

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

Between:

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

Claimants

-and-

- (1) NOT USED
- (2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER THE HS2 LAND WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND IN CONNECTION WITH THE HS2 SCHEME WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT, WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITHOUT THE CONSENT OF THE CLAIMANTS
- (4) PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS
- (5) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE)

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

Defendants

SKELETON ARGUMENT OF THE CLAIMANTS

For Review Hearing Wednesday 15 May 2024

PRELIMINARY

References

[CB/Y/X]: volume y and page x of the Core Bundle

[SB/X]: page x of the Supplemental Bundle

[AB/X]: page x of the Authorities Bundle

[IO/X]: paragraph x of the Injunction Order of Mr Justice Ritchie dated 31 May 2023 (“**Injunction Order**”).

Suggested Pre-Reading (Time Estimate: 4 hours)

1. Injunction Order [CB/A/3]
2. Judgment Order of Mr Justice Ritchie dated 26 July 2023 [CB/A/21]
3. *HS2 and SoST v Persons Unknown* [2022] EWHC 2360 (KB) (“**Judgment**”) [CB/A/44]
4. Ruling of the Court of Appeal in CA-2022-001952 dated 9 December 2022 (“**Ruling**”) [CB/A/119]
5. Application Notice dated 1 March 2024 pursuant to the provisions at paragraphs 12 and 13 of the Injunction Order (“**March 2024 Application**”) [CB/A/138]
6. 13th Witness Statement of Julie Dilcock dated 28 February 2024 (“**Dilcock 13**”) [CB/A/225]
7. 2nd Witness Statement of John Groves dated 28 February 2024 (“**Groves 2**”) [CB/A/217]
8. 2nd Witness Statement of James Dobson dated 28 February 2024 (“**Dobson 1**”) [CB/A/168]
9. Draft Orders – appended to this skeleton argument, with amendments (to the draft orders as filed with the March 2024 Application) shown in tracked changes [CB/A/144 and 161]
10. Written Reasons of D6, Mr Knaggs, dated 11 May 2023 (sic) (“**D6 Reasons**”) [CB/A/243]

INTRODUCTION AND SUMMARY

1. This is the Claimants’ skeleton argument for the extension and variation of an injunction order protecting the High Speed Rail 2 scheme (“**HS2 Scheme**”).

2. On 20 September 2022, in response to the Claimants' claim and application ("**Claim**"), Julian Knowles J made an order ("**2022 Order**") [CB/A/24] which granted an interim precautionary injunction against the Defendants. The learned judge's reasons are recorded in his judgment, *HS2 and SoST v Persons Unknown* [2022] EWHC 2360 (KB) ("**Judgment**") [CB/A/44].
3. The 2022 Order was extended by Ritchie J on 31 May 2023 as the Injunction Order at a review hearing ("**First Review Hearing**").
4. [IO/12] provides for its reconsideration on approximately a yearly basis "to determine whether there is a continued threat which justifies continuation of [the Injunction Order]".
5. [IO/13] notes that there are directions at Schedule A to the Injunction Order ("**Directions**") and "[p]arties are advised to consider them carefully".
6. [IO/18] provides that the Claimants and named Defendants have liberty to apply to extend or vary the Injunction Order or for further directions.
7. [IO/19] provides that the Claim was stayed with liberty to restore.
8. Although this skeleton argument seeks to provide the Court with much of the detail of the Claim and genesis of the Injunction Order, the Claimants' case in a nutshell is that the Injunction Order has been effective, yet there remains a continued threat which justifies the continuation of injunctive relief.
9. The Claimants have adopted the approach suggested by the learned Judge at the First Review Hearing, and once again seek to separate the procedural elements of their applications into a draft Judgment Order, with the substantive injunction contained in the draft Injunction Order.

PROCEDURAL MATTERS

10. The Directions provide at paragraph 6 that any person seeking to amend (including discharge) the Injunction Order, or oppose any of the applications made by the Claimants, must file and serve written reasons by 4pm on 5 April 2024.

11. On 4 April 2024, the D6 Reasons [CB/A/243] were served on the Claimants, but, the Claimants understand, only filed with the Court on 24 April 2024 in breach of the Directions. No other applications or reasons for opposing the Claimants' applications have been served as at the date of this skeleton argument.
12. The Directions provide at paragraph 7 that any evidence upon which a Defendant or other Applicant wishes to rely must be filed by 4pm on 19 April 2024. No such evidence has been filed or served as at the date of this skeleton argument.
13. It follows that at present, the Claimants' applications:
 - a. To continue the Injunction Order for a further 12 months;
 - b. To amend the definition of the "March 2023 HS2 Land Plans";
 - c. To update the definition of "HS2 Land"; and
 - d. To add a further prohibition in respect of causing an object to enter or remain on, in, under or over the HS2 Landare unopposed apart from by D6 as set out in the D6 Reasons, albeit that there is no evidence which has been filed by D6.
14. The approach in this skeleton argument is to set out the reasons, evidence and authorities in respect of the Claimants' applications, and at the end summarise those matters in respect of the D6 Reasons by way of a brief response.
15. Although in the context of summary judgment and final injunctive relief, in *National Highways v Persons Unknown* [2023] EWCA Civ 182 the Court of Appeal (Sharp P, Flaux C and Lewison LJ) confirmed at [40] [AB/167] that where defendants had not served a defence or any evidence or otherwise engaged with the proceedings "despite being given ample opportunity to do so, was not, as the judge thought, irrelevant, but of considerable relevance, since it supported NHL's case that the defendants had no real prospect of successfully defending the claim for an injunction at trial", and continued at [41]:

"It is no answer to the failure to serve a defence or any evidence that, as the judge seems to have thought (see [35(5)] of the judgment), the defendants' general attitude was of disinterest in Court proceedings. Whatever the motive for the silence before the judge, it was indicative of the absence of any arguable

defence to the claim for a final injunction. Certainly it was not for the judge to speculate as to what defence might be available. That is an example of impermissible “Micawberism” which is deprecated in the authorities, most recently in *King v Stiefel*. If the judge had applied the right test under CPR 24.2 and had had proper regard to CPR 24.5, he would and should have concluded that none of the 109 named defendants had any realistic prospect of successfully defending the claim at trial and that accordingly, NHL was entitled to a final injunction against those defendants.”

16. The Claimants’ submission is that although not a complete answer to a yearly review of an injunction, as the Claimants continue to have duties in respect of any injunction order, the lack of any filed reasons for opposition or evidence other than by D6 is a significant factor in favour of granting the Claimants’ applications.

17. Further, and in accordance with the duties established by *Canada Goose v Persons Unknown* [2020] EWCA Civ 303 [AB/272], the Claimants make an application to remove certain Named Defendants. Again, it is only D6 who appears to resist this, and that resistance is addressed below.

BACKGROUND

18. A general introduction and wider background are set out in full in the Judgment at [1] – [47] and so summarised briefly. It is sufficient here to note that the HS2 Scheme is a project specifically authorised by Acts of Parliament (the High Speed Rail (London – West Midlands) Act 2017 – “**the Phase One Act**”; and the High Speed Rail (West Midlands – Crewe) Act 2021 (“**the Phase 2a Act**”) together: the “**HS2 Acts**”).

19. Following the Claimants’ application, two directions hearings, a precursor geographically constrained interim injunction, a directions order, and a two-day contested hearing, Julian Knowles J granted the 2022 Order.

20. In the Judgment, the learned judge made specific findings relevant to the continuation of the Injunction Order and to the Claimants’ further applications set out below:

- a. [161]: "...there has been significant violence, criminality and sometimes risk to the life of the activists, HS" staff and contractors..."
- b. [162]: "...much of the direct action seems to have been less about expressing the activists' views of the HS2 Scheme, and more about trying to cause as much nuisance as possible, with the overall aim of delaying, stopping or cancelling [HS2] via, in effect, a war of attrition."
- c. [176]: "Given the evidence that the protesters' stated intention is to protest wherever, and whenever, along HS2's route, I am satisfied there is the relevant imminent risk of very substantial damage. To my mind, it is not an attractive argument for the protesters to say: 'Because you have not started work on a particular piece of land, and even though when you do we will commit trespass and nuisance, as we have said we will, you are not entitled to a precautionary injunction to prevent us from doing so until you start work and we actually start doing so.' As the authorities make clear, the terms 'real' and 'imminent' are to be judged in context and the court's overall task is to do justice between the parties and to guard against prematurity. I consider therefore that the relevant point to consider is not now, as I write this judgment, but at the point something occurs which would trigger unlawful protests. That may be now, or it may be later. Furthermore, protesters do not always wait for the diggers to arrive before they begin to trespass. The fact that the route of HS2 is now publicly available means that protesters have the means and ability to decide where they are going to interfere next, even in advance of work starting."
- d. [213]: "...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."
- e. [214]: "...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”.

21. On 15 May 2023, in accordance with the 2022 Order, the need for continued injunctive relief was reviewed at a hearing by Ritchie J. That hearing was contested by D6 (Mr Knaggs) (acting through Leading and Junior Counsel), and D36 (Mr Keir) and Ms Thomson-Smith (at that time proposed D66) in person.
22. In agreement with D6, the Claimants did not pursue an application to add a prohibition on unlawful means conspiracy to the injunction. Ritchie J granted the Claimants’ applications and made the Injunction and Judgment Orders. The learned judge refused an application to adjourn the hearing by D36, and an application to call and cross-examine witnesses, also by D36.

CHANGES SINCE THE GRANT OF THE INJUNCTION ORDER

23. There are two changes which have arisen since the Injunction Order was last reviewed:
 - a. Clarification of the law; and
 - b. Recent Government announcements relating to the HS2 Scheme.

Clarification of the law

24. The Court will be aware that since the Injunction Order, the Supreme Court handed down judgment in *Wolverhampton City Council v London Gypsies and Travellers* [2023] UKSC 47 [AB/80]. The First Claimant intervened in those proceedings in the Court of Appeal and both Claimants intervened in the Supreme Court. Although explicitly focussed on Traveller injunctions, the Supreme Court confirmed at [167] that:

“...there is no immovable obstacle in the way of granting injunctions against newcomer Travellers, on an essentially without notice basis, regardless of whether in form interim or final, either in terms of jurisdiction or principle...”

25. The Supreme Court made plain that such injunctions should only be granted (in brief summary) where:
 - a. There is an evidenced compelling need to protect civil rights;

- b. There is procedural protection for the rights of affected newcomers and “[t]his will need to include an obligation to take all reasonable steps to draw the application and any order made to the attention of all those likely to be affected by it...; and the most generous provision for liberty (ie permission) to apply to have the injunction varied or set aside, and on terms that the grant of the injunction in the meantime does not foreclose any objection of law, practice, justice or convenience which the newcomer so applying might wish to raise”
 - c. Applicants have a “most stringent form of disclosure duty”;
 - d. The injunctions must be constrained territorially and temporally so that “they neither outflank not outlast the compelling circumstances relied upon”; and
 - e. On the facts, granting the injunction is “just and convenient”.
26. The Judgment confirms that the relevant legal test for the grant of an injunction on the basis of a real and imminent risk of unlawful activity have been met. It is submitted that the question for the Court at this Review Hearing is the same as already captured in para. 12 of the Injunction Order: whether there is a continuing threat which justifies the continuation of the Injunction Order and whether it should be maintained, varied or discharged.
27. That approach was followed very recently by the High Court in *National Highways Limited v Persons Unknown*, which was a review of the National Highways injunction protecting part of the Strategic Road Network (“SRN”). In that case, there was no evidence of any direct action protest activity on the protected roads since November 2022. Nevertheless, the Court was persuaded as to the test, and accepted evidence that direct action protest had not abated generally such that there remained a continued threat to the SRN. The Court granted the extension of National Highways injunction for a further 12 month period [AB/3].
28. The Claimants’ submission is that the Injunction Order and Judgment anticipated the Supreme Court’s judgment in *Wolverhampton* on which basis the Claimants submit that the evidence before this Court shows that the Injunction Order should be maintained, subject to some amendments.
29. Other elements of *Wolverhampton* point strongly in the direction of the relief the Claimants seek. At [22], the Supreme Court restates the flexibility of injunctive relief:

“These dicta are borne out by the recent developments in the law of injunctions which we have briefly described. They illustrate the continuing ability of equity to innovate both in respect of orders designed to protect and enhance the administration of justice...of orders designed to protect substantive rights, such as internet blocking orders... the developments which have taken place over the past half-century demonstrate the continuing flexibility of equitable powers, and are a reminder that injunctions may be issued in new circumstances when the principles underlying the existing law so require.”

30. It is also clear now that one of the underlying premises of the 2022 Order was not legally correct. A feature of pre-*Wolverhampton* persons unknown injunctions has been that there must be a cause of action and the claim must proceed expeditiously to trial. That culminated in the reasoning in *Barking and Dagenham* at first instance in the Court of Appeal.

31. However, the Supreme Court provided a thorough analysis of the jurisdiction, and made plain that (i) persons unknown injunctions form their own category; (ii) a cause of action can be/is unnecessary; (iii) it is not necessary to name everyone in a persons unknown injunction: and (iv) it is artificial to view a persons unknown injunction as something “holding the ring” to trial – the proceedings are not at an end until the injunction is discharged. Key paragraphs in the reasoning are as follows:

“[43] An injunction against newcomers purports to restrain the conduct of persons against whom there is no existing cause of action at the time when the order is granted: it is addressed to persons who may not at that time have formed any intention to act in the manner prohibited, let alone threatened to take or taken any steps towards doing so. That might be thought to conflict with the principle that an injunction must be founded on an existing cause of action against the person enjoined...[but] the Judicial Committee of the Privy Council rejected such a rigid doctrine and asserted the court’s governance of its own practice. It is now well established that the grant of injunctive relief is not always conditional on the existence of a cause of action. Again, it is relevant to consider some established categories of injunction against “no cause of action defendants” (as they are sometimes described) in order to see whether

newcomer injunctions fall into an existing legitimate class, or, if not, whether they display analogous features.

...[54] A wider scope for proceedings against unnamed defendants emerged in *Bloomsbury*, where it was held that there is no requirement that the defendant must be named. The overriding objective of the CPR is to enable the court to deal with cases justly and at proportionate cost. Since this objective is inconsistent with an undue reliance on form over substance, the joinder of a defendant by description was held to be permissible, provided that the description was “sufficiently certain as to identify both those who are included and those who are not” (para 21). It will be necessary to return to that case, and also to consider more recent decisions concerned with proceedings brought against unnamed persons.

...[106] [The Court of Appeal] proceeded, therefore, on the basis that the persons to whom an injunction is addressed can be described by reference to the behaviour prohibited by the injunction, and that those persons will then become parties to the action in the event that they breach the injunction. As we will explain, we do not regard that as a satisfactory approach, essentially because it is based on the premise that the injunction will be breached and leaves out of account the persons affected by the injunction who decide to obey it. It also involves the logical paradox that a person becomes bound by an injunction only as a result of infringing it...

[132] As it seems to us, the difficulty which has been experienced in the English cases, and to which *Gammell* has hitherto been regarded as providing a solution, arises from treating newcomer injunctions as a particular type of conventional injunction inter partes, subject to the usual requirements as to service. The logic of that approach has led to the conclusion that persons affected by the injunction only become parties, and are only enjoined, in the event that they breach the injunction. An alternative approach would begin by accepting that newcomer injunctions are analogous to injunctions and other orders which operate contra mundum, as noted in para 109 above and explained further at paras 155-159 below. Although the persons enjoined by a newcomer injunction should be described as precisely as may be possible in the circumstances, they potentially

embrace the whole of humanity. Viewed in that way, if newcomer injunctions operate in the same way as the orders and injunctions to which they are analogous, then anyone who knowingly breaches the injunction is liable to be held in contempt, whether or not they have been served with the proceedings. Anyone affected by the injunction can apply to have it varied or discharged, and can apply to be made a defendant, whether they have obeyed it or disobeyed it...

...137 The court also observed at para 92 that “[a]n interim injunction is temporary relief intended to hold the position until trial”, and that “[o]nce the trial has taken place and the rights of the parties have been determined, the litigation is at an end”. That is an unrealistic view of proceedings of the kind in which newcomer injunctions are generally sought, and an unduly narrow view of the scope of interlocutory injunctions in the modern law, as explained at paras 43-49 above. As we have explained (eg at paras 60 and 73 above), there is scarcely ever a trial in proceedings of the present kind, or even adversarial argument; injunctions, even if expressed as being interim or until further order, remain in place for considerable periods of time, sometimes for years; and the proceedings are not at an end until the injunction is discharged.

138. We are also unpersuaded by the court’s observation that private law remedies are unsuitable “as a means of permanently controlling ongoing public demonstrations by a continually fluctuating body of protesters” (para 93). If that were so, where claimants face the prospect of continuing unlawful disruption of their activities by groups of individuals whose composition changes from time to time, then it seems that the only practical means of obtaining the relief required to vindicate their legal rights would be for them to adopt a rolling programme of applications for interim orders, resulting in litigation without end. That would prioritise formalism over substance, contrary to a basic principle of equity (para 151 below). As we shall explain, there is no overriding reason why the courts cannot devise procedures which enable injunctions to be granted which prohibit unidentified persons from behaving unlawfully, and which enable such persons subsequently to become parties to the proceedings and to seek to have the injunctions varied or discharged...”

Recent Government Announcements

32. Government policy as regards the HS2 Scheme is discussed in detail in Dilcock 13 at paras. 28 – 33, but it is a matter which might be said to be relevant to the continuation of the Injunction Order and hence must be addressed by the Claimants.
33. The starting position is that the Phase 2a Act (and indeed the HS2 Acts) have not been repealed or amended and remain in force. No legislation has been proposed in that regard as at the date of this skeleton argument. However, in January 2024, the Government announced that it was removing safeguarding directions across the majority of Phase 2a. That has no present relevance to these proceedings as safeguarded land is not HS2 Land: it is simply land which has been earmarked for major infrastructure and is intended to be protected from conflicting development.
34. The reason that safeguarding directions were withdrawn is that on 4 October 2023, the Prime Minister made an announcement that the Government did not intend to proceed with construction of Phase 2 of the HS2 Scheme, and published a White Paper, *Network North: Transforming British Transport* (“**October Announcement**”).
35. Despite the October Announcement, the High Speed Rail (Crewe – Manchester) Bill (“**Bill**”) has been re-introduced in the 2023–24 parliamentary session.
36. The Department of Transport’s most recent six-monthly report to Parliament (November 2023) said it is “considering [the Bill’s] future as we look to deliver NPR [Northern Powerhouse Rail – another Government proposal], or any alternative that local leaders may agree, as quickly as possible, as outlined in the Network North command paper.”
37. On 26 October 2023, the Bill’s Select Committee paused its scrutiny until it had further information from the Government or instruction from the House of Commons.
38. Simply put, at present there has been the October Announcement, but as at the date of this skeleton argument there is no proposed or made legislation, and no amendment, suggested amendments, or proposed repeal of the HS2 Acts.

39. In any event, as Ms Dilcock explains, no Phase 2b land has ever been included in the HS2 Land [Dilcock 13/para. 29.2]. However, the Second Claimant has acquired c.60% of the land required for Phase 2a [Dilcock 13/para. 30]. There is presently no policy, no proposal, and no timescale for how the Phase 2a land will be disposed of. Until such a time as the Phase 2a land is disposed of, it remains owned by the Second Claimant, and subject to continued threat as set out in the evidence at this Review Hearing.
40. The Claimants' submission is that the Government's announcement is in practical and legal terms not material to the Injunction Order.

NEED FOR CONTINUED INJUNCTIVE RELIEF

41. There is a compelling case for the Injunction Order to be continued, and the Court is respectfully invited to do so.
42. A cursory read through of the history set out in the Judgment, Groves 2 and Dobson 2 shows the extent of the disruption which has been controlled by the benefit of the Court's protection. The graph at page 1 of the Exhibits to Groves 2 [CB/B/162] shows the extraordinarily significant reductions in costs to the taxpayer in respect of direct action protest on the HS2 Land: from over a hundred million pounds to approximately a hundred thousand pounds.
43. The Injunction Order has been kept under review by the Claimants, and they continue to discharge their duties under the terms of the Injunction Order and the relevant case authorities. The Claimants seek a continuation of the Injunction Order for a period of 12 months on the basis that there continues to be a real and imminent risk of serious harm. For the reasons set out in Dobson 2, the protection of the Injunction Order in materially identical terms remains necessary, subject to the variations proposed which are supported by the Claimants' witness evidence and discussed further below.
44. Groves 2 paras. 8 – 12 [CB/A/219] explains how successful the Injunction Order has been for the Claimants. As well as the economic benefits (which represent a saving to the public purse), the significant benefits to HS2's staff and contractors are highlighted in para. 11.
45. Groves 2 at para. 13 explains the Claimants' forecast of what might happen should the protection of the Injunction Order not be continued. The costs to the public purse in that

circumstance are estimated to be in excess of £29m by the end of this year. Notably, given the October Announcement, the estimated costs of pro-active security costs for Phase 2a in the event that the protection of the Injunction Order were not continued would be in the region of £7m.

Continued Threat

46. Despite the considerable impact of the Injunction Order, anti-HS2 activists continue to oppose the HS2 Scheme. The Injunction Order continues to be effective, and the evidence is that it has moderated and reduced unlawful trespass on the HS2 Land.
47. As Mr Dobson accepts [Dobson 2/16], since 17 March 2023, there have been no major direct action protest events targeting the HS2 Scheme that have resulted in a delay of works by more than an hour. But Mr Dobson confirms [Dobson 2/17] it is not the case that the HS2 Scheme has not been targeted at all: it is simply that the incidents are small, isolated and lacking support [Dobson 2/19]. In short, the Injunction Order is working as the Court intended against direct action protestors.
48. However, as Mr Dobson also explains, it is not the case that direct action protest has ceased. In fact, the evidence is that direct action protest generally has escalated and increased [Dobson 2/64 – 65, 69, 77 – 78, for example], but that it is the Injunction Order which has proven effective in deterring such direct action protest on the HS2 Land.
49. Mr Dobson provides further evidence of other types of trespass activity which is potentially in breach of the Injunction Order and which has continued over the last 12 months: “Freemen of the Land” [Dobson 2/21 – 35] and “Urban Explorers” [Dobson 2/36 – 40].
50. There is also the recent and novel threat of aerial incursions, intended to cause damage or delay, onto the HS2 Land by drone operators [Dobson 2/41 – 62].
51. What is plain from the evidence in Dobson 2 is that there remains a “hardcore” of committed activists who are willing to do whatever it takes to cause delay, annoyance and disruption in relation to the causes they espouse. The danger from the dispersal of those activists from anti-HS2 activity, but who nevertheless continue to engage in other

direct action protest is the risk of cross-pollination of causes and tactics between direct action protestors. That is a very real risk [Dobson 2/91 – 93]. Plainly, it is submitted, there is a continued threat to the HS2 Scheme given its profile and the fact that much of the HS2 Scheme will continue to be built.

THE CLAIMANTS' FURTHER APPLICATIONS

Removal of Named Defendants

52. The Claimants seek to remove certain named individuals as Defendants to the Claim, for the reasons set out in Dobson 2 paras. 9 – 13 and Dilcock 13 at paras. 17 – 20.
53. In summary, the Defendants proposed to be removed have shown no continued involvement in unlawful direct action protest, have expressly disassociated themselves with the anti-HS2 campaign, or are in custody/subject to suspended sentences. For that reason, the Claimants do not consider that it is necessary to keep them as Named Defendants on the basis of the principles set out in *Canada Goose*.
54. The benefit to those Named Defendants being so removed is that remaining as Named Defendants may potentially expose those individuals to the costs of this, and future, review hearings.
55. Should any Defendant indicate that they would wish to remain as a Named Defendant, the Claimants would not seek their removal. Equally, as per the draft Injunction Order any party is able to seek to add themselves as a Named Defendant. Of course, Named Defendants so removed would continue to be bound by the injunction were any of them to engage in prohibited activity.
56. For completeness, Dobson 2 provides reasons in para. 14 as to why other Named Defendants are not proposed to be removed – those persons are either continuing to unlawfully disrupt HS2 or are people who the Claimants are compelled to name in line with *Canada Goose* as persons who may carry out the activities prohibited by the Injunction Order.
57. For the reasons set out in Dilcock 13 at para. 21, the Claimants did seek to add one named defendant, D69 in accordance with the obligation in *Canada Goose*. However,

on 5 March 2024, Mr Arnold agreed to an undertaking [CB/A/245], on which basis the Claimants no longer seek to add him as D69.

Clarifications

58. The Claimants seek to make three minor but substantive amendments to the Injunction Order for the reasons set out in Dilcock 13 at para. 24 – 26.

59. In summary, these are:

- a. An amendment to the definition of HS2 Land to include land owned by the Claimants but which may in due course be declared to be surplus land unnecessary for the HS2 Scheme by the Government following on from the October Announcement.
- b. An amendment to make explicit reference to the Injunction Order prohibiting causing an object to trespass and trespass into the airspace of the HS2 Land. In principle, such activity is a trespass and caught by the prohibition. The Claimants proposed amendment to the description of D2 and to the prohibited activity is intended to clarify the position to assist the understanding of any potential persons unknown intending to trespass by causing an object to enter or remain on, in, under or over the HS2 Land.
- c. An amendment to make reference to the Second Claimant's online mapping system.

60. There are further minor amendments and corrections which the Claimants propose as set out in tracked changes in the draft Injunction and Judgment Orders appended to this skeleton argument.

OTHER MATTERS

61. Section 12 of the Human Rights Act 1998 (“**HRA 1998**”) is addressed as follows:

- a. In relation to those Defendants who do not appear and/or are not represented at this Review Hearing, no issue arises as to s.12(2) because the Claimants have taken all practicable steps to notify those Defendants. This is a Review Hearing for which:
 - i. there has been service on the Defendants;

- ii. the Injunction Order makes specific reference to the Review Hearing and its date; and
 - iii. there is any event significant constructive knowledge of this Review Hearing.
- b. Similarly, in respect of s.12(3), to the extent that direct action protest could amount to publication, the Court has already found that such publication should not be allowed in the Judgment.

THE DRAFT INJUNCTION ORDER

62. The recitals in the draft Injunction Order [appended] are materially identical to the recitals in the Injunction Order. In particular, the recitals contain the Claimants' renewed undertaking to comply with any order for compensation; renewed confirmation that the draft Order does not seek to prohibit lawful protests; renewed confirmation that no freeholder or leasehold with a lawful interest in the HS2 Land is intended to be captured by the prohibition; and renewed undertaking not to seek the committal of any freeholder or leaseholder with a lawful interest in the HS2 Land.
63. Paragraph 1 provides the defined terms, which have been amended in light of the Claimants' applications, with amended definitions at para. 1(d), (e), and (h).
64. Paragraphs 2 - 5 set out the prohibitions, with a sunset date of 23:59 on 31 May 2025, and repeats the clarifications. Again, there are minor differences to the injunction in force from the draft Injunction Order as a result of the Claimants' applications - the inclusion of para. 2(d) which contains the Drone prohibition, and 4(g) which provides the open list of activities which are included in the prohibition.
65. As to the proposed duration, the Claimants propose a continuation of the injunction until further order or with a backstop at 23:59 on the relevant 12-month anniversary of the date of the draft Injunction Order. In accordance with *Wolverhampton*, reference to trial has been removed.

66. Paragraphs 6 -11 set out the alternative service requirements, and are again materially identical to the provisions in the Injunction Order. For the reasons set out in the Judgment and Ruling, these service provisions remain reasonable and effective.

67. Similar alternative service provisions have been granted in other cases (see again the National Highways Order [AB/3], and the Court has noted that in respect of injunctions against direct action activists, there is considerable, and increasing, constructive knowledge of such injunctions. Injunctive relief was granted to Transport for London (“TfL”) against a similar backdrop of direct action protests on TfL roads in central London, where Cavanagh J held in *TfL v Lee* [2023] EWHC 402 [AB/169] at [32]:

“Similar orders have been made in other cases of a like nature. Alternative service is necessary for the relief to be effective. Moreover, as Mr Ameen points out, the Defendants already have a great deal of constructive knowledge that the TfL Interim JSO Injunction may well be extended: the extent and disruptive nature of the JSO protests since March 2022 (and the Insulate Britain protests which began in September 2021); the multiple civil and committal proceedings brought in response to those protests by National Highways Limited, TfL, local authorities and energy companies and the frequent service of documents on defendants within those proceedings including multiple interim injunctions; the extensive media and social media coverage of the protests, their impact, and of the legal proceedings brought in response; the large extent to which, in order to organise protests and support each other, JSO protesters are in communication with each other both horizontally between members and vertically by JSO through statements, videos etc. shared through its website and social media. These are not activities that single individuals undertake of their own volition. In my judgment, in the perhaps unusual circumstances of this case, it is very unlikely, perhaps vanishingly unlikely, that anyone who is minded to take part in the JSO protests on JSO roads in London is unaware that injunctive relief has been granted by the courts”

68. It is similarly submitted that here there is extensive constructive knowledge of the Injunction Order amongst those persons opposed to the HS2 Scheme. In any event, if alternative service is permitted, it remains open to any defendant on committal to argue

that the alternative service provisions operated unfairly against them: *Secretary of State for Transport v Cuciurean* [2020] EWHC 2614 (Ch) at [63(9)] [AB/207], or that they did not have actual knowledge of the Injunction Order: *National Highways v Kirin* [2023] EWHC 3000 (KB) at [111 - 112] [AB/201].

69. Paragraphs 12 – 18 provide similar case management directions as provided for in the Injunction Order. Those directions continue to remain appropriate and have become fairly standard drafting in such injunction orders, and have been confirmed in *Wolverhampton*. The substantive difference, also in accordance with *Wolverhampton*, is the removal of references to taking the matter to trial.

70. Paragraphs 19 and 20 are in respect of costs.

THE DRAFT JUDGMENT ORDER

71. The Claimants' have adopted the approach preferred by Ritchie J at the First Review Hearing and consolidated each of the further applications into a single judgment order.

72. As noted, an amended draft Judgment Order has been appended to this skeleton argument which takes account of developments since the filing of the original draft, in particular as regards D69.

CLAIMANTS' RESPONSE TO THE D6 REASONS

73. Although the D6 Reasons were not filed in accordance with the Directions, and no application for relief from sanctions has been made, the Claimants take no procedural point. Indeed, the Claimants view it as very helpful for the Court to have the counter-arguments put before it.

74. The Claimants read para. 2 of the D6 Reasons as an objection to the removal of D6 from the draft Injunction Order. The Claimants are content for D6 to remain a Named Defendant. If D6 wishes to be removed in due course, D6 may make that application.

75. It is unnecessary on that basis to address D6's other submissions in para. 2 of the D6 Reasons, but to assist D6, the Claimants observe that there may be some procedural confusion which arises from the fact that the 2022 Order and Injunction Order were

made pre-*Wolverhampton* and so dealt with the position established by *Barking and Dagenham* at first instance in the Court of Appeal. The reality is that there has been a two-day trial in these proceedings which resulted in the Judgment which was substantial: some 76 pages. D6 acting through Leading and Junior Counsel defended the application. Every argument raised was rejected by the Court. D6 appealed to the Court of Appeal. Every argument raised was rejected by the Court of Appeal in the Ruling and permission to appeal was refused. To the extent that the application needs to be “resolved” as against D6, the simple answer is that it has been. D6 lost.

76. Paragraph 3 of the D6 Reasons addresses the October Announcement. The Claimants have set out their submissions on the legal and factual position in this skeleton argument.

77. The short answer to para. 4 of the D6 Reasons is that:

- a. None of the land affected by the October Announcement in respect of Phase 2b has ever been part of the Injunction Order.
- b. It is unnecessary therefore to amend paras. 1(e), (f) and (g) as suggested by D6. As has been set out, the Phase 2a Act has not been repealed or amended, and the Claimants hold land in accordance with it. That land continues to require protection for the reasons set out in this skeleton argument. In due course, should any Phase 2a land cease to be part of the HS2 Land, that land will be removed from the HS2 Land Plans as set out in para. 1(d)(ii) of the draft Injunction Order.

78. Paragraph 5 of the D6 Reasons is simply wrong. The injunction does not bind the whole world as intimated by D6. It binds people who fall within the definition of the persons unknown defendants. Nevertheless, the Claimants accept that *Wolverhampton* is authority for the proposition that everyone must obey an injunction, even if not named to it.

79. For the reasons which have been set out, it is unclear upon what basis D6 considers that the October Announcement was relevant to the Injunction Order given that the October Announcement has no legal force, and what the Claimants should have done in relation to the October Announcement. In particular, even if the October Announcement did

have legal implications, para. 1(d)(ii) of the Injunction Order in force anticipates a circumstance where the Claimants are no longer entitled to possession of land, and so would remove it from the HS2 Land Plans.

80. Accordingly, the Claimants reject the assertion that the October Announcement was material non-disclosure and reject the submission that the injunction should be discharged on that basis.

CONCLUSION

81. For these reasons, the Court is respectfully invited to grant the Injunction and Judgment Orders in the terms sought:

- a. Extending the Injunction Order;
- b. Permitting the clarification amendments to the terms of the Injunction Order;
- c. Amending the description of D2 and the prohibited activity to include causing an object to enter or remain on the HS2 Land without the consent of the Claimants;
- d. Removing certain of the Named Defendants; and
- e. Making any other order that the Court sees fit.

8 May 2024

MICHAEL FRY
JONATHAN WELCH
Francis Taylor Building

Appendix – Amended Draft Orders

PENAL NOTICE

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

Claim no: QB-2022-BHM-000044

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

Before:

Made on:

Between:

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

Claimants/Applicants

-and-

- (1) NOT USED**

(2) PERSONS UNKNOWN ENTERING OR REMAINING OR CAUSING AN OBJECT TO ENTER OR REMAIN WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN, UNDER OR OVER THE HS2 LAND WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUBCONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES

(3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND IN CONNECTION WITH THE HS2 SCHEME WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT, WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITHOUT THE CONSENT OF THE CLAIMANTS

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

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

Defendants/Respondents

[DRAFT] ORDER

IMPORTANT NOTICE TO THE DEFENDANTS

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

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

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

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

FURTHER TO the Orders made in these proceedings by Julian Knowles J on 20 September 2022 (the “**Injunction Order**”), ~~and~~ by Ritchie J on 31 May 2023 (“**Extension Order**”), by HHJ Kelly on 7 March 2024 and particularly the directions made at Schedule A of the Extension Order (“**Directions**”).

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

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

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

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

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

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

NOW IT IS ORDERED THAT:

Definitions

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

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

Injunction in force

2. With immediate effect, and until 23.59 on 31 May 2025 unless varied, discharged or extended by further order, the Defendants and each of them are forbidden from doing the following:
 - (a) entering or remaining or causing an object to enter or remain upon, in, under or over the HS2 Land;
 - (b) deliberately obstructing or otherwise interfering with the free movement of vehicles, equipment or persons accessing or egressing the HS2 Land;
 - (c) interfering with any sign, fence or gate on or at the perimeter of the HS2 Land; or
 - (d) flying a Drone from, into or over the HS2 Land.
3. Nothing in paragraph 2 of this Order:
 - (a) Shall prevent any person from exercising their rights over any open public right of way over the HS2 Land.
 - (b) Shall affect any private rights of access over the HS2 Land.
 - (c) Shall prevent any person from exercising their lawful rights over any public highway.
 - (d) Shall extend to any person holding a lawful freehold or leasehold interest in land over which the Claimants have taken temporary possession.
 - (e) Shall extend to any interest in land held by statutory undertakers.
4. For the purposes of paragraph 2(b) prohibited acts of obstruction and interference shall include (but not be limited to):
 - (a) standing, kneeling, sitting or lying or otherwise remaining present on the carriageway when any vehicle is attempting to turn into the HS2 Land or attempting to turn out of the HS2 Land in a manner which impedes the free passage of the vehicle;
 - (b) digging, erecting any structure or otherwise placing or leaving any object or thing on the carriageway which may slow or impede the safe and uninterrupted passage of vehicles or persons onto or from the HS2 Land;
 - (c) affixing or attaching their person to the surface of the carriageway where it may slow or impede the safe and uninterrupted passage of vehicles onto or from the HS2 Land;
 - (d) affixing any other object to the HS2 Land which may delay or impede the free passage of any vehicle or person to or from the HS2 Land;
 - (e) climbing on to or affixing any object or person to any vehicle in the vicinity of the HS2 Land;
 - (f) deliberately slow walking in front of vehicles in the vicinity of the HS2 Land; and/or
 - (g) flying a Drone in the vicinity of an entrance or egress of the HS2 Land in a manner which slows or impedes the safe and uninterrupted passage of vehicles or persons into or from the HS2 Land.

5. For the purposes of paragraph 2(c) prohibited acts of interference shall include (but not be limited to):
 - (a) cutting, damaging, moving, climbing on or over, digging beneath, or removing any items affixed to, any temporary or permanent fencing or gate on or at the perimeter of the HS2 Land;
 - (b) the prohibition includes carrying out the aforementioned acts in respect of the fences and gates; and
 - (c) interference with a gate includes drilling the lock, gluing the lock or any other activities which may prevent the use of the gate.

Service by Alternative Method – This Order

6. The Court will provide sealed copies of this Order to the Claimants’ solicitors for service (whose details are set out below).
7. Pursuant to CPR r.6.27 and r.81.4:
 - (a) The Claimants shall serve this Order upon the Second, Third and Fourth Defendants by:
 - (i) Advertising the existence of this Order in the Times and Guardian newspapers, and in particular advertising the web address of the RWI Updated Website, and a direct link to this Order.
 - (ii) Where permission is granted by the relevant authority, by placing an advertisement and/or a hard copy of the Order within 14 libraries approximately every 10 miles along the route of the HS2 Scheme. In the alternative, if permission is not granted, the Claimants shall use reasonable endeavours to place advertisements on local parish council notice boards in the same approximate locations.
 - (iii) Publishing social media posts on the HS2 X and Facebook platforms advertising the existence of this Order and providing a link to the RWI Updated Website.
 - (b) Service of this Order on Named Defendants may be effected by personal service where practicable and/or posting a copy of this Order through the letterbox of each Named Defendant (or leaving in a separate mailbox), with a notice drawing the recipient’s attention to the fact the package contains a court order. If the premises do not have a letterbox, or mailbox, a package containing this Order may be affixed to or left at the front door or other prominent feature marked with a notice drawing the recipient’s attention to the fact that the package contains a court order and should be read urgently. The notices shall be given in prominent lettering in the form set out in Annex B. It is open to any Defendant to contact the Claimants to identify an alternative place for service and, if they do so, it is not necessary for a notice or package to be affixed to or left at the front door or other prominent feature.
 - (c) The Claimants shall further advertise the existence of this Order in a prominent location on the RWI Updated Website, together with a link to download an electronic copy of this Order.

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

Further Case Management

12. This Order will be reconsidered at a hearing to be listed on approximately a yearly basis between 15 and 31 May to determine whether there is a continued threat which justifies continuation of this Order (“**Yearly Review**”).
13. It will be the Claimants’ responsibility to apply for listing of the Yearly Review and to place details of the date of the Yearly Review on the RWI Updated Website. At Schedule AA are directions which will apply to the next Yearly Review. Parties are advised to consider them carefully.

Applying to vary/discharge

14. Without prejudice to the foregoing, any person affected by this Order may apply to the Court at any time to vary or discharge it, but if they wish to do so they must inform the Claimants’ solicitors immediately (and in any event not less than 2 working days before the hearing of any such application) via the contact details set out below. Schedule BB to this Order indicates the process which must be followed for any such application. Useful sources of support and information are listed in Schedule CE.
15. Any person applying to vary or discharge this Order must provide their full name and address, an address for service, and must also apply to be joined as a Named Defendant to the proceedings at the same time or make an application under CPR r.40.9 (unless they are already named as a Defendant).

16. Any Defendant who fails to comply with paragraphs 14 or 15 above shall not be permitted to defend these proceedings or take any further role in these proceedings without further order of the Court and shall be liable to have injunctive relief continued against them without trial pursuant to CPR r.3.5.
17. The Claimants and Named Defendants otherwise have liberty to apply to extend or vary this Order or for further directions.
18. Save as provided for above, the Claim be stayed generally with liberty to restore.

Costs

19. [There be no order as to costs as between any of the parties to the Second Review Hearing.]
20. If the Claimants intend to seek a costs order against any person in respect of any future applications in these proceedings or any future hearing, then they shall seek to give reasonable advance notice of that fact to that person.

Documents in the Claim and Application

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

Communications with Claimants and the Court

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

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

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

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

FAO: HS2 TEAM
DLA PIPER UK LLP
~~1 St Paul's Place~~ Elshaw House
51 Carver Street
Sheffield
S1 ~~2JX~~ 4FT

E: HS2Injunction@dlapiper.com

Field Co

Field Co

T: 0114 283 3312
~~DX: [708580 Sheffield 10]~~
Ref: RXS/380900/441

By []

MADE ON [DATE]

ANNEX A – SCHEDULE OF DEFENDANTS

PART 1

DEFENDANT NUMBER	UNNAMED DEFENDANTS
(1)	Not used
(2)	PERSONS UNKNOWN ENTERING OR REMAINING OR CAUSING AN OBJECT TO ENTER OR REMAIN WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN, UNDER OR OVER THE HS2 LAND WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUBCONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES
(3)	PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND IN CONNECTION WITH THE HS2 SCHEME WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT, WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITHOUT THE CONSENT OF THE CLAIMANTS
(4)	PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS

For the avoidance of doubt, any person who has been a defendant in these proceedings, or who has given undertakings to HS2, may nevertheless become Defendant 2 – Defendant 4 as a person unknown if they commit any of the prohibited acts.

PART 2

DEFENDANT NUMBER	NAMED DEFENDANTS
(5)	Not Used
(6)	Not Used <u>Mr James Andrew Taylor (aka Jimmy Knaggs / James Knaggs / Run Away Jim)</u>
(7)	Not Used
(8)	Not Used
(9)	Not Used
(10)	Not Used
(11)	Not Used
(12)	Not Used
(13)	Not Used
(14)	Not Used
(15)	Not Used
(16)	Ms Karen Wildin (aka Karen Wilding / Karen Wilden / Karen Wilder)
(17)	Mr Andrew McMaster (aka Drew Robson)
(18)	Not Used
(19)	Not Used
(20)	Mr George Keeler (aka C Russ T Chav / Flem)
(21)	Not Used
(22)	Not Used
(23)	Not Used
(24)	Not Used
(25)	Not Used
(26)	Not Used
(27)	Not Used
(28)	Not Used
(29)	Not Used
(30)	Not Used
(31)	Not Used
(32)	Not Used
(33)	Not Used
(34)	Not Used
(35)	Not Used
(36)	Not Used
(37)	Not Used
(38)	Not Used

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

ANNEX B – WORDING FOR NOTICES

[On the package containing the Order]

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

FAO: HS2 TEAM

DLA PIPER UK LLP

~~Elshaw House~~~~1 St Paul's Place~~

~~51 Carver Street~~

Sheffield

S1 ~~4FT2JX~~

E: HS2Injunction@dlapiper.com

T: 0114 283 3038

~~DX: [708580 Sheffield 10]~~

R: RXS/380900/441

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

Field Co

Field Co

SCHEDULE A – DIRECTIONS FOR YEARLY REVIEW

Definitions

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

Further Case Management

2. The Yearly Review will be listed for one day at 10.30am on a date, between 15 and 30 May 2025 in the High Court in Birmingham, after consultation by the court with the parties, convenient to counsel for any named party.
3. Any person who wishes to address the Court at the Yearly Review must inform the Court and the Claimants of their intention to attend by 4pm on 9 May 2025 at the addresses at paragraphs 23 and ~~24~~24 of the Order.
4. By 4pm on 3 March 2025, the Claimants’ must file and serve (in accordance with paragraph 15(a) and (c) of this Schedule) any applications relevant to the Yearly Review, a draft order, and any evidence upon which they seek to rely.
5. By 4pm on 7 April 2025, any person seeking to amend (including discharge) this Order, or oppose any applications made by the Claimants, must file and serve their written reasons in a document and indicate whether they intend to adduce evidence upon which that person seeks to rely by emailing or posting it to the Court and the Claimants at the addresses listed at paragraphs 23 and 24 of the Order. Where any person seeking to amend (including discharge) this Order, or oppose any applications made by the Claimants, is represented by solicitors, any written reasons must be filed with the court via CE-File by 4pm on 7 April 2025.
6. Any evidence upon which a Defendant or other ~~a~~Applicant wishes to rely must be filed with the court and served on the Claimants by 4pm on 18 April 2025. Where any person filing such evidence with the court is represented by solicitors, such evidence must be filed with the court via CE-File by 4pm on 18 April 2025.
7. By 4pm on 25 April 2025, the Claimants have permission to file and serve (in accordance with paragraph 15(a) and (c) of this Schedule) any evidence in response to any document or evidence filed in accordance with paragraphs 5 and 6 of this Schedule if so advised.
8. By 4pm on 2 May 2025, the Claimants shall cause to be placed on the RWI Updated Website a draft hearing bundle index.
9. By 4pm on 6 May 2025, any person who wishes to comment on the draft hearing bundle must notify the Claimants of their comments by email to the address in paragraph 24 of the Order. Any person may provide suggested documents for inclusion to the Claimants. Where there is disagreement between the Claimants and that person as to the relevance of any document, that disagreement will be noted in the hearing bundle index and the document shall be provided to the Court in a separate bundle by the person seeking to rely upon it.

10. By 4pm on 9 May 2025, the Claimants shall file a properly paginated and indexed hearing bundle with the Court by email and in hard copy and shall cause to be placed on the RWI Updated Website a copy of the same.
11. By 4pm on 12 May 2025, the Claimants and any other person seeking to address the Court at the Yearly Review shall file and serve any skeleton argument or speaking note. Service by the Claimants shall be effected in accordance with paragraph 15(a) and (c) of this Schedule.
12. The parties otherwise have liberty to apply to the court for further or varied directions.

Documents in the Claim and Application

13. All documents relating to these proceedings and the Yearly Review may be downloaded at: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>.
14. A single hard copy of any document will be sent within 21 days of the receipt of a reasonable request for that document or documents via the Claimants' solicitors whose contact details are set out at paragraph 24 of this Order so long as any requests include a postal address and the full name of the requestor.
15. Pursuant to CPR r.6.27, personal service is dispensed with and service of any documents relevant to the Yearly Review upon the Defendants shall be by:
 - (a) placing documents on the RWI Updated Website.
 - (b) causing to be made social media posts on the HS2 X and Facebook pages advertising the date of the Yearly Review and the web address of the RWI Updated Website.
 - (c) The Claimants shall email a copy of any documents relevant to the Yearly Review to any Defendant who has as at the date hereof provided an email address to the Claimants to the email address: HS2Injunction@governmentlegal.gov.uk or hs2injunction@dlapiper.com and requested such copies to be sent to them at that email address.
16. Compliance with paragraph ~~15~~^{15(a)} above will be good and sufficient service on the Defendants and each of them.

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SCHEDULE B – STEPS TO VARY OR DISCHARGE THIS ORDER

If, in accordance with paragraphs 14 – 17 of the Order, any Defendant or any other person affected by this Order wishes to apply to vary or discharge this Order, to ensure effective case management by the Court the following indicative steps must be followed:

1. Any person seeking to contest the Claimants' entitlement to interim relief should file with the court (i.e. send to the court) and serve (i.e. send to the Claimants):
 - (a) An N244 application form¹;
 - (b) Written grounds (which may be contained in within the N244 application form or a separate document) for:
 - (i) permission to bring the application; and
 - (ii) the application (i.e. reasons for the proposed variation / discharge of the Order).

Any applicant shall explain clearly within their written grounds the differences between their grounds and the issues which the Court has already adjudicated upon in the judgment of Mr Justice Julian Knowles of 20 September 2022 and any further judgment in these proceedings. A copy of the judgment of Mr. Justice Julian Knowles can be found on the RWI Updated Website; and

 - (c) A witness statement(s) containing and/or appending all of the evidence to be relied upon in support of the application.
2. In order to file the above documents with the Court, the applicant should:
 - (a) Send physical copies of the documents to the address at paragraph 23 of this Order; and/or
 - (b) Speak to the Court to obtain an address to send electronic copies of the documents to.
3. In order to serve the above documents on the Claimants, the applicant should:
 - (a) Send physical copies of the documents to the address at paragraph 24 of this Order; and/or
 - (b) Send electronic copies of the documents to the e-mail address at paragraph 24 of the Order.
4. The person making the application should indicate to the Court and Claimants whether they consider the matter requires a court hearing or can be dealt with by the judge reviewing the paper application and any response from the Claimants.
5. Thereafter the Claimants shall have 14 days to file and serve evidence and submissions in response, including as to whether an oral hearing is required to determine the application.
6. Within 21 days, the Court shall decide:
 - (i) whether to grant permission for the application to proceed; and

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

- (ii) if permission is granted, whether a hearing is necessary, and/or may request from the parties evidence on any further matters necessary to determine the application. If the Court decides that a hearing is necessary, it shall seek to schedule the hearing (accommodating availabilities of the parties) within 42 days (6 weeks).
- (iii) If the Court decides that further evidence is needed from either party, it may set strict deadlines by which that evidence must be filed. Both parties should be aware that the Court may restrict the use of evidence which is filed late or impose other penalties for non-compliance.

SCHEDULE C – USEFUL REFERENCES AND RESOURCES

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

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

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

~~Kings Bench Division Guide: https://www.judiciary.uk/wp-content/uploads/2023/06/14.457_JO_Kings_Bench_Division_Guide_2024_WEB.pdf~~

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

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

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

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

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

Before: [JUDGE]

On: [DATE]

Between:

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

Claimants/Applicants

-and-

- (1) NOT USED

- (2) PERSONS UNKNOWN ENTERING OR REMAINING OR CAUSING AN OBJECT TO ENTER OR REMAIN WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN, UNDER OR OVER THE HS2 LAND WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUBCONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND IN CONNECTION WITH THE HS2 SCHEME WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT, WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITHOUT THE CONSENT OF THE CLAIMANTS
- (4) PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS

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

Defendants/Respondents

JUDGMENT ORDER

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

FURTHER TO the Orders made in these proceedings by Julian Knowles J on 20 September 2022 (the “**Injunction Order**”), ~~and by~~ Ritchie J on 31 May 2023 (“**Extension Order**”) and by HHJ Kelly on 7 March 2024.

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

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

IT IS ORDERED THAT:

1. The Claimants have permission:

(a) To amend the description of the HS2 Land to clarify that it includes land that was acquired in connection with the High Speed 2 Railway Scheme but which may in due course be the subject of a formal declaration as surplus to requirements and earmarked for disposal.

~~(b)~~ To amend the definition of “March 2023 HS2 Land Plans” to that in the draft injunction order accompanying the 2024 Application so that it now refers to the plans provided by the Claimants’ geographic information system mapping at <https://experience.arcgis.com/experience/70c5772709be48609cd8853e93b4c93f/>.

~~(c)~~ To amend the description of D2 ~~and the prohibited activities~~ to include causing an object to enter or remain on, in, under or over the HS2 Land without the consent of the Claimants.

~~(b)~~~~(d)~~ To amend the prohibited activities to include flying a Drone from, into or over the HS2 Land.

~~(e)~~~~(e)~~ To remove Named Defendants to the Claim, namely: D5, ~~D6~~, D7, D22, D27, D28, D33, D36, D39, D48, D57, D58, D59.

~~To add D69 as a Named Defendant to the Claim.~~

BY THE COURT

MADE ON [DATE]