breach of the terms of the order of Cotter J in this matter dated 11.04.2022 and to provide the court with further details on:
 - 2.1 the costs incurred by the Claimants in obtaining possession of and securing the Cash's Pit Land; and
 - 2.2 a fundraising appeal that has been organised by Bluebell Woods Protection Camp on behalf of Mr. James Knaggs (who is D6 in the underlying proceedings).
3. There is now produced and shown to me and exhibited hereto a bundle of documents marked **JAD10**. References in this witness statement to page numbers are to page numbers within that bundle.
4. This witness statement is made from 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. This statement has been prepared with the Claimants' legal representatives.

The Cash's Pit Land

6. In preparing this statement I have reviewed the witness statement of Mr. Robert Shaw dated 23 July 2022. At paragraph 15.2 of that statement Mr. Shaw refers to being informed by Mr. Jim McAvan (Planning Counsel for the First Claimant) that the estimated costs of the legal, enforcement and security action the Claimants have had to take to obtain possession of and secure the Cash's Pit Land are in the region of £6-7 million.
7. Since the date of Mr. Shaw's statement I have spoken with Mr. Glenn Payton, who is the Head of Physical and Personal Security for the First Claimant. Mr. Payton has overall responsibility, on behalf of the First Claimant, for the security and enforcement operation that has been undertaken at the Cash's Pit Land in order to obtain possession.
8. On 25 July 2022 Mr. Payton confirmed to me that the costs of the enforcement and security operation at the Cash's Pit Land for May – July 2022 are:

- 8.1 May 2022 - £3,807,909.87 (excluding VAT);
- 8.2 June 2022 - £2,860,224.64 (excluding VAT); and
- 8.3 July 2022 - £1,858,918.56 (excluding VAT). This amount is currently estimated at this time as an invoice is awaited from the First Claimant's main security contractor, Control Risks Group Ltd (under the invoicing process agreed between the First Claimant and Control Risks Group Ltd, estimates are provided ahead of the monthly invoicing).

Making a total of: **£6,668,134.51** (excluding VAT) that has already been invoiced and an overall anticipated total of **£8,527,053.07** (excluding VAT) anticipated when the invoice for July is rendered.

9. Invoices issued by Control Risks Group Ltd (who in turn manage and pay subcontractors involved in the enforcement such as High Court Enforcement Group) in respect of the May 2022 and June 2022 costs can be found at **pages 2-3 of JAD10**. These invoices refer to "Op Ricardo". I can confirm that "Op Ricardo" is shorthand for "Operation Ricardo", which is the name used by the First Claimant to refer to the enforcement operation at the Cash's Pit Land.
10. As explained in the Second Affidavit of James Dobson, costs continued to be incurred by the First Claimant in dealing with the enforcement into July as it was suggested that a person had remained in the tunnels under the Cash's Pit Land and a search and rescue operation had to be conducted as a result.
11. The above costs do not include legal costs incurred by the Claimants in applying for a possession order and interim injunction in respect of the Cash's Pit Land and subsequently bringing the Committal Application. The court has been provided with a Statement of Costs on behalf of the Claimants in respect of the Committal Application.

Go-Fund Me fundraiser

12. At **pages 4 -11 of JAD10** is a print out from a Go-Fund Me crowdfunding page (<https://www.gofundme.com/f/bluebellwoods>) for a fundraising appeal that has been organised by Bluebell Woods Protection Camp on behalf of Mr. James Knaggs (who is D6 in the underlying proceedings).

13. The fundraising appeal has been running since 10 May 2021 and as at the date of this witness statement the page records that £10,911 has been raised via 211 donations.
14. The Go-Fund Me page states that part of the mission statement of Bluebell Woods Protection Camp is to “*build a movement that will put pressure on HS2 Ltd*” and they “*need some funding*” to amongst other things “*...fund grassroots activists in their full time work against the system that is causing many issues*”.
15. However, on 22 April 2022 Mr. Knaggs (D6) posted an update (a copy of which is at page 12 of JAD10) on the Go-Fund Me page clearly indicating that he / the Bluebell Woods Protection Camp were aware of these court proceedings and that “*a significant amount of our budget*” has been spent on those proceedings.
16. Subsequently Mr. Knaggs posted a further update on 10 June 2022 (a copy of which is at pages 6-7 of JAD10) stating:

“The injunction on bluebell means that the tunnellers will face horrific consequences and costs as well as be dragged through the courts and justice system. we really need some funds to support them when they leave! We need funds because they will need help to cover costs for their emails, commissary money & travel costs, should they go to jail, there maybe legal fines/fees that need covering, as well as the cost of getting to and from court!”.

17. While the Claimants cannot be certain whether the monies raised on the Go-Fund Me page have already been spent, there are clear indications that one purpose for the monies being raised was to fund legal fees and potential fines. I also note that the following terms appear in Go-Fund Me’s terms and conditions (<https://www.gofundme.com/en-gb/c/terms>):

Organisers: *You, as an Organiser, represent, warrant, and covenant that: (i) all information you provide in connection with a Fundraiser or Beneficiary is accurate, complete, and not likely to deceive Users and that you will post updates as needed so that Users understand the use of funds and any other relevant information about your Fundraiser; (ii) all Donations contributed to your Fundraiser will be used solely as described in the materials that you post or otherwise provide; (iii) if you withdraw donations believed by Donors to be raised on behalf of someone other than you (i.e., the Beneficiary), all Donations will be*

given to and/or spent on behalf of the Beneficiary; (iv) if you add a Beneficiary through the Services, you relinquish control of the Donations; (v) you will not infringe the rights of others; (vi) you will comply with all relevant and applicable laws and financial reporting obligations, including but not limited to, laws and obligations relating to registration, tax reporting, political contributions, and asset disclosures for your Fundraiser; (vii) to the extent you share with us any personal data of any third party for any purpose, including the names, email addresses and phone numbers of your personal contacts, you have the authority (including any necessary consents), as required under applicable law, to provide us with such personal data and allow us to use such personal data for the purposes for which you shared it with us; and (viii) you will not provide or offer to provide goods or services in exchange for Donations. You authorise GoFundMe, and GoFundMe reserves the right to provide information relating to your Fundraiser to Donors, Beneficiaries of your Fundraiser or law enforcement or other regulatory authorities, and to assist in any investigation thereof.

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: **25 July 2022**

On behalf of: the Claimants
Julie Amber Dilcock
Statement No: 8
Exhibit: JAD11

Date: 02.09.2022

Claim No: QB-2022-BHM000044

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

BETWEEN:

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

Claimants

- and -

(18) WILLIAM HAREWOOD (AKA SACHEL/SACHEL BAGGINS)
(31) RORY HOOPER
(33) ELLIOT CUCIUREAN (AKA JELLYTOT)
(61) DAVID BUCHAN (AKA DAVID HOLLIDAY)
(62) LEANNE SWATERIDGE (AKA FLOWERY ZEBRA)
(64) STEFAN WRIGHT
(65) LIAM WALTERS

Defendants

**EIGHTH WITNESS STATEMENT OF JULIE
AMBER DILCOCK**

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

1. I am a solicitor of the Senior Courts of England and Wales and employed by the First Claimant as Litigation Counsel (Land & Property). 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 Eighth Witness Statement, on behalf of the Claimants.

2. I make this witness statement in respect of D61 David Buchan's application dated 19.08.2022 ("**Application**") to purge his contempt, following the judgment of Mr Justice Ritchie on 27.07.2022 committing him to prison for a period of 100 days and imposing a fine of £1,500. 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.
3. There are now shown and produced to me marked **JAD11** true copies of documents to which I shall refer in this statement. Page numbers without qualification refer to that exhibit.
4. First, I wish to place before the Court the Claimants' counsel's note of the remarks of Mr Justice Ritchie in sentencing D61, a copy of which is at **page 1**.
5. Secondly, I wish to draw to the Court's attention an error of fact in the Application. At paragraph 14(iv) of D61's skeleton argument in support of the Application, under the heading "Has [D61] done all that he reasonably can to demonstrate his resolve and ability not to commit a further breach if discharged early", the following is stated:

"It is noted that Mr Buchan appeared before the High Court of Justice, Birmingham District Registry on the 27th July 2022. The last date of the breach of the order was on the 10th May 2022. It is submitted that Mr Buchan had indicated that by his behaviour that he did not intend to continue to engage in disruptive protest. From the 10th May 2022 to his incarceration on the 27th July 2022 he had not attended again upon the Cash Pitts land, and it is submitted that his behaviour demonstrated that he did not intend to return to the land." [Emphasis added]

6. However, the underlined parts of the passage do not reflect the fact that Mr Justice Ritchie found that D61 contumaciously breached the Cotter Order on 28.05. 2022. The order of committal in respect of D61 records that D61 –

"wilfully breached paragraph 4(a) of the Cotter Order on 28 May 2022 by entering the Cash's Pit Land from the south. He was intercepted, detained, and arrested."


7. Thirdly, D61 states that he is willing to give a clear and unequivocal undertaking to the Court similar in nature to those give by D18 Mr Harewood and D65 Mr Walters. Mr Harewood’s undertaking included that he would publish an apology for his conduct on social media in the terms given to the Court and set out in a handwritten document, a copy of which is at **page 2**.

8. I wish to bring it to the Court’s attention that Mr Harewood ostensibly complied with his undertaking by posting a photograph of a handwritten document on his Facebook account on 04.08.2022 at approximately 12 noon, together with two other (unrelated) images. Screenshots of these are at **pages 3, 5 and 6**. Immediately prior to posting the photograph “apology”, Mr Harewood changed the name of the Facebook account from “Satchel Baggins” to “Sud Satchel Baggins” and changed his profile picture from the previous photograph of himself to a picture of mushrooms (a screenshot of this is at **page 4**). He also changed the settings on the account so that nothing else he posted beyond the update to his cover photograph is publicly visible. Whilst the Claimants and their legal representatives do not know for certain, it is suspected that the measures were designed to undermine the “apology”. I note that the change in settings would make it possible for Mr Harewood to have made posts immediately before and/or after the “apology” discrediting it and which would only have been visible to his Facebook friends. Further, the “apology” was subsequently rapidly removed or viewing privileges on Mr. Harewood’s account were further modified, such that it has not been possible to establish as from 06.08.2022 whether the apology was still present on his Facebook account (screenshots of Mr Harewood’s Facebook account taken on 06.08.2022 are at **pages 7 and 8**). I would ask the court to bear the actions of Mr. Harewood in mind if it is to accept a similar undertaking from D61 to also publish an apology.

9. I also wish to bring to the Court's attention that D61's supporters have been publicising that he is appealing the order of committal (rather than seeking to purge his contempt) and have stated that D61 is "without remorse for his actions". Relevant Facebook posts are at **pages 9 to 12**. I would ask the Court to bear in mind the effect that the spreading of this misinformation may have on the deterrent effect of D61's sanction when considering the content of any apology that D61 may undertake to give.

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 2 September 2022

On behalf of: the Claimants
Julie Amber Dilcock
Statement No: 9
Exhibit: JAD12

Date: 16.09.2022

Claim No: QB-2022-BHM000044

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

BETWEEN:

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

Claimants

- and -

(18) WILLIAM HAREWOOD (AKA SACHEL/SACHEL BAGGINS)
(31) RORY HOOPER
(33) ELLIOT CUCIUREAN (AKA JELLYTOT)
(61) DAVID BUCHAN (AKA DAVID HOLLIDAY)
(62) LEANNE SWATERIDGE (AKA FLOWERY ZEBRA)
(64) STEFAN WRIGHT
(65) LIAM WALTERS

Defendants

**NINETH WITNESS STATEMENT OF JULIE
AMBER DILCOCK**

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

1. I am a solicitor of the Senior Courts of England and Wales and employed by the First Claimant as Litigation Counsel (Land & Property). 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 Ninth Witness Statement, on behalf of the Claimants.

2. I make this witness statement in support of the Claimants' committal application brought against D33 in respect of his breaches of the Order of Mr Justice Cotter dated 11 April 2022 and in respect of D33's application relating to privacy and in order to assist the Court as suggested in the Judgment of Mr Justice Ritchie dated 15 September 2022. 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. I wish to say at the outset that I acknowledge and accept that much of what is contained in this statement is hearsay by virtue of the nature of the point on which we are attempting to assist the Court and the short timescale in which this statement needed to be produced, filed and served.
3. There are now shown and produced to me marked **JAD12** true copies of documents to which I shall refer in this statement. Page numbers without qualification refer to that exhibit.
4. This statement relates to the First Claimant's prior knowledge of D33's "Private Medical Issue". The nature of that Private Medical Issue is described in the submissions of Counsel for D33 dated 13 September 2022. I note that D33 has not provided a witness statement about the Private Medical Issue and that evidence as to what it is and to whom D33 says that he has made it known is pleaded in Counsel's submissions (paragraph 17). It is my understanding that this is not the correct approach to adducing evidence.
5. I am giving this statement to provide evidence of how the First Claimant came to know of D33's Private Medical Issue prior to it being raised in these proceedings.
6. D33 has been known to the First Claimant for a number of years and has regularly taken part in protests against the HS2 Scheme, many of which have involved unlawful conduct such as trespass. As the Court has already been made aware, D33 has been found in contempt of a previous injunction obtained by the Claimants in respect of land at Crackley & Cubbington. Those proceedings were brought by the Claimants in June 2020 and judgment on liability was given by Marcus Smith J on 13 October 2020 (*SSfT and High Speed Two (HS2) Limited - v- Cuciurean* [2020] EWHC 2614 (Ch)). I note that the Private Medical Issue was not raised at all in those proceedings.

7. In that case, the learned Judge made findings about multiple incidents in which D33 had participated, which he summarised in a table at paragraph 101(2) of his judgment. Incident 14 is set out in that table is as follows:

15 April 2020	
11:50am	Incident 14 This is the Incident described in paragraph 12(3)(c) above, where Mr Mr Cuciurean penetrated <i>Ad Hoc</i> Fencing within the Crackley Land (East) and locked himself to the boom of a machine used by the Claimants for the HS2 works.

and is also summarised at paragraph 12(3)(c) of the judgment:

- (c) Mr Cuciurean gave evidence for about three hours, most of this being cross-examination. Mr Cuciurean was a charming, funny but ultimately evasive witness. He was – and is – obviously very much committed to his opposition to the HS2 Scheme, and was willing to place himself (and others) in positions of some danger if that furthered his ends in resisting the HS2 Scheme. One example of this arises in relation to Incident 14. Incident 14 involved Mr Cuciurean climbing the extending arm or boom of a piece of machinery used in connection with the HS2 Scheme, locking himself on to the boom (using a thumb lock) approximately 20 metres above the ground, without (so far as I could see) any form of protective harness. Mr Cuciurean was removed from this position by four specialist climbing officers, using two cherry pickers. Mr Cuciurean was either unable or unwilling to disengage or release the thumb lock, which had to be cut off, resulting in injury to Mr Cuciurean.
8. The evidence submitted by the Claimants in respect of Incident 14 and which was accepted by the learned Judge was by way of an affidavit given by Gary Bovan, a High Court Enforcement Officer executing a writ of possession obtained by the Claimants over the land in question. At **page 1** is the page of the incident log that was exhibited to his affidavit that covers Incident 14 and at **page 2** are photographs of the incident that were exhibited to his affidavit. D33 was arrested by Gary Bovan during that incident for breach of section 10 of the Criminal Law Act 1977 (obstructing a High Court Enforcement officer in the execution of a writ) and handed to the police once he had been removed from the machine he was occupying.
9. I have been informed by two members of the First Claimant’s security team that they were present during the removal operation. A photograph taken by one of those individuals during the incident is at **page 3**. One of these individuals witnessed D33 informing the Police officers that he needed to be searched by a

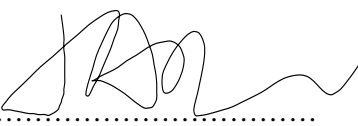
female police officer. The other of these individuals observed D33 being searched by a female officer and queried the position with the police and was told that it was because D33 was female.

10. Following that incident, the First Claimant's security team and contractors have continued to refer to D33 as male and have not indicated openly to D33 or anyone beyond those required to deal with D33 when he trespasses on HS2 Land that they know about the Private Medical Issue, but have modified the way that they deal with D33 when they encounter him to ensure that female security officers, High Court Enforcement Officers and paramedics are present. Specifically, where it is adjudged that D33 may require facilities for decontamination following removal from tunnels, provision has been made by the First Claimant for female facilities to be made available to him should he require them. The First Claimant has also requested support from female police officers to deal with D33. I have personal experience of this from my involvement in the operation to recover possession of the Cash's Pit Land. We had a team of people at the First Claimant who met daily to steer the enforcement operation and when we reached the point where we thought that some of the Defendants might leave the tunnels, we were briefed by the security team on the arrangements for processing them, which included the provision of female officers and facilities for decontamination for D33.

11. As the Court is also aware, D33 occupied a tunnel on HS2 Land at Shaw Lane in March 2021 and which resulted in his prosecution and the subsequent direction to convict on appeal in the case of *DPP -V- Cuciurean* [2022] EWHC 736 (Admin). The First Claimant's security team, security contractors and specialist contractors who deal with safety issues were present at and dealt with that eviction. During enforcement operations it is standard practice for the teams dealing with prolonged protestor occupations to ask protestors how they wish to be referred to. This is largely because many of them have pseudonyms by which they wish to be known and the removal teams wish to try to have a sensible and productive dialogue with them. I have spoken to one of the First Claimant's contractors who was involved in the Shaw Lane enforcement who had asked D33 this question and he confirmed to me that in response D33 had told him that he was a female transitioning to male and wish to be referred to as male.

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: 16 September 2022

On behalf of: Applicants/Claimants
J.A Dilcock
10th statement of witness
Exhibits: None
Date:03.03.2023

Claim No. QB-2022-BHM-000044

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

Between:

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

-and-

- (1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND KNOWN AS LAND AT CASH'S PIT, STAFFORDSHIRE SHOWN COLOURED ORANGE ON PLAN A ANNEXED TO THE ORDER DATED 11 APRIL 2022 ("THE CASH'S PIT LAND")
- (2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND ACQUIRED OR HELD BY THE CLAIMANTS IN CONNECTION WITH THE HIGH SPEED TWO RAILWAY SCHEME SHOWN COLOURED PINK, AND GREEN ON THE HS2 LAND PLANS AT <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> ("THE HS2 LAND") WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND IN CONNECTION WITH THE HS2 SCHEME WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT, WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITHOUT THE CONSENT OF THE CLAIMANTS
- (4) PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS
- (5) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE)

AND 58 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants

TENTH WITNESS STATEMENT OF JULIE AMBER DILCOCK

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

1. I am a solicitor of the Senior Courts of England and Wales and employed by the First Claimant as Head Counsel - L&P 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 Tenth Witness Statement, on behalf of the Claimants.
2. This statement has been prepared with the Claimants' legal representatives.
3. I make this witness statement in support of the Claimants' application for directions (the "**Directions Application**") for the conduct of these proceedings up to the hearing that has been listed for 16.05.2023 (the "**Review Hearing**"). 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.
4. In the Directions Application, the Claimants seek a direction for service of documents relating to the Review Hearing and these proceedings going forward more generally. As the court will see, the directions for service proposed by the Claimants in the draft order are almost identical to those ordered by Mr. Justice Julian Knowles in a prior directions order dated 28.04.2022 (the "**April 2022 Directions Order**").
5. As part of the service provisions previously authorised by the court in the April 2022 Directions Order, documents relating to these proceedings to date have been uploaded to the website: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> (defined as: the "HS2 Proceedings Website" in the Order of Mr Justice Julian Knowles dated 20.09.2022). The Claimants seek a direction to host documents going forward on the following website: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings> (the "**RWI Updated Website**"). In this statement, I have set out the reasons for the requested change.

6. It has been explained to me by the Head of Digital Media and Content for the First Claimant that the .gov.uk website has two different types of document hosting webpages: publications and collections. Publications are designed to hold smaller numbers of documents – typically up to 100. Collections can hold many, many more documents. The current HS2 Proceedings Website is a publications type webpage. At the time of writing this statement it has 109 documents uploaded to it and has almost reached capacity. It is not therefore an option to continue to use it to host substantial volumes of documents going forward.


7. The RWI Updated Website has been created but is not yet live and is a collections type webpage. It will have the capacity to hold both the documents already on the HS2 Proceedings Website and all further documents in these proceedings.

8. If permission is granted by the court, the Claimants will:
 - 8.1. Place a copy of the directions order made by the Court on the HS2 Proceedings Website.
 - 8.2. Place a notice on the HS2 Proceedings Website that in future documents will be uploaded to the RWI Updated Website and include a link to the RWI Updated Website.
 - 8.3. Retain the HS2 Proceedings Website unless and until the court considers that at some future date it is no longer necessary to do so.
 - 8.4. Place copies of all the documents already uploaded to the HS2 Proceedings Website on the RWI Updated Website.

9. Anyone who has registered on the HS2 Proceedings Website for notifications when that page is updated will receive notifications when steps 7.1 and 7.2 are completed and will therefore be alerted to the existence of the new RWI Updated Website and can also register for notifications on that page.

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: 3 March 2023

On behalf of: Applicants/Claimants
J.Dobson
1st statement of witness
Exhibits: JD5 and JD6
Date: 27 March 2023

Claim No. QB-2022-BHM-000044

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

Between:

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

Claimants

-and-

- (1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND KNOWN AS LAND AT CASH'S PIT, STAFFORDSHIRE SHOWN COLOURED ORANGE ON PLAN A ANNEXED TO THE ORDER DATED 11 APRIL 2022 ("THE CASH'S PIT LAND")
- (2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND ACQUIRED OR HELD BY THE CLAIMANTS IN CONNECTION WITH THE HIGH SPEED TWO RAILWAY SCHEME SHOWN COLOURED PINK, AND GREEN ON THE HS2 LAND PLANS AT <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> ("THE HS2 LAND") WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND IN CONNECTION WITH THE HS2 SCHEME WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT, WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITHOUT THE CONSENT OF THE CLAIMANTS
- (4) PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS
- (5) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE)

AND 58 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants

WITNESS STATEMENT OF 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:

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.7 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 imposed by the Order of Mr Justice Knowles dated 20.09.2022 (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. Whilst this is my first witness statement in these proceedings, I gave two affidavits in support of the applications dated 08.06.2022 for committal brought by the Claimants in these proceedings (“**Cash’s Pit Contempt**”), to which there were exhibits numbered JD1 to JD4 and accordingly I have not re-used those exhibit numbers. There are now shown and produced to me marked **JD5** 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. In this statement I also refer to video evidence which has been collated as numbered videos and marked **JD6**. The videos can be viewed at: <https://vimeo.com/showcase/exhibit-JD6> and references in this statement to video numbers in bold are references 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 tenth witness statements of Julie Dilcock (“**Dilcock 1**” to “**Dilcock 10**”)
- I have also reviewed the Witness Statement of John Groves (“**Groves 1**”) and the Eleventh Witness Statement of Julie Dilcock (“**Dilcock 11**”) 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 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 16.03.2022 (being the end point for the narrative provided in Jordan 1) until 16.03.2023. I will make particular reference to events which have occurred following the making of the Injunction on 20.09.2022.
- 7.4. Explain the continued risk of unlawful activity against the HS2 Scheme by activists and the need for extension and variation of the Injunction.
8. As indicated, I have described unlawful activity against the HS2 Scheme by activists up to 16.03.2023. 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. 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.
11. 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
11	Mr Tony Carne	No evidence of continued involvement in unlawful direct action
12	Ms Amy Lei	No evidence of continued involvement in unlawful direct action
13	Mr Tom Holmes	No evidence of continued involvement in unlawful direct action
18	Mr William Harewood (aka Satchel / Satchel Baggins)	No evidence of continued involvement in unlawful direct action. Currently under a suspended sentence imposed in the Cash's Pit Contempt proceedings
19	Mr Harrison Radcliffe (aka Log / Bir_Ch / Sasha James)	No evidence of continued involvement in unlawful direct action
21	Mr William French (aka Will French / Took	No evidence of continued involvement in unlawful direct action
23	Mx Scarlett Rien (aka Leggs)	No evidence of continued involvement in unlawful direct action
31	Mr Rory Hooper	No evidence of continued involvement in unlawful direct action. Under an undertaking (copy at pages 1 to 3) given to the court about future behaviour following the Cash's Pit Contempt proceedings.
34	Mr Paul Sandison	No evidence of continued involvement in unlawful direct action
37	Mr Thorn Ramsey (aka Virgo Ramsay)	No evidence of continued involvement in unlawful direct action
38	Mr Vajda Robert Mordechaj	No evidence of continued involvement in unlawful direct action
40	Ms Jess Walker	No evidence of continued involvement in unlawful direct action

Defendant Number	Name	Reason for removal
41	Mr Matt Atkinson	No evidence of continued involvement in unlawful direct action
42	Ms Hannah Bennett	No evidence of continued involvement in unlawful direct action
43	Mr James Ruggles (aka Jimmy Ruggles)	No evidence of continued involvement in unlawful direct action
44	Mr Nick Grant (aka Potts)	No evidence of continued involvement in unlawful direct action
45	Mr Stuart Ackroyd	No evidence of continued involvement in unlawful direct action
46	Ms Wiktoria Paulina Zieniuk	No evidence of continued involvement in unlawful direct action
49	Mr Sebastian Roblyn Maxey	No evidence of continued involvement in unlawful direct action
50	Ms Jessica Heathland-Smith	No evidence of continued involvement in unlawful direct action
51	Ms Ella Dorton	No evidence of continued involvement in unlawful direct action
52	Mr Karl Collins	No evidence of continued involvement in unlawful direct action
53	Mr Sam Coggin	No evidence of continued involvement in unlawful direct action
60	Mr Xavier Gonzalez- Trimmer	Deceased
61	Mr David Buchan (aka David Holliday)	No evidence of continued involvement in unlawful direct action. Served a custodial sentence imposed in the Cash's Pit contempt proceedings and gave undertakings (copy at pages 4 to 5) about future behaviour when purging his contempt

Defendant Number	Name	Reason for removal
62	Ms Leanne Swateridge (aka Leayn / Flowery Zebra)	No evidence of continued involvement in unlawful direct action. Under an undertaking (copy at pages 6 to 8) given to the court about future behaviour following the Cash's Pit Contempt proceedings.
65	Mr Liam Walters	No evidence of continued involvement in unlawful direct action. Currently under a suspended sentence imposed in the Cash's Pit Contempt proceedings

12. 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.
13. 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. Further information around this is set out in the following paragraphs.
- 13.1. D5 – Mr Ross Monaghan (aka Squirrel / Ash Tree). This individual has also more recently started to use the pseudonym: "Lock Pick". D5 has been engaged in environmental activism since at least 2017. Prior to campaigning against the HS2 Scheme, he was actively campaigning against fracking, targeting Cuadrilla Resources at Preston New Road, Europa Oil and Gas at Leith Hill, Third Energy at Kirby Misperton, IGas Energy at Misson Springs and Tinker Lane and various suppliers to the onshore oil and gas sector including RTH Lubbers, Grampian Continental and Lyons transport. During the course of these campaigns D5 was convicted of assaulting a Police officer at Tinker Lane on 06.05.18 (see **pages 9 to**

11). During the course of his campaigning against the HS2 Scheme, D5 was found guilty of assaulting 2 security guards and 4 counts of criminal damage on 26.07.2021 (see **pages 12 to 13**). D5 established the encampment on the Cash's Pit Land and participated in its fortification to hold out against eviction but left before the enforcement operation commenced. In December 2022 he attended the Stonehenge Heritage Action Group camp in Wiltshire (see **page 14**). Historically, D5 has left and returned to activism on multiple occasions and as one of the founders of the anti-HS2 camps at Small Dean, Jones' Hill Wood and the Cash's Pit Land and having actively scouted land yet to be possessed on Phase 2a and Phase 2b (Western Leg), the Claimants consider that he remains a threat and should remain as a named Defendant.

13.2. D6 – Mr James Andrew Taylor (aka Jim Knaggs / Run Away Jim). This individual has also used the pseudonym "Tim Blaggs". D6 has engaged in direct action against the HS2 Scheme repeatedly over the last few years in multiple locations. D6 defended the Claimants' possession claim in relation to the Cash's Pit Land and the Claimants' application for the Injunction. He applied for permission to appeal the Injunction, which was refused by the Court of Appeal. He was present in the vicinity of the Cash's Pit Land during the eviction operation and assisted in setting up the camp on neighbouring land known as "**Closepit Plantation**" and another satellite camp under a large tree near to the Cash's Pit Land, trespassing on third party land. He remained in the Swynnerton area until D18, D33, D64 and D65 left the Cash's Pit Land. In view of D6's participation in these proceedings to date and the level of his involvement in direct action against the HS2 Scheme, the Claimants consider it appropriate that he remains as a named Defendant.

13.3. D7 – Ms Leah Oldfield. This individual also goes by the pseudonym "Lou Pole". D7 is in a long-term relationship with D6. She has been residing in a converted horsebox with D6 and is a former resident of the unauthorised encampment on the Cash's Pit Land. In view of D7's links to D6 and her level of involvement in direct action against the HS2 Scheme, the Claimants consider it appropriate that she remains as a named Defendant.

- 13.4. 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, Insulate Britain and Just Stop Oil (“JSO”) (see **pages 15 to 16** by way of example). The Claimants consider that she remains a threat and should remain as a named Defendant.
- 13.5. D17 – Mr Andrew McMaster (aka Drew Robson). 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 has returned following the imposition of the Injunction) and also recently in the Kier Ends Here direct action against one of the First Claimant’s contractors that is constructing a prison at HMP Full Sutton. D17 has also made clear his intention to return to direct action campaigning against the HS2 Scheme on social media (screenshot at **page 17**) where he posted a memory of the action to block the access to the BBV compound at Swynnerton with the comment: “*Good Times, good people. What was it Arnold Schwarzenegger said? Well, we will*” which appears to be a reference to the catchphrase: “I’ll be back”. The Claimants consider that it is appropriate that he remains a named Defendant to these proceedings.
- 13.6. 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). D20 was also present with D17 and D63 and 2 other former residents of the Closepit Plantation camp in a protest outside the Crown Court in Manchester on 17.01.23. On 31.01.23 D20 was pictured on top of a tripod during the Kier Ends Here protest outside of HMP Full Sutton (an image of this is at **page 18**). 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.

- 13.7. D22 - Mr Tristan Dixon (aka Tristan Dyson). D22 was a resident at the unauthorised encampment at Small Dean. During the eviction of this camp (which is described in Jordan 1) he actively engaged in resisting eviction and placed himself in a lock-on device in the tower structure over the tunnels. Prior to that, in September 2021, D22 (along with D17) took part in a lock-on obstructing access to the HS2 Scheme site at Small Dean (also described in Jordan 1). Since the making of the Injunction D22 has most recently been engaged in direct action campaigning with Palestine Action (see paragraphs 65 to 68 of this statement). The Claimants therefore consider it appropriate that he remains a named Defendant to these proceedings.
- 13.8. D27 - Mr Lachlan Sandford (Laser / Lazer). D27 occupied the tunnels dug under Euston Square Gardens by activists opposed to the HS2 Scheme (this was described in Jordan 1). D27 left the tunnels prior to an injunction being imposed and was not therefore subject to contempt proceedings in respect of his activity at Euston and is not therefore under an undertaking in the terms given by his sister (D26) and others who were involved in that action. He remains to be tried on criminal charges for his part in the Euston Square Gardens action. D27 has also been seen in attendance at the Stonehenge Heritage Action Group Camp in February 2022 (see **page 19**) and appears to still be involved in direct action campaigning. The Claimants therefore consider it appropriate that he remains a named Defendant to these proceedings.
- 13.9. D28 - Mr Scott Breen (aka Digger Down). D28 has been engaged in direct action campaigning since at least 2016. He started campaigning against the HS2 Scheme following the government moratorium on fracking (against which he had previously been campaigning along with conventional onshore oil and gas exploration) in 2019. He has been resident at a number of anti-HS2 camps including Jones' Hill Wood and the camp at Small Dean and he participated in digging and occupying the tunnels under Euston Square Gardens. D28 established the Fast Action Response Team (FART) which takes part in direct action

campaigns, the group describe themselves as (see screenshot from the group's Facebook page at **page 20**):

"F.A.R.T fast action response Team is available via private Request. This team comes with a huge Wealth of Experience and Diversity among our Skilled Personnel. we are basically a self contained mobile encampment , with a vast range of equipment and services supplied. From gathering evidence of environmental crimes to Full DA [sic. Direct Action] support and welfare. Every Request Format is Given Consideration"

Since the imposition of the Injunction D28 has been campaigning as part of JSO. He was committed to prison for contempt for breaching an injunction protecting the operations of Exxon Mobil in construction of an aviation fuel pipeline (see paragraph 70 of this statement). The Claimants therefore consider it appropriate that he remains a named Defendant to these proceedings.

13.10. D33 - Mr Elliot Cuciurean (aka Jellytot). D33 has been involved in direct action campaigning against the HS2 Scheme for a number of years and has received criminal convictions and been found to be in contempt for breaching injunctions in relation to the HS2 Scheme. Most recently, he was committed to prison for 268 days on 23.09.2022 for breaching the Cotter Order by occupying the tunnels located beneath the Cash's Pit Land for 46 days. D33 was released from prison on 03.02.2023. Prior to engaging in direct action campaigning against the HS2 Scheme, D33 was arrested and convicted in relation to direct action with Extinction Rebellion ("XR") and blocking the M32 in Bristol (see **pages 21 to 23**). Criminal convictions and previous findings of contempt have not deterred D33 from continuing to engage in direct action campaigning and the Claimants therefore consider it appropriate that he remains a named Defendant to these proceedings.

13.11. D36 - Mr Mark Keir. D36 is a long standing direct action campaigner against the HS2 Scheme and numerous incidents of direct action involving him and threats made by him are set out in Jordan 1. He continues to participate in direct action campaigning against the HS2 Scheme and to encourage others to do so. Most recently, he was present during the direct action targeting of Eversheds Sutherland on 22.11.2022 (see paragraphs 85 to 97 below). The Claimants therefore consider it appropriate that he remains a named Defendant to these proceedings.

- 13.12. D39 - Mr Iain Oliver (aka Pirate). D39 is a long standing direct action campaigner against the HS2 Scheme. Most recently he participated in the direct action targeting of Eversheds Sutherland on 22.11.2022 (see paragraphs 85 to 97 below). The Claimants therefore consider it appropriate that he remains a named Defendant to these proceedings.
- 13.13. D48 - Mr Conner Nichols. This individual also uses the pseudonym “Goldi Locks”. D48 was a long-standing direct action campaigner against the HS2 Scheme and a former resident at Poor’s Piece and Jones’ Hill Wood (see Jordan 1 for descriptions of the incidents at these locations). He is currently occupying the Stonehenge Heritage Action Group Camp (see **page 24**). The Claimants therefore consider it appropriate that he remains a named Defendant to these proceedings.
- 13.14. D57 - Ms Samantha Smithson. This individual also uses the pseudonyms “Swan Lake” and “Swan”. D57 who describes herself as a founder of the group HS2 Rebellion, is a former full time activist with XR and Insulate Britain who has taken part in direct action including shackling herself to the rails at Royal Ascot on 19.06.2021 as part of an Insulate Britain direct action campaign (see **page 25**) and in JSO action on the M25 (see paragraph 71 below). The Claimants therefore consider it appropriate that she remains a named Defendant to these proceedings.
- 13.15. 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 and he was a resident at Closepit Plantation in May 2022. D63 was also present with D17, D20 and other former residents of the Closepit Plantation camp in a protest outside the Crown Court in Manchester on 17.01.23. D63 has also been resident in the Stonehenge Heritage Action Group Camp (see **page 26** and paragraph 76 below). 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 (images of this are at **pages 27 to 28**). The Claimants therefore consider it appropriate that he remains a named Defendant to these proceedings.

- 13.16. 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. The Claimants consider it appropriate that he remains a named Defendant to these proceedings.
14. The Claimants are also seeking to add two individuals as named Defendants to the proceedings: Ms Caroline Thomson-Smith (aka Carl Woods) as D66 (“**D66**”) and Mr Christopher Paul Butcher (aka Rob) as D67 (“**D67**”). As set out later in this statement, both of these individuals have breached the Injunction and have also engaged in unlawful action designed to disrupt and stop works on the HS2 Scheme and cause loss and damage to the Claimants and which is not currently prohibited by the Injunction.
15. Finally, the Claimants are proposing to:
- (a) remove D1- a category of persons unknown relating to the Cash's Pit Land and which has become obsolete as the land in question is now HS2 Land (as defined in the Injunction); and
 - (b) add D68 – a further category of persons unknown, the rationale for which is set out in Dilcock 11.

Incidents and events since the making of the Injunction

16. As explained in Dilcock 11, the application that resulted in the making of the Injunction took approximately 6 months to proceed through the court process, from the issuing of the application to the making of the Injunction. During that time, three other injunctions already imposed over smaller areas of the HS2 Land remained in force, including one made in these proceedings over the Cash's Pit Land.

17. For completeness, I am providing a summary here of the events on the Cash's Pit Land and the neighbouring land known as Closepit Plantation and also a smaller satellite encampment under a large tree near to the Cash's Pit Land (together: the "Swynnerton Camps") following the substantive hearing in these proceedings in May 2022. In particular, it is notable that the events at and in the vicinity of the Swynnerton Camps were the last large scale unlawful direct action campaigns directly targeting the HS2 Scheme experienced by the Claimants. Matters as they stood in relation to the Swynnerton Camps as at 26.04.2022 are set out in Dilcock 3 and as at 19.05.2022 in Dilcock 4.
18. On 24.02.2022 the encampment on the Cash's Pit Land (referred to by the activists that occupied it as: "Bluebell Wood" or "Bluebell Camp") was served with notice to vacate. As described in Dilcock 2, in the knowledge that the First Claimant would seek to enforce upon the Cash's Pit Land, (see **page 29**) the residents, led by D17, established a second camp on 29.03.2022. This "support" camp was located approximately 800m to the east along the A51 on land known as Closepit Plantation, the location of which is shown on the plan at page 26 of Exhibit JAD 4 to Dilcock 2. Part of the land on which this camp was established is land within the LLAU and will be required to enable construction of the railway line as part of the main works. At the time that it was occupied by activists, the Claimants had not served any notices to obtain possession. Subsequently, the First Claimant reached an agreement with the landowner regarding removal of the trespassers and also exercised powers under Schedule 4 of the Phase 2a Act (the operation of which is explained in Dilcock 11) to temporarily stop up the road in front of Closepit Plantation to facilitate a safe removal operation. The occupation and subsequent clearance of this camp is discussed at paragraphs 23 to 26 below.
19. As described in Dilcock 4, 4 activists (now known to be: D18, D33, D63 and D64) entered tunnels that had been dug under the structure in the northeast corner of the Cash's Pit Land. D18, D33, D63 and D64 remained in the tunnels and refused to come out despite repeated warnings that they were in breach of a court order and the issuing of the Cash's Pit Contempt proceedings against them. Entry into the tunnels by the CST was deemed to present an unacceptable risk to the safety of members of the CST. The tunnels were dangerous and there was a significant risk

of collapse. The tunnel occupants were not trapped or in need of rescue and could have left at any time they chose.

20. On 18.06.2022 D65 voluntarily left the tunnels, having spent 39 days underground. D33, D64 and D18 remained in the tunnels until the early hours of the morning of 25.06.2022 before leaving the tunnels via an escape hole located on third party land. Later that day posts appeared on Facebook proclaiming the “Great Escape” but also referring to one more tunnel occupant (screenshots at **pages 30 to 31**). In addition, that day D65 took part in an interview on the Today Programme on Radio 4 where once again it was claimed one person remained in the tunnels. Considering these comments and with no response from the tunnels, the HCE and Mines Rescue teams were forced into conducting a search and rescue operation, placing the individuals involved at risk. The extended clearance and making safe of the tunnels extended the enforcement operation until 12.07.2022.
21. Had D18, D33, D64 and D65 not entered and remained in the tunnels on the Cash’s Pit Land, the enforcement of the writ of possession would have been completed on 10.05.2022 and the site secured and made safe significantly sooner. This would have vastly reduced the cost to the First Claimant and the taxpayer. In total the operation to recover possession of the Cash’s Pit Land ended up costing the taxpayer in the region of £8.5million.
22. At a hearing in July 2022, D18, D31, D33, D61, D62, D63 and D64 were found to be in contempt of court for breaching the Cotter Order. D33, D61 and D64 were committed to prison. D18 and D65 received significant suspended custodial sentences. D31 and D62, whose breaches were less severe, gave undertakings to the court as to their future behaviour with the agreement of the Claimants.
23. Like the Cash’s Pit Land, Closepit Plantation is a former quarry/sand pit located in Swynnerton, Staffordshire. It is now approximately a 5 acre block of deciduous woodland with a large pond at its centre. Whilst the majority of the land at Closepit Plantation is not directly required for work on the HS2 Scheme, it is bounded on all sides by land which falls within the LLAU. This land is required to enable the First Claimant to construct the HS2 Scheme. A map showing the location of the

camp established by activists on the Closepit Plantation land overlaid on the relevant part of the Parliamentary Plans for this area is at **page 32**.

24. As described in Dilcock 2, a camp was established by activists at Closepit Plantation without the consent of the landowner on or around 23.03.2022. It was constructed in anticipation of the repossession of the Cash's Pit Land by the First Claimant. The Closepit Plantation camp was intended by the activists as a fall back - or continuity - position for after the repossession of the Cash's Pit Land. On 23.03.2022, D17 posted a livestream to Facebook (a copy of which is at **Video 1** and a screenshot of the post is at **page 33**) to introduce and explain the purpose of the Closepit Plantation camp. In it he said:

“Good afternoon everyone - it still morning? I'm not sure. It's still morning technically. So exciting, exciting, exciting we are at, we are at the new, er, location of HS2 camp. So, erm, er, about two hours ago some activists came into this beautiful woodland, erm, which is part threatened by HS2. Erm, we've been here, for - yeah, we came with a few activists came before, erm, we've been down here for the last two days, kind of, just, er, making preparations and staying in the camp and making sure what's what. Erm, but yeah this is new camp people. So everything you can see now is the new HS2 camp. Er, we got people to me right, erm, digging the vitals, the old, er, toilet an that, erm, and then look at this place its absolutely gorgeous as well. Erm, it's full of bluebells, so we are gonna continue with our Bluebell name. Erm, Bluebell lives on. Obviously, erm, we've got an eviction coming at our Bluebell camp, the original camp just up the road, erm, so we thought it was wise to start looking for new pastures, erm, affected by HS2, and we came across this. Erm and the exciting thing about this camp, erm is that it is directly on the edge of a woodland, er, sorry, of a compound. It's a huge, huge compound, HS2 compound, and its right through these trees at the back line there, I'm gonna go over an have a look in a sec. Erm, so we were served an eviction notice, erm, just under 4 weeks ago, er, 4 weeks ago at 12 o'clock tonight actually, erm to say that we must vacate Bluebell woods erm and we face prosecution and all the rest of it if we don't. Er, so people are hunkering down, we need activists to go to Bluebell, er, today, now, tonight, erm, we need butts in that camp, erm, there's lots of defences that people can go in and as I've said a million times, you don't

have to technically do an arrestable role or a role that you don't feel comfortable with, erm, even just being here, on the outside of the perimeter, erm, and between the two camps and stuff is a massive help. Erm, so yeah, we've got stuff going up [points camera at a tree house with a Palestinian flag flying] bet you can't guess who lives in this one? Erm and we've got a few friends up this tree at the back there, just getting some lines and stuff up and then as we go through here, erm, we're getting more things set up over here, erm carrying on carrying on, so we've got a structure going up in the back just on me left here, erm as you can see all the bits and pieces are out, er" [pointing the camera at an assortment of ropes and netting].

Later, at 00:3:00 in the video, D17 said *"I need to, er, I need to be really, erm, clear about this, we have not abandoned Bluebell Woods protection camp. Bluebell Woods protection camp is still up for eviction, still needs lots of bums in there. Erm, this is a camp so that we continue, can continue doing what we are doing, erm, and also offer support and somewhere to stay for people wanting to get involved with what might come during the eviction".*

Later, at 00:5:11, D17 showed the proximity of Closepit Plantation to active HS2 Scheme works and at 00:06:45 he said: *"we've got people now in the trees and putting platforms up and things like that, so we are gonna keep this, erm, this site, this is gonna be the new, er, HS2 site in Swynnerton, if Bluebell goes or if and when Bluebell does go. Er, so this is gonna be our new home, erm, it is under threat, there's a massive compound on the other side, erm, and yeah we can really, er, we can really do something here people. If you wanna disrupt HS2 this is gonna be a perfect spot to do that from. Erm, obviously, I'm not inciting any, er, any public nuisance or anything like that, because I wouldn't do that. Erm, and then lower down here it goes down, look how nice it is. So yeah, there gonna take a big snippet off the sides and we are gonna be here to hold them accountable when they start doing what they do."*

25. The activists dug tunnels and constructed treehouses on the Closepit Plantation land, many of which were on land within the LLAU and adjacent to areas where substantial groundworks will be undertaken and immediately adjacent to land on

which utility diversion works for the HS2 Scheme were being undertaken. The presence of the activists on the Closepit Plantation land presented a significant risk to the safe completion of works. As can be seen from D17's livestream, activity undertaken on the land by the activists was deliberately designed and intended to try to disrupt the HS2 Scheme. Some of the activity undertaken by the activists using the Closepit Plantation land as a base is described in Dilcock 2 and video footage exhibited.

26. Accordingly, the First Claimant exercised its powers under Schedule 4 of the Phase 2a Act and temporarily stopped up the roadside verge along the boundary of the Closepit Plantation land and prevented occupation of the land by additional activists and subsequently cleared the remaining trespassing activists from the land by agreement with the landowner.
27. Aside from the very significant issues experienced at the Cash's Pit Land and Closepit Plantation, the application for the Injunction and the fact that it was under consideration by the Court appears to have had a deterrent effect even before the Injunction was made. As set out in Groves 1, unlawful direct action activity by activists reduced dramatically across the rest of the HS2 Scheme. The Claimants and their specialist advisers, including myself, also consider that the sentences imposed on the Cash's Pit contemnors will have had a significant deterrent effect of themselves.
28. The deterrent effect continued following the making of the Injunction on 20.09.2022. There has been a significant reduction in the number of incidents of disruptive, unlawful direct action against the HS2 Scheme. It is difficult to be certain, because the activists involved do not often openly advertise the rationale for their shifting behaviour, but the Claimants and their specialist advisers, including myself, are of the opinion that the imposing of the Injunction has been a significant factor. However, there are other factors of which it is important to take note when considering the overall level of activity and assessing the threat of future activity. Those factors are discussed in more detail in Groves 1.

29. There have been 37 activist-related incidents targeting the HS2 Scheme or incidents that have breached the terms of the Injunction recorded by the Claimants since the Injunction was imposed. Brief details of the more notable incidents are set out in the following table. The location type of each incident is given using the following key:

Cat A = HS2 Land

Cat B = Land to which the Claimants are entitled to possession, but which is not currently included in the Injunction

Cat C = Non-possessed land within the LLAU

Location plans for each incident are at **pages 34 to 46**.

Incident Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss caused
06.10.2022	Trespass upon HS2 Land	D66 and D67 trespassing at Aylesbury ecological mitigation area. The area has extensive HS2 signage. The trespassers were asked to leave and escorted from the site. Body Worn Video footage recorded Incident described in detail at paragraphs 31 to 45 below.	Cat A land. Aylesbury Ecological mitigation area	Mobile patrol diverted from route. Mobile patrol has a dual role to provide urgent medical response and therefore 1 patrol providing medical response was unavailable for approximately 45 minutes whilst dealing with this incident.
06.10.2022	Graffiti/signage	Stop HS2 posters bearing the threat “expect us” found in the area	Cat C land. Clifford’s Wood	Posters were removed by Specialist Safety and

Incident Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss caused
		of Clifford's Wood, Swynnerton Images recorded (copies at pages 47 to 48)		Security Vehicle Patrol which had to be specially tasked at cost to the First Claimant.
07.11.2022	Interference with fencing or gates	At around 22:40hrs security reported hearing loud noises from Schedule 4 verge at Closepit Plantation opposite Long Compton Farm. They identified a grey VW transporter driving away north bound on the A51 towards Bottom Lane. 6 Heras fencing panels had been pulled over	Cat C Verge at northern limit of Closepit Plantation	IRT were called out to deal with the incident at cost to the First Claimant.
13.11.2022	Anti-Social Behaviour	Eggs thrown at security staff at Long Compton Farm	Cat C land Long Compton Farm, Swynnerton	Disruption to security staff doing their jobs. Enhanced patrolling of the location undertaken by the Specialist Safety and Security Vehicle patrols.
13.11.2022	Trespass on HS2 Land, Assault,	UID male trespassed upon the HS2 site at Old Oak	Cat A land Old Oak Common London	Police attended the site, access to the site was temporarily

Incident Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss caused
	Criminal Damage	<p>Common, he then proceeded to assault a security officer by ripping his body worn camera from his chest and throwing it to the ground. Male was also threatening towards security staff and used sexually obscene language and gestures.</p> <p>Male has previously trespassed upon the site and assaulted staff.</p> <p>CCTV footage recorded</p> <p>Incident described in detail at paragraphs 47 to 49 below.</p>		suspended due to altercation in bell mouth. Hostile working environment created for staff.
15.11.2022	Interfering with fences and gates	At around 01:20hrs a male was recorded on the site CCTV attaching a padlock and chain to the front gates of the Balfour Beatty compound in Swynnerton Staffordshire.	Cat A land Verge at BB Swynnerton Compound	Specialist security tasked to attend site at 03:50 to cut the padlock and chain from the gates at cost to the First Claimant.

Incident Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss caused
		<p>CCTV and still images recorded.</p> <p>Incident described in detail at paragraph 50.</p>		
20.11.2022	Trespass	<p>Persons unknown entered HS2 Land and climbed trees attaching a Stop HS2 banner at a height of approximately 4m</p> <p>Images of banner in trees recorded (copies at pages 49 to 51)</p>	Cat A land Junction of Stab Lane and A51 north of the Village of Swynnerton	IRT team was tasked to attend the incident at cost to the First Claimant.
20.11.2022	Criminal Damage	<p>Several road signs including permanent highways and temporary contractor signage on the A51, A519 and local area were found graffitied and turned over</p> <p>Images recorded (copies at page 52 to 54)</p>	Cat A land A51 and Cat C Land A519 and Bottom Lane	Signs had to be removed and replaced by traffic management contractors at cost to the First Claimant.
22.11.2022	Trespass	Riders and hounds from the Bicester Hunt entered HS2 Land to the South of the	Cat A land The Heave worksite just south of Oxford Canal	As a result of the incursion site operations were paused for approximately 40mins for a

Incident Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss caused
		<p>Oxford Canal. Riders were recorded riding along the site access road and across the work site requiring the cessation of works for between 30 and 45 minutes. At least two riders and at least 20 hounds were filmed in the works area</p> <p>Video footage of incident recorded</p>		<p>safety stand down. Perimeters and fencing were then checked. The following day the area security manager and mobile patrols were tasked with identifying the access points and route taken across the site.</p>
04.12.2022	Assault/anti-social behaviour	<p>At approximately 19:50hrs a black pick-up truck driving past the Cash's Pit Land shone a red laser towards the security staff deployed along the fence line. The incident was reported to the Police</p>	Cat A land Cash's Pit Land Swynnerton	<p>Necessitated increased security mobile patrolling in the area at cost to the First Claimant.</p>
05.12.2022	Interference with fences, Assault	<p>An agricultural contractor working upon the behalf of a neighbouring landowner rammed the site gates with their</p>	Cat A land EKFB A421 (S) site	<p>The site access was blocked for approximately 5 minutes duration. The barriers and fencing required</p>

Incident Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss caused
		<p>tractor, flipped safety barriers and then assaulted a security officer, knocking his mobile phone from his hands.</p> <p>CCTV and mobile phone footage recorded (stills at pages 55 to 56)</p>		repositioning and replacement. Hostile working environment for staff.
05.02.2023	Direct action at A418 - activists seeking to disrupt works by placing themselves in harm's way	<p>D66 and D67 repeatedly tried to place themselves in positions that prevented EKFB de-vegetation teams from removing trees</p> <p>Incident described in detail at paragraphs 111 to 142 below.</p>	Cat C land A418 site in Aylesbury	Substantial delay prevented through the deployment of the IRT at cost to the First Claimant. Without intervention at least 1 day's delay to the works would have been encountered causing financial loss to the Claimants.
13.03.2023	Interference with fencing	On 13.03.2023 when arriving at worksite 328, it was discovered that a stretch of post and wire perimeter fencing had been removed from its original location. The timber posts and sheep netting	Cat B land – near Madeley Staffordshire	The re-installation or replacement of the fencing will take a dedicated fencing team one day to replace at cost to the First Claimant. Whilst posts may be

Incident Date	Incident Type	Incident Summary	Location	Delay, disruption, damage or loss caused
		had been dumped next to a gate leading to a neighbouring landowner's field (photograph at page 57). The worksite is located upon land in temporary possession which was possessed in June 2022 and was not therefore covered within the Injunction.		salvaged sheep netting will likely need replacement.

30. In addition to the summaries in the table above, I have provided some further detail about four of the incidents in the section below. The incident on 05.02.2023 is described in detail at paragraphs 111 to 142 later in this statement.
31. On 06.10.2022 at around 14:04hrs D66 and D67 were identified walking in the area of the ecological mitigation ponds on HS2 Land at an EKFB site on the HS2 Scheme in Aylesbury. The mitigation ponds were constructed by another HS2 Scheme contractor, Fusion, around July 2018 and images of these works from Google Earth are at **page 58**. The ponds were developed as part of a program of ecological mitigation works establishing new wetland habitats to compensate for those which may be lost as part of the HS2 Scheme.
32. A security mobile response vehicle was dispatched to the location to engage with and remove D66 and D67, who were standing adjacent to one of the ecological mitigation ponds, trespassing. The interaction between the security patrol and D66 and D67 was captured on the body worn camera of one of the security operatives. A copy of the video is at **Video 2**.

33. Upon approaching D66 and D67 the security operative's familiarity with D66 and D67 is apparent. He can be heard on the video saying: "*and it's him as well, what a surprise*". D66 and D67 have been actively campaigning against the HS2 Scheme in the Aylesbury area for a number of years, including taking part in a slow walking direct action campaign on 09.09.2021 at the HS2 Scheme site on the A418, just 800m away.
34. In the foreground of the officer's ("**Security Operative 1**") body worn camera footage, pedestrian barriers and a life ring which had been installed by the First Claimant's contractor EKFB by the pond are clearly visible. These are immediately behind D66. I estimate they are less than 5 meters away and they are unmissable. The boundary of the HS2 Land is also clear in the distance as a hedge line. A screenshot from this point in the video is at **page 59**).
35. As Security Operative 1 greets D66 and D67 he says: "*excuse me you're on HS2 land*". D66's response is inaudible.
Security Operative 1: "*yes I'm sure, this is their ecology area*"
D66 is difficult to hear, so Security Operative 1 says "*pardon*". D66 is difficult to hear again but Security Operative 1 responds "*no, we're on HS2 land*".
D66 responds: "*well how do you know?*"
Security Operative 1: "*because, because of the signs, this isn't part of the footpath*".
D66 is inaudible in the wind at this point. D66 then asks the second security operative ("**Security Operative 2**") "*have you crossed a fence to get to me?*"
Security Operative 2: "*no*"
D66: "*have you gone through a gate? Yeah yeah*".
Security Operative 1: "*this is HS2 ecology land*".
D66: "*you have gone through a gate, therefore ergo you're the one that's on public land, because you've crossed from the HS2 site through the gate onto this side*" at this point Security Operative 1 attempts to interject but D66 says: "*I'm sorry, can I just finish what I'm saying. You've crossed from the HS2 site through a gate.*"

36. For context, there are thousands of gates within the HS2 Scheme trace. Passing through any such gates does not mean passing out of HS2 Land. Ecological areas, for obvious reasons around preserving their integrity, are gated separately from works compounds and plant storage areas etc.
37. D67 is seen approaching the security operatives and D66. To his left is the grey safety barrier and to his rear, some distance away is the site perimeter hedge, which gives a good visual impression of just how far into HS2 Land D66 and D67 were (a screenshot from this point in the video is at **page 60**). It is very obvious that they are not on a footpath of any description. Security Operative 1 (to D67): *“Sir, you’re on HS2 Land*
D66 then says: *“no no, no, but, no they can’t be true”*.
38. The group are speaking over each other but then Security Operative 2 quite clearly says: *“footpath is closed”* and Security Operative 2 says: *“there’s no footpath along here”*.
D66: *“no, I came to the footpath closed sign”*
Security Operative 1: *“the footpath is the other side of those bushes”*
D66: *“but we came through a public footpath through the bushes”*
Security Operative 1: *“no, it’s the other side of those bushes”*
D67: *“no, the footpath that goes across there is closed, because we went [inaudible]”*
Security Operative 1: *“the footpath is the other side of those bushes. It doesn’t come down here”*.
D67: *“well it’s certainly implied as a footpath, coz there’s a footpath there”*
Security Operative 1: *“unfortunately you’re on HS2 Land and I need you to go back the way you came.”*
D66: *“I think they must be wrong, mistaken because they’ve come through a gate onto this land. I haven’t gone through a gate or a fence”*
D67: *“we haven’t come through a gate, we’ve come down a footpath, a well-used footpath that’s...”*
Security Operative 1: *“you came through the hedge. I watched you do it”*
D66: *“yeah there’s a footpath going through it”*
Security Operative 1: *“that’s not a footpath”*

D66: *"well it's a well-worn path"*

Security Operative 1 (who lives locally) responds: *"it's in that field and down towards Fairford leys"*

D66: *"there's dog walkers that use all of that area that come through here"*

Security Operative 1: *"not down here"*

D67 (pointing near the pond): *"if you go over there there's a dog's ball over there"*

Security Operative 1: *"well there shouldn't be"*

D66: *"well there is"*.

Security Operative 1: *"there shouldn't be"*

Security Operative 1: *"you need to go back the way you came"*.

D66: *"there was a cyclist who came back through here as well"*

D67: *"I saw him over there and then he went back"*.

D66: *"have a little chat with him, coz we were both confused us"*

Security Operative 2 (on an unrelated issue): *"he's gonna ring back"*.

D67: *"weird"*

D66: *"this is very strange"*

39. Rather than leaving and ending their trespass and the disruption they were causing, D66 and D67 continued to argue with the security operatives:

D66: *"I think you must be wrong guys because you came through a gate and crossed a barrier, I haven't crossed a barrier"*.

Security Operative 1: *"yeah it's an HS2 gate, for the ecology area"*.

D67 and D66: *"we've not come through an HS2 gate"*

Security Operative 1: *"no you came through the hedge down further over there, the fact is, this is an HS2 ecology area so I don't go any further than that [referring to the point he drives to], I walk the rest"*.

Security Operative 2: *"that's why we can't drive because all the animals have been released and the insects and the newts"*

D66: *"oh god we know that HS2 are very considerate about wildlife aren't they"*

D67 *"I could show you probably twenty badger setts that have been filled in, even the ecologist has admitted he's left HS2 because HS2 will not listen to him"*

Security Operative 1: *"I have no idea about that"*

D67: *"I have been looking at those badger setts for about 5 years"*

D66: *"well I think is then [inaudible]"*

D67: *"so yeah it's pretty dreadful"*

Security Operative 1: *"all I know is this area"*

D66: *"you're the ones that have come through a gate from the HS2 site [points to the distance] coz clearly there is a fence there".*

Security Operative 1: *"yes, but this is their ecology area"*

D66: *"so we haven't crossed a fence".*

Security Operative 1: *"well that's why we were called here because you're on the ecology area for HS2 so I need you to leave unfortunately"*

D66: *"ok"*

Security Operative 2: *"Ok, so we're now informing you that you shouldn't be here and we have to ask you to leave"*

D67: *"yeah that's fine yeah"*

Security Operative 2: *"thank you very much"*

D66 then says *"I just want to emphasise to you, that at no point have I crossed a barrier or a gate"*

D67: *"we haven't done anything wrong whatsoever, we've just continued down a footpath"*

Security Operative 1: *"ok, but you're on HS2 land now so"*

D67: *"nice kestrel up there by the way"*

Security operative 1: *"there's a lot of nice birds of prey round here"*

D67: *"I know. I've been watchin em, well intriguing"*

D66: *"very intriguing".*

40. D66, D67 and the two security operatives start walking to the boundary. There is a conversation in which the security operatives explain to D66 and D67 that they are first responder officers (which means they carry a dual security and medical role and are medically trained).

41. The conversation then turns to previous encounters between the security operatives and D66 and D67:

Security Operative 2 (to D67): *"We've crossed paths before aint we, out there"*

D67: *"sorry?"*

Security Operative 1: *"we've crossed paths a few times before"*

Security Operative 2: *“at the A418. You had your arm in a sling and you was trespassing then”*

D67: *“yeah, that’s because I couldn’t get out, so I had me lunch on the fence”*.

The next section of the video is inaudible due to the wind. Security Operative 1 then says: *“I wouldn’t say that, we’ve met him a few times at different occasions.”* Part of D66’s response is then lost in the wind until she can be heard saying *“I’ve not come across an HS2 fence today”*

Security Operative 2: *“we’ve met before”*

D66: *“I’ve met you before?”*

Security Operative 2: *“when you were dancing outside the 418 in your outfit”* [418 is a reference to the HS2 Scheme site on the A418).

D67: *“that’s not, that’s not crossing an HS2 fence”*

Security Operative 1: *“exactly, that’s what, blocking traffic?”*

D67: *“that’s protest on a, on a public right of way”*

D66: *“well I wouldn’t know”*

D67: *“you all look the same to us, because you all look like carrots, it’s the uniform you see”*

Security Operative 1: *“that I do not disagree with”*

D66: *“I mean obviously you’d remember me”*

Security Operative 1: *“obviously, and this gentleman”* [gestures to D67].

D67: *“[partly inaudible] recognise me?”*

Security Operative 1: *“yeah Hartwell Wall, going over the wall to take more pictures”* [the Hartwell Wall is adjacent to the A418 HS2 Scheme site].

Security Operative 1: *“I don’t mean it as a bad thing,”*

D67: *“I was protecting a Red Kite”*

Security Operative 1: *“but I had to talk to you, to step away just in case one of the trees went through the fence”*.

42. The group then reach the boundary hedge and Security Operative 1 says: *“back the way you came”*

D67: *“we go back the way we came yeah”*

Security Operative 1: *“through the hedge”*

D66: *“it’s a footpath”*

Security Operative 1: *“through the hedge”*

D67: *“through the footpath”*

Security Operative 1: *“through the hedge”*

D66: *“it’s a footpath - wanna come and see?”*

Security Operative 2: *“no thank you“*

D66: *“I’m not exaggerating”*

D67: *“you don’t believe us do you?”*

Security Operative 1: *“we’re just making sure you go”* then D66 cuts in: *“why don’t you wanna come and see, you can’t accuse me of something and then refuse to look at the evidence”*

Security Operative 2: *“we haven’t accused you of anything, we’re just telling you that you’re trespassing”*.

D66: *“that’s it, you’re accusing me of trespass”*

D67: *“actually we are not trespassing, we are only trespassing if you accuse, if you ask us to leave and we don’t, that’s trespassing. But we’re not doing that, so we’re not trespassing”*.

Security Operative 1: *“you’re leaving”*

Security Operative 1: *“I don’t know whereabouts you came through”*

D66: *“It’s quite clear”*

Security Operative 1: *“looks like bushes to me”*

D67: *“you can come and see where we came through if you want, it’s up to you”*

Security Operative 1: *“well we’re coming this way to make sure you do go, coz we have to do that”*.

D67: *“where does HS2 land start then, round here then, coz how do dog walkers and everybody else know where it starts”*

D66: *“That chap on his bicycle”*

Security Operative 1: *“to my knowledge, it ends at this hedge line”* [this information was correct, as shown on the annotated Injunction mapping at **page 61**
D66 then interjects and talks over D67: *“hang on, to your knowledge, it ends at this hedge line”*

D67: *“so you don’t know where the HS2 land starts?”*

D66: *“but you’re happy to accuse people of trespass?”*

Security Operative 1: *“this is HS2 land, I know that for a fact, that side is public”*.

D67: *“we didn’t come through there”*

Security Operative 1: *“well how did you get across?”*

D67: *"on a footpath"*

Security Operative 1: *"no"*

D67: *"on a public footpath"*

43. The camera shows a gap in an established hedge approximately 10m from where the footpath is closed ahead with steel gates (a screenshot from this point in the video is at **page 62**). Security Operative 1 then remarks: *"I don't know why it's so open"*

D66: *"public footpath and you cannot say we've forced our way through there"*

Security Operative 1: *"I never said you'd forced your way through, I just said you was on HS2 land"*.

D66: *"you implied that we'd forced our way through a hedge"*

Security Operative 1: *"I said you came through the hedge. You came through the hedge"*

D66: *"you said there was no footpath, you said there was no footpath"*.

Security Operative 1: *"I said you came through the hedge"*

D66: *"and you said there was no footpath"*

Security Operative 1: *"I didn't realise -"* before he can finish his sentence D66 interjects with: *"and clearly there is a footpath"*

D67: *"I think you can clearly see it's an implied footpath, legally that's a footpath"*

Security Operative 1: *"then it needs fencing"*

Security Operative 2: *"enjoy the rest of your afternoon"*

Security Operative 1: *"thank you very much"*

D67 says: *"we'll pester you buggers down the other end now"* and laughs.

D66: *"Do you know what, I'll enjoy it all the more having met you lovely gentleman"*

Security Operative 1: *"Thank you very much"*

D67: *"it's been a lovely day"*

Security Operative 1: *"bye bye"*

D67: *"at least it's not pissing with rain"*

Security Operative 1: *"yes, yes we don't need any more of that"*.

D67: *"we certainly don't"*

D66 as she is moving through the hole in the hedge says: *"we don't need the fellas spraying water on the temporary road either"*

D67: *“and whatever you can do to stop this big fuck up happening would be brilliant”*

Security Operative 2: *“that’s out of our hands I’m afraid”*

Security Operative 1: *“somebody else decided this one”*. The part of the conversation that follows is difficult to hear due to the wind and the distance that D66 and D67 are from the microphone, but it appears that D67 is trying to entrap the operatives in to disapproving of the HS2 Scheme,. Security Operative 2 corrects D67 at one point saying: *“no I didn’t say that at all”*. Security Operative 1 tells D66 and D67 to *“take care of yourself”* and Security Operative 2 says *“thank you”*, followed by Security Operative 1 saying *“thank you very much”*.

44. Throughout the exchanges D66 and D67 seem to treat the interaction as a game - D67 confirms as much when he says: *“we’ll go and pester your buggers down the other end now then”* and laughs. It is clear that the security operatives have encountered D66 and D67 on multiple occasions and that on those occasions D66 and D67 have allegedly been trespassing or blocking access and egress. Neither D66 nor D67 challenge this - they seem to almost revel in it. Their claimed ignorance of the fact that they were in the ecological area on HS2 Land is not credible. D66 admits they passed a footpath closed sign. D66 and D67 have been observing the scheme for up to 5 years according to D67 himself and D66 attended and made representations to the Judge at the Injunction hearing in May 2022. Finally, the presence of site apparatus, gates, pedestrian barriers, life rings etc. on the land makes it obvious that it is not public land. Nonetheless D66 and D67 throughout the interaction constantly challenged the security operatives who were unfailingly polite from start to finish. D66 and D67’s trespass disrupted the security operatives in carrying out their first responder duties on site as they had to go out to the ecological area and deal with removal of the trespassing D66 and D67.
45. I was informed of this trespass at the time by the area security manager for this area. He also reported that after this interaction (and following through on D67’s threat to *“pester you buggers down the other end now”*), around fifteen minutes later, staff at the A418N public right of way crossing point (where a haul road crosses a public right of way) around 500m away reported that D66 and D67 had blocked the crossing point and plant machinery was unable to proceed through the

crossing point. The mobile unit who had previously escorted D66 and D67 from the HS2 Land at the ecology mitigation ponds were then re-tasked to the crossing point. However, by the time they arrived D66 and D67 had left. That incident was not video recorded.

46. D66 was served with a copy of the Injunction on 20.09.2022 (the day that the Injunction was made) by email. Following the incidents on 06.10.2022 described above, the Claimants' solicitors wrote to D66 by email setting out what had happened, attaching a further copy of the Injunction and warning her that breaching an injunction was a serious matter. A copy of that email and D66's response denying the breaches are at **pages 63 to 65**. At that time, D67 had not been identified by the Claimants (he was identified following the incidents on 05.02.2023 described in paragraphs 111 to 142 below) and could not therefore be written to.
47. On 13.11.2022 there was an incident involving breaches of the terms of the Injunction at the HS2 Scheme construction site at Old Oak Common, West London. An unidentified male who had previously assaulted security staff at the site in May 2022 (an incident that was allocated crime reference number CAD1615 by the police), returned to the site and assaulted security officers, damaged equipment and trespassed upon HS2 Land at the entrance to the site.
48. The individual attempted to gain entry to the site and when challenged by members of the site security team, he assaulted a security officer, ripping his body worn camera from his chest. A still image of this is at **page 66**. The individual then picked up the security officer's body worn camera and threw it hard onto the ground. Following this, the individual, who appeared to be in a fit of rage, proceeded to pick up a traffic cone and throw it across the site entrance. A still image of this is at **page 66**. Then he taunted the security officers for around a minute, standing on HS2 Land shouting at them: "*suck my cock*", all while making masturbation gestures (still images from the site CCTV and another officer's body worn camera are at **page 67**). The second still image from body worn camera footage at **page 67** records the time as 08:10hrs, but this camera had not been adjusted for daylight saving time and I can confirm all the images at **pages 66 to**

67 relate to the same event as I reviewed them with the First Claimant's contractor at Old Oak Common on 30.11.2022.

49. The individual entered the HS2 Land on 4 occasions in total between 07:08hrs and 07:10hrs. The police were called and attended the site shortly after and police crime reference number CHS27008 was issued. We have been unable to identify the individual involved and so no further action has been taken in respect of the Injunction breaches.
50. On 15.11.2022 at 01:20hrs, CCTV at the First Claimant's contractor BBV's compound in Swynnerton Staffordshire detected an individual dressed in black clothing attaching a motorcycle chain to the front gate of the site. The security team that attended the incident reported that the chain had "STOP HS2" written on it, albeit that the writing is not visible in the photo taken by the security team (copy at **page 68**) as it was taken in the hours of darkness. Locking the gate in this manner meant the on-site security team were in effect prevented from leaving the site. This gate and the adjacent verge are located on HS2 Land and subject to the Injunction (annotated location map at **page 69**). A BBV mobile security patrol attended the site but were unsuccessful in their attempts to cut the chain. The First Claimant's Security & Safety Support Vehicle Patrol later attended at 03:50hrs. The chain was finally cut from the gate by Police at 03:52hrs, re-establishing access to the compound.
51. On 24.11.2022 staff discovered upon arrival at the First Claimant's contractor BBV's compound in Swynnerton Staffordshire that two pieces of plant machinery had been spray painted with "FUK HS2" (sic) (images at **pages 70 to 71**). This required the removal of the graffiti and inspection of the vehicles to check that they had not been further tampered with before the day's work could be undertaken. Upon checking the perimeter of the site a fencing panel was found damaged (image at **page 72**).
52. It is clear from the incidents that have taken place since the Injunction was imposed and the threats that have continued to be made against the HS2 Scheme (see further

paragraphs 144 to 169 below) that the rationale of activists remains to cause harm, delay and cost to the project, as Mr Justice Julian Knowles found in his Judgment issued on 20 September 2022 (the “**September 2022 Judgment**”) (paragraph 162): *“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.”*

There is a significant likelihood that incidents of unlawful activity directed at causing such harm will escalate in the event that the Injunction is allowed to lapse.

Correlation between works activities and direct-action campaigning

53. Historically, those projects that have been the target of direct action campaigning have tended to be targeted most prolifically during what are perceived by activists to be the most environmentally contentious works activities. During the road protests in the 1990s for example, the clearance of woodland at Newbury bypass saw the most significant direct action by activists, including tunnelling. During the ‘anti-fracking’ protests between 2014 and 2019, arrests for criminal offences committed in the course of direct action campaigning peaked during the site establishment and drilling phases.
54. Looking back at the works so far on Phase One of the HS2 Scheme (which is the furthest advanced of the phases, as discussed in Dilcock 11), unlawful direct action activity was most prolific and disruptive during de-vegetation works (these works include the felling of trees). This is discussed in more detail in Groves 1.
55. By way of a direct example of this principle being a modus operandi for activists, the following was posted on Facebook by veteran environmental activist Christopher Wilson (aka Jag Wag), on 18.12.2022 in response to a comment that activists should have been fighting the project at the planning stage (screenshot at **page 73**)
“It’s OK to say that people should have been doing stuff twelve years ago, but they were. Protest is always driven by the stage the project is at. When it was in the planning stage there was no infrastructure to disrupt. That stuff only happens once

they break ground. To each stage of the project there's an appropriate response. Rolling over and saying "fuck it, I wish they'd put a station near my house" isn't one of them."

56. Wilson was one of the founders of the unauthorised encampments at Small Dean and Jones' Hill Wood and was instrumental in the establishment of the camps at Cubbington & Crackley and the Cash's Pit Land (all of which are described in Jordan 1). Furthermore, Wilson was involved in significant 'anti-fracking' direct action against Cuadrilla, including being found in contempt for breaching a High Court injunction (Cuadrilla Bowland Ltd & Ors v Cornelia Ellis & Ors [2019] 6 WLUK 888).

57. A good example of the kind of unlawful direct action activity that was triggered by the de-vegetation stage of works on Phase One was what happened in the Leather Lane area. On 22.02.2021 D5 and another activist Ella Russell (aka "Pigeon") occupied a large oak tree located approximately 200m to the South of Leather Lane near Great Missenden in Buckinghamshire. D5 and Pigeon had been residents of the Jones' Hill Wood camp, which was positioned approximately 1km to the north. The occupation of that camp was described in Jordan 1 at paragraph 29.1.3. The camp occupation was prompted by an application by the First Claimant's contractor to close the road for de-vegetation works on 15.03.2021. Shortly after the application was made and publicised, the first tree was occupied by D6 and Pigeon, which was then followed by a post on the Jones' Hill Wood Facebook page calling for the rapid establishment of a camp. A post made on 22.02.2021 on the Jones' Hill Wood Facebook page perfectly illustrates the rationale behind the camp establishment (screenshot at **page 74**):

"New resistance camp!! (And banner drop)

We are currently occupying a Grandmaster Oak that stands amongst around twenty others that are due to be felled by HS2. We invite you to come and join us in resisting the pointless and needless murder of these trees.

This site in Leather Lane, between Great Missendon and Wendover, we believe will be felled on the 15th March, unless we act. This is the third camp in a line of camps, that include Wendover Active Resistance Camp and Jones' Hill Wood. These camps occupy the planned route of the viaduct through Wendover Valley.

We have approximately three weeks to climb, build, dig and resist!! This site is directly in the firing line and has already had incursions by HS2 over the last week. There is plenty of space to camp, or even better a selection of incredible oaks to occupy! Come and join us, bring yourself, supplies and prepare for another battle with HS2.”

58. The camp was subsequently cleared by the First Claimant’s security team in an urgent clearance operation on 10.03.2021 during a period of bad weather before the camp could be properly established and defences finished. However, had this camp been able to become properly established and de-vegetation delayed by just 6-8 weeks then works at this critical crossing could have been delayed by up to 12 months as explained at paragraph 151 below.
59. Given that the same de-vegetation stage of the project is yet to come on Phase 2a, all the evidence from Phase One suggests that the threat of significant, disruptive and costly direct action campaigning against the HS2 Scheme remains high.

Displacement of activists and unlawful direct action

60. The Injunction has provided welcome relief to the Claimants from the sustained unlawful activity targeting the HS2 Scheme that they were previously experiencing. 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 13 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.
61. In addition, anti-HS2 activists have continued to try to find ways to target the HS2 Scheme that do not breach the Injunction, and this has resulted in secondary targeting of the Claimants’ supply chain and direct action interfering with works and intimidating staff and contractors that has been carefully planned to avoid

breaching the terms of the Injunction, but to still cause as much disruption as possible. It is therefore clear that the threat of unlawful activity targeting the HS2 Scheme remains real and imminent and that there is a need both to continue the Injunction in its current terms and to extend it to prohibit the unlawful activity that has been occurring and which is not currently prohibited under the terms of the Injunction. Injunctive relief is necessary to protect the Claimants' rights, the health, safety and wellbeing of both activists and the Claimants' staff and contractors and to prevent the cost to the public purse of dealing with unlawful activity escalating again.

62. In this section of my statement, I have provided information about the unlawful direct action in which some of the named Defendants to these proceedings have been involved. I have also described in detail specific incidents of both secondary targeting and disruption of works on the HS2 Scheme since the Injunction was imposed.
63. In Jordan 1, it was identified that direct action against the HS2 Scheme was typically undertaken predominantly by two types of activists. Set-piece large scale events tend to be undertaken by large, organised groups such as XR whilst smaller disruptive actions are organised, and camps occupied, by groups of transient multi-cause activists. These smaller, more anarchic groups of "autonomous individuals" are often engaged in multiple campaigns and on occasion will associate themselves with the larger umbrella groups such as XR. Many of these activists were formerly engaged in direct action activism against onshore oil and gas projects (fracking) or animal rights campaigns.
64. 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. I

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

Palestine Action

65. 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.
66. Since the grant of the Injunction, it appears that D22 has been most recently campaigning with Palestine Action. On 09.12.2022 D22 took part in a violent and damaging direct action campaign at Teledyne Systems in Presteigne, Powys. Allegedly £500k worth of damage was caused by D22 and 3 others who used hammers, angle grinders and smoke bombs during the action. D22 is currently being held on remand at HMP Berwyn awaiting trial for this incident. Articles about the incident are at **pages 75 to 78**.
67. After leaving the unauthorised anti-HS2 camp at Closepit Plantation, D17 became resident at a Palestine Action camp in Shenstone, Staffordshire. This camp was located close to a UAV engines factory that activists claim supplies engines for drones used in Israel. The camp was used as a base for a series of disruptive direct actions targeting UAV Engines (for example, see the articles at **pages 79 to 85**). On 10.09.2022 D17 was arrested at the camp alongside 11 others for conspiracy to cause criminal damage and received bail conditions not to return to that camp. D17 had also previously been engaged in Palestine Action related direct action against Elbit Industries and has participated in action against Sports Direct (Puma - kit sponsors to the Israeli football team) on 21.01.23 and Pret a Manger (who are opening outlets in Israel) on 24.02.23 (see **pages 86 to 87**).
68. On 17.01.2023 a hearing took place at Manchester Crown Court relating to alleged criminal damage at Elbit Systems in Oldham involving D17. A protest was organised outside that court and was attended by D20, D64 and 2 other former residents of the anti-HS2 camps in Staffordshire, Rosie Willow Gunter (aka Mung Bean) and an individual known as Amazon. An annotated image of the protest

attendees outside the Crown Court on 17.01.2023 posted by D17 is at **page 88**. Many of this group also engaged in direct action as part of an HS2 Rebellion / Kier Ends Here direct action campaign at HMP Full Sutton on 31.01.2023. This incident is covered in detail at paragraphs 78 to 80 below.

JSO

69. JSO have been the most active direct action environmental protest group in the UK in the last 12 months. The group are seeking to achieve a radical flank effect, whereby their cause is amplified through radical dramatic and disruptive direct action. Significantly, the group's funding, profile and momentum has drawn activists who had previously been active against the HS2 Scheme, some of whom are Defendants in this case or are subject to undertakings given to the court not to engage in unlawful direct action against the HS2 Scheme. I have set out in the following paragraphs the details of some known anti-HS2 activists who have been involved in, arrested or committed for actions under the JSO banner.
70. D28 Scott Breen (aka Digger Down) engaged in a direct action campaign as part of JSO in Chertsey, Surrey between 01.08.2022 and 06.09.2022. D28 established a small unauthorised camp on land required for the construction a new fuel pipeline linking Southampton and Heathrow airport. On 01.08.2022 D28 dug an excavation approximately 2.5m deep and at the bottom placed a lock on device into the wall of the shaft. The lock on device was designed to allow him to place his hand into it should specialist protestor removal officers try to remove him from the hole. Exxon Mobil sought relief from the courts and an order was granted on 16.08.2022 which ordered D27 to leave the land within 72 hours. D28 then constructed a small pallet tower structure over the excavation where he remained until 02.09.2022, only leaving when an arrest warrant was issued by the High Court. On 06.09.2022 D28 was found in contempt and committed to prison for 112 days. 2 articles summarising this action are at **pages 89 to 94**.
71. D57 Samantha Smithson (aka Swan / Swan Lake), a joint founder (with Larch Maxey) of the anti-HS2 wing of XR known as HS2 Rebellion (see **page 95**), was arrested on 07.11.2022 for her part in a JSO direct action campaign on the M25,

where activists were engaged in climbing gantries in 12 different locations on the motorway. The incident on 7.11.2022 forms part of the amended particulars of claim in KB-2022-004333, a copy of which is at: https://nationalhighways.co.uk/media/giodg0c5/amended-particulars-of-claim-23_11_2022-123754941-1.pdf. A video of D57 discussing her arrest on 7.11.2022 was posted to her Facebook profile on 13.11.2022 and a screenshot of that post is at **page 96**.

72. Larch Maxey was formerly D32 to these proceedings and a joint founder (with Samantha Smithson) of the anti-HS2 wing of XR known as HS2 Rebellion (see **page 95**). As detailed in Jordan 1, he dug and occupied tunnels under HS2 Land at Euston in January 2021 and scaled and spray painted the First Claimant's offices at 1 Eversholt Street on 06.05.2021 (and has since been convicted of criminal damage). Maxey had also been involved in a large number of other disruptive direct action campaigns against the HS2 Scheme prior to the imposition of the Injunction. On 26.08.2022 Maxey took part in a JSO direct action tunnel campaign beneath Stoneness Road in Essex, which is an access road to Grays Oil terminal. The direct action closed the road and the access to the terminal. Screenshots of social media posts and stills from videos posted on social media about this incident are at **page 97**.
73. D60, Xavier Gonzalez-Trimmer, was convicted alongside Maxey of criminal damage to the First Claimant's office at 1 Eversholt Street on 06.05.2021. In August 2022 Gonzalez-Trimmer was also engaged in the JSO direct action tunnel campaign beneath Stoness Road in Essex. An Facebook post referring to Gonzalez-Trimmer and his tunnel occupation at Grays Oil Terminal is at **page 98**. D60 died earlier this year and is on the Claimants' list of named Defendants to be removed.

Stonehenge

74. Many of the activists who have been actively campaigning against the HS2 Scheme have also been resident at the Stonehenge Heritage Action Group camp. The Stonehenge camp has been established (by trespass) on land associated with the

A303 works around Stonehenge and the campaign by the activists is targeted at disrupting or stopping works on that road project (screenshots of the camp's Facebook page are at **pages 99 to 100**). This campaign has been running in parallel with the campaign against the HS2 Scheme and activists regularly move between the two campaigns. By way of example, on 15.06.2021, 4 campaigners against the HS2 Scheme, including D17 and D48, undertook a 71 mile trip including hiking, hitch hiking and bunking trains to travel from the anti-HS2 camp at Small Dean to Stonehenge for the Summer Solstice. During this trip the group stopped at the Stonehenge Heritage Action Group camp. D48 is now a permanent resident of that camp. At **page 101** is an image of D17 and D48 participating in this.

75. The close links between the campaigns were articulated by D48 in a post on Facebook dated 03.12.2021 (a copy of which is at **page 102**):

"A lot of the folks passing through stonehenge camp have been up and down the hs2 line and we wouldn't be able to keep the cogs turning at camp if it wasn't for the base building that's been done on the hs2 camps (and by extension all other protest camps) over the last few years. These two campaigns are closely linked in their concerns and their goals. We all want an end to violence against mother nature from the state, and from the patriarchy. Big love to everyone from the anti-hs2 community who has supported us, dropped off materials and stopped by for a cuppa ♡♡".

76. Such is the closeness of the two campaigns that the mother of D63 commented on that post as follows: *"I can send kombucha and scoby when my WAR tunneller joins you"*. WAR refers to the Wendover Active Resistance camp on HS2 Land at Small Dean, the clearance of which was covered in detail in paragraphs 56 to 71 of Jordan 1. The "WAR tunneller" reference is to D63, who had been one of the occupants in the tunnels dug under the HS2 Land at Small Dean. I take this opportunity to correct the identity of the Defendants who occupied the tunnels at Small Dean. The Claimants had previously identified one of the tunnellers as D19, Harrison Radcliffe, but have subsequently confirmed that the Small Dean tunneller referred to in Jordan 1 as D19 was in fact D63, Dino Misina (aka Hedge Hog / Sasha James).

Kier Ends Here

77. The Kier Ends Here campaign is a spin off from the anti-HS2 campaign, conducting secondary targeting of the HS2 Scheme supply chain. Kier is a tier one contractor forming part of the EKFB joint venture, which is carrying out the main works construction along an 80km stretch of Phase One of the HS2 Scheme. Kier is also undertaking early enabling works on Phase 2a of the HS2 Scheme. Kier is also engaged in the construction of prisons. So-called “Kier Ends Here” direct action activism has been undertaken at both HS2 Scheme sites - for example the A41 site in Aylesbury (see Jordan 1 para 29.2.2) - and at mega prison construction sites such as at Full Sutton and Wellingborough.
78. On 31.01.2023, D17, D20, D63 and 2 former residents of the Cash’s Pit and Closepit plantation camps, Rosie Willow Gunter (aka Mung Bean/Moss Quito) and Josie Argyle (aka Gin Ger), blocked 2 access points to HMP Full Sutton with 4 bamboo tripods. Images of D20, D63, Argyle and Gunter in tripods are at **pages 103 to 104**. HS2 Rebellion claimed responsibility for the action. At **pages 105 to 112** is a press release shared on Facebook by D17 where he stated:
*“Our friend [D33] is in prison for their opposition to High Speed 2, for which Kier - the company we are targeting today - have been awarded a £1.4billion contract to build.
HS2 is in shambles! At this point, it may never even be built!”*
Further screenshots of Facebook posts about the action and an article in Construction News are at **pages 113 to 124**.
79. The action at Full Sutton prevented access and egress from around 05:30hrs and prevented works being undertaken at the site for around 10 hours. Later in the above-mentioned press release, D17 gave another insight into why Full Sutton was targeted and the HS2 Scheme was not:
“Despite the huge amount of destruction it will cause, we are now no longer allowed to protest against it without being threatened by an injunction. This is a draconian, privately bought law which threatens anyone who steps foot on HS2

land - or causes disruption in any way - with a 2 year prison sentence, an unlimited fine, and seizure of assets.”

80. An article in the Daily Mail about the action (copy at **pages 125 to 130**), where HS2 Rebellion are quoting as stating:

“Solidarity with: Palestinian action, Kill the Bill, Black Lives Matter, Just Stop Oil and all other activists in prison.”

further reinforces the multi-cause nature of UK direct action campaigning at the current time.

The article continues with: *“‘Kier ends here,’ the HS2 Rebellion spokesperson said. ‘HS2 is a £200 billion mega-project destroying 108 ancient woodlands. Kier profits from building the HS2 and prisons among other things.’”*

XR

81. XR started as a campaign by an organisation called Rising Up. Rising Up’s website has long since been removed from the internet but a screen shot from 2019 explaining the background and origins of the group is at **page 131**. It says: *“Rising Up was formed by activists who have also been part of Compassionate Revolution, Earth First!, Occupy, Plan Stupid (SIC), Radical Think Tank and Reclaim The Power. Rising Up is linked to Compassionate Revolution which was birthed in the Occupy movement.”* Compassionate Revolution Ltd is a company registered in the UK, Company No 09622618.

82. In their “about us” description on their website (screenshot at **page 132**), XR describe themselves as an *“international movement that uses non-violent civil disobedience in an attempt to halt mass extinction and minimise the risk of social collapse”*. In reality, XR is an environmental campaign which is trying to enact political change through direct action. The group uses civil disobedience, disruption and delay to heighten awareness of their cause. HS2 Rebellion, JSO and Insulate Britain may all be considered affiliated groups as they share members and founders and on occasion engage in cooperative actions.

83. HS2 Rebellion may be considered an affiliate group to or “wing” of XR. An insight into the key role played by XR in the evolution of HS2 Rebellion can be seen in comments made on a post on the Stop HS2 Facebook group from 02.01.2023 (copy at **page 133**), where Sarah Snooks comments *“how do you think we got so many people into the campaign! Where were u 4 years ago when the first camp was a year old and totally empty. XR gave us loads of people and even more publicity”*.
84. One campaign by environmental activists that is ongoing as at the date of this statement is an XR campaign known as “Cut the Ties”. This campaign is primarily a secondary targeting direct action campaign, targeting businesses and government departments that are associated with the fossil fuels industry. It also targets businesses associated with the HS2 Scheme. Latterly, the actions being conducted under this banner have been described by XR as being part of 100 days of action counting down to “The Big One - Unite To Survive” starting on 21.4.2023, when XR claim that 100,000 people will gather at the Houses of Parliament (screenshot at **page 134**).
85. On 22.11.2022 a large number of activists operating under the XR umbrella and including activists from HS2 Rebellion (including D36, D39 and D66) executed a series of direct actions under the banner of the “Cut the Ties” campaign at 13 different locations. This included targeting the London office of the law firm Eversheds Sutherland (International) LLP (“**Eversheds**”). The action was livestreamed on Facebook by XR in a video spanning over 3 hours and which cut between the different locations of the action.
86. Eversheds is one of a number of law firms that advise and represent the Claimants in relation to the HS2 Scheme. In particular, Eversheds advised the Second Claimant in relation to the drafting and passing through Parliament of the HS2 Acts and the Phase 2b (Western Leg) Bill and represented the Second Claimant in relation to the committee phases of the HS2 Acts and is currently representing the Second Claimant in relation to the committee phase of the Phase 2b (Western Leg) Bill. Access to legal representation for the Government in dealing with these matters is clearly an important part of the democratic process. As can be seen from the details below, Eversheds’ role in this was cited as a specific reason for them

being targeted with disruptive unlawful direct action activity, seemingly in an attempt to intimidate them into ceasing to act for the Claimants.

87. Eversheds has also previously represented the Claimants in relation to the Harvil Road Injunction and the Cubbington & Crackley Injunction but has not represented the Claimants in relation to these proceedings or the contempt proceedings brought against those Defendants who breached the Cotter Order. Despite this latter point, as can be seen from the details below, the imposition of this Injunction and the imprisonment of D33 following his breaches of the Cotter Order are also cited as specific reasons for the unlawful direct action activity.
88. On 21.11.2022 activists from XR and HS2 Rebellion conducted a direct action outside the London office of Eversheds. The action featured 5 times in the livestream referred to above and copies of the 5 relevant clips are **Videos 3 to 7**. The sections of the livestream from the Eversheds office were narrated by D36 and D66.
89. Upon arrival of the activists outside the office, two unidentified females sprayed the front of the building in black paint, seemingly intended to be “fake oil”, using black fire extinguishers with white writing on the side saying “Cut the ties to the fossil fuels industry”. A still image from **Video 3** showing this is at **page 135**. In addition to the 2 female activists who sprayed the building there was a steel band present and a 2 person white elephant puppet bearing the slogan “Stop HS2” and which has been used by activists at previous protests. D39 was one of the people inside the puppet and he can be seen assembling the puppet in the first 15 seconds of the video montage described at paragraph 97 below, a still of which is at **page 136** activists proceeded to obstruct the entrance to the Eversheds office.
90. The first section of the livestream featuring the action against Eversheds (**Video 3**) ran at approximately 11:30hrs and was narrated by D66 as follows:
“Good morning again we are back here outside Eversheds Sutherland. Going to switch you around so I can talk to you [turns camera to show her face]. Hi everyone, so why are we here outside Eversheds Sutherland you might ask? Well, we are here to cut the ties to fossil fuels and we’re asking these companies that are [inaudible]. You might think what are we doing here? Well, Eversheds

Sutherland is responsible for, er, the insurance and the, well not the insurance, but the legal [inaudible] battles when it comes to all things HS2. So, Eversheds Sutherland – I’m going to switch you around [turns camera back to show the Eversheds office]- who are playing a remarkably, a remarkably green washed, erm, VT in their, er, foyer, which is a bit sickening to watch, are the legal company who pride themselves on their website in creative, er, cutting edge legal works. I read that as, erm, maybe pushing the envelope a bit, when it comes to legal work, creative legal work that is defending HS2 but not only defending HS2, but also bringing prosecutions against peaceful protestors. So Eversheds Sutherland – even before the HS2 enabling Act of 2017, was already being paid £45,000 a week by HS2 to [inaudible] Euston residents who were seeking to, er, find justice for the demolition work that was going on around there, seeking to find justice for the pollution to the aquifer that supplied 22% of London’s clean water. Eversheds Sutherland were the legal company that defended HS2 in the courts when it came to Affinity Water, who tried to, erm, get, er, the courts to recognise that HS2 was going to pollute the chalk aquifer that supplies fresh drinking water to 22% of London.”

91. In **Video 4** D66 interviewed one of two females obstructing the entrance to the Eversheds office, who informed D66 that she was there because:
- “Eversheds, who were the law firm that enabled these contracts and work for these companies and now bring, er, injunctions to the court so that peaceful protests cannot go ahead at these sites anymore. So the whole of HS2 and the whole of the Exon pipeline site is now fully injunctioned, which was brought to the courts by this company here [points behind her to the door of the Eversheds office] erm, and granted by one person, one Judge, through money and power, erm, to stop us having any sort of voice. And we’re now seeing peaceful protestors imprisoned, not for committing any crime whatsoever, but breaking an injunction and that is just absolutely disgusting abuse of wealth, power and that’s why I’m here today.”*
92. D66 then goes on to say:
- “These injunctions, they are against peaceful protest, although they would claim that not to be the case, erm, currently we have a peaceful protestor who is in prison, er, for protesting against HS2. That person was, or is, a named defendant. But we*

also know of at least one person unknown who already has been warned by HS2 lawyers, by Eversheds Sutherland, erm, for apparently or allegedly breaching the injunction, although we have irrefutable evidence that that is not the case. That is not the case. And yet this peaceful protestor, who is a person unknown, has already received a warning, erm, so, despite Eversheds Sutherland in the legal paperwork that they drew up and despite their lawyer claiming that these injunctions would not be to prohibit peaceful protest, it would seem that peaceful protestors are being targeted, to significantly inhibit, their right to peaceful protest, but also any named defendants, are, have prosecutions brought against them and risk imprisonment and indeed have been imprisoned.”

and

“here to raise awareness of how Eversheds Sutherland is facilitating HS2, but also Exxon, in the pipeline from Southampton and they brought the injunction to restrict peaceful protest against Exxon and against HS2.”

93. As set out above and as is evident from the documents relating to the Injunction, including the Injunction itself (a copy of which was sent direct to D66 as described elsewhere in this statement) Eversheds did not and do not act for the Claimants in relation to these proceedings and have not sent any correspondence to anyone on behalf of the Claimants in relation to the Injunction. Eversheds did not act for the Claimants in relation to the Cash’s Pit Contempt and had no involvement in that case, which resulted in the imprisonment of D33 for the contempt referred to by D66. I believe the reference to a warning having been issued to a person unknown is a reference to correspondence issued to D66 by the solicitors (not Eversheds) that did act of the Claimants in relation to the Injunction, following a breach of the Injunction committed by her and D67 on 06.10.2022 and which is described at paragraph 46 of this statement.

94. In **Video 5**, a screenshot of which is at **page 137**, an activist called Dorothea Hackman is interviewed by D36. She says:

“It’s very exciting to be here, as for an incredibly long time, Eversheds has persecuted us when we’re exercising our legitimate right to peaceful protest against High Speed Two and I was horrified to find that not only did they pay Eversheds £5000 a day to trash our petitions back in 2015, before Parliament went

right ahead to pass the hybrid bill that enabled High Speed Two to destroy ancient forests, ruin, absolute devastation a Trafalgar square sized area around Euston station, cutting down our trees, cutting down our trees when we have a climate emergency and we need every tree and green space we can get. So you can imagine how horrified I was to find out that Exxon Mobil are building a pipeline from Southampton to Heathrow in order to increase the amount of jet fuel they can get there for the third runway. I mean, again this is an appalling thing to do when we have an impending catastrophe that threatens the lives of all of our grandchildren, and they too are taking injunctions out against people who protest about the pipeline. I can't begin to tell you how good it is to see people gathering here to protest against Eversheds Sutherland who are clearly major evil doers in the gloomy background of fossil fuel giants. Thank you."

95. In **Video 6**, a screenshot from which is at **page 138**, D36 does a piece to camera, the tone of which is more sinister and which focuses on the individual people who work in the Eversheds London office (again, who had no involvement in the Injunction proceedings or the Cash's Pit Contempt):

"So behind me is Eversheds Sutherland, Eversheds Sutherland is one of the biggest legal companies in the world. They actually specialise in property, but in specialising in property they also specialise in all the companies that are on the wrong side of history: oil, that's HS2, that's the Nuclear fuel companies, that's life sciences. All backed by these people, all their trading is done through these people and all the legal attempts to stop protest are done through these people. People are going to prison because of the actions the people in that office take. People who have not broken a law, who have not committed a crime are going to prison because of those people over there. The biggest thing that we can do, all of us is stand up and be a part of the protest, this [points at Eversheds office] is anti-democracy, that [points at Eversheds office] is anti-democracy, down here [points at activists] that is democracy, that is real democracy, people speaking truthfully and honestly from the heart. Come out and join us it's the biggest piece of power mongering that you will ever have."

96. In **Video 7** there is a round-up of the day's action in which it is confirmed that the HS2 Rebellion group conducted the action against Eversheds.
97. On 25.11.2022 a shortened video montage narrated by D36 of the action against Eversheds (including footage of the preparations for it) and encouraging others to participate in similar action, was shared on the HS2 Rebellion Facebook page. That post has since been removed, but I took a copy of the video and a screenshot of the post before it was removed and the video is **Video 8** and the screenshot is at **page 139**. D36's narration over the video is as follows:

"As long as we consider profit as our only metric for a successful society, we are gonna carry on destroying the world that we live in, and that is exactly what HS2 is.

For the last 2,3,4 weeks there was genuine hope that sense was going to prevail at long last, but it looks like the construction industry have pushed Hunt into going ahead with it. Even if we get rid of the Conservatives we will have exactly the same problem with Labour. Which is why we have to have protest such as we are about to embark upon here today [video shows 2 women with black fire extinguishers spraying a black substance across the windows of Eversheds' London office]

The only way to buck that trend is to be out here and stand against the system yourselves. This is your power"

At 00:01:06 the audio shifts to an unknown female activist, who says:

"We are at Eversheds Sutherland, erm, they are complicit with ecocidal companies like Exxon Mobil and HS2, they support as a law firm with contracts for both those firms and then further down the line also the injunctions that are now imposed. So we are here today to call out Eversheds Sutherland and say cut the ties and move away from these companies."

At 00:01:42 the audio shifts to another female activist, who says:

"When we were petitioning Parliament not to have High Speed 2 back in 2015, Eversheds - Eversheds Sutherland as they now are - have been paid £5000 a day to trash our petition and they are colluding to criminalise peaceful protest. I

mean look at what has happened to Jellytot [D33], he's been in prison for 280 whatever days merely for breaking an injunction. Eversheds' injunction did that. Eversheds' Injunction against the pipeline that put Digger in jail for a month".

98. On 28.02.2023 around 60 activists operating under the XR umbrella and including activists from HS2 Rebellion executed another series of direct actions under the banner of the "Cut the Ties" campaign. They again targeted Eversheds – this time disrupting Eversheds' offices in London, Birmingham, Cardiff and Nottingham. Access to the offices was obstructed, criminal damage committed to the buildings with slogans spray painted across them and attempts made to intimidate those working in or visiting the offices.
99. The action was livestreamed to Facebook and a copy of the video is at **Video 9** and stills from the video are at **pages 140 to 144**, along with a photograph of the damage done to the Cardiff Office, which did not feature in the video. In this section of my statement, I have described the action shown in the video and provided transcripts of some of the commentary over it. The information banner running along the bottom of the video and the accompanying summary on Facebook (a copy of which is at **page 145**) makes it clear that this action was related to Eversheds' work on the HS2 Scheme and designed to intimidate Eversheds into ceasing to act on behalf of the Claimants. The banner running along the bottom of the video reads:
- "LIVE: ACTIVISTS TELL MULTINATIONAL LAW FIRM EVERSHERDS SUTHERLAND TO STOP AIDING PLANETARY DESTRUCTION. ACTIVISTS FROM EXTINCTION REBELLION ARE TAKING PART IN NON VIOLENT DIRECT ACTIONS IN BIRMINGHAM, CARDIFF, LONDON AND NOTTINGHAM TO DEMAND THE LAW FIRM CUT THE TIES WITH COMPANIES SUCH AS ESSO (EXXONMOBIL) AND HIGH SPEED 2 (HS2). THESE COMPANIES ARE ACTIVELY TAKING PART IN THE DESTRUCTION OF NATURE AND ENABLING FURTHER BURNING OF FOSSIL FUELS AND EVERSHERDS SUTHERLAND ARE AIDING THEM TO CONTINUE THIS WORK UNINTERRUPTED. THE PROTESTORS, AS PART OF THE CUT THE TIES CAMPAIGN ARE DEMANDING EVERSHERDS CUT THE TIES WITH THESE*

*COMPANIES. THE ACTION IS PART OF THE 100 DAYS COUNTDOWN TO
“UNITE TO SURVIVE”*

100. The video opens with footage of activists preparing spraying a black substance (evidently intended to represent oil) across Eversheds’ Nottingham office. The video then cuts to feature an activist outside the front of Eversheds’ London office, who introduces the livestream. At 0:01:20 of the video, 7 members of the “red rebel brigade” of XR are shown outside Eversheds’ London office. The activist narrating the video says:

“We are here in London, we are outside the Eversheds Sutherland, multinational law firm’s headquarters right here slap bang in the City of London”

“Hi, so you were just watching the Notting Hill, Nottingham streams, we are back here now. So you’re here in Central London in the city of London in fact with the Red Rebels as you can see we are outside the Eversheds Sutherland Headquarters erm they are a multinational law firm who are the lawyers for lovely companies such as High Speed 2, HS2 you may of heard of them and also Esso which was Exxon Mobil. Erm they are erm some the solicitors who have been very helpful in getting some of our amazing rebels some very strict erm injunctions against the actions that they are taking.”

101. Later in the video at 00:04:15 the narrator explains in some detail why Eversheds have been the subject of the day’s action:

“We are telling Eversheds Sutherland to stop working on these injunctions. Why are they helping companies like HS2 and Esso to erm be able to continue their devastation of the planet. We could even suggest that they should be our lawyers [laughs] and help us, the climate activists. Why are they on the wrong side of history? So that is what we are saying here today. Don’t help these companies. So, the really well-known injunctions, er first came out in Harvil Road area in West London for the HS2 protestors. The HS2 protestors were setting up camps and trying to obstruct the work that was being done in the area, for the HS2 project”

102. The narrator then goes on at 00:05:32 to talk about how activists campaigning against HS2 are drawn from a broad church of groups:

“So our brave rebels from Extinction Rebellion, but also Stop HS2, HS2 Rebellion and lots of other groups have been working very hard to try and obstruct the destruction of the woodlands and the forests, the trees, erm, and instead of there being the recognition from, erm, from, er, these kinds of companies like these big multinationals, they’re thinking: we know, we’ll take HS2 on as a client and erm go to court and get lots of injunctions to put on these brave, brave rebels who are trying to stop the destruction of nature and erm if you have ever been to the site the notes are all, er, sort of, erm, pasted all over the fences where it says no one is allowed to come here, erm, you’re not allowed to protest here erm so that is basically the job of Eversheds Sutherland, erm, so very unpleasant, erm, bunch”

103. Following this the livestream returns to Nottingham where an activist in white coveralls explains at 00:07:20 that they have sprayed the office in fake oil: *“because they’ve represented the government in doing a injunction against HS2 peaceful protestors, and also against the protestors against the Esso pipeline, and so we are calling them out, they have been hidden so far, this is our chance to let the world know that these people are facilitating climate crisis by their involvement with the government. What we have done today is proportionate and necessary. There’s a trivial amount of damage that we’re causing”*.
104. The livestream then cuts to Birmingham, showing the outside of the building where graffiti can be seen sprayed on the ground and on the windows and doors at the entrance to Eversheds’ offices. The narrator in Birmingham introduces the livestream and action at 00:08:30 with: *“Hi we are live from Birmingham where we have also targeted the offices of Eversheds Sutherland, and spray painted the message onto the doors of their building. We are asking them to cut the ties to fossil fuels, to stop defending fossil fuel companies and HS2. To stop bringing injunctions to court that are imprisoning activists who are trying to save our planet. So we are here from Birmingham as well, this is our third site today and we are spray painting our message on to the floor, on to the windows, on to the doors and the people inside do not look very happy”*

105. At 00:17:00 the livestream returns to London, where a person can be heard shouting “Eversheds Sutherland your silence is violence” the footage then shows the individual (who was formerly D55 to these proceedings) Jacob Harwood, holding a large banner blocking the access to the building. The banner reads Eversheds Sutherland = Unjust Injunctions. Shouting can be heard in the background: *“cut the ties to fossil fuels and HS2, Eversheds Sutherland your silence is violence”*. Harwood requested that he be removed as a Defendant at the hearing in May 2022 and in writing to the Claimants’ solicitors and the court.
106. Later in the livestream at 00:19:37 the narrator describes the activists’ outfits as: *“faceless lawyers that have blood on their hands”* and *“we are saying Eversheds cut the ties to these companies that you should not be representing. Why are you representing these kinds of companies? And we see here the faceless lawyers.”* Somewhat ironically, the narrator goes on to describe injunctions against protestors as *“intimidation”* that Eversheds are using to *“try and stop us from disrupting the works of things like HS2”*.
107. One of the most disturbing aspects of the unlawful activity taken against Eversheds is that it represents a deliberate attempt by activists opposed to the HS2 Scheme to use threats, intimidation and criminal damage to try to force a law firm to stop representing its clients, including acting for Government in a vital part of the democratic process of the passing of Acts of Parliament. This strikes at the heart of rights of access to justice and legal representation and the democratic process. It is also striking how little attention is paid by these individuals and groups to the details of the “justification” for their actions. It is very clear from the documents relating to the Injunction and the Cash’s Pit Contempt that Eversheds did not act for the Claimants in relation to those cases and yet these groups are still seeking to justify the unlawful action by alleging Eversheds’ involvement.
108. The Claimants consider that the action clearly demonstrates that activists opposed to the HS2 Scheme remain intent on using unlawful means to try to disrupt the project and cause loss and damage to the Claimants. These individuals and groups are actively seeking and exploiting means of achieving that whilst

avoiding breaching the Injunction in its current terms. It is highly likely that were the Injunction not to be continued and the current prohibitions under the Injunction removed, these individuals and groups would return to the direct targeting of the HS2 Scheme in which they were engaged prior to the imposition of the Injunction.

109. Since the imposition of the Injunction, tier 1 contractors working on the HS2 Scheme have also been the subject of secondary targeting. The BBV compound at Swynnerton has been targeted twice by activists opposed to the scheme (see paragraphs 50 to 51 above).
110. Activists opposed to the HS2 Scheme have also evolved their tactics to conduct direct action interfering with works and intimidating staff and contractors that has been carefully planned to avoid breaching the terms of the Injunction, but to still cause as much disruption, loss and damage to the Claimants as possible. I have described in detail an instance of this by way of example in the paragraphs that follow.
111. From 23.01.2023 the First Claimant's contractor, EKFB, was scheduled to undertake de-vegetation works (including the removal of trees) along an 800m stretch of HS2 Land adjacent to the A418 to the west of the town of Aylesbury. These works were required in order to prepare for the realignment of the A418 that is to take place in this location as part of the HS2 Scheme.
112. To enable EKFB to safely conduct the works, the First Claimant exercised its powers under paragraph 6 of Schedule 4 of the Phase One Act to temporarily stop up the highway for the duration of the works.
113. The works involved the closure of a single lane on the A418 between 09:30 to 15:00 on weekdays. The road was then fully closed only on Sundays from 08:00 to 18:00.
114. The operation of Schedule 4 of the Phase One Act is described in detail in Dilcock 11. The effect of the temporary stopping up under Schedule 4 in this area was to remove the rights of the public to enter onto the parts of the highway that had

been temporarily stopped up and to make the land an HS2 Scheme work site. Each period of temporary stopping up was the subject of a separate Schedule 4 submission. These submissions are made through the Government portal for managing roadworks, which is known as Street Manager (<https://www.gov.uk/guidance/plan-and-manage-roadworks>). Information about roadworks submitted through the Street Manager portal is publicly available. The incidents of disruption to the works described in this section of my statement occurred on 05.02.2023 and a copy of the Schedule 4 submission for the temporary stopping up of the A418 on that date is at **pages 145 to 149**. To assist with orientation a plan showing the location of the works and the incidents that occurred during the works is at **page 150**.

115. The southern edge of the road was lined by mature trees which required removal to enable the realignment. A single lane closure was in place from Monday to Friday to allow the removal of the smaller trees. However, Sundays were reserved for the removal of the largest trees and the clearance of a drainage ditch beside the road. The largest trees were over 15m tall requiring the larger branches to be dropped by arborists onto the carriageway below. In addition, forestry equipment like logging machines which can lift whole trunks were being used, these machines are noisy and due to the risk of debris safety areas are required. In order to establish safe working areas red and white pedestrian barriers were used with pedestrian routes clearly defined around the works area. Furthermore, security personnel were deployed to ensure a safe working environment throughout. A plan showing the works area, pedestrian routes overlaid on the relevant section of the Parliamentary Plans for this area is at **page 150**.
116. Advanced notice of the works, the lane/road closure and the diversion that was to be in place during the closure were posted in local media and on social media and were shared by local businesses from 10.01.2023. These posts were shared extensively with one post on the Aylesbury and Wendover news Facebook pages being shared 74 times.
117. On 15.01.2023 EKFB CCTV cameras identified D66 and D67 outside the HS2 Scheme site entrance on the A418. Then on 22.01.23 D66 uploaded a livestream

to Facebook whilst walking along the A418. During this she met with D67. This livestream was posted on the HS2 Rebellion Facebook page on 22.01.2023. A screenshot of the post is at **page 151** and a copy is at **Video 10**.

118. D66 opened the livestream with an introduction to what she was doing and a misrepresentation of the works as a complete road closure for a week (it was not, as set out above). She then speculated on the potential consequences for that incorrectly characterised road closure.

119. The livestream showed a conversation between D66 and D67, with their conversation initially focussed upon the road closure and an incorrect belief that it would apply to emergency vehicles (the works were planned to allow for emergency vehicles to use the section of the A418 that was temporarily closed, should that be required and that is reflected in the Schedule 4 submission). Their conversation then turned to the Injunction as follows:

D66: *“last week when we were here we picked up on the fact that along here there were no notices of the injunction”*

D67: *“Yep”*

D66: *“Now you, and, I wonder, I think, I think HS2 are a bit sneakier than we give them credit for, because we were, we were actually discussing this at the gate, and then what did you find the next day? Was it the next day?”*

D67: *“2 days later I walked down here and there was a copy of the injunction taped to the fence”*

D66: *“well lo and behold just in case we should be in any doubt”*

120. Copies of the Injunction had been placed in this location in line with the principles set out in paragraphs 10 and 11 of the Injunction as the location had been identified by myself, in conjunction with the EKFB security manager, as HS2 Land considered likely to be targeted by objectors to the HS2 Scheme.

121. The conversation in the livestream continued as follows:

D67: *“which is funnily enough is what they did, a couple of other walks we’ve done in other parts of this they’ve suddenly, the injunction notices have appeared on a fence”*

D66: *“I know. Bit late then though, wasn’t it?”*

D67: *“It is”*

D66: *“Bit late by then”*

122. I am quite certain that this reference to other locations where they have been walking relates to their trespass and removal from HS2 Land on 06.10.22 (see paragraphs 31 to 45 above). Following that incident, I advised the local security manager that copies of the Injunction should be placed at that location. A copy of the Injunction was also served on D66 by the Claimants’ solicitors (see paragraph 46 above). D67 had not been identified at that time and so a copy could not be served on him.

123. D66 went on in the livestream to reference the incident on 06.10.2022 and to deny that she breached the Injunction, directly addressing Julie Dilcock, whom she incorrectly identified as working for “DL Piper” and incorrectly identified as having written to her about breaching the Injunction:

D66: *“oh by the way big shout out to Julie Dilcock at DL Piper HS2 solicitors. Hello darlin’ – you having a nice day? Erm, Julie Dilcock, for those who don’t know, she’s the lead counsel, she’s lead counsel, Julie – well, did I say lead counsel? She’s not lead counsel, but she’s, she’s the woman that drew up the, that has her name, er, assigned to the Injunction.*

D67: *“Oh right”*

D66: *“Yeah”*

D67: *“Interesting”*

D66: *“She’s not that interesting. Erm, anyway, just so you know, Julie my love, erm, not only have I never had any intention of breaking the injunction, I’ve not broken the injunction, erm, this is all livestreamed, so, erm don’t just take my word for it, don’t just listen to your new security, er, that’s here. They’re kinda the ones, the guys with the green hats, er – Romeo – as well. Ryan, hi Ryan, if you’re watching as well. He’s head of security round here, I haven’t seen him in ages.*

D67: *“Who’s that sorry?”*

D66: *“Ryan!”*

D67: *“Oh, right, yeah, yeah”*

D66: *“Romeo, you know him. Anyway, erm, he’s got, he’s been promoted and he’s now heading up, you know those two guys with the green lids. Erm, and then and then they went telling tales out of school and said that I breached the injunction. Julie my darlin’, don’t exercise yourself anymore and have to go writing off silly emails, cos this, this is obviously being livestreamed and everyone will see very clearly that I’ve not breached any injunction today, not did I last Sunday and I certainly didn’t on the 6th of October when you accused me of doing so. Erm, and I have still, I have still got the video. I did actually offer to send that to you but I have not heard back from you. I don’t know why you’re being shy Julie”*

124. D66 also showed one of the copies of the Injunction displayed outside the HS2 Scheme site entrance in the video.
125. From 08:00hrs on 05.02.2023 the A418 was temporarily stopped up and closed between the Bugle Horn Pub at the west and the A418 roundabout to the east to allow for the safe removal of larger trees which could not be conducted under a single lane closure. Sunday 05.02.2023 was the second full road closure that had been implemented. The previous closure on 29.01.2023 had been largely uneventful. D67 had attended and took photographs of the works but no attempts of note were made to disrupt works and I personally witnessed D67 move position whenever asked by security officers.
126. As set out in the Schedule 4 submission, despite the removal of the rights of the public to pass and repass over the temporarily stopped up section of the A418 (whether by vehicle or on foot), the First Claimant’s contractors intended nonetheless to facilitate pedestrian access through the works area by directing pedestrians along a safe route, albeit that it was envisaged that at some points pedestrian access would need to be closed entirely for safety reasons.

127. On the morning of 05.02.2023, setting up for the complete road closure involved the establishment of a perimeter by the contractor's staff with the assistance of the security team and then segregating the areas where works were to take place with barriers to create safe working spaces into which members of the public were not permitted. The setting up of the works area took a period of time at the beginning of the day, before the road was then physically closed (the legal effect of the stopping up to remove the rights of the public to pass along the road were already in effect pursuant to the exercise of Schedule 4 powers).
128. D66 arrived in the works area just after 9am and began livestreaming to Facebook (she uploaded livestreamed videos totalling almost 3 hours in length that day) as she approached from the roundabout located to the east of the works area. Relevant extracts of D66's livestreams are at **Video 11**. At around 9 minutes into her first livestream (at around 09:39hrs) she met with and spoke to D67. From their initial conversation and subsequent engagement with EKFB staff it became clear that D66 and D67 had a solid understanding of the terms and boundaries of the Injunction and land possessions in the immediate area and were knowledgeable about what actions would constitute a breach of the Injunction. D67 even remarked that he had "*taken legal advice*". In this footage D67 could be seen carrying a copy of the Injunction and also some of the laminated diagrams which showed the boundary lines as they appear on the ground. Unfortunately, the advice that D67 claimed to have obtained did not appear to have correctly informed him about the right to and effect of the stopping up of the road under Schedule 4. In the video D67 remonstrates with the security personnel claiming that they cannot stop pedestrians and cyclists "*going anywhere they want on the footpath and the road.*", which was obviously not the case.
129. Through their conversation with the EKFB foreman shown in the livestream, D66 and D67 make their intentions and modus operandi for the day quite obvious: D67: "*Coz when I look at this it goes up to the edge of the footpath, if you look at that closely that goes up to the edge of the footpath, it doesn't include the footpath.*"

EKFB foreman: *“This is something you’re going to have to take up with HS2, I am only responsible for the machine and my employees, I am not responsible for any road closures or anything or anything to do with that.”*

D67: *“So if we stand here you can’t work.”*

The EKFB foreman gestures with his arms by his sides in acknowledgement

D67: *“but we are not doing anything wrong are we?”*

EKFB foreman: *“That’s down to you and HS2, if you stand here, I can’t work”*

D67 *“yeah yeah”*

EKFB Foreman: *“and that’s the bottom line”*

D67: *“But we are not doing anything illegal”*

D66: *“We are not doing anything illegal”*

EKFB foreman: *“I’m just making sure that I’m not causing any harm. So any time you stand in front of my machine, then I just have to stop my work. All I’ve got to do is make sure you guys are safe.”*

D67: *“The best way of doing your health and safety is to not create the issue in the first place. You ought to tell your bosses to get their act together.”*

D66: *“You are a free man, you don’t have to do as you’re told.”*

EKFB foreman: *“Well, are you gonna go and pay my mortgage?”*

D66: *“Ah, no,no,no,no,I didn’t say you, I didn’t say you had to give up your job, I didn’t say you had to give up your job my love. Yeah, I know, it’s alright, if you don’t do it we won’t tell anybody.”*

130. It was clear from the exchange that D66 and D67 intended to position themselves in such a manner that works would not be able to continue safely, but without breaching the terms of the Injunction and that was exactly what then happened. For the next c. 4 hours – throughout the duration of the works – D66 and D67 repeatedly entered onto the stopped up highway outside of the safe areas that had been designated by the First Claimants’ contractors for the use of pedestrians. Such entries onto a highway stopped-up under Schedule 4 of the HS2 Acts without the consent of the First Claimant are unlawful. They entered into a number of altercations with the First Claimant’s security incident response team (“IRT”) and contractors and disrupted works by placing themselves in areas which would have then made continuing the works a hazard to their health and safety. They refused to leave when asked by the IRT and by the contractors and

had to be physically ushered away. D67 engaged in pushing and shoving members of the IRT and physically overpowered a female member of the IRT. He dragged a pedestrian barrier approximately 3m across the carriageway. A number of these incidents were captured on D66's livestream and others on footage taken by a drone belonging to a member of the public that was flying in the area that day. I have described some of the incidents in more detail below and sections of relevant video are at **Video 11**.

131. D66's second livestream of the day was taken commencing at 10:43hrs and shows an incident in which she was on the carriageway of the stopped-up highway. A member of the security team asked her very politely to leave the carriageway and she refused. The security team member then ushered her from the highway to allow a works vehicle to pass. D66 remonstrated with the security team member, who calmly and repeatedly advised her that she could not be on the road that day. D66's responses quickly deteriorated to a tirade of abuse.

D66: *"I'm using my phone at the moment, I'm using my phone at the moment."*

IRT member: *"You've already said that my face offends you, so you keep walking and I won't offend you anymore."*

D66: *"It does, your attitude offends me, your job offends me, your life offends me, the way you earn your money offends me, because you are an absolute scum on society. You are contributing to destroying this world, to destroying the future of our children. Do you know that? Do you know that? Do you know that?"*

132. D66 and another activist then took issue with the fact that they were not allowed into an area that had been segregated with barriers to allow the works to take place safely. A member of the IRT explained the position to them:

IRT member: *"There are works taking place on various parts of the road, they are just trying to keep people safe that is all, that simple."*

and

IRT member: *"there's a gigantic machine over there cutting trees, it's not very safe, you will have to go around."*

133. At 11:06hrs and despite the clear warnings issued to her by the IRT, D66 opened the barriers and walked into working area, which there was no public right to

enter, in full knowledge (having been told by the EKFB foreman earlier, as set out at paragraph 129 above) that works could not be conducted if there was a potential threat to safety. Over the course of the next 53 minutes D66 then attempted to move closer to works on a number of occasions. D66 was repeatedly warned that she should not move any closer for her own safety. D66 then proceeded to sit down in the works area.

134. Shortly afterwards, D67 entered into a physical altercation with members of the IRT. As can be seen in the drone footage, D67 pushed and shoved members of the IRT and dragged a pedestrian barrier approximately 3m across the carriageway. D67 overpowered a female IRT team member and then barged into her. He then attempted to run into the works area and had to be physically restrained by two other IRT members. All of these activities by D67 were unlawful (constituting, for example, trespass, nuisance and battery). The IRT team members then proceed to remove D67 from the area.

135. At around 11:50hrs D66 again attempted to stop the works by putting herself in danger and was prevented from getting closer to the equipment by a security officer who told her that it was not safe. This interaction was captured in her third livestream. The passage of conversation was as follows:

Security Guard: *"it is not safe for you to be here."*

D66: *"That's why he [referring the machine removing trees] needs to stop what he is doing."*

136. D66 had to be physically prevented from getting any closer by security officers. Then at around 12:00hrs D66 was removed from the area by the IRT, having spent approximately 53 minutes attempting to delay and disrupt works by placing herself in harm's way.

137. D66 continued to livestream following her removal, and at 12:07hrs again addressed the First Claimant's legal representatives:

"So HS2 Lawyers before you bother sending me an email to say that I have breached the injunction, I haven't, this isn't in injuncted land, erm..."

138. D66 kept her livestream running and at 12:18 engaged with another member of the public, when she again outlined that they should adopt a tactic of positioning themselves where works were being carried out, thereby forcing the works to stop for safety reasons:

“We need them to stop, erm we need to position wherever they are working.”

and

“that man really should, [D66 Shouts to IRT and EKFB staff] Excuse me! There’s a member of the public down there shouldn’t he stop what he is doing, because there’s a member of the public there”

and

“We should go and stop what he’s doing there’s a member of the public there”

“We better go and tell him to stop.”

139. By around 12:39 D66, clearly frustrated by her lack of success in stopping work, became aggravated and increasingly offensive towards the IRT and the First Claimant’s contractor’s security staff. This culminated in the following abusive diatribe directed by D66 at the security officers:

“How do you sleep at night; how do you sleep at night. No answer, maybe he doesn’t sleep at night, maybe he has no soul.”

“The only reason he is that cross is coz he’s not getting off at 2 o’clock like he thought he might.”

“Doesn’t give a shit about the environment, and you, and you, and you, and you, more interested in earning some money than what’s happening to the environment. You’re disgusting, you’re disgusting. Absolutely disgusting examples of humanity. I suppose you’re the same kind of people who complain about people sitting down in the road. Are you the same kind of people that complain about Insulate Britain and Just Stop Oil sitting down in the road because they’re stopping blue light vehicles, and look what you’re doing, you absolute hypocrites, you disgusting hypocrites. I bet you phone into Nick Ferrari don’t you complaining about protestors blocking roads for blue light ambulances and look what -”

“Yeah, walk away, walk away Jay. Walk away, pathetic, hypocrites blocking the road for blue light vehicles, that might come down here, that have come down here this morning, and had to proceed at about 10 mph. These are the same people

that complain about protestors sitting in the road. They're doing it themselves on a route that we've seen, we've seen blue light ambulances."

"I hope it isn't your mother, or your mother, or your mother, or his mother, that might get stuck in a blue light vehicle wanting to go to Stoke Mandeville Hospital down there. I hope it's not, you know, a fire engine that might be up there going to the thatched cottages down there that are burning down. Cause it will be on your head, and your head, and your head.

So congratulations, good day's work, I hope the money's worth it, I hope the money is worth it and I hope every single penny that you spend makes you sick, and makes your children sick. And I hope that food the you put on the table from the money you earn makes them sick and I hope that you can look them in the eye and you've got the nerve to look them in the eye and explain where that money's come from, and I hope they vomit all over you.

You've got kids that feel proud of you? I doubt it, I doubt it. Got nieces and nephews, you go home and tell them what you've done? How you earned some money to buy them their Christmas presents and their birthday presents and take 'em on little outings.

What holiday did you go on this year with all the thousands and thousands that you've earned, when you're sunning yourself in Tenerife or wherever it was. Absolute hypocrites, absolute hypocrites."

140. During this incident, D66 and D67 showed they had a clear and unambiguous understanding of the Injunction. On 05.02.2023 D67 was in possession of a copy of the Injunction, and several references had been made to the Injunction on the livestream on 22.01.2023. The objective of D66 and D67 on 05.02.2023 was clear: they intentionally conspired to delay and disrupt the works. Their method, however, was cognisant of the Injunction and they were careful not to breach it. But for the proactive deployment of specialist security by (and at cost to) the First Claimant, the actions of D66 and D67 would have resulted in significant delays to works.
141. The presence of D66 and D67 and their prior reconnaissance and the subsequent actions of 05.02.2023 had necessitated the deployment of considerable additional

security resource at a cost to the First Claimant and that resource was then able to prevent serious disruption occurring to the works. However, had this resource not been deployed, then the traffic management, project management and de-vegetation teams would have had to return to complete their works the following Sunday at an estimated cost of c. £20,000 and with further disruption to the public's use of the road.

142. Once it became apparent to D66 and D67 that their tactics had been anticipated and rendered ineffective, the tone of the interactions changed. D66 was offensive and aggressive towards staff and D67 became physically aggressive and violent towards staff. D66's interactions with the First Claimant's IRT and contractors during these works were highly reminiscent of the examples of extreme verbal abuse described in Jordan 1 as creating an unreasonably difficult and stressful working environment for those working on the HS2 Scheme. Her actions and those of D67 placed themselves at risk and hampered and disrupted works authorised by Parliament for the construction of the HS2 Scheme.

143. As can be seen from the foregoing, whilst the Injunction has provided welcome relief to the Claimants from the sustained unlawful activity targeting the HS2 Scheme that they were previously experiencing, activists who had previously targeted the HS2 Scheme have not moved away from unlawful direct action, they have merely displaced to other "causes". Anti-HS2 activists have also continued to try to find ways to target the HS2 Scheme that do not breach the Injunction, but still cause as much delay, disruption and loss as possible. It is therefore clear that the threat of unlawful activity targeting the HS2 Scheme remains real and imminent and that there is a need both to continue the Injunction in its current terms and to extend it to prohibit the unlawful activity that has been occurring and which is not currently prohibited under the terms of the Injunction.

Ongoing risk of unlawful conduct and need for continued injunctive relief

144. 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.

145. 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 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.
146. When actions have been undertaken against the HS2 Scheme, they have by and large been deliberately cognisant of the terms of the Injunction, as articulated by D17 in his press release regarding the Full Sutton action (see paragraphs 78 to 79 above). Without the protection of the Injunction, the Claimants will be in a position where key activist leaders who have joined other campaigns, expanded their networks and potentially further refined their tactics are able to return to target the HS2 Scheme.
147. As demonstrated by the example of the incidents on the A418 in Aylesbury on 05.02.23, activists opposed to the HS2 Scheme are constantly adapting their tactics and will look to work around the Injunction to find ways to continue to target the HS2 Scheme with the aim of causing disruption, delay and cost. In Aylesbury, mindful that the First Claimant's contractors will always prioritise health and safety, D66 and D67 specifically sought to place themselves in dangerous positions, thus compelling the First Claimant's contractors to cease work, thereby delaying, disrupting and causing loss and damage to the Claimants. The Claimants are seeking the protection of the court from such tactics.
148. Historically, injunctions to deal with unlawful direct action campaigning which have been tightly geographically bound have been incredibly successful at preventing trespass. For example, Cuadrilla Resources for whom I was formerly the Head of Business Resilience, had an anti-trespass injunction on their Preston New Road site from 28.02.2017 until the end of works at that site and which essentially eradicated trespass on the site. However, the direct action at that location evolved and activists found workarounds to try to continue to disrupt the

work at the site without breaching the injunction. Of the over 400 arrests at the Preston new Road site between January 2017 and September 2019, only one was for actions on the site itself (criminal damage to fencing).

149. The recent Government announcement about delays to the HS2 Scheme and the fact that contentious work has barely begun on Phase 2a make further evolution of tactics such as the nascent tactics observed on 05.02.2023 at Aylesbury or simply beating the Claimants to possession of land increasingly likely.
150. The most contentious works undertaken by the Claimants from the perspective of activists are the removal of trees and hedgerows and this work may only be undertaken outside of bird nesting season. Birds are usually nesting in Q2 and Q3 therefore survey and vegetation removal is undertaken between October and April, and direct action has typically peaked during Q4 and Q1 as a result (see Groves 1).
151. The objective of activists opposed to the scheme remains to raise awareness, delay and disrupt in order to increase costs. The increased costs in turn affect public opinion and political viability. This is one of the primary reasons that activists focus upon delaying de-vegetation work. If the works are not completed in time, then they are delayed to the next season. Only once woodland is cleared can the civils and ground works be conducted and ideally these works are undertaken during the summer months when the ground is drier. Therefore, if activists can delay work scheduled in March by 6 weeks the compound delay to the programme can be as much as 12 months, as the subsequent earth works cannot be undertaken until the following summer.
152. As outlined at Groves 1, activists opposed to the HS2 Scheme have consistently looked to scout ahead and occupy land required for the HS2 Scheme prior to the Claimants exercising their powers under the HS2 Acts and taking possession. For example, the unauthorised encampments at Euston Square Gardens, Small Dean and the Cash's Pit Land (all described in Jordan 1) were all established before the Claimants exercised their powers to acquire or take possession of the land in question. This scouting ahead has even occurred on the Phase 2b (Western Leg) of the HS2 Scheme which is still passing through Parliament (see **pages 152 to**

153 and paragraph 157 below). This tactic by activists has been seen on other campaigns and may be traced all the way back to the direct action campaigning against road projects in the 1990s and more recently to the protection camps set up at proposed onshore oil and gas drilling sites (see **pages 154 to 157**).

153. Typically, activists will often seek to occupy woodland as it provides shelter, exalts their cause and allows the construction of elaborate defences which delay and increase the costs of removal. Within these woodland camps activists can construct large structures or tree houses and excavate deep tunnels beneath the ground. This was aptly demonstrated at the unauthorised encampments at Small Dean (Jordan 1 paragraphs 56 to 71) and the Cash's Pit Land (see Jordan 1 paragraphs 72 to 79 and paragraphs 17 to 22 above). Combined, the enforcement operations to remove activists and take possession of just those two sites cost the taxpayer over £13.5m. In both cases, activists had established camps on land which at the time of first occupation, was not possessed by the Claimants.
154. The technique by activists of establishing camps and delaying the Claimants in taking possession is well established. The activists, mindful that the Claimants are limited as to the time of year that certain works can be carried out by factors such as bird nesting and bat hibernation seasons, will look to play for time. If they can delay long enough, they can achieve a compound effect, forcing works on the HS2 Scheme back by a season, causing programme delay and increasing the costs of the project.
155. Activists opposed to the HS2 Scheme have established approximately 50 encampments along the route of the HS2 Scheme so far. A map showing the geographical distribution of these encampments is at **page 158**. Approximately half of these camps have been cleared by the First Claimant and around half have been abandoned. Notably, these camps have been located across Phase One and into Phase 2a from Euston in London to Swynnerton in Staffordshire. Most were established before works on the HS2 Scheme started in the area in which they were located and many (including those that cost the Claimants the most to evict) were established before the Claimants' right to possession had arisen (whether by compulsory acquisition or exercise of temporary possession powers). As Mr

Justice Julian Knowles observed in the September 2022 Judgment at paragraph 176:

“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.”

156. Not only is the route of the HS2 Scheme publicly available, but activists are also clearly very familiar with it. For example, as set out in Jordan 1:

156.1. On 28.07.2021, D33 shared with other activists on Facebook maps of the HS2 Scheme route that he had transcribed onto OS maps saying: *“This gives a good idea of where HS2 are working ... Feel free to use in whatever way you see fit, share, edit, download, whatever...”*. A copy of the post is at **page 159**).

156.2. On 16.03.2022 a post was placed on the Bluebell Woods Protection Camp Facebook page detailing the timetable for their “Open Weekend – The Last Stand” which included:

- “Climbing, traverses and nets”
- “Tree house building, barracading + more”
- “HS2 map study”
- “Climbing workshop”

Most of the activities appeared to be designed to teach people techniques for resisting eviction. “HS2 map study” likely involved planning to target further

land designated under the HS2 Acts for use for the HS2 Scheme. A copy of the post is at **pages 160 to 162**.

157. Land which is due to be possessed by Claimants over the course of the next 12 to 18 months for the purposes of the HS2 Scheme has already been the subject of scouting by the Defendants. For example, D5 posted (screenshots of the posts are at **page 163**) two videos on Facebook on 07.07.2021 and 31.12.2021 showing him in Whitmore Woods on Phase 2a, which is the largest single block of woodland due to be possessed on the route of the HS2 Scheme (copies at **Video 12** and **Video 13** respectively). During **Video 12** D5 confirms that not only has he been scouting ahead on the Phase 2a route, but he has also visited the Phase 2b route:

“I’ve been exploring the north of England, er, Staffordshire, er, and Warwickshire and Cheshire and even further north actually, I’ve been over the east coast. I’ve been over near Sheffield and places and up near Leeds and I’ve been looking at all the different places that HS2 and due to go on Phase 2a, Phase 2b”

158. In **Video 13** D5 acknowledges that being in Whitmore Woods (which is privately owned) is trespass. At the time that these videos were taken and as matters stand at the date of this statement, Whitmore Woods has not been taken into possession by the Claimants, but the land is due to be possessed for the purposes of the HS2 Scheme under the Phase 2a Act. At the time that the videos were taken, the First Claimant was carrying out survey work pursuant to its powers under the Phase 2a Act.

159. D5 concludes **Video 13** by saying:

“It’s not too late to cancel HS2. Please help. Please apply the pressure. Please follow Bluebell [a reference to the unauthorised encampment on the Cash’s Pit Land, which was founded by D5]. Please support other camps as they emerge up and down the line”.

160. 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. Paragraphs 212 to 215 of the September 2022 Judgment are 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.

161. The Injunction has proved exceptionally successful thus far reducing the significant hinderance previously caused to works on the HS2 Scheme by unlawful direct action campaigning. However as identified at paragraph 148 above, activism is evolutionary, the nascent attempts to adopt tactics intended to thwart the purpose of the Injunction and continue to cause disruption to the HS2 Scheme (see for example paragraphs 111 to 142) will almost certainly spread in time if not restrained by the court.
162. The objectives of many of the activists opposed to the HS2 Scheme remain unchanged, though many are likely to be more guarded online following the heavy use of social media evidence in Jordan 1. However, individuals threatening to trespass or encouraging guerrilla tactics do still occur.
163. For example:
- 163.1. D36 Whilst filming the Red Rebel protest at Euston said at 00:01:50 of the video (a screenshot of the Facebook post for the livestream (which I have watched) is at **page 164**):
- “This planet is finite, this planet is falling apart and it's because we just keep allowing the likes of HS2 to just keep going and going, we've got to stop it.”*
- 163.2. On 02.01.2023 a post (copy at **page 165 to 166**) added to the Stop HS2 Group on Facebook was commented on by Lewis Edwards as follows:
- “The architects of this crime are like Russia and we are Ukraine – it's a bloody fight but ultimately the costs of opposition will undo the invading force, it's just not sustainable. Never give up, never surrender and tell the world about it whenever the opportunity arises as the state media are gagging everyone, but*

again they can't stop the web and how this can facilitate the necessary guerrilla tactics."

163.3. Another comment read: *"Well take ya own dame tools and cut up any section ya at. And stop anouncing it so you can argue with fools for the day.. there gonna carry on regardless. The government has given it another go ahead so I suggest you go ahead before it's actually Done and to late.... Delay and distroy"* (sic).

163.4. When the Aylesbury and District News Facebook page published (screenshot at **page 167**) that the Claimants had been granted a route wide injunction on 21.09.22, one poster commented with an ominous quote from John F Kennedy: *"Those who make peaceful revolution impossible will make violent revolution inevitable."*

163.5. On 10.12.2022 D17 posted a memory of the direct action conducted at an HS2 Scheme site in Swynnerton, Staffordshire. The original post showed the daily gate blocking being undertaken by D6, D17 and other residents of the camp on the Cash's Pit Land. On the Facebook memory D17 posted: *"Good times, good people. What was it Arnold Schwarzenegger said? Well we will"*.

D17 was clearly referring to Schwarzenegger's most famous quote from the film Terminator 2 "I'll be back". A screenshot of the post is at **page 17**.

163.6. On 29.01.2023 images of the tree felling conducted on the A418 were posted on the HS2 Save our Countryside Facebook page, one comment on that post (a screenshot of which is at **page 168**) – a reference to the activist tactic of tree-spiking - stands out:

"Put nails in the trees, chainsaws don't like it."

Tree-spiking is the act of deliberately putting screws and nails into trees. It is designed to delay tree-felling works and can cause significant safety hazards to the First Claimant's arborists. The metallic screws and nails are hazardous to the de-vegetation teams: striking a metal object can damage chainsaws and cause them to kick (when a chainsaw kicks back putting the operator in danger) or result in debris being launched at high speed as a result of striking the nail/screw.

Metallic objects placed within branches damage chipping machines as they jam the internal mechanism.

- 163.7. In addition, a new threat of ‘stealth camping’ has recently emerged. Stealth camping is the act of concealing oneself away and camping in a location where you should not be, for example on an HS2 Scheme site or beside a motorway. Stealth camping is defined by www.stealth-camping.co.uk as “a thrilling experience similar to wild, bush craft camping. The difference with stealth camping is there’s an element of stealth from remaining undetected”. On 26.02.2023 a video recorded in Wendover by a stealth camper was posted on YouTube (copy at **Video 14**) which shows him attempting to stealth camp on an HS2 Scheme construction site. The video shows the scale and progression of the project. The HS2 Scheme sites in this area are typically in operation 6 days per week, therefore the idea of somebody stealth camping, or walking around a site which includes trenches, excavations (which are referred to in the video) and heavy machinery poses a considerable health and safety concern. As the video progresses it shows the clear demarcation of boundaries of HS2 Land through fencing and signage adopted by the First Claimant and its contractors and the host, unsure if he can successfully camp, states:

00:09:30 “bit of a conundrum guys, don’t know where to spend the night, really don’t know, maybe where we are now, maybe elsewhere we’ll see. So many people I’m gonna have to pack this is in really really quick, coz there’s people, people coming right now. But yeah there’s so many people guys”

164. Later the host admits defeat “*on this occasion*” and at 00:10:01 the clip shows one of the First Claimants’ mobile safety and security vehicles parked up, with the host adding:

“these bad vibes mixed with the fact I was clearly failing to find a stealth camping spot led me to decide this, I think I am probably not gonna stay here tonight, just because I don’t want the heat guys, I don’t want the heat, and with the lack of good spots I think it’s best to call it a day before I run into trouble or get kicked out or whatever in the middle of the night.”

165. The host makes it clear that he will come back, within the video where he says:

“But let me finish with this, HS2 this is definitely not the last time you have seen me. I will come back and I will find a place that I can sleep along you, I’m sure at some point”

166. The host then reiterated his intention to camp on HS2 Land in the comments section of his YouTube post (screenshot at **page 169**) when he responded to another comment which stated: *“You will succeed there Dave I’m pretty sure of it, still a great video as always what a shame all that landscape destroyed for another train”*. To which he responded: *“We shall see Chris! I’ve already got a few spots in mind, maybe I’ll revisit in a new area in a few months’ time [strong arm emoji] Cheers for the support I’m glad you enjoyed”*.
167. It goes without saying that the notion of individuals concealing themselves and camping by stealth on such a dynamic construction site is not only unlawful trespass and nuisance but poses an extreme risk to the safety of themselves and the First Claimant’s workforce.
168. Sometimes the social media posts take on an even more sinister tone and are directed not just at the Claimants and their staff and contractors, but also at their suppliers, legal representatives and the judiciary. Following the committal of activists for contempt for breaching the Cash’s Pit Injunction, one activist re-posted on Facebook an article about the skinning alive of a corrupt judge, with another commenting on the post that: *“We are literally at war with the bar”* (screenshot at **pages 170 to 171**).
169. This trend continued following the making of the Injunction. One user commented on a post on the HS2 Rebellion Instagram page (screenshot at **page 172**) showing a Guardian article about the Injunction as follows:
“These judges have names and addresses, just saying”.
170. 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.

171. Significantly, individuals and groups who would almost certainly have engaged in unlawful direct action activity to try to delay or disrupt tree felling on the HS2 Scheme prior to the Injunction, staged a lawful vigil for the trees at Euston Square Gardens on 20.02.2023 during tree-felling works (see **page 173**).
172. The vigil consisted of a steel band, the “Red Rebel Brigade” of XR, D36 and D55. They stood by the trees to mark their passing, however, at no point were the First Claimant’s contractors’ works disrupted. Prior actions against the HS2 Scheme involving the Red Rebels have often involved unlawful direct action. For example: at Calvert they staged a “die in” direct action, closing the main access route to the HS2 Scheme site (Jordan 1, paragraph 26.2.4) and in Wendover on 19.07.20 they were part of a group which stormed an HS2 Scheme site (see **page 174**). The significance of this legitimate protest is difficult to overstate. The planned removal of trees at Euston in Q1 of 2021 was the catalyst for the establishment of an anti-HS2 camp and the first major tunnel occupation by activists opposed to the HS2 Scheme. It was that extreme direct action in central London which catapulted direct action campaigning against HS2 into the mainstream media. Therefore, it is remarkable that the removal of trees at such a symbolic site was the stage for a legitimate and lawful protest and no disruption occurred.
173. On 13.03.2023, a demonstration was held at Parliament Square, Westminster London. The event was organised by Sarah Green, a former Defendant to the Harvil Road Injunction proceedings and attended by D36, D39, the Red Rebel Brigade of XR and XR London Drummers. The event took the form of a lawful, peaceful and non-disruptive protest with the agenda for the demonstration described on Facebook (screenshot at **page 175**) as:

“Colne Valley Biteback Monday 13 March 12noon - 2pm Parliament Square Drummers from 12 noon, Short speeches at 12:30 with Blue (or Red) Rebels

Debut 1pm Discobedience Flashmob: Dance to the tune of "Shame shame shame shame shame, on High speed two, and the government too!"

At the time of writing the First Claimant is not aware of any arrests or disruption caused by this event.

174. 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 and extended 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 two Acts of Parliament.
175. By way of a reminder, Mr Justice Julian Knowles found in the September 2022 Judgment as follows:
[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."

176. 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.
177. 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) and damage 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. 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.

178. 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.

A handwritten signature in blue ink, consisting of a large, stylized 'J' followed by a series of loops and a long horizontal stroke extending to the right.

Signed:.....

JAMES DOBSON

Dated: 27 March 2023

On behalf of: Applicants/Claimants

J.Groves

1st statement of witness

Exhibits: JG1

Date: 27 March 2023

Claim No. QB-2022-BHM-000044

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

Between:

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

Claimants

-and-

- (1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND KNOWN AS LAND AT CASH'S PIT, STAFFORDSHIRE SHOWN COLOURED ORANGE ON PLAN A ANNEXED TO THE ORDER DATED 11 APRIL 2022 ("THE CASH'S PIT LAND")
- (2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND ACQUIRED OR HELD BY THE CLAIMANTS IN CONNECTION WITH THE HIGH SPEED TWO RAILWAY SCHEME SHOWN COLOURED PINK, AND GREEN ON THE HS2 LAND PLANS AT <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> ("THE HS2 LAND") WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND IN CONNECTION WITH THE HS2 SCHEME WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT, WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITHOUT THE CONSENT OF THE CLAIMANTS
- (4) PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS
- (5) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE)

AND 58 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants

WITNESS STATEMENT OF JOHN GROVES

SUPP-A-251

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

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, Centre for Protection of National Infrastructure 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 vary and extend the injunction imposed by the Order of Mr Justice Knowles dated 20.09.2022 (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 1), 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 **JG1** 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 tenth witness statements of Julie Dilcock (“**Dilcock 1**” to “**Dilcock 10**”)
- I have also reviewed the Eleventh witness Statement of Julie Dilcock (“**Dilcock 11**”) and Witness Statement of James Dobson (“**Dobson 1**”) 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. Update the court on the reduced impact of unlawful direct action by activists upon the HS2 Scheme since the clearance of the encampments in Staffordshire and the granting of the Injunction.
 - 7.2. Explain how the level and type of direct action against the HS2 Scheme is typically affected by the works activity being undertaken or planned and how that works activity is often season dependant.
 - 7.3. 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.
 - 7.4. Explain the pattern of unlawful direct action by activists that has emerged since the granting of the Injunction as activists seek to continue to cause loss and damage to the HS2 Scheme via means not currently prohibited by the Injunction.

Reduced Impact on the HS2 Scheme

8. At 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. This cost 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 the following can be seen:
 - 9.1. Q2 2022. There were 49 recorded direct action protest-related incidents. This period included the lead up to the bulk of the enforcement at Cash's Pit and Closepit Plantation, which commenced on 10.05.22. The costs incurred in Q2 were **£13.02million**.
 - 9.2. Q3 2022. The number of incidents reduced to 28, reflective of the fact that the enforcement at Cash's Pit was ongoing until 12.07.2022. Q3 saw a change in tone and severity of incidents. This is attributed to the adoption of a more cautious approach by activists whilst awaiting the Injunction judgment and the trial and subsequent committal of the defendants who breached the Cotter Order. The costs incurred by the Claimants reduced significantly to **£3.08million**.
 - 9.3. Q4 2022. A paradigm shift in the severity and cost of unlawful direct action against the HS2 Scheme occurred following the making of the Injunction order on 20.09.22 and the committal to prison of D33 for 268 days on 23.09.22. Whilst 28 incidents were still recorded, the cost attributable to those incidents reduced to **£0.76million**.
 - 9.4. Q1 2023. Only 9 incidents have been recorded in this quarter, and the cost to HS2 Ltd is recorded at **£0.2million**.
10. The costs incurred in dealing with activism-related incidents from 01.10.22 (the beginning of the quarter following the imposition of the Injunction) to the time of writing is **£0.96million**. 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 3** 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.

Factors Impacting Upon Direct Action (When and Where)

12. Spikes in unlawful direct action against the HS2 Scheme have often coincided with those stages of the project that involve carrying out activities that activists consider to be the most contentious. This is most often de-vegetation works and specifically the felling of trees.
13. The graphs at **page 2** show how unlawful direct action has typically peaked during Q4 each year as actions have been deliberately coordinated to disrupt de-vegetation works that need to take place outside of bird nesting season. The year 2022 on the graph is an anomaly, with a spike in incidents in Q2 due to the clearance of the Swynnerton camps and by Q4 unlawful direct action was being deterred by the Injunction and so the usual spike in that quarter is not seen in this year.
14. The removal or planned removal of trees on the HS2 Scheme has often precipitated the establishment of protest camps. Establishing camps within woodlands presents a number of advantages to activists intent upon delaying and disrupting the HS2 Scheme as set out in Dobson 1. Woodland encampments are particularly problematic for the security teams and significantly increase the costs and risks associated with eviction. For example the 4 most costly, dangerous and enduring enforcements on the HS2

Scheme to date were the following, all of which were in woodland and/or camps established to protect specific trees:

Land	Enforcement commencement date	Cost of enforcement
Cash's Pit Land	10.05.2022	£8.5million (Dilcock 7)
Small Dean (W.A.R. Camp)	10.10.2021	£5million (Jordan 1, para 71)
Euston Square Gardens	27.01.2021	£3.4million (Jordan 1, para 50)
Jones Hill Wood	01.10.2020	£1.5million (Jordan 1, para 48)

Furthermore, the construction of camps and activists' proficiency in doing so in such a way as to cause as much disruption and cost to the Claimants as possible has developed with time, with the resulting costs of enforcement generally increasing from camp to camp.

15. Encampments have provided a base from which transient activists could conduct sustained unlawful direct action against the HS2 Scheme and have allowed the campaign to draw activists from other causes to bolster numbers. In almost all cases, encampments were established upon land required at a future date by the HS2 Scheme, but not yet in possession, with activists scoping ahead and moving ahead of the programme. Therefore, unlawfully possessing land or conducting direct action activity intended to delay, disrupt or damage the HS2 Scheme on land within the LLAU, but ahead of the Claimants' taking possession for the purposes of the HS2 Scheme has proven to be the most impactful (in terms of cost and delay) form of direct action encountered thus far. The First Claimant's security team consider that this remains a significant threat to the HS2 Scheme.

Forecasted Future Activity

16. The graph at **page 3** 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

costs of **£6.03m** in Q3 2023 and **£16.2m** in Q4 2023. In producing this forecast the following factors were considered:

- 16.1. The proficiency of the activists taking direct action against the projects has increased with time (see paragraph 14 above).
- 16.2. 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 it is considered that there is a significant likelihood that these individuals may return if the deterrent effect of the Injunction were removed.
- 16.3. 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 Insulate Britain, where many of the leaders who were so instrumental in the anti-HS2 campaign through 2020 and 2021 are currently actively campaigning.
- 16.4. The recent media coverage around the Government's decision to delay construction on parts of the HS2 Scheme in order to try to defray the rising costs caused by inflationary pressures will undoubtedly encourage activists to believe that their unlawful direct action may yet succeed in having the HS2 Scheme "cancelled" (despite clear Government statements to the contrary) and may increase potential support for activists from some quarters (posts around this have already started appearing on social media – an example from D16 is at **page 4**). 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.


Unlawful Activity Since the granting of the Injunction

17. As set out in detail in Dobson 1, there have been 37 protest-related incidents recorded against the HS2 Scheme since the grant of the Injunction. The incidents at Eversheds and HMP Full Sutton described in Dobson 1 are not included in this figure as they were secondary, rather than primary targeting of the project. Critically the cost and disruption associated to these incidents has been significantly reduced, totalling **£0.96million**.

18. The incidents that have been experienced 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 banners placed in trees (by trespassing).
 - 18.2. Direct action where activists seek to disrupt and delay works on land within the LLAU but beyond the scope of the Injunction, for example by placing themselves in harm's way and causing delays to works, which have to stop for reasons of health and safety. A summary of an example of this type of activity committed by D66 and D67 in Aylesbury on 05.02.23 is set out in Dobson 1.
19. Whilst unwelcome, 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.
20. The category described at paragraph 18.2 represents an evolution of tactics by activists seeking to continue to cause delay, damage and loss to the project notwithstanding the imposition of the Injunction, by adopting tactics intended to thwart the purpose of the Injunction. This category of incident is concerning to the Claimants and the security team consider that these types of incidents are likely to increase in number and severity unless the Injunction is extended to cover conspiracy to harm the Claimants by unlawful means.

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: 27 March 2023

On behalf of: Applicants/Claimants
J.A Dilcock
11th statement of witness
Exhibits: JAD13
Date:27 March 2023

Claim No. QB-2022-BHM-000044

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

Between:

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

Claimants

-and-

- (1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND KNOWN AS LAND AT CASH'S PIT, STAFFORDSHIRE SHOWN COLOURED ORANGE ON PLAN A ANNEXED TO THE ORDER DATED 11 APRIL 2022 ("THE CASH'S PIT LAND")
- (2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND ACQUIRED OR HELD BY THE CLAIMANTS IN CONNECTION WITH THE HIGH SPEED TWO RAILWAY SCHEME SHOWN COLOURED PINK, AND GREEN ON THE HS2 LAND PLANS AT <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> ("THE HS2 LAND") WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND IN CONNECTION WITH THE HS2 SCHEME WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT, WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITHOUT THE CONSENT OF THE CLAIMANTS
- (4) PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS
- (5) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE)

AND 58 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants

ELEVENTH WITNESS STATEMENT OF JULIE AMBER DILCOCK

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

1. I am a solicitor of the Senior Courts of England and Wales and employed by the First Claimant as Head Counsel - L&P 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 Eleventh 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 (the "**Injunction**").
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 **JAD13** 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> (the "**RWI Updated Website**"). 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) My first to tenth witness statements ("**Dilcock 1**" to "**Dilcock 10**")I have also reviewed the Witness Statement of John Groves ("**Groves 1**") and Witness Statement of James Dobson ("**Dobson 1**") 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 and compliance with the directions order made by the court on 15.03.2023.
 - 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. Explain the land defined in the Phase One Act and the Phase 2a Act as land within the limits of land to be acquired and used for the HS2 Scheme ("LLAU") and the Claimants' rights in relation to the land within the LLAU.
 - 7.5. Update the position regarding the land of which the Claimants are entitled to possession and introduce the updated plans showing that land (the "**March 2023 HS2 Land Plans**").
 - 7.6. Give an overview of other powers (beyond acquisition and temporary possession) in relation to the use of land afforded to the First Claimant for the construction of the HS2 Scheme.
 - 7.7. Give an overview of the phases of construction of the HS2 Scheme.

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 11.04.2023 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 hearing. The substantive hearing 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 20.09.2023. D6 applied to the Court of Appeal for permission to appeal and that application was refused on 09.12.2022.
10. 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 “**Review Hearing**”) and on 10.03.2023 the Claimants applied for directions for the conduct of the proceedings up to the Review Hearing. On 15.03.2023 the court issued a directions order giving directions for the conduct of the proceedings up to the 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 (D33) case was adjourned to a further hearing on 22.09.2022 to 23.09.2022 at which an immediate custodial sentence was imposed on him. Copies of the relevant undertakings and committal orders are at **pages 1 to 26**.
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 mean that by the time of the Review Hearing, the Injunction will have been in place for just 8 months.

14. 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 16 of the Injunction and no-one has filed an acknowledgment of service pursuant to paragraph 18 of the Injunction.
15. The Claimants have complied with the requirements set out at paragraphs 2 to 8 of the directions order made by the court on 15.03.2023 (and received by the Claimants on 16.03.2023) as follows:
 - 15.1. In accordance with paragraph 2 a notice was placed on the top of the HS2 Proceedings Website informing users that from 16.03.2023 all documents relating to the HS2 Route-wide Injunction proceedings will be uploaded to the website at: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>
 - 15.2. In accordance with paragraph 3 of the order, on 16.03.2023, copies of all documents already uploaded to the HS2 Proceedings Website were made available via the RWI Updated Website.
 - 15.3. As required by paragraph 4 of the order, the HS2 Proceedings Website remains live.
 - 15.4. In accordance with paragraph 5 of the order, a copy of the directions order was uploaded to the HS2 Proceedings Website and the RWI Updated Website on 16.03.2023.
 - 15.5. As required by paragraph 6(b) of the order, an advert was placed in the Times and published on 21.03.2023 and in the Guardian and published on 22.03.2023 advertising the date of the Review and the web address of the RWI Updated Website.
 - 15.6. In accordance with paragraph 6(c) of the order, on 20.03.2023 copies of a notice advertising the date of the Review and the RWI Updated Website and a copy of the directions order were sent to 18 libraries and 11 Parish Councils along the line of the HS2 Scheme route with a request that the documents be displayed in the libraries / on Parish notice boards.
 - 15.7. As required by paragraph 6(d) of the order, on 16.03.2023 a tweet was issued from the HS2 Twitter account and a post made on the HS2 Facebook page advertising the date of the Review and the web address of the RWI Updated Website.

15.8. In accordance with paragraph 8 of the order, the Claimants' solicitors emailed a copy of the directions order to the solicitors for D6 and any other party who had at the date of the directions order provided an email address to the Claimants to the email addresses: HS2Injunction@governmentlegal.gov.uk or HS2Injunction@dlapiper.com.

Defendants

16. 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.
17. 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 (a copy of which is at **pages 27 to 33**) as part of the Cash's Pit Contempt.
18. 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 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 1. 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 1.

19. 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 are adding D66 – Caroline Thomson-Smith (aka Carl Woods) and D67 – Christopher Paul Butcher (aka Rob) as named Defendants to the proceedings. As set out in detail in Dobson 1, D66 and D67 have both breached the Injunction and engaged in unlawful direct action campaigning seeking to delay and disrupt works on the HS2 Scheme which the Claimants are seeking an order prohibiting by way of the present application.
20. Finally, the Claimants are proposing to remove D1 from the proceedings. D1 was a category of persons unknown relating to the Cash's Pit Land and was necessary in relation to the claim for possession of that land. That category has now become obsolete as the land in question is now HS2 Land (as defined in the Injunction). The Claimants are also proposing to add a further category of persons unknown as D68 in connection with the Claimants' application to extend the Injunction to prohibit conspiracy to cause harm to the Claimants by unlawful means.

Claimants' Application to extend the Injunction

21. By the current application, the Claimants are seeking:
 - 21.1. continuation of the Injunction for a further 12 months (the "**Temporal Extension**").
 - 21.2. to amend the definition of HS2 Land to cover the land shown coloured pink and green on the March 2023 HS2 Land Plans, thus extending the protection afforded by the Injunction to land that has come into the Claimants' possession for the purposes of the HS2 Scheme since the original application was made in March 2022 (the "**Geographical Extension**").
 - 21.3. to prohibit the Defendants from obstructing, impeding, hindering or delaying works or activities authorised by the HS2 Acts by unlawful means, in express or implied agreement or combination with another person with the intention

of causing damage to the Claimants (the “**Unlawful Means Conspiracy Extension**”).

I have explained the reasons for each of these and further details about what is sought below. There are also a number of “tidying-up” or consequential amendments sought.

22. With regard to the Temporal Extension, as is explained in detail in Dobson 1 and Groves 1, 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 2024.
23. With regard to the Geographical Extension, as I have explained in paragraph 34 below, the Claimants have become entitled to possession of further land since the original application was made. As explained in Dobson 1 and Groves 1, that land is vulnerable to unlawful direct action activity unless protected by extending the Injunction to cover it.
24. As explained in detail in Dobson 1, activists opposed to the HS2 Scheme have been deterred from engaging in the forms of unlawful direct action campaigning prohibited by the Injunction. However, activists remain committed to seeking to delay and disrupt the HS2 Scheme and to causing loss and damage to the Claimants by unlawful means. Activists have deliberately sought to find ways of continuing to cause disruption, loss and damage by methods that are not currently prohibited under the terms of the Injunction – effectively adopting tactics that are intended to thwart the purpose of the relief granted by the court in the Injunction. The Claimants reasonably fear that if the Injunction is not extended to prohibit these nascent forms of direct action against the HS2 Scheme, such action will become more widespread and quickly have a significant impact on the construction of the HS2 Scheme. Accordingly, the Claimants seek the Unlawful Means Conspiracy Extension to prohibit activists from committing the tort of conspiracy to cause harm to the Claimants by unlawful means. The Claimants have carefully considered how to make this extension to the Injunction proportionate to the

threat at hand and are proposing the following limits on the prohibited activity under this extension:

- (a) The prohibition is limited to unlawful means.
- (b) The prohibition is limited to circumstances where the actions are intended to cause damage to the Claimants by preventing, obstructing, delaying, hindering or impeding the works or activities authorised by the HS2 Acts for the provision of the HS2 Scheme. These are works and activities that Parliament has specifically approved the Claimants to undertake after a rigorous process of Parliamentary scrutiny during the passing of the HS2 Acts.
- (c) The prohibition will not apply to the freeholders and leaseholders of land over which the Claimants have taken temporary possession under the terms of the carve out in paragraph 4 of the Injunction, and the HS2 Land in accordance with the recitals to the Injunction.

LLAU

- 25. As described in Dobson 1 and Groves 1, the Claimants have experienced unlawful direct action campaigning on land that is outside of the HS2 Land, but which is land that Parliament has designated for use for the HS2 Scheme. That may be land that is to be possessed in the future (either permanently or temporarily) or land that is to be used in some other way in accordance with the powers granted to the Claimants under the HS2 Acts. In view of this, I thought it may be helpful to explain the land that is designated for use for the HS2 Scheme under the HS2 Acts.
- 26. When the Bills that preceded the HS2 Acts were deposited with Parliament, a set of plans accompanied each one, showing the limits of the land to be acquired or used for the project under each Bill. Those plans were amended as the Bills passed through the Committee stages of the Bill, before being finalised as the plans that accompany each of the HS2 Acts.
- 27. The Parliamentary plans and sections show the centreline of the main works, the Limits of Deviation (“**LOD**”) and the Limits of Land to be Acquired or Used (“**LLAU**”). The plans also show the course of proposed permanent diversions of public footpaths and bridleways. The plans have a key at the beginning. The LOD are show as a dashed

line and the LLAU are shown as a dash-dot line. The grey shading on the plans is just there to help distinguish between different land parcels and does not denote what is LOD or LLAU.

28. The LOD are used to show the limits within which the scheduled works, as listed in Schedule 1 of HS2 Acts, may be constructed. These limits show the extent of the proposed works based on the design developed to the stage necessary for the preparation of each Bill. The LOD provides allowances for contingencies, working spaces and similar factors. This is achieved by including powers to deviate from the position of the works shown on the Parliamentary plans by a small amount; this deviation is restricted by the LOD marked on the plans. The scheduled works can be constructed anywhere within their specific LOD. The scheduled works cannot be constructed outside of their specified LOD. Separate LODs show the limits within which the proposed permanent diversions of public footpaths and bridleways may be provided. Those limits are shown in red on the Parliamentary plans to differentiate them from the other limits shown on the Parliamentary plans.
29. The LLAU are used to show additional limits for other works (i.e. ancillary works such as the provision of environmental mitigation) as well as the limits of land required in connection with the construction and future maintenance of the project.
30. The Parliamentary plans describe the horizontal limits, within which the scheduled works may be constructed. They are determined at an early stage and allow for design development following the deposit of the Bill.
31. Accordingly, the Claimants have the right to use any of the land that is designated as land within the LLAU for the purposes of the HS2 Scheme. The plans showing the land that is within the LLAU for Phase One and Phase 2a are publicly available:

Phase One: <https://www.hs2.org.uk/documents/collections/plans-sections-hs2-phase-one-amended-select-committee/>

Phase 2a: <https://www.gov.uk/government/publications/plans-and-sections-for-hs2-phase-2a>

32. The First Claimant has also published information papers to assist the public with understanding the Hybrid Bills that became the HS2 Acts which are available at:

Phase One:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/672188/B9_-_Introduction_to_hybrid_Bill_Powers_v1.1.pdf

Phase 2a:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/960598/B3_Limits_on_Parliamentary_Plans_v1.2.pdf

and the limits shown on Parliamentary Plans:

Phase One:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/672178/B2_-_Limits_on_Parliamentary_Plans_v1.4.pdf

Phase 2a:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/960595/B1_Understanding_the_Bill_v1.1.pdf

The HS2 Land

33. In Dilcock 1 and Dilcock 3 I explained the Claimants' powers to take possession of land for the HS2 Scheme and introduced the HS2 Land Plans and Revised HS2 Land Plans and the different categories of land shown on them. The Revised HS2 Land Plans were then incorporated into the Injunction to show the land defined as "HS2 Land".

34. The Revised HS2 Land Plans showed the land to which the Claimants were entitled to possession as at March 2022 when the application for the Injunction was first made. Since that date, the Claimants have become entitled to possession of further land for the purposes of the HS2 Scheme. This additional land, broadly speaking, falls into three categories:

34.1. Land in Phase One that has vested since the date of the original application. The Second Claimant's powers of compulsory acquisition granted by the Phase One Act expired in February 2022. Prior to expiry, the Claimants reviewed the

position with regard to the land required for Phase One of the HS2 Scheme and a large number of GVDs were made in the run up to the end of powers (some notices to treat were also served). Compulsory powers of acquisition are exercised at the point that a GVD is made or notice to treat served, but the ownership of the land that is the subject of the GVD does not vest in the Second Claimant until the expiry of a notice period (which is a minimum of 3 months). At the time that the original application was made, there were areas of land in Phase One in respect of which GVDs had been made, but where the notice periods were running and therefore the land had not yet vested. All of that land has since vested and the Second Claimant is entitled to possession of it.

34.2. Further land that has been acquired in Phase 2a. At the time that the original application was made, the programme of acquisition of land on Phase 2a of the HS2 Scheme was in its infancy. Acquisition has continued on Phase 2a since the original application was made and accordingly, the Second Claimant is entitled to possession of additional land on Phase 2a.

34.3. Further land on Phase One and Phase 2a over which the First Claimant has exercised powers of temporary possession. The First Claimant's powers to take temporary possession of land on Phase One and Phase 2a of the HS2 Scheme remain in force and are exercised as and when required for the purposes of the HS2 Scheme.

35. The Claimants wish to add the further land to the Injunction 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 wish to update the definition of "HS2 Land" to reference the March 2023 HS2 Land Plans.

36. The Claimants have also produced spreadsheets setting out the basis of the Claimants' right to possession of the newly defined HS2 Land. These also run into hundreds of pages and accordingly have also been placed on the RWI Updated Website.
37. The format and colouring used for the March 2023 HS2 Land Plans are the same as those used for the Revised HS2 Land Plans. For completeness, I have set out again here what the plans show.
38. The First or the Second Claimant are the owner of the land coloured pink on the March 2023 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 "**March 2023 Table 1**" and "**March 2023 Table 3**". March 2023 Table 1 reflects land that has been acquired by the GVD process and March 2023 Table 3 reflects land that has been acquired by other means. A further table ("**March 2023 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.
39. The Claimants have excluded the Let Estate from the Pink Land.
40. 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 (in the same way as it was dealt with in the Injunction order). 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 (in the same way as it was dealt with in the Injunction).
41. The First Claimant has served the requisite notices under the HS2 Acts and is entitled to temporary possession of the land coloured green on the March 2023 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 **March 2023 Table 4**.

42. This update to the definition of HS2 Land is necessary to ensure that all of the land of which the Claimants are entitled to possession is afforded the protection of the Injunction.

Overview of other powers to use land for the HS2 Scheme

43. The construction of the HS2 Scheme between London and Manchester has been split into 3 phases:

43.1. Phase One – London to West Midlands

43.2. Phase 2a – West Midlands to Crewe

43.3. Phase 2b (Western Leg) – Crewe to Manchester

44. The construction of Phase One and Phase 2a have already been authorised by Parliament as set out in Dilcock 1. The High Speed Rail (Crewe – Manchester) Bill seeking to secure powers for the construction of Phase 2b (Western Leg) was introduced into Parliament in January 2022 and secured its second reading in June 2022 and the petitioning period ended in August 2022. The Select Committee is currently hearing petitioners.

45. In Dilcock 1 I set out in detail the process by which Phase One and Phase 2a of the HS2 Scheme received Parliamentary approval.

46. In Dilcock 1 I also explained the provisions of the Phase One Act and the Phase 2a Act (the “**HS2 Acts**”) relating to the acquisition and taking of temporary possession of land required for the HS2 Scheme and the operation of Statutory Blight, the HS2 Discretionary Schemes and acquisitions by consent (whether of freehold or leasehold interests). I expanded on this in Dilcock 3, in which I gave further detail about the operation of the temporary possession regime under the HS2 Acts.

47. The explanations that I gave in Dilcock 1 and Dilcock 3 remain correct and relevant to the application that the Claimants are now making.

48. The Claimants have also been granted other powers in the HS2 Acts in relation to the use of land for the HS2 Scheme. In the paragraphs that follow, I have set out an overview of some of those powers relevant to the Claimants' application. As matters stand under the Injunction, there is no protection afforded to HS2 in the exercise of these other powers. As set out in Dobson 1, activists opposed to the HS2 Scheme have shifted to focus their unlawful direct action on disrupting the carrying out of works for the construction of the HS2 Scheme under those other powers in a bid to continue to disrupt work on the project without breaching the terms of the Injunction. As part of this application, the Claimants are seeking the assistance of the Court to prohibit disruption to the HS2 Scheme by this unlawful activity.
49. Under Part 1 of Schedule 2 of the Phase One Act and the Phase 2a Act respectively, the First Claimant is given various powers to enter onto land to:
- 49.1. carry out various types of intrusive and non-intrusive surveys (paragraph 1)
 - 49.2. survey and carry out works to support buildings that are or may be affected by the HS2 Scheme (paragraph 2 to paragraph 6)
 - 49.3. deal with overhanging trees (paragraph 7)
 - 49.4. deal with the discharge of water (paragraph 8)
 - 49.5. temporarily interfere with waterways (paragraph 9)
- Part 2 of Schedule 2 sets out the powers of entry afforded to the First Claimant in relation to these activities and the enforcement methods available to the First Claimant in the event that the relevant landowner refuses to allow the First Claimant to exercise its powers.
50. Part 1 of Schedule 4 of the Phase One Act and the Phase 2a Act respectively grant the First Claimant powers to form and lay out means of access and to improve existing means of access at any place within the LLAU.
51. Part 2 of Schedule 4 of the Phase One Act and the Phase 2a Act respectively grant the First Claimant powers to stop up highways (which includes bridleways and footpaths) permanently and temporarily:
- 51.1. the right to permanently stop up highways (paragraph 2)

- 51.2. the right to temporarily stop up highways (paragraph 8)
- 51.3. the right to use any highway or part of a highway stopped up using these powers as a working site if it is within Act limits (paragraph 11)

the effect of stopping up a highway is (whether permanently or temporarily) to remove the rights of the public to pass and repass across that land.

- 52. Subject to compliance with the particular requirements for the exercise of these powers set out within the HS2 Acts (such as the service of notices under Schedule 2 and the submission of Schedule 4 proposals to the relevant Highway Authority for review), the Claimants are entitled to exercise these additional powers across the land designated as land within the LLAU on the Parliamentary plans. In some circumstances, the highway powers extend outside even of the land within the LLAU.
- 53. Parliament considered it necessary to grant the Claimants these additional powers for the purposes of the provision of the HS2 Scheme. Interference by activists with activities being carried out under the exercise of these powers has caused delay and disruption to the HS2 Scheme and loss to the Claimants (which is expense to taxpayer as the HS2 Scheme is publicly funded).

Overview of construction of the HS2 Scheme

- 54. Construction of each Phase of the HS2 Scheme consists of the following stages:
 - 54.1. Early enabling works – including ecological surveys, ground investigation works. These are often carried out under the powers afforded to the First Claimant under Schedule 2 of the HS2 Acts or by agreement with landowners without the need to exercise powers.
 - 54.2. Enabling works - including ecological and archaeological surveying and mitigation, de-vegetation, ecological translocation and utilities diversions. These activities are often carried out following the taking of temporary or permanent possession but are also sometimes carried out under Schedule 2 and sometimes under Schedule 4. Sometimes powers under Schedule 4 are used to support works being carried out on land held by the Claimants following acquisition or under powers of temporary possession, where it is not possible to carry out all of the works without, for example, utilising the verge or


carriageway of a road or because the works cannot be carried out safely whilst an adjacent verge and road remain open to the public.

- 54.3. Main works – including construction and civil engineering of haul roads, demolition of structures, excavation of cuttings, building of bridges, boring of tunnels. These works are carried out on land that has been permanently acquired and also utilising land that has been temporarily possessed. Again, powers under Schedule 4 are often exercised as part of these works where roads and verges are required to be utilised temporarily as a working site or to be closed to the public for safety during works.
- 54.4. Railway systems – including installation of the railway infrastructure and systems. These works will be carried out on land that has been permanently acquired, but also utilising land that has been temporarily possessed to carry out the works and powers under Schedule 4 in support.
55. Phase One of the HS2 Scheme is currently in the main works stage with tunnels being bored and viaducts, bridges and cuttings under construction in hundreds of locations along the route. This is the most intense stage of construction.
56. Phase 2a is currently at the early enabling works stage. The Claimants' contractors are engaged in conducting ground and ecological surveys and limited mitigation works. Land is also being acquired under section 4 and temporarily possessed under Schedule 15 of the Phase 2a Act.
57. In his witness statement in support of this application, John Groves explains the pattern of unlawful direct action that the project has experienced in the past relative to the different stages of construction and the Claimants' fears for action against the project going forward if the Injunction is not extended as requested by the Claimants.
58. Finally, I want to address the well-publicised recent announcement by the Government of delays to the HS2 Scheme. Whilst I do not consider it to be relevant to the present application, I anticipate that those opposed to the HS2 Scheme and who may wish to oppose the present application, may well raise it. A copy of the statement made to Parliament by the Second Claimant is at **pages 34 to 35**. By way of explanation, the Government and the media have used the shorthand of a 2 year delay to the HS2

Scheme to refer to what is in reality something more complex. The HS2 Scheme is subject to inflationary pressures in the same way as any other construction project. The current level of inflation is impacting all aspects of the costs of the project and is being felt keenly in the cost of materials, for example. The Government has decided to take steps to try to mitigate exposure to current inflationary pressures and those steps will have the effect of prolonging the construction programme. In reality, what is happening is that the Government is limiting the funding that it is providing to the HS2 Scheme over the next two years to a level that is below that which would be required to continue constructing the project at full pace and as a result, works in some areas are being prioritised over others. This means that works will still continue across the HS2 Scheme and, for example, acquisition of land will still continue (there is a finite time in which to complete that before powers of compulsory acquisition granted by the Phase 2a Act expire). The “delay” does not therefore diminish the risk that the HS2 Scheme will be subject to unlawful direct action and may well heighten that risk as outlined in Groves 1.

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: 27 March 2023

On behalf of: Applicants/Claimants
J.A Dilcock
12th statement of witness
Exhibits: JAD14
Date:17 April 2023

Claim No. QB-2022-BHM-000044

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

Between:

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

Claimants

-and-

- (1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND KNOWN AS LAND AT CASH'S PIT, STAFFORDSHIRE SHOWN COLOURED ORANGE ON PLAN A ANNEXED TO THE ORDER DATED 11 APRIL 2022 ("THE CASH'S PIT LAND")
- (2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND ACQUIRED OR HELD BY THE CLAIMANTS IN CONNECTION WITH THE HIGH SPEED TWO RAILWAY SCHEME SHOWN COLOURED PINK, AND GREEN ON THE HS2 LAND PLANS AT <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> ("THE HS2 LAND") WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND IN CONNECTION WITH THE HS2 SCHEME WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT, WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITHOUT THE CONSENT OF THE CLAIMANTS
- (4) PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS
- (5) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE)

AND 58 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants

TWELFTH WITNESS STATEMENT OF JULIE AMBER DILCOCK

SUPP-A-277

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

1. I am a solicitor of the Senior Courts of England and Wales and employed by the First Claimant as Head Counsel - L&P 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 Twelfth Witness Statement, on behalf of the Claimants.
2. I make this statement pursuant to paragraph 13 of the Directions Order dated 15 March 2023 (the “**Directions Order**”). Paragraph 12 of the Directions Order required any person seeking to amend (including discharge) the Injunction Order, or oppose any applications made by the Claimants to file and serve a statement of case and any evidence upon which that person seeks to rely by emailing or posting it to the Court and the Claimants at the addresses listed in the Directions Order by 4pm on 11.04.2023. The only submission received by the deadline specified in the Directions Order was a document from D36, Mr Mark Keir, headed: “Grounds for Defence of Mark Keir Defendant No. 36” (“**D36 Grounds**”). That document refers to a number of exhibits, which were not filed or served by the deadline and which were only received by the Claimants at 19:16 on 14.04.2023. This late submission (without the permission of the Court) of the exhibits that were required to understand and respond to the matters set out in the D36 Grounds has severely limited the time available for the Claimants to respond. D36 also submitted a document entitled: “Grounds for Defence of Mark Keir Defendant No. 36” (“**D36 Second Statement**”) at 19:16 on 14.04.2023 without the permission of the Court. It is the Claimants’ position that the contents of that document and the associated exhibits are entirely irrelevant to these proceedings as set out further below.
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 **JAD14** 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> (the “**RWI Updated Website**”). Page numbers without qualification refer to that exhibit.
6. This statement has been produced in response to the D36 Grounds and the D36 Second Statement. Paragraph numbers in the format [#D36G] in this statement are references to the paragraph numbers of the D36 Grounds. I have sought to respond to the points raised by D36 only where relevant or useful to do so in the context of these proceedings. Where no response has been made in this statement to a matter in the D36 Grounds or the D36 Second Statement, it should not be taken that the Claimants agree with that point.
7. As to [5/D36G], paragraph 15 of the Injunction provides as follows:

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.

The timescales in the order were drafted by reference to the hearing, which took place in May 2022. Accordingly, it was always envisaged that the review would take place between 15 and 31 May and D36, having been served with the Injunction, has been aware of the timing of the review since the Injunction order was made in September 2022. There is no “*note of panic*”.

8. As to [6/D36G] and [7/D36G], the new category of persons unknown (D68) is neither vague nor contorted and the reasons for the Claimants seeking to add this are clearly articulated in the witness statements already filed and served in support of the Claimants’ application. The new category is not aimed at all protest or campaigning

against HS2 as D36 alleges. It is quite clearly aimed at persons obstructing, impeding, hindering or delaying works or activities authorised by the HS2 Acts by unlawful means with the intention of causing damage to the Claimants. This would not prohibit any lawful protest or campaigning.

9. As to [8/D36G], the Claimants' video evidence (which is contained in Exhibit JD6 to the Witness Statement of James Dobson ("Dobson 1")) has been available since 27.03.2023 at the link set out in paragraph 5 of Dobson 1 (<https://vimeo.com/showcase/exhibit-JD6>) and provided on the RWI Updated Website:



108. Notice of Review Hearing

PDF, 141 KB, 3 pages

This file may not be suitable for users of assistive technology.

▶ [Request an accessible format.](#)

Details

The following exhibits contain strong and/or abusive language and scenes of violence that some viewers may find disturbing. Viewer discretion advised.

Video exhibit RJ2 can be found by following this link: [Exhibit RJ2](#).

Video exhibit JAD5 can be found by following this link: [Exhibit JAD5](#).

Video exhibit JAD7 can be found by following this link: [Exhibit JAD7](#).

Video exhibit JD6 can be found by following this link: [Exhibit JD6](#).

At the direction of the Court, some documents have been removed or replaced by updated versions. Therefore, document numbering may not be sequential. Click the 'show all updates' link below for details of the changes.

Published 16 March 2023

Last updated 6 April 2023 + [show all updates](#)

10. The contents of [9/D36G] to [18/D36G] are not accurate – particularly D36's assertion that he has *"yet to see production of any evidence of unlawful behaviour on my part"*. As D36 sets out himself, he was named as a Defendant to the Claimants' application

for an injunction over land at Harvil Road in Hillingdon, which was granted by Mr Justice Barling in February 2018. The Claimants filed evidence in support of that application and the subsequent applications to extend that injunction (both geographically and temporally) through 2019 and 2020 which included evidence of acts of trespass and obstruction by D36, along with threats made by D36 – including threats described as “sinister” by Mr Holland QC, sitting as a Deputy Judge of the High Court, at paragraph 144 of his Judgment at [2019] EWHC 1437 (Ch). D36 attended the hearings and was represented by Counsel who did not dispute the allegations made against D36. In addition, a further possession claim was brought against D36 and others in September 2019 in respect of their persistent trespass on the Claimants’ land in the Harvil Road area, which land was also subject to an injunction restraining trespass.

11. After leaving Harvil Road D36 moved to the Wendover area, latterly to Jones Hill Wood which he cites as his current place of residence and where he also engaged in trespass on HS2 Land. D36 has also posted a video of himself trespassing on HS2 Land at Cubbington Woods, which I have viewed (a screenshot of this is at **page 1**). In the opening of that video he says:

“We’ve gone through the first part of their fence. We’re pretty much on where the line is supposed to be and as you can see there is more fencing at this side. They really don’t want us in here I guess and they don’t want you in here”

Later in video he says:

“Come on people, we need you, we need you, we need you. As yet, there are still some gaps in the fences, come on, come and help us please.”

Around 10 days later, the land was occupied by a group of activists and the Claimants subsequently obtained an order for possession and an injunction restraining further trespass on the land ([2020] EWHC 671 (Ch)).

12. For completeness, I have set out below some of the incidents of unlawful behaviour of D36 and relevant judicial findings by way of example.
13. In February 2018 the Claimants applied for an injunction over land at Harvil Road in Hillingdon and the injunction was granted on 19.02.2018 by Mr Justice Barling ([2018] EWHC 1404 (Ch), 2018). D36 was a named Defendant (D4) in those proceedings precisely because he had engaged in unlawful activity (trespass and obstruction of

access) and had threatened to continue to engage in that behaviour (examples of the threats I put in evidence in those proceedings are at **pages 2 to 3**). The evidence against D36 was presented in my second witness statement in those proceedings and was not challenged by D36.

14. The Claimants applied to extend the Harvil Road Injunction in 2019 and that application was heard in May 2019 and an order made extending the injunction by Mr Holland QC. Again, the evidence presented by the Claimants included evidence against D36, presented in what was, by then, my fourth witness statement in those proceedings. A copy of the injunction order made in May 2019 is at **pages 4 to 12**.
15. In September 2019, the Claimants returned to Court to seek an order for possession of land in the Harvil Road area as a result of significant trespass by activists, including D36. The land that was the subject of the trespass was at that time also subject to the Harvil Road Injunction (as explained more fully below) and accordingly, the actions of those trespassing were also in breach of the injunction. A copy of the resulting possession order made in those proceedings (in which it can be seen that D36 was named Defendant number 2) is at **pages 13 to 16**.
16. The Claimants returned to Court again in 2020 to further extend the Harvil Road Injunction (the application determined in May 2020 was for a short extension to allow for the preparation of the application that was then heard in August 2020 and an order made in September 2020). The applications again included evidence of unlawful behaviour by D36 (who was named Defendant number 4 to those applications), set out in witness statements given by Richard Jordan.
17. In order to minimise the volume of documents, I have not exhibited copies of all the witness statements from previous proceedings referred to and have instead summarised those incidents in the table below and described some incidents in further detail further below. Evidence of D36's involvement is included within Exhibit JAD14 and referenced in the paragraphs that follow.

Date	Activity	Exhibit
11.11.2017	Trespassed with others and sat in a circle crossed arms to prevent removal.	Page 17
12.11.2017	Trespassed and had to be asked to leave by security after taking a selfie by an oak tree.	Page 18
04.12.2017	Trespassed on the bellmouth entrance to the Harvil Road site to prevent access and egress of vehicles.	Page 19
09.01.2018	Trespassed by entering the bellmouth of the site to prevent access and egress.	Pages 20 to 21
10.01.2018	Trespassed by entering the bellmouth of the site to prevent access and egress.	Pages 22 to 23
11.01.2018	Trespassed by entering the bellmouth of the site to prevent access and egress.	Pages 24 to 25
27.04.2019 to 28.04.2019	D36 and 10 - 15 persons unknown climbed trees on Harvil Road preventing de vegetation works. Incident covered in detail at paragraph 18 below.	Pages 26 to 27
09.09.2019 and 26.09.2019	Trespassed whilst visiting a small protest camp established on the closed U34 PROW and adjacent HS2 Scheme land in breach of the May 2019 injunction order. This incident is covered in detail at paragraph 20 below.	Pages 28 to 33
19.11.2019	D36 and D28 engaged in a lock on trespassing and blocking access from 07:04hrs until late afternoon preventing access and egress and preventing night staff from leaving. This incident is covered in detail at paragraph 21 below.	Pages 34 to 36

Date	Activity	Exhibit
11.02.2020	D36 joined D39 and others in obstructing the access of a vehicle to the site. Through standing in the road and slow walking the vehicle was delayed by 3 hours and 35 minutes.	Page 37
Late March 2020 to early April 2020	Series of trespass and obstruction incidents, some of which are covered in detail at paragraphs 23 to 25 below.	Page 38 to 45
08.03.2021	D36 and others trespassed upon land at Jones Hill wood with the objective of delaying and disrupting works.	Page 50 to 51

18. The events of 27.04.2019 and 28.04.2019 were covered in some detail in my fourth witness statement in support of the Claimants' application to renew the Harvil Road Injunction in May 2019. Approximately 15 to 20 persons climbed the trees on Harvil Road to prevent de vegetation works (in aid of which a road closure had been initiated under Schedule 4 of the Phase One Act) on each of the days in question and refused to come down, preventing the scheduled works from taking place for the duration of the planned road closure. As a result, the works were delayed by a number of weeks as a further road closure needed to be planned. Several posts were made to D36's social media at the time confirming his presence. In one post (a copy of which is at **page 26**) D36 tagged himself alongside D65 as being part of the action. When asked by another activist on his social media post "*won't they just come back when people are out of the trees*" D36 went on to make the following threat in response, which was quoted at paragraph 170 of the September 2022 Judgment (an image of the original post is at **page 27**):

"Lainey Round no Lainey, these trees are alongside the road, so they needed a road closure to do so. They can't have another road closure (sic) for twenty days. Meanwhile they have to worry BIG time about being targetted by Extinction Rebellion. And what's more they're gonna see more from us at other places on the royte (sic) VERY soon. Tremble HS2, tremble!

19. Mr Holland QC at paragraph 144 of his Judgment ([2019] EWHC 1437 (Ch)) said of D36 (D4 at the time):

“For what it is worth, if I was forced to make a decision, I would not remove the 3rd and 4th defendants as named Defendants. They have been guilty of incursions and obstructions in the past. While they have not been guilty of any breach of the terms of this order, as I have stated above, they are still both vehemently opposed to the HS2 project in general and to the works being carried out on the Site in particular. Both are still intimately involved in the protests at the Site. The Third Defendant has been guilty of trespass on the ragwort field and, indeed, has obstructed work on it. She feels that she has a duty effectively to monitor the work being carried out there. The Fourth Defendant has, as I have described above, made what I regard as, I am afraid, distinctly sinister comments on social media.”

In response to this finding, D36 changed the name on his Facebook Profile to: “Mark Sinister Keir”:



20. The trespass in September 2019 was part of a wider action by a number of activists including the following named Defendants to these proceedings: D32 (Larch Maxey), D33 (Elliot Cuciurean), D39 (Iain Oliver) and D41 (Matt Atkinson). The land that was subject to trespass was part of the Harvil Road site, held by the Claimants either as owners or under temporary possession and subject to the Harvil Road Injunction, a copy of which is at **pages 4 to 12**. The Claimants, its stakeholders and contractors

were undertaking works on the land in connection with the HS2 Scheme. As part of the works, a public right of way that had run across the land had been stopped-up. A number of activists entered the land on 22.08.2019, erected a ladder platform and placed a small boat (named “the Little Polly Higgins” by the activists) on the land, obstructing access to the works compounds on the land. A number of activists occupied the boat and two tents that were also placed on the land next to the boat. The location of the boat and the ladder platform are marked on the plan that accompanied the possession order that was ultimately made in respect of the land on 28.11.2019, a copy of which is at **pages 13 to 16**. D36 was observed by the Claimant’s contractors visiting the boat on the land on several occasions (and therefore trespassing and breaching the injunction) and made three posts on Facebook of videos (once on 09.09.2019 and twice on 26.09.2019) recording his own trespass. I have viewed all three videos and screenshots of the Facebook posts are at **pages 28 to 33**, along with still images from the 09.09.2019 video, which was taken shortly after the possession proceedings were served on the encampment. The injunction warning notices are visible in the footage. A plan showing the position of the boat camp plotted onto the plan to the May 2019 injunction is at **page 36**.

21. On 19.11.2019 D36 and D28 undertook a lock-on direct action at West Gate 3 to the Harvil Road site, preventing vehicular access and egress from 07:04 hrs until the afternoon. The action was described at paragraph 41 of the second witness statement of Richard Jordan filed in support of the 2020 application to extend the Harvil Road Injunction as follows:

“41. On 19 November 2019:

(i) At 07:05, a “lock on” (a technique used by protesters to make it difficult to remove them from their place of protest) was reported at the bell mouth of West Gate 3 (the entrance to plot S232_064).

(ii) Sarah Green (D3) and three other male persons were identified by security officer Mr Hogan. Sarah Green and a young male, later identified as Elliott Cucuirean (D10), were seen to be “guarding” the two locked-on protesters. The two locked-on protestors

were later identified by members of the security team viewing the images as Mark Kier (D4) and Scott Breen (D13). Photographs of the incident are at **pp. 17 - 18**.

(iii) Mark Kier (D4) and Scott Breen (D13) had secured themselves to a steel pipe filled with concrete and other materials with another pipe inside into which they had inserted their arms and secured themselves to each other. 18

(iv) The police (incident reference number 0926912/19) and an ambulance arrived on site at 08:30. A Metropolitan Police specialist public order protest team subsequently also deployed to the site successfully removed the lock on device, which work was completed during the late afternoon.

(v) This incident prevented contractors from leaving or entering site at a time when there was a shift changeover resulting in significant disruption to site operations on that day.”

A plan showing the incident location plotted onto the May 2019 Injunction plan is at **page 36**. Photographs of the incident are at **pages 34 to 35**.

22. In addition to the unlawful behaviour of trespass and obstruction of access, the action was also a breach of the terms of the May 2019 injunction (a copy of which is at **pages 4 to 12**), specifically paragraph 7 of the injunction:

7. With immediate effect, the Second Defendant and each of them are forbidden from substantially interfering with the Claimants' and/or their agents', servants', contractors', sub-contractors', group companies', licensees', invitees' or employees' access to (or egress from) the Harvil Road Site (or any part of it) from (or to) the public highway at Harvil Road, Harefield in the London Borough of Hillingdon.
8. For the purposes of paragraph 7, acts of substantial inference shall include (but not necessarily be limited to):
 - 8.1 climbing onto or underneath vehicles;
 - 8.2 attaching persons or objects to vehicles;
 - 8.3 standing, sitting or lying in front of vehicles;
 - 8.4 attaching persons to other persons or objects so as to create an obstruction of the public highway or the splay or bell-mouth areas at the Vehicular Entrances;
 - 8.5 attaching persons or objects to the gates at the Vehicular Entrances.

23. Further acts of trespass were committed by D36 in late March through to early April 2020, two of which were described by Richard Jordan at paragraphs 51 to 52 of his second witness statement filed in support of the 2020 application to extend the Harvil Road Injunction:

51. On **23 March 2020** at c.14:40 hrs, one of the security teams reported that protesters had been present throughout the day at the main entrance to the HQ compound in Dews Lane on land falling within plot S232_036, at the junction with Harvil Road. They had been causing a general nuisance for the duration of the day's work including making access and egress difficult without physically obstructing the gateway. At 14:30 Mark Kier (D4) approached contractors along Dews Lane where de-vegetation works were taking place. He then managed to get his arm between two sections of Heras fencing and hold on to a tree that was due to be removed preventing further works being carried out for approximately 30 minutes. The Police were informed but were unable to attend the site due to resources (CAD number 3441/23/03/2020).

52. On 26 March 2020:

- (i) At 08:46, Mark Kier (D4) accessed Dews Farm on land falling within plot S232_036, by scrambling underneath the Heras fencing. This was witnessed by one of the security team. The security officer sought to prevent Mr Kier from getting into the works area by moving towards him asking him to leave the works' area. Another security officer joined and Mark Keir sought to complain that the officers were in his personal space. When the officers took two steps back, Mr Keir advanced and took two steps towards them.
- (ii) The security team then placed five barriers around Mr Kier for his own safety, but Mr Kier started to push up against the barriers and forcefully pushed the security manager on site. The security team then maintained their two metre social distancing gap.
- (iii) At 09:16 Mr Kier left the site in the direction of the protester camp. The Police were contacted during the incident (CAD 077826032020).

D36's unlawful behaviour during this period should be viewed in the context of the dates on which it occurred and the wider global situation. 23.03.2020 was the first day of the coronavirus pandemic lock down, when the general public (save for essential workers) were ordered to stay at home unless exercising for one hour or buying food. Posts were made on Facebook by D36 and others about the incidents during this period (screenshots from some of these posts are at **pages 38 to 45**) and videos of some of the incidents were uploaded to Facebook and YouTube. Screenshots from these videos are at **pages 38 to 45**.

24. D36 filed evidence in response to the 2020 application to extend the Harvil Road injunction and did not deny any of the allegations. At paragraph 54 of his Judgment given in September 2020, Mr Holland QC observed that:

54. In paragraph 36.3(i) and (ii) of his Opening Skeleton Mr Roscoe says this:

The Court is invited to review this full account of that position on the ground. Such is the volume of incidents, any attempt to summarise it would omit the important impression to be gained from the scale of events. This is not a case about protests from time-to-time which inevitably cause a degree of disruption to the wider public: such protests are part and parcel of a democratic society, and must of course be tolerated. This is an attempt, not to articulate views, but a hard-fought and continuous campaign to try to compel the Claimants to stop the work they are mandated to do by an Act of Parliament. It is no exaggeration to say that the protestors appear to be seeking to engage in a war of attrition with the

Claimants – of which the security personnel at the Site are at the front line. The very considerable deployment of police resources has also been required.

Nothing said by or on behalf of any of the Defendants sought to contradict this submission. Nothing in what I have seen or heard falsifies it. Indeed Mr Powlesland accepted the description that this was a “war of attrition” between HS2 and the protesters.

Mr Powlesland was Counsel for D36 (who was named Defendant number 4 in those proceedings).

25. At paragraphs 81 to 83 of his Judgment, Mr Holland QC found that:

81. Having considered all the evidence in these proceedings, it is clear that:

- (i) The Defendants (both unnamed and named) have committed acts of trespass and nuisance by way of obstruction on (collectively) a very significant number of occasions in the past.
- (ii) That course of conduct continues.

- (iii) As stated, there is in my view now at the Harvil Road Site a group of protesters who are determined to continue to wage a ceaseless campaign against what they see as the pernicious effects of the HS2 project.
- (iv) That campaign has involved, and in my view will continue to involve, acts of trespass and nuisance as described. Its aim is not only to express disapproval of the HS2 project but also to seek by acts of “civil disobedience” to hinder or delay it.
- (v) Nothing has changed since the grant of relief in 2018, 2019 or 2020 which would tend to make it *less* likely that the Claimants would be granted relief at trial. Quite the opposite.
- (vi) The final words of Mr Collins D26 when he addressed me were “*You can stick your injunction up your arse*”. However amusing he might have thought those words were, they are clearly indicative of a determination on the part of the protesters to keep up their present activities come what may.

82. Thus I am clear that the risk of further acts of trespass and nuisance is imminent and real.

83. Further, not only do I think it is likely that the Claimants will establish their case for a final injunction at trial, at the moment, I cannot see that the Defendants have any valid defence at all.

26. A costs order was made against a number of the named Defendants, including D36, following the order extending the injunction in September 2020. In response, D36 and a number of other named Defendants sent a “Pledge of non payment” to the Claimants’ solicitors and also posted it on Twitter, in which they stated that they would not pay the costs ordered against them. A copy of the pledge and the Tweet are at **pages 46 to 49**. To date, D36 has still not paid the costs ordered against him.

27. After leaving the Harvil Road area, D36 moved to the Jones’ Hill Wood Protection camp, located to the South of Wendover. The Jones Hill Wood Protection camp was located partly upon HS2 Land and partly upon third party land. The HS2 Land was

initially cleared of activists between the 01.10.2020 and 08.10.2020 in an operation describe in detail at in Jordan 1. Subsequently, significant attempts were made by activists to re-occupy the HS2 Land and to try to prevent de-vegetation works. Numerous incidents of trespass occurred until the summer of 2021 when de vegetation works were completed. D36 engaged in some of these trespasses, an example of which is shown in social media posts at **page 50**, when on 08.03.2021 D36 and others trespassed upon HS2 Land, approximately 70m to the south of Jones Hill Wood close to Bowood Lane (the location is plotted onto the March 2023 HS2 Land Plans at **page 51**). D36 has given the part of the encampment that remains on third party land in this location as his address in the D36 Grounds.

28. Accordingly, the assertion made by D36 at [10/D36G] that he has “*yet to see production of any evidence of unlawful behaviour on my part*” is not accepted.
29. As to [19/D36G] and [20/D36G], the allegations are not accepted by the Claimants. As D36 is aware, there have now been rulings on a number separate occasions in proceedings involving injunction applications by the Claimants (which rulings are referred to in the September 2022 Judgment) and in which D36 has been a named Defendant that have clearly stated that allegations of this nature are not relevant to these proceedings.
30. As to [21/D36G], as I explained in Dilcock 1 and as was the subject of discussion during the hearing in May 2022, the Claimants own both freehold and leasehold land that is outside of LLAU. D36 is conflating two separate matters: the question of land to which the Claimants are entitled to possession and the question of land on which the HS2 Scheme railway may be built pursuant to the powers granted by the HS2 Acts. There is no fetter or limit on the Claimants’ right or ability to acquire or take leases of land. A good example of this is the First Claimant’s registered office at Snowhill in Birmingham. This is outside of LLAU and held on a lease. It is perfectly lawful for the Claimants to hold that property and to operate from it. Further, the Claimants are required by statute to acquire land in some circumstances that is outside of LLAU (under the blight or material detriment regimes, for example).

31. Further still (and as I explained in Dilcock 1), the Claimants have committed to acquiring land and property outside of LLAU under the various Discretionary Schemes set up by the Government to assist property owners affected by the HS2 Scheme. The details of the various Discretionary Schemes are publicly available online at: <https://www.gov.uk/claim-compensation-if-affected-by-hs2>.
32. The Claimants also acquire land by agreement for various reasons, some of which relate to mitigation measures for the HS2 Scheme or for e.g. storage or compounds. Use by the Claimants of any land that is not covered by the deemed planning permission regime under the HS2 Acts is subject to planning control in the same manner as any other land.
33. The Injunction is based upon the Claimants' right to possession of and unobstructed access to its land – howsoever the Claimants have become entitled to possession of that land. The September 2022 Judgment held that the Claimants were entitled to possession of the HS2 Land.
34. Given the foregoing, I do not intend to provide a point by point response to D36's exhibit 2, however, he has separately raised queries about plots LL02 and 1493 and these are dealt with below. I dealt with plot LL04 in Dilcock 4 at paragraph 29.
35. With regard to [22/D36G], I do not consider that the Claimants are obliged to provide explanations to D36 as to the Claimants' rights in respect of each and every parcel of land to which they are entitled to possession simply because D36 has an unfounded and unevicenced belief that the Claimants do not have rights that D36 appears to consider that they require. However, as D36 has cited two specific parcels in this paragraph of his submission, I have briefly addressed them.
36. Taking Park Lodge Farm first, this is plot 1493 and spans map sheets 29, 29-R1, 30, 30-R1, 31, 31-R1 and 31-R2. Plot 1493 appears in "March 2023 Table 3 – HS2 Acquired land non-GVDs" and also appeared in "Revised Table 3 HS2 Acquired Land non GVDs", which formed part of the application that resulted in the Injunction. It is therefore land that was acquired by the Claimants by means other than GVD. The freehold title to Park Lodge Farm is owned by Hillingdon Borough Council ("**HBC**"). They leased the land to individuals. Those individuals served a blight notice on the

Claimants and their leasehold interest was then acquired by the Second Claimant. There was no need for the Claimants to apply for any change of use as the use of the property was not changed following acquisition. Prior to the acquisition, the property was broken into and severely vandalised, rendering it uninhabitable. Since the acquisition, the Claimants (via their managing agents) have undertaken day to day management activities of the site to include manned security, payment of rent and utilities, tree surveys and hedge cutting. Our managing agents have also worked with HBC's rights of way officer to agree and complete a schedule of repairs for the footpaths and bridleways which cross the holding. Where feasible (and with the consent of HBC) grazing and cropping licences have also been agreed with a local farmer to support in the maintenance and husbandry of the land. The lease of this land contained a break right and this right was exercised. As a result, the Claimants' interest in the land came to an end on 01.04.2023, which was after the March 2023 HS2 Land Plans were finalised, filed and served. In view of the fact that the Claimants' interest in this land has now come to an end, the Claimants propose substituting the above listed sheets in the March 2023 HS2 Land Plans with the sheets at **pages 52 to 58**, which reflect the fact that this land is now no longer in possession. The Claimants also propose a corresponding amendment to Table 3 to remove the entry for plot 1493.

37. D36 has also queried the position with regard to Ruislip Golf Course. The golf course appears on map sheets 28, 28R1 and 29. Parts of the golf course have been acquired by GVD as the HS2 Scheme cuts across the southern end of the golf course – for example Land Acquisition Area (“LAA”) S232_185_0, which can be seen on map sheet 29. Parts have been taken into temporary possession – for example LAA S232_080, which can also be seen on map sheet 29. The remainder of the golf course is held by the First Claimant under two leases granted by HBC – these areas are labelled as plots LL02 and LL03 on map sheets 28, 28R1 and 29. These leases are now registered at HM Land Registry under title numbers AGL560820 and AGL547359 and Official Copies for those titles showing the First Claimant as the registered proprietor are at **pages 59 to 65**. The Claimants propose amending Table 3 to insert these title numbers.

38. The golf course is the subject of a wider agreement between the Claimants and HBC, which provides for mitigation works to mitigate the effect of the removal of those parts

of the golf course that are required for the construction of the railway. The land is the subject of a detailed planning permission for the complete redesign of the golf course, a report on which is publicly available and can be found here: <https://modgov.hillingdon.gov.uk/documents/s53613/3359.pdf> and which provides for *“remodelling of Ruislip Golf Course, incorporating: reconfiguration of 18 existing hole course into a nine hole course, short game practice area, putting green and six hole academy course; construction of a single storey rifle range; demolition of existing covered driving bays and construction of replacement driving range, including associated floodlights and safety netting; a new drainage system and associated ponds; ecological and landscaping works; realignment and enhancement of the Hillingdon Trail and creation of a new public footpath; excavation of a new channel for the Ickenham Stream (canal feeder); and other associated works”*. This redevelopment has been well publicised for a number of years and it was therefore open to D36 to find out more about what was planned for this land if he so desired.

39. As to [23/D36G] to [26/D36G], whilst I am unable to respond regarding specific entries as there is no red highlighting on the copy of exhibit 4 that D36 has provided, my understanding is that D36 is alleging that land has been acquired by the Second Claimant by exercise of compulsory powers of acquisition after those powers have expired. It appears that this stems from misunderstandings on the part of D36 as to the way in which powers of compulsory acquisition operate and it also appears that D36 may be confusing land acquired under the Phase 2a Act with land acquired under the Phase One Act. I have already explained the way in which the Claimants’ powers of acquisition operate in Dilcock 11 (paragraphs 34 and 38 to 41) and prior to that in Dilcock 1 and Dilcock 3. For completeness, I am setting out the position again here.

40. D36 has referred to section 10 of the Phase One Act, which provides as follows:

10 Termination of power to acquire land

- (1) After the end of the period of 5 years beginning with the day on which this Act is passed—
 - (a) no notice to treat may be served under Part 1 of the Compulsory Purchase Act 1965, as applied by section 4(3) to the acquisition of land under section 4(1), and
 - (b) no declaration may be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981, as applied by section 4(4) to the acquisition of land under section 4(1).
- (2) The Secretary of State may by order extend the period under subsection (1) in relation to any land, but may only do so—
 - (a) once, and
 - (b) by not more than 5 years.
- (3) An order under subsection (2) is subject to special parliamentary procedure (as to which, see the Statutory Orders (Special Procedure) Act 1945).
- (4) Schedule 13 contains provision about a right to require acquisition where an order is made under subsection (2).

This section defines the period under which the Second Claimant has compulsory powers of acquisition to acquire the land required for Phase One of the HS2 Scheme. It provides a deadline of 5 years from the passing of the Phase One Act (the Act was passed on 23 February 2017) for the Second Claimant to *serve* notice to treat or *execute* GVDs for the acquisition of land for Phase One. I can confirm that all notices to treat were served and GVDs executed for Phase One prior to that deadline.

41. The dates that appear in the right-hand column of the March 2023 Table 1 – HS2 Acquired Land GVDs (which I assume is the document that D36 refers to as the Claimant’s Exhibit 120 – it is document number 120 on the RWI Updated Website) is the date on which the land in question *vested* in the Second Claimant. As I explained in Dilcock 11, the date on which a GVD is executed is not the date on which the land vests in an acquiring authority. The Phase One Act refers to section 4 of the Compulsory Purchase (Vesting Declarations) Act 1961 (the “CP(VD)A 1961”), which provides as follows:

4 Execution of declaration.

- (1) The acquiring authority may execute in respect of any of the land which they are authorised to acquire by the compulsory purchase order a declaration in the prescribed form vesting the land in themselves from the end of such period as may be specified in the declaration (not being less than **[F13 months]** from the date on which the service of notices required by section 6 below is completed).

When a GVD is made, it is required to specify a period after which the land that is the subject of the GVD will vest in the acquiring authority. That period must be a *minimum* of 3 months from the date on which notices about the making of the GVD are served on owners and occupiers and others pursuant to section 6 of the CP(VD)A 1961. 3 months is the minimum period, and the period can be and often is longer than 3 months. Accordingly, whilst all GVDs required for Phase One were executed prior to the expiry of compulsory acquisition powers, some of the land that was the subject of those GVDs – particularly those made in the last few months of powers - vested in the Second

Claimant after the expiry of powers. This does not, however, present the difficulties that D36 appears to think that it does.

42. Whilst I am unable to check because there is no red highlighting on the copy of exhibit 4 that D36 has provided, it may be that some of the entries in Table 1 to which he is referring are entries for land on Phase 2a of the HS2 Scheme. All of the LAAs that start with an “A” are on Phase 2a. The corresponding provision for the termination of power to acquire land in the Phase 2a Act is in section 9, but has exactly the same wording as the Phase One Act:

- 9 Termination of power to acquire land**
- (1) After the end of the period of 5 years beginning with the day on which this Act is passed—
 - (a) no notice to treat may be served under Part 1 of the Compulsory Purchase Act 1965, as applied by section 4(3) to the acquisition of land under section 4(1), and
 - (b) no declaration may be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981, as applied by section 4(4) to the acquisition of land under section 4(1).
 - (2) The Secretary of State may by order extend the period under subsection (1) in relation to any land, but may only do so—
 - (a) once, and
 - (b) by not more than 5 years.
 - (3) An order under subsection (2) is subject to special parliamentary procedure (as to which, see the Statutory Orders (Special Procedure) Act 1945).
 - (4) Schedule 13 contains provision about a right to require acquisition where an order is made under subsection (2).

This section defines the period under which the Second Claimant has compulsory powers of acquisition to acquire the land required for Phase 2a of the HS2 Scheme. It provides a deadline of 5 years from the passing of the Phase 2a Act (the Act was passed on 11 February 2021) for the Second Claimant to *serve* notice to treat or *execute* GVDs for the acquisition of land for Phase 2a. Accordingly, the Second Claimant’s powers of compulsory acquisition remain live for Phase 2a and land acquisition is continuing.

43. For completeness, the above deadlines do not apply to the First Claimant’s powers to take temporary possession of land under the HS2 Acts.
44. By “TPO” at [27/D36G], I have taken D36 to be referring to temporary possession notices under Schedule 16 of the Phase One Act. At his Exhibit 5, D36 has produced a short list of LAAs, parts of which are shown coloured green on the March 2023 HS2 Land Plans and over which he acknowledges that the Claimants have exercised powers of temporary possession. The point D36 appears to be making is that the Claimant has not made GVDs over those areas of land. This point is of no relevance to these

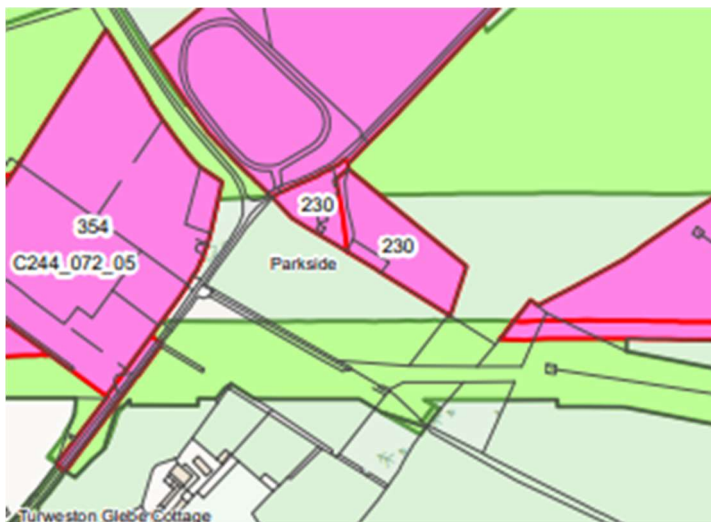
proceedings. Mr Justice Julian Knowles has already ruled in the September 2022 Judgment that the Claimants are entitled to possession of land over which they have exercised the powers afforded to them under Schedule 16 of the Phase One Act and that the right to possession of that land is sufficient to found a right to seek an injunction. It is therefore entirely immaterial for the purposes of considering the Claimants' application for an injunction that the Second Claimant has not made GVDs in relation to that land. In general, the Claimants seek to keep the extent of the land that they take for the HS2 Scheme to the absolute minimum required. Not all land is required permanently. Some land is only required temporarily for Phase One purposes (for example, temporary access, haul roads, environmental monitoring, construction compounds etc.). For completeness, I mention that there will also be some areas of land over which temporary possession has been taken where the Second Claimant has elected to serve Notice to Treat, rather than making a GVD, but where Notice of Entry has not yet been served. The Second Claimant has 3 years after service of Notice to Treat in which to serve Notice of Entry and acquire the land in question if required and is entitled to remain in temporary possession prior to service of any Notice of Entry (and indeed after expiry of the deadline for service of Notice Entry if it is decided that permanent acquisition is not required).

45. As to [28/D36G] and the accompanying Exhibit 6, I note that D36 has again raised points that I addressed in Dilcock 4 in May 2022. Exhibit 6 is a table containing items, which I shall refer to as Item 1, Item 2 etc. for ease of reference.
46. Item 1 – the Chalfont St Giles vent shaft is on sheet 36, not sheet 34 (see also paragraph 12 of Dilcock 4).
47. Items 2, 3, 8 and 9 – D36 is making the same point in each of these in respect of different plots of land. In each case he acknowledges that the Claimants either own the land in question or have rights of temporary possession and therefore (as already ruled in the September 2022 Judgment) the Claimants are entitled to possession and entitled to seek an injunction in respect of that land. It would involve the production of large volumes of documents to fully evidence the position in relation to each of these plots of land, but the queries raised by D36 and the answers thereto are of no relevance to the Claimants' application and there is therefore no requirement to engage in this

exercise. The short and general answer to D36's queries is that when land is acquired by the Claimants, they take subject to third party interests in some cases (for example this is sometimes the case where acquisition is by agreement or under blight etc.). In those cases, in order to take possession as against those third parties where that is required for Phase One purposes, the Second Claimant uses its temporary possession powers. The temporary possession element is the only element showing on the mapping in some cases because the wider permanent acquisition has been excluded from the scope of the injunction application (e.g. because it forms part of the Let Estate).

48. Item 4 – As set out in Table 1, LAA 221_01 was acquired under GVD 853, which was executed on 25 January 2022 (and therefore almost a month before the end of the Second Claimant's powers of compulsory acquisition under the Phase One Act). A copy of GVD 853 is at **pages 66 to 80**. As explained in Dilcock 1 and repeated in Dilcock 11, there is often a lag between the vesting of land pursuant to a GVD and the registration of title at the Land Registry.

49. Item 5 – By "Parkside", I assume that D36 is referring to this area on map number 68:



The area marked "Parkside" is not coloured pink or green and therefore the Claimants are not seeking to injunct it. As set out in Dilcock 4, the Claimants are not required to explain why land is *not included* in the application for an injunction. This land is owned by the Second Claimant but is currently let to a third party and has therefore

been excluded from the injunction application as part of the Let Estate (see paragraph 39 of Dilcock 3 and paragraph 39 of Dilcock 11).

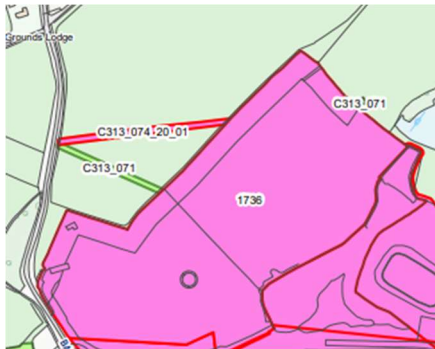
50. Item 6 – this is the same point as Item 5. Illets Farm is owned by the Second Claimant (as D36 observes) but is currently let to a third party and has therefore been excluded from the injunction application as part of the Let Estate.

51. Item 7 – As I explained in Dilcock 4, each LAA comprises multiple Land Acquisition Parcels (“LAPs”). The Claimants do not own all of LAA C313_071 – they have acquired some LAPs within that LAA and have taken temporary possession of others. For example, in relation to this part (which is only part of C313_071):



the part shown coloured green has been taken into temporary possession only.

There is a further part of C313_071 here for example:



and the part shown coloured pink has been acquired by the Second Claimant.

52. I note that the D36 Grounds do not bear a CPR compliant statement of truth.

53. Turning to the D36 Second Statement, the points raised by D36 are all of no relevance to these proceedings. The Claimants’ solicitors wrote to D36 on 06.04.2023 reminding him of the relevant paragraphs in the September 2022 Judgment which ruled that such material was not relevant and a copy of that email is at **pages 81 to 83** These themes

were also the subject of part of the Judgment given by Mr Holland QC in September 2020 in relation to the Claimants' application to extend the Harvil Road Injunction (in respect of which D36 was a named Defendant and represented by Counsel). Mr Holland QC found as follows:

86. So far as there being breaches by HS2 of environmental laws or requirements and the consequences, it is worthwhile reading certain passages from the judgments in the Packham case. That was an attempt, by the well-known naturalist and television presenter Chris Packham, to judicially review the decision of the Secretary of State to give the Notice to Proceed in respect of the HS2 scheme. Of course, the Administrative Court is if anything a more appropriate forum than this court for challenging the validity or lawfulness of the HS2 scheme. The challenge failed on all grounds. In their judgment, in the course of describing the statutory scheme under the Act, the Court of Appeal said this (at paragraphs 16 to 19):

16. *Section 68(5)(a) of the 2017 Act refers to a "statement deposited" in connection with the Phase One Bill in November 2013 under Standing Order 27A of the Standing Orders of the House of Commons "relating to private business (environmental assessment)". Section 68(5)(b) refers to "statements containing additional environmental information" published in connection with the Phase One Bill – supplementary environmental statements – in 2014 and 2015. Both the environmental statement and the supplementary environmental statements were subject to public consultation in accordance with Standing Order 224A. A report prepared by an "independent assessor" under Standing Order 224A, summarising the issues raised by comments made on the environmental statement, was presented to MPs before the Second Reading of the Bill in the House of Commons, and, in the case of the supplementary environmental statements, before the Third Reading.*

17 *Both the environmental statement and the supplementary environmental statements contained detailed descriptions and assessment of the environmental effects of the Phase One works – for example, their effects on wildlife, including European Protected Species and their habitats, and on designated ancient woodlands and other areas of woodland affected by the works authorised by the 2017 Act. Both set out detailed arrangements for the mitigation of those effects where they could not be avoided, and for compensation – for example, by extensive tree planting – where they could not be fully mitigated. Their content was the subject of petitions to both Houses. Among the petitioners were local authorities, and many organisations concerned with the environment – for example, national and local wildlife trusts and the Woodland Trust. The environmental statement also provided an assessment of the performance of Phase*

One, as proposed to be authorised under the Bill, against the then current legislative, regulatory and policy requirements and objectives relating to climate change.

18. *As nominated undertaker for Phase One of the project, HS2 Ltd. is under a contractual duty in the HS2 Phase One Development Agreement to comply with the published Environmental Minimum Requirements ("EMRs") for construction of Phase One of HS2. The EMRs are intended to ensure that Phase One is delivered in accordance with the deemed planning permission granted under section 20 of the 2017 Act, with the environmental statement and supplementary environmental statements, and with the requirements of Parts 3 and 4 of the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations").*

19. *The HS2 Phase One Code of Construction Practice, issued in February 2017, is a component of the EMRs. Section 9 of the Code of Construction Practice imposes obligations on HS2 Ltd. for the protection of ecological interests, including protected species, statutorily protected habitats, and other habitats and features of ecological importance – such as ancient woodlands. HS2 Ltd. also published, in August 2017, an Ancient Woodland Strategy for Phase One, setting out detailed arrangements for managing the impact of the construction of Phase One on the areas of designated and other ancient woodland in which works are authorised under the 2017 Act.*

87. In considering the challenge brought by Mr Packham on the ground that “the Government’s decision [was] flawed by a failure to consider environmental effects” (referred to as “ground 2”), the Court of Appeal said this (at paragraphs 54, 55, 58 and 61-63):

54. *Before the Divisional Court it was common ground that the Phase One works were lawful. They had been authorised under the 2017 Act. An environmental impact assessment of that phase had been undertaken, in accordance with EU and domestic legislation, including public consultation, during the process of Parliamentary scrutiny. Petitions against the Bill had been brought by local authorities and by national and local wildlife and woodland trusts, and had been heard by Select Committees appointed by each House. The works were subject to regulation by Natural England as competent authority through the operation of the licensing procedures in Parts 3 to 5 of the Habitats Regulations. And they had to be carried out in accordance with the published HS2 Phase One Code of Construction Practice.*

55. *The Divisional Court regarded these propositions as "self-evidently correct" (paragraph 47 of the judgment)...*

58. *Specifically on ground 2 of the claim, the Divisional Court said it would be impossible to construct a project on the scale of HS2 Phase One without causing "interference with and loss of significant environmental matters, such as ancient*

woodland", and this had been authorised in the 2017 Act (paragraph 81). The environmental impacts of Phase One had been assessed in detail in the Parliamentary process...

61...We agree with the conclusions of the Divisional Court. We do not accept that it misunderstood Mr Wolfe's submissions, but in any event we see no merit in the argument as it was presented to us.

62. HS2 is an infrastructure project of national significance, with a long and well-publicised history. When the Government made its decision to proceed with the project in February 2020, the factual context in which the Oakervee review had come to be set up in August 2019 was a matter of record. Phase One of the project had passed through a lengthy process of consultation, assessment – including environmental impact assessment – and statutory approval. The process had been punctuated by challenges in the courts, and its lawfulness had been confirmed. Statutory authorisation for Phase One was embodied in the 2017 Act, which referred in several of its provisions to the environmental impact assessment that had been carried out. The Parliamentary process was well advanced for Phase 2a, and would soon begin for Phase 2b.

63. The deemed planning permission for Phase One of the project depended on the assessment of environmental impacts and mitigation and compensation measures set out in the environmental statement and the supplementary environmental statements. HS2 Ltd., as nominated undertaker, was under a contractual duty to comply with the EMRs and to ensure that both the construction and operation of Phase One were controlled in accordance with that assessment. It was an appropriately extensive and thorough assessment. Matters raised in representations in the course of the Oakervee review, and to which Mr Packham refers in these proceedings – such as the effects of tunnel boring on water quality and water supply and the possible dewatering of the River Misbourne and Shardeloes Lake, and ecological effects of various kinds – had already been raised in petitions against the Bill. Such effects were addressed in the environmental statement and controlled under the EMRs. These are merely a few examples. But they serve to illustrate the comprehensive coverage of environmental impacts within the approval process.

88. These passages serve to emphasise the points which I have made (albeit in much less detail) in my previous judgments. So far as this Court is concerned, HS2 is a lawful scheme mandated by the Act. The works carried out under the HS2 scheme by HS2 are lawfully carried out. Parliament carefully considered the likely environmental impacts of the scheme before it sanctioned the works by means of the Act. There are environmental safeguards mandated by Parliament and built into the scheme which Parliament has deemed to be sufficient to avoid or mitigate any environmental damage caused.

89. Thus any challenge to HS2 or the works being carried out on the grounds that they are somehow in breach of UK or EU environmental legislation or have not been the subject of adequate Parliamentary scrutiny, is bound in my view to fail.

90. I have already rejected a submission to the effect that the Defendants' Article 10 or 11 rights include a right to stand on a public highway to monitor HS2's activities on its own land (see paragraphs 88 and 141-147 of my second judgement). I see no reason to change my mind on that point. Further, having rejected the argument in relation to the Defendants standing on a public right of way (onto which, a fortiori, they are lawfully permitted to go) my rejection becomes all the more emphatic when, as now, it is sought to say that this alleged right extends to monitoring by trespassing on private land such as the Harvil Road Site.

91. Further, as the courts pointed out in the Packham case, there is built into the Parliamentary scheme what Parliament regards as sufficient environmental safeguards and it is not for interested members of the public to seek to second-guess what Parliament has decreed to be adequate.

...

92. Further, even if it was to be established that HS2 was breaking the law in some way (and I hasten to add that it has not been established) I do not see how this could amount to a defence to a claim in trespass and nuisance as advanced by the Claimants against the Defendants. I venture to repeat the points I made at paragraphs 132 to 135 of my second judgment.

93. 94. I do not accept any submission made by the Defendants to the effect that the risk or prospect of the Claimants committing a criminal offence or breach of statutory provision if the injunction is granted, could possibly amount to a defence. This is for a number of reasons:

94. Firstly, on the facts, there is no clear proof that any criminal offence or breach of statute will occur if the injunction is granted. The Claimants deny that it will. The Defendants assert that it will. However, the Defendants have not produced any formal statements or specifically prepared expert reports and none of them are experts. I do not therefore accept that there is any strong evidence to the effect that the Claimants are likely to commit any crime or breach of statutory provision if the injunction is granted.


95. Further, even if I was to accept that the evidence showed that there **was** a risk or even a likelihood that the Claimants would carry out some unlawful activity if the injunction was granted, I would not hold that this was a defence to a claim for injunctive relief. As set out above, the Claimants are entitled, by reason of statute, to possession of the Land and the Additional Land. There was, and is, nothing unlawful about the acquisition of the Claimants' rights. The Defendants cannot and do not assert any countervailing right to possession of the Land or the Additional Land. There is no necessary connection between the grant of an injunction to protect the Claimant's rights over the Site and the subsequent commission on the

Site of any crime or breach of statutory provision: the latter is not the inevitable consequence of the former.

(iii) In the words of Lord Toulson in PATEL V MIRZA [217] AC 467, the public interest in maintaining the integrity of the justice system does not, in my view, result in the denial of the remedy which the Claimants seek in these circumstances. If, following the grant of an injunction, the Claimants carry out unlawful activities on the Site, then there are sufficient other remedies available to the law.”

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: 17 April 2023