

On behalf of: the Appellant
By: Laura Higson
No: 1
Exhibit: LH1

Date: 3 November 2022

Court of Appeal Ref: CA-2022-001066
and linked case ref: CA-2022-001105

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
KINGS BENCH DIVISION

BETWEEN:

NATIONAL HIGHWAYS LIMITED

Appellant

- and -

**(1) PERSONS UNKNOWN CAUSING THE BLOCKING OF,
ENDANGERING, OR PREVENTING THE FREE FLOW OF TRAFFIC
ON THE M25 MOTORWAY, A2, A20 AND A2070 TRUNK ROADS AND
M2 AND M20 MOTORWAY, A1(M), A3, A12, A13, A21, A23, A30, A414
AND A3113 TRUNK ROADS AND THE M1, M3, M4, M4 SPUR, M11,
M26, M23 AND M40 MOTORWAYS FOR THE PURPOSE OF
PROTESTING**

(2) MR ALEXANDER RODGER AND 132 OTHERS

Respondents

**WITNESS STATEMENT OF
LAURA NATASHA HIGSON**

I, LAURA NATASHA HIGSON, of DLA Piper UK LLP, 1 St Pauls Place, Sheffield, S1
2JX **WILL SAY** as follows:

1. I am a solicitor of the Senior Courts of England and Wales and an Associate at DLA Piper UK LLP ("**DLA**") with shared day-to-day conduct of this matter under the supervision of my partners. I am authorised to make this Witness Statement on behalf of the Appellant ("**NHL**") in support of NHL's application for an Order for alternative service (the "**Application**") in the terms set out in the draft Order filed with the Application.

2. The matters I set out in this statement are within my own knowledge, unless stated otherwise. The contents of this statement are true to the best of my knowledge and belief.

Background

3. NHL is the owner of the land that comprises and is responsible for the operation, maintenance and improvement of England's motorways and major A roads.
4. The group "Insulate Britain" ("**IB**") began a number of protests in London and across the South East of England in September 2021. In February 2022, IB announced a coalition with Just Stop Oil ("**JSO**").
5. NHL initiated three sets of proceedings (and other similar applications) seeking injunctions against the protestors ("**the Claims**"). During the course of the Claims, the following injunctions were granted:
 - 5.1 On 21 September 2021, an interim injunction was granted by the Honourable Mr. Justice Lavender in respect of the M25 in claim number QB-2021-003576;
 - 5.2 On 24 September 2021, an interim injunction was granted by the Honourable Mr. Justice Cavanagh in respect of the A2, A20, A2070, M2 and M20 in claim number QB-2021-003626; and
 - 5.3 On 2 October 2021, an interim injunction was granted by the Honourable Mr. Justice Holgate in respect of the A1(M), A3, A12, A13, A21, A23, A30, A414 and A3113 trunk roads and the M1, M3, M4, M4 spur, M11, M26, M23 and M40 motorways in claim number QB-2021-003737;

(collectively, the "**Interim Injunctions**").
6. On 24 March 2022, NHL made an application for summary judgment in the Claims, seeking a final single precautionary injunction substantially in the terms of the Interim Injunctions to prevent future IB protests. The application was considered on 4 and 5 May 2022 by the Honourable Mr. Justice Bennathan.
7. On 9 May 2022, the Honourable Mr. Justice Bennathan granted a final precautionary injunction against 24 of the Named Defendants and a precautionary injunction on an interim basis in respect of the remaining 109 Named Defendants

and persons unknown and made a separate judgment order on 12 May 2022 (together, the "**Orders**").

8. On 27 May 2022, NHL made an application to the Court of Appeal for permission to appeal the Orders (the "**PTA Application**").
9. On 27 October 2022, the PTA Application was granted. The Order of the Honourable Lady Justice Whipple granting NHL permission to appeal the Orders is exhibited at pages 1 to 2 of LNH1.
10. On 1 November 2022, NHL received the "Listing Window Notification Letter" (the "**Letter**") from the Civil Appeals Office dated 31 October 2022. A copy of the Letter is exhibited at pages 3 to 11 of LNH1. Amongst other things, the Letter stipulates that NHL is required to serve the Appeal Questionnaire, the proposed bundle index for the core and supplementary bundle and the appeal skeleton argument by 14 November 2022.

Without Notice Application

11. Pursuant to CPR rule 6.15(3)(b) and 23.4(2)(c), NHL seeks the Court's permission to make the Application on a without notice basis and for it to be dealt with without a hearing.
12. The Application has been made on a without notice basis for the following reasons:
 - 12.1 the Application relates to the procedural task of service and NHL is asking the Court to exercise its power to permit NHL to effect service of documents pertinent to these proceedings by an alternative method to service by post;
 - 12.2 the Respondents are not prejudiced by not being heard given the purely procedural nature of the Application which is appropriate to be determined without a hearing; and
 - 12.3 as set out in this witness statement, effecting service upon the Respondents is a significantly onerous and expensive task for NHL to undertake. As the purpose of the Application is to relieve the administrative and financial burden on NHL in respect of service upon the

Respondents, it is appropriate to make the Application on a without notice basis.

Service on the Respondents

13. NHL has previously effected service of documents relating to the Claims and the PTA Application by either instructing High Court Enforcement Group Limited ("HCE") to effect service on the Respondents personally or by alternative means where permitted by an order of the Court (by posting the documents concerned through a letterbox or affixing them to the Respondents' front doors with a notice in a prescribed form) or by serving the documents by first class and special delivery post where permitted by the CPR and / or by an Order of the Court.
14. The Respondents' addresses for service at which service of documents in the Claims have been effected by HCE or by first class and special delivery post are those addresses which were provided by the Respondents to the police when those individuals were arrested after having taken part in IB protests and are set out at Annex 1 of the draft Order filed with the Application. The police provided the Respondents' addresses to NHL in accordance with their disclosure obligations as set out in various orders made by the High Court in the Claims.
15. Where service of documents has been effected by post, those documents have been served on the Respondents in duplicate – by first class and by special delivery post. Service by special delivery enables NHL to check the Royal Mail tracking numbers to evidence that the letters have been delivered and signed for by the Respondents. It has been necessary to additionally serve the documents by first class post as many of the Respondents either: (i) refuse to sign for and accept service of the documents served upon them by special delivery post; or (ii) are not present to sign for the special delivery letters and subsequently do not arrange for them to be re-delivered or collect the letters from their local Post Office. By serving the documents by first class post in addition to special delivery post, unless and until the first class letters are returned to sender by the Respondents, NHL can be confident that at least one (if not both) of the letters have been successfully delivered to the Respondents.

Service Issues with the PTA Application

16. The Appellant has served all documents relating to the PTA Application upon the Respondents by first class and special delivery post. These documents include the

sealed appellant's notices, proposed draft Order, a supporting witness statement and various letters from the Civil Appeals Office addressed to the Appellant ("PTA Documents").

17. On 17 June 2022, the Appellant filed a certificate of service with the Court via CE-File certifying that:

"I/WE, solicitor(s) for the applicant(s), HEREBY CERTIFY that a copy of the appellant's notice was served on various dates between 9 June 2022 and 15 June 2022 and the letter dated 09-06-2022 from the Civil Appeals Office was served on various dates between 13 June 2022 and 17 June 2022 upon all respondents to the application at their current address or last known address for service".*

This statement was factually accurate as at the date of filing the certificate.

18. Since filing the certificate, both the first class and special delivery letters serving the appellant's notice and the letter dated 9 June 2022 upon Martin John Newell (D61) and Tessa Marie Burns (D100) have been refused and returned to sender. Without prejudice to the contention that NHL has validly served the appellant's notice and the 9 June 2022 letter upon Martin John Newell (D61) and Tessa Marie Burns (D100) by post, NHL instructed HCE to personally serve the appellant's notice and the 9 June 2022 letter upon Mr. Newell and Ms. Burns.
19. At 06:52 am on 7 July 2022, HCE effected service of the PTA Documents upon Tessa Marie Burns (D100) by posting the documents through the letterbox of her address for service being 2 Beaufort Court, Cadle, Swansea, SA5 4PH.
20. At 06:45 am on 21 July 2022, HCE effected service of the PTA Documents upon Martin John Newell (D61) by posting the documents through the letterbox of his address for service being Toll House, Farnham Road, Odiham, Hook, Hampshire, RG29 1AA.
21. Various letters serving the PTA Documents continue to be returned to sender by certain of the Respondents. Whilst Mr. Newell and Ms. Burns are the only Respondents to date to have returned both the first class and special delivery letters serving some of the PTA Documents, NHL anticipate that some other Respondents may also do the same hereafter where NHL are required by order of the Court to serve documents relating to the appeal hearing.

22. To ensure that the Respondents are all able to access and view the PTA Documents if they wish to do so, NHL requests that if the Application is granted, permission be given for NHL to serve the PTA Documents via electronic means as set out in the draft Order filed with the Application in addition to service already effected upon the Respondents by first class and special delivery post. This will also lessen the potential financial implications for NHL of having to personally serve any Respondents that refuse service of documents via post to ensure that they have sight of those documents.

Basis for the Application

23. There are 133 Named Respondents in these proceedings. Service of documents by post, in duplicate, upon each of the Respondents is a significant undertaking for NHL both in terms of the time it takes to print and issue the documents as well as the cost incurred in doing so, particularly where numerous and / or lengthy documents are required to be served by direction of the Court or the CPR.
24. Throughout the course of the Claims, NHL has incurred substantial expense by serving documents upon the Respondents by post. In relation to the Claims only and not these proceedings, printing charges in the sum of £13,136.84 have been incurred to date. In relation to these appeal proceedings alone, NHL have already incurred postage costs of £3,089 to effect service of the PTA Documents and documents relating to NHL's application for permission to serve two of the Respondents by alternative means.
25. Now that the PTA Application has been granted, NHL is aware that it will be required to comply with rigorous service requirements under CPR rule 52 and Practice Direction 52C, including but not limited to:
- 25.1 service of the Appeal Questionnaire within 14 days of the listing window notification (by 14 November 2022);
 - 25.2 service of the Appellant's appeal skeleton argument (or confirmation that NHL intends to rely on the permission to appeal skeleton argument) and the proposed bundle index for the core appeal bundle and any supplementary bundle within 14 days of the listing window notification (by 14 November 2022);

- 25.3 agreeing the content of the appeal bundle and any supplementary bundle for the appeal hearing within 49 days of the listing window notification;
- 25.4 service of a final bundle index on all of the Respondents, including page numbers, within 63 days after the listing window notification;
- 25.5 if NHL wishes to rely on a supplementary skeleton argument, service of the same is to be served no later than 7 days before the appeal hearing;
- 25.6 service of the appeal bundles on all other parties to the appeal and any unagreed documents bundle served by no later than 42 days before the appeal hearing;
- 25.7 as well as any correspondence from the Court of Appeal which may be required to be served upon the Respondents throughout the course of these proceedings, the Application and, if the Application is granted, the Order.

(collectively, the "**Documents**").

- 26. NHL has extensive experience of the Respondents' conduct during the period up to and including a Court hearing. To the best of NHL's knowledge, the Respondents are at present all unrepresented, and in the Claims very few of the Respondents instructed solicitors to represent them. In most cases, the Respondents do not engage with the proceedings at all and many Respondents either ignore or refuse to accept service of documents that NHL is mandated to effect service of pursuant to the CPR or an order of the Court, as well as any correspondence giving details of any upcoming Court hearing. In some cases, the Respondents do engage with proceedings, by giving submissions or providing evidence, but such documentation / information is often filed and/or served upon NHL in the immediate days, or in some instances, hours prior to the Court hearing.
- 27. Procedurally, for the reasons set out at paragraph 26 of this witness statement, NHL expects that it will not be possible to agree the content of any appeal bundles with all of the Respondents within the timeframe set out above. As such, the appeal bundles are highly likely to not be agreed at the time by which they are required to be filed and served by NHL. It is quite possible, and would be in line with the Respondents' prior conduct during the Claims, that late submissions will be filed by the Respondents. As is often the nature of Court proceedings, such late submissions may necessitate amendments to the appeal bundles. Should NHL be

required to serve hard copies of the appeal bundle upon each of the Respondents, and should the appeal bundles have already been served at the time of such submissions, to prepare and serve amended appeal bundles in hard copy would place a disproportionate administrative and financial burden upon NHL.

28. In respect of service of the appeal bundles alone, whether in agreed form or otherwise, substantial amounts of solicitor and legal support staff's time will be required to print and prepare those bundles for service, and the cost of printing the bundles is estimated to be in the region of £60,000. This figure is calculated on the basis of one copy of the hearing bundle being an estimated total of 1,500 pages long (estimated on the basis that the hearing bundle for the hearing of NHL's application for summary judgment was 1,665 pages long) with each page costing 30 pence to print and one copy being printed for each Respondent (133 copies in total). Additional courier costs will be incurred in the thousands of pounds to deliver the bundles to the Respondents. If NHL serve the bundles via the Royal Mail Special Delivery Guaranteed by 1 pm service, postage fees of £15.45 per Respondent would be incurred, with a total cost of £2,054.85 to serve the bundles on each Respondent by post. In light of NHL's experience, it is anticipated that many of the Respondents may refuse service of hard copy documents. As a result, the time and cost of preparing those documents to be served will become an unnecessary and ever more disproportionate burden on NHL.

29. Throughout the course of the Claims, NHL has received numerous comments and/or complaints from the Respondents in relation to the volume of hard copy documents that NHL have served upon them in compliance with their obligations under the CPR and various Court orders. Examples of such comments / complaints include:

29.1 Adrian Temple Brown (D111) commented by email on 24 May 2022 to DLA that "*paper is clearly a non-sustainable resource*" and made the accusation that DLA, and NHL, were wilfully wasting such a resource by serving hard copy documents in duplicate (see page 12 of LNH1);

29.2 In a letter dated 23 May 2022, Julia Mercer (D49) stated that she has "*been subjected to repeated deliveries of bulky sheaves of paper relating to this injunction. As a person concerned about the environment and unnecessary use of resources including paper products, it distresses me to have to dispose of these mailings*" (see page 14 of LNH1);

- 29.3 On 1 June 2022, Mary Light (D131) contacted DLA by email to request to receive documents pertinent to the Claims and these proceedings electronically, noting "*the extraordinary amount of paper documentation I have received, frequently in duplicate, has seemed an unnecessary expense for you*" (see page 15 of LNH1);
- 29.4 In submissions on costs made by Emma Smart (D31) on 17 November 2021 during contempt of Court proceedings brought by NHL against her, she commented that NHL was "*claiming more for postage than I have earned in the last three years which is obscene*" (see page 18 of LNH1);
- 29.5 In submissions on costs made by Paul Sheeky (D76) on 14 December 2021 during contempt of Court proceedings brought by NHL against him, he commented that he should not have to pay for duplications of documents with unnecessary special deliveries and that any costs award made against him should take that into account (see page 45 of LNH1);
30. Both IB and JSO are climate activist groups whose primary concern is that of the environment. IB's campaign of 2021, which saw members obstructing the roads which form the subject of the Interim Injunctions with their physical presence, either by sitting down and/or gluing themselves to the road surface, was driven by IB's demand for the Government "*...to insulate Britain's homes to save thousands of lives and prevent economic and social collapse*" ... "*as part of a just transition to full decarbonisation of all parts of society and the economy*" (see page 51 to 53 of LNH1). JSO has continued the IB campaign with rigour since March 2022 and in particular during October 2022 where the group has conducted protests on a daily basis and has pledged to continue "*today, tomorrow and the next day – and the next day after that – and every day until our demand is met: no new oil and gas in the UK*" (see page 61 of LNH1). NHL contends that it is likely that many of the Respondents would, if given the option, prefer not to have hard copy documents served upon them given their environmentally conscientious motives. Indeed, under cover of several of the recent letters issued to the Respondents, DLA on NHL's behalf has offered the Respondents the option to accept service of documents by email where permitted by the CPR and the Court. DLA continues to receive requests for service by electronic means by the Respondents, with 13 Respondents having made such a request as at the date of this witness statement.

Proposed Methods of Service

31. Should the Application be granted, NHL proposes to effect service of the Documents upon the Respondents by the following means:
 - 31.1 by email in instances where the Respondents have provided their email address to NHL and where the file size of the Documents is capable of being attached to an email;
 - 31.2 by sending a secure file transfer link by email where the Respondents have provided their email address to NHL and where the file size of the Documents is too large to be capable of being attached to an email; and
 - 31.3 in addition to service by email and/or secure file transfer, by uploading the Documents to the NHL website at the following URL: <https://nationalhighways.co.uk/injunctions-appeal>.
32. If the Application is granted, within 7 days of receipt of the sealed Order, NHL will write to all the Respondents, serving a copy of the Order upon them and explaining that the Documents will thereafter be served upon them by email where they have provided an email address to NHL/DLA, and also directing them in clear terms to <https://nationalhighways.co.uk/injunctions-appeal> where they will be able to view and download the Documents, as well as register themselves for updates so that they can be notified each time a new document is uploaded to the website.
33. The letter will also offer the Respondents a further opportunity to provide their email addresses for service, as well as providing them with the option to request that NHL continues to serve hard copies of the Documents upon them by first class and/or special delivery post (instead of by email).
34. Where service by post is requested, NHL will require that the Respondents provide their full address for service and will request that should the Respondents move to a different address that they inform NHL of the same as soon as practicable thereafter. Until such time as a new address for postal service is received from any of the Respondents, NHL will continue, if requested by a Respondent to serve hard copies of the Documents, to serve the Documents by first class and/or special delivery post at the Respondent's existing postal address.

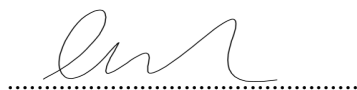
Order Sought

35. NHL therefore seeks the Court's permission to serve the Documents upon the Respondents by electronic means as set out in the draft Order filed with the Application, unless notified by any of the Respondents that they wish to receive physical copies of the Documents, in which case the Appellant will effect service of the Documents by first class and / or special delivery post to those Respondents' last known addresses for service as set out at Annex 1 of the draft Order.
36. For the Court's information, NHL is aware that two orders permitting service via a website address and email have been granted in relation to an application for an injunction against persons unknown brought by High Speed Two (HS2) Limited and the Secretary of State for Transport. A copy of those orders can be found at pages 63 to 69 and pages 70 to 89 of LNH1 and the court is referred to paragraph 4 of the Directions Order and paragraphs 8(d) and 8(e) of the Order dated 20 September 2022).

Statement of Truth

37. 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.

Dated 3 November 2022



LAURA NATASHA HIGSON

On behalf of: the Appellant
By: Laura Natasha Higson
No: 1
Exhibit: LNH1

Date: 3 November 2022

Court of Appeal Ref: CA-2022-001066
and linked case ref: CA-2022-001105

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION

BETWEEN:

NATIONAL HIGHWAYS LIMITED

Appellant

- and -


**(3) PERSONS UNKNOWN CAUSING THE BLOCKING OF,
ENDANGERING, OR PREVENTING THE FREE FLOW OF TRAFFIC
ON THE M25 MOTORWAY, A2, A20 AND A2070 TRUNK ROADS AND
M2 AND M20 MOTORWAY, A1(M), A3, A12, A13, A21, A23, A30, A414
AND A3113 TRUNK ROADS AND THE M1, M3, M4, M4 SPUR, M11,
M26, M23 AND M40 MOTORWAYS FOR THE PURPOSE OF
PROTESTING**

**(4) MR ALEXANDER RODGER AND 132 OTHERS (INCLUDING DAVID
NIXON (D23) AND GREGORY FREY (D33))**

Respondents

**EXHIBIT OF
LAURA NATASHA HIGSON**

This is the exhibit marked LNH1 referred to in the witness statement of Laura Natasha Higson dated this 3rd day of November 2022.

Signed




IN THE COURT OF APPEAL, CIVIL DIVISION

REF: CA-2022-001066



National Highways Limited –v– (1) Persons Unknown

(2) Mr Alexander Rodger and 132 Others

CA-2022-001066

ORDER made by the Rt. Hon. Lady Justice Whipple

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal

Decision: Permission to appeal granted.

Reasons

1. Permission is sought on the single ground that the judge erred in not granting a final injunction against all defendants, named and unnamed. It is said that the judge imported a further requirement on the Appellant to show that all defendants had already committed the torts in question.
2. I grant permission on the basis that there is a compelling reason for this appeal to be heard. The appeal raises important issues about the Court's approach to final injunctions in the context of protests on public roads and in public spaces.
3. The legal issue raised is arguable, but I have not formed a view on the merits. I observe this: at paragraphs [24]-[36], the judge refused summary judgment for the 109 because (as I read it) the evidence was insufficient to show that those 109 had "no real prospect" of defending themselves at a notional trial of the pleaded allegations of trespass, public nuisance and private nuisance, applying the test in CPR 24.2. He reached a different conclusion in relation to the 24 because of the stronger evidence arising from their contempt proceedings. The Appellant says this was an error of law because the judge, in effect, imposed a further condition for a final anticipatory injunction, namely that past commission of torts be proven. I am not so sure. I think the judge might just have been making a point about the evidence in the context of a summary judgment application. At the hearing, the Court will doubtless wish to examine the evidential requirements that underpin CPR 24.2 and understand how CPR 24.2 is said to work alongside the test for anticipatory injunctions.

Information for or directions to the parties

Mediation: Where permission has been granted or the application adjourned:

Does the case fall within the Court of Appeal Mediation Scheme (CAMS) automatic pilot categories (see below)? No

Pilot categories:

- | | |
|---|---|
| <ul style="list-style-type: none"> • All cases involving a litigant in person (other than immigration and family appeals) • Personal injury and clinical negligence cases; • All other professional negligence cases; • Small contract cases below £500,000 in judgment (or claim) value, but not where principal issue is non-contractual; | <ul style="list-style-type: none"> • Boundary disputes; • Inheritance disputes. • EAT Appeals • Residential landlord and tenant appeals |
|---|---|

If yes, is there any reason not to refer to CAMS mediation under the pilot? Yes/No (delete as appropriate)

If yes, please give reason:

Non-pilot cases: Do you wish to make a recommendation for mediation? Yes/No (delete as appropriate)

Where permission has been granted, or the application adjourned

- a) time estimate (excluding judgment) 1 day
- b) any expedition Some expedition required, to be heard this term or early next term if possible.

Signed:
Date: Lady Justice Whipple,
27.10.22
BY THE COURT

Notes

- (1) Rule 52.6(1) provides that permission to appeal may be given only where –
 - a) the Court considers that the appeal would have a real prospect of success; or
 - b) there is some other compelling reason why the appeal should be heard.
- (2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).

Case Number: **CA-2022-001066**



CIVIL APPEALS OFFICE
Room E307, Royal Courts of Justice
Strand, London WC2A 2LL
DX 44456 STRAND

Telephone

Fax 020 7947 6736

RNID Typetalk 18001 (Text) 18002 (Voice)
(Helplines for the deaf and hard of hearing)
<http://www.civilappeals.gov.uk>

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

DATE: 31-10-2022

YOUR REF: PXB/366530/239

OUR REF: CA-2022-001066

Linked Case References: CA-2022-001105

THIS LETTER IS THE “LISTING WINDOW NOTIFICATION LETTER”

THIS LETTER CONTAINS IMPORTANT DIRECTIONS FOR THE PREPARATION OF THE APPEAL AND MUST BE READ CAREFULLY BY BOTH THE APPELLANT(S) AND RESPONDENT(S)

Dear Sir/Madam,

Re: National Highways Limited v Persons Unknown & Ors

The appellant's notice in respect of the order of Mr Justice Bennathan dated 09-05-2022, for which permission to appeal was granted by the Court of Appeal on 27-10-2022 will now proceed as an appeal.

What you must do next:

- 1. Where permission to appeal was granted by the Court of Appeal at an oral hearing, the transcript of judgment must be ordered from the transcribers within 14 days and confirmation that the judgment has been ordered must be sent to this Office.**
- 2. The appellant must complete the enclosed party details form and return it to this office within 4 days (see para 2);**
- 3. Respondent's Notice (if relied upon) must be filed (see para 3);**
- 4. The appellant must serve a proposed bundle index on every respondent (see para 8);**
- 5. The appellant must file and serve on every respondent the Appeal Questionnaire (see para 6);**
- 6. The respondent must agree the contents of the appeal bundle or serve a revised bundle index (see para 8);**
- 7. The appellant must file and serve an appeal skeleton argument (but see para 9 for guidance);**

8. The respondent must file a skeleton argument (see paras 3 or 4).

1. Sending Documents to the Civil Appeals Office (other than bundles): Documents must be filed using the E-filing service in accordance with paragraph 2.2J of Practice Direction 51O. Guidance on using the E-Filing service can be found at <https://www.gov.uk/guidance/hmcts-e-filing-service-for-citizens-and-professionals>.

2. Party Details Form: The enclosed Party Details form must be completed and returned to this Office within 4 days of receipt showing details of any changes or new information. You are reminded that you are required to inform the Court immediately of any change in address or in representation by advocate or alteration in the address, telephone number or reference of solicitors on record.

3. Respondent's Notice: A respondent's notice (Form N162) must be filed if:

- the respondent seeks to vary the lower court order, in which case permission to cross appeal is required; or
- the respondent wishes to argue that the lower court order should be upheld for different or additional reasons to those given by the lower court. Permission to cross appeal in such circumstances is not required.

There is very limited time in which to file a respondent's notice. CPR 52.13(4)-(6) sets out the time limits for filing and serving a respondent's notice. In the event that the respondent's notice is not filed within the relevant time limit, an application for an extension of time must be made in the respondent's notice itself and full reasons given.

If the respondent's skeleton argument is not included within or filed with the respondent's notice, it should be filed and served within 14 days of filing the notice. It should be labelled the "respondent's appeal skeleton argument". Please see paragraph 9 below regarding compliance with CPR PD 52A and 52C in relation to skeleton arguments.

4. Respondent's Notice is not relied upon: If the respondent wishes the Court of Appeal to uphold the lower court order for the same reasons relied upon by the lower court, a respondent's notice is not required.

A respondent who does not file a Respondent's Notice will not be able to rely on any additional arguments at the appeal hearing which were not raised in the lower court, unless the Court gives permission.

Even when a Respondent's Notice is not filed, a represented respondent must provide a skeleton argument for the Court in all cases where he proposes to address arguments to the Court. Respondents acting in person are not required to, but are strongly encouraged to prepare a skeleton argument which responds to any appellant's skeleton argument. Where a respondent does not file a Respondent's Notice, a skeleton argument should be filed and served on every other party to the appeal by 05 Dec 2022. It should be labelled the "respondent's appeal skeleton argument". Please see paragraph 9 below regarding compliance with CPR PD 52A and 52C in relation to skeleton arguments.

5. Review of the Case: Promptly after the grant of permission to appeal and before the appeal skeleton arguments are due to be filed, the parties must review the case with a view to resolution or refinement of the issues to be determined at the appeal hearing. A further review with the same purpose should be conducted by the parties after the appeal skeleton arguments have been served and by 19 Dec 2022. See CPR PD 52C, paragraph 27(6) and (10).

6. Appeal Questionnaire: The Appeal Questionnaire must be completed and returned to this Office

by 14 Nov 2022. Part 1 is to be completed, signed by you and endorsed with the relevant fee of £1292; Part 2 is to be completed by your advocate, a photocopy sent to the advocate(s) for the respondent(s), and the original returned to this Office by this deadline. Your advocate must be told to advise the Court immediately of any alteration needed to the time estimate in the future. If a Lord Justice has given a time estimate for the hearing of the appeal and your advocate disagrees with it, he must explain why in Part 2 of the Questionnaire. If the respondent disagrees with the time estimate provided by the appellant, the respondent must file at the Civil Appeals Office and serve on every other party his own time estimate no later than 7 days after the service of the appellant's Appeal Questionnaire.

7. Documents to be added to the Core Bundle: You should add the following documents to the core bundle relied upon at the permission to appeal stage. The documents should be lodged in the Civil Appeals Office with a revised index. The documents are:

- a copy of any orders made in the Court of Appeal;
- where the order was made at an oral hearing, the transcript of any judgment which was given;
- the respondent's notice (if any);
- the appellant's replacement skeleton argument;
- the respondent's replacement skeleton argument.

8. Agreeing Appeal Bundle: In accordance with CPR PD 52C paragraph 21, the appellant must serve a proposed bundle index for the core bundle and any supplementary bundle on every respondent by 14 Nov 2022. The index/indices should separately and precisely identify, by description and date (if applicable), every document to be included in the bundle(s).

By 19 Dec 2022 the respondent(s) must either agree the contents of the core appeal bundle and any supplementary appeal bundle or notify the appellant of the documents that the respondent considers should be included in, or removed from, the appeal bundle by sending a revised index to the appellant. If no agreement is reached in relation to the inclusion of a particular document, then it must be placed in an unagreed documents bundle prepared by the party who proposed its inclusion. The bundle must be indexed and paginated and must be clearly labelled as an unagreed documents bundle.

Please ensure that paper copy bundles show the name of the case (which can be abbreviated), the name of the bundle and the volume number (where relevant) on the spine in at least 14 point font. If there are multiple volumes please also show the tabs or pages numbers in each volume on the spine.

Supplementary Bundle: If any agreed supplementary bundle is over 350 pages an application for permission to rely on it must be made to the court (see CPR PD 52C paragraph 27(11)). An application for permission to rely on a supplementary bundle in excess of 350 pages should be made as soon as the contents of the supplementary bundle are agreed and not when the bundles are subsequently being filed and served 6 weeks prior to the appeal hearing. Such an application should be accompanied by the proposed agreed index for the supplementary bundle. It is not necessary to file the entire supplementary bundle in support of the application unless you are directed to do so by the court after the application is filed.

9. Appellant's appeal skeleton argument: In accordance with CPR PD 52C paragraph 21, the appellant must file and serve on every other party an appeal skeleton argument by 14 Nov 2022. An appellant who wishes to rely at the appeal on the skeleton argument filed in support of the application for permission to appeal, need not re-file the skeleton argument at this stage but must

confirm by 14 Nov 2022 to every other party to the appeal and the Civil Appeals Office that the appellant intends to rely on the permission to appeal skeleton argument at the appeal. It must be served on every other party to the appeal by the above date if it has not been served already.

Your attention is drawn to CPR PD 52C paragraph 31(1) which provides that a skeleton argument must not normally exceed 25 pages (excluding front and back sheets) and be printed on A4 paper in not less than 12 point font and 1.5 line spacing. It should be labelled as the “appellant’s appeal skeleton argument”. Further requirements as to the content of skeleton arguments can be found at CPR PD 52A paragraph 5. Please note that any skeleton argument which fails to comply with CPR 52C paragraph 31.1 will be returned by the Civil Appeals Office. If re-filed out of time it must be accompanied by a formal application under part 23 seeking permission to rely on it.

Documents must be filed electronically via the E-filing service.

10. Filing and Serving the Appeal Bundle: Six weeks before the appeal hearing and subject to any direction of the court, the appellant must file the appropriate number of core bundles and any supplementary bundles with the court and serve a copy on all other parties to the appeal. **Pursuant to paragraph 14.4 Practice Direction 51O the Court orders that electronic bundles be filed via the E-Filing Service in addition to paper format bundles.** Bundles filed electronically must be formatted as one PDF document with bookmarks as appropriate for each document and with section headings within the document, unless its size exceeds 50 megabytes, in which case it can be divided into up to 10 documents of that size, each bearing bookmarks as appropriate (see paragraphs 10.3 and 14.1 Practice Direction 51O). If the filing of electronic bundles causes difficulty you should write to the court and further directions will be given. Further notification regarding the filing and serving of appeal bundles will be given when the appeal is listed.

11. Default: If you do not comply with the requirements set out in this letter without good reason, the case is likely to be dismissed with costs.

12. Extensions of Time: For extension of time to file a respondent’s notice, see paragraph 3 above. If you are unable to comply with any other time limit and there are good reasons for requesting an extension of time, you should write, before the time limit has expired, to the Civil Appeals Office setting out the reasons and the length of the extension sought. Your request for an extension of time should be copied to the other parties to the appeal (see CPR 39.8(4)). You will then be informed whether or not an extension has been granted.

If an extension of time is granted, you must inform all other parties to the appeal of the extension obtained and the new time limit.

13. Listing: In order to ensure, so far as possible, that cases are heard in their proper place in the list, each appeal is given a target date known as its hear-by date. The hear-by date assigned to this case is 02-10-2023. We aim to list this appeal before 3 Lords Justices by 02-10-2023. Where the application for permission to appeal has been significantly delayed, the listing window may have passed. If this is the case, the appeal will be listed as soon as possible taking into account the constraints of the list and term dates. Where a hear-by date falls in or near the Long Vacation it may be abridged or extended of the Court’s own initiative, and no application for that purpose need be made. These dates are subject to any alternative directions given by the Court.

14. Video Conferencing: The court offers video-conferencing facilities and encourages parties to use them where appropriate. Video-conferencing provides greater access for those living or practising out of London and for those with disabilities. Details are available on the website at www.justice.gov.uk/courts/video-conferences. Those without access to the internet should contact the Civil Appeals Listing Office at Room E306, Royal Courts of Justice, telephone 020 7947 6195/6917.

15. Access to Practice Direction: Further information about procedures for appealing in the Court of Appeal (Civil Division) can be found in Practice Direction 52C which supplements Part 52 of the Civil Procedure Rules. The Practice Direction can be found at "www.justice.gov.uk/courts/procedure-rules/civil/rules/pd_part52". It is also available for inspection at the Civil Appeals Office Registry counter in Room E307 of the Royal Courts of Justice.

16. Disposal of Bundles: Paper format bundles lodged with the Court will not be returned to the parties but will be destroyed in the confidential waste disposal system at the conclusion of the proceedings and without further notification.

All parties filing bundles with the Court must retain a copy of the bundle:

- a) for their own use in the proceedings; and
- b) as an essential back up should the court bundle(s) be accidentally misplaced, damaged or destroyed; and
- c) for the purposes of any onward appeal.

The parties should ensure that bundles filed with the Court do not contain original material such as original documents, photographs, recording media etc. If it is necessary to use original material, *copies* should still be included in the court bundles and the originals should be brought to the hearing. Parties must ensure they retrieve any original material handed up to the judge before leaving court. Any original material placed in the court bundle will be destroyed with the court bundle at the conclusion of proceedings (see paragraphs 27(14) and (15) of Practice Direction 52C). Electronic bundles will be retained for a period of two months following judgment after which they may be deleted (see paragraph 14.5 Practice Direction 51O).

17. Court of Appeal Mediation Scheme: The Court of Appeal is keen to encourage settlement of appeals and is able to provide access to means of alternative dispute resolution (ADR). You should read and consider the enclosed Form 56A and discuss the matter with your client.

If, by 30 Nov 2022, we have received written confirmation on behalf of all parties to the appeal that they agree to enter the Court of Appeal Mediation Scheme then mediation can proceed. Otherwise, after the expiry of that time limit, the appeal must be proceeded with in accordance with the timetable set out above.

Yours faithfully,

Manpreet Singh
(Case Progression Manager - Section A2)
civilappeals.cmsa@justice.gov.uk

Enc: Forms 235 237A 237B 56A 56C

In accordance with the General Data Protection Regulation (GDPR) and Data Protection Act 2018 that came into effect from 25th May 2018 if you would like to know more about how HMCTS handles your personal data please visit our website at www.gov.uk/hmcts. If you require a hard copy of the privacy notice please contact the court.

With effect from 1st February 2018 the Case Progression Section will only answer the phones between the hours of 10am – 12pm and 2pm – 4pm.

CIVIL APPEALS OFFICE
 REGISTRY
 Room E307
 Royal Courts of Justice
 Strand, London WC2A 2LL

DX 44456 STRAND

PLEASE COMPLETE THIS FORM AND RETURN IT TO THE CIVIL APPEALS OFFICE REGISTRY
 BY POST OR DX WITHIN 4 DAYS OF RECEIPT
PLEASE DO NOT RETURN THIS FORM BY FAX OR EMAIL UNLESS REQUESTED TO DO SO BY THE COURT

Court of Appeal Reference: **CA-2022-001066**

Title: National Highways Limited v Persons Unknown & Ors

APPELLANT		RESPONDENT	
NAME		NAME	
Address (if in person)		Address (if in person)	
Tel.No. (if in person)		Tel.No. (if in person)	
e-mail address		e-mail address	
SOLICITORS		SOLICITORS	
DX		DX	
Address		Address	
Tel.No.	Fax No.	Tel.No.	Fax No.
e-mail address		e-mail address	
Reference		Reference	
LONDON AGENTS		LONDON AGENTS	
DX		DX	
Address		Address	
Tel.No.		Tel.No.	
e-mail address		e-mail address	
Reference		Reference	
ADVOCATE Junior		ADVOCATE Junior	
DX	Tel.No.	DX	Tel.No.
e-mail address		e-mail address	
Leading		Leading	
DX	Tel.No.	DX	Tel.No.
e-mail address		e-mail address	

Any Appellant's Legal Aid Certificate which is relevant and not already submitted must be attached to this Form

YOU MUST NOTIFY THIS OFFICE IMMEDIATELY IF ANY OF THESE DETAILS CHANGE

IF THERE ARE OTHER APPELLANTS/RESPONDENTS WHO WILL BE SEPARATELY REPRESENTED PLEASE PROVIDE FULL DETAILS ON ADDITIONAL SHEETS

APPEAL QUESTIONNAIRE PART 1

CIVIL APPEALS OFFICE
REGISTRY
Room E307
Royal Courts OF Justice
Strand, London WC2A 2LL

DX 44456 STRAND

Court of Appeal Reference: **CA-2022-001066**

National Highways Limited v Persons Unknown & Ors

THE COMPLETED QUESTIONNAIRE MUST BE SERVED ON ALL RESPONDENTS
AND THE ORIGINAL RETURNED TO THE CIVIL APPEALS OFFICE STAMPED WITH THE RELEVANT FEE
BY 14 Nov 2022

PLEASE DO NOT RETURN THIS FORM BY FAX UNLESS REQUESTED TO DO SO BY THE COURT

(1) I/We, solicitor(s)* for the appellant(s), HEREBY UNDERTAKE to provide 3 additional appeal bundle(s) for the use of the Court in accordance with CPR PD 52C para 21.

(2) I/We, solicitor(s)* for the appellant, HEREBY CERTIFY that a completed copy of Part 2 of this questionnaire was served on each of the respondents on _____

and a copy of the proposed bundle index was served on the respondent(s)

on _____

Statement of Truth: I believe that the facts stated in the certificate(s) of service contained within this document are true.

*This form should be signed personally by the Solicitor with the conduct of the case for the Appellant(s),
or by the Appellant if acting in person*

Signed

Date

Name

Telephone

(in block capitals)

Firm

DX

(in block capitals)

**If you are acting in person, please delete as appropriate*

APPEAL QUESTIONNAIRE PART 2

DX 44456 STRAND

CIVIL APPEALS OFFICE
LISTING OFFICE
Room E306
Royal Courts OF Justice
Strand, London WC2A 2LL

Court of Appeal Reference: **CA-2022-001066**

National Highways Limited v Persons Unknown & Ors

THE COMPLETED QUESTIONNAIRE MUST BE SERVED ON ALL RESPONDENTS
AND THE ORIGINAL RETURNED TO THE CIVIL APPEALS OFFICE
BY 14 Nov 2022

PLEASE DO NOT RETURN THIS FORM BY FAX UNLESS REQUESTED TO DO SO BY THE COURT

I/We, Advocate(s) for the Appellant(s), HEREBY CERTIFY that in my/our opinion the hearing of this case is likely to occupy the time of the Court for hours days.

All Advocates instructed for the Appellant(s) should sign

Signed	Signed
_____ Name	_____ Name
<i>(in block capitals)</i>	<i>(in block capitals)</i>
_____ Date	_____ Date
_____ Telephone	_____ Telephone
_____ DX	_____ DX

I/We, Advocate(s) for the Respondent(s), HEREBY CERTIFY that in my/our opinion the hearing of this case is likely to occupy the time of the Court for hours days.

All Advocates instructed for the Respondent(s) should sign

Signed	Signed
_____ Name	_____ Name
<i>(in block capitals)</i>	<i>(in block capitals)</i>
_____ Date	_____ Date
_____ Telephone	_____ Telephone
_____ DX	_____ DX

PLEASE NOTE

- (1) The Respondent(s)' Advocate(s) need not submit an estimate unless they disagree with the estimate given by the Advocate(s) for the Appellant(s). If a Respondent does not submit an estimate within 7 days of receipt the Civil Appeals Office will assume that the Appellant(s)' Advocate(s)' time estimate is agreed
- (2) Any change in the Advocate(s)' estimate of the length of hearing must be notified in writing to the Listing Office immediately.
- (3) A change or addition of Advocate must also be notified in writing to the Listing Office, including the additional or substitute Advocate's name, DX address and telephone number.
- (4) The time estimate must be that of the advocate who will argue the appeal. It should exclude the time required by the Court to give judgment

Laura Higson

Subject: FW: RFI NHL vs IB

From: Adrian Temple-Brown <adriantbenv@gmail.com>

Sent: 24 May 2022 12:42

To: Petra Billing <Petra.Billing@dlapiper.com>

Subject: RFI NHL vs IB

****EXTERNAL****

Dear Petra,

I'm sure that you personally have a great deal of respect for each of the individuals which your company is taking to court for their Actions in trying to wake up MP, Lords and government members to our changed climate and continued environmental destruction.

Your name is on most of the "thank you" paperwork I receive regularly; I do wonder if you're fully aware of how short time is to turn around these [climate measurement graphs](#) but still you persist in doing the work of the lemmings in charge, specifically one G. Shapps. Who, incidentally, loves to fly around and drive around a lot, so isn't *that* keen on stopping the clock ticking on the UK's starring role in global ecocide.

What gets me (because I know trees need to be cut down to make paper) is why you insist on sending me everything in **duplicate**. Since we plant, say one Billion tree whips per year (each 50g) and cut down over [20 billion full-grown trees](#) per year (say each 3 tonnes) then paper is clearly a non-sustainable resource ... but you wilfully waste it.

I was wondering why you do this, so I'm asking you directly to tell me honestly which of the following apply:

- a. Is it because DLA Piper want to cause me maximum personal stress, destroying more of our environment to rub in just how much you *really* disapprove of my trying to secure a future ?
- b. Is it because DLA Piper are used to profit-gouging and this is the most profitable cost-adder you use and most often get away with ?
- c. Is it because your client instructed you to uplift expenses wherever possible to ensure maximal cash extraction from citizens who actually care about a future ?
- d. Is it just structural incompetence within DLA Piper ?

Along with an answer to my question above, perhaps you could email me a link to the DLA Piper "Sustainability Policy".

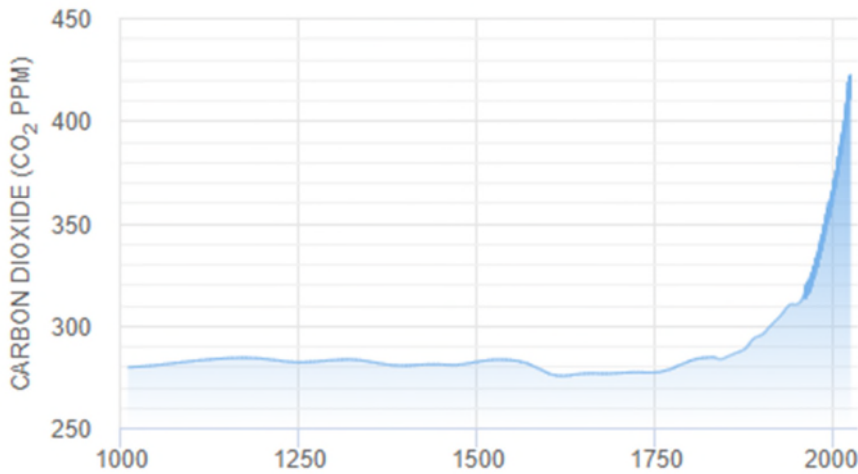
For me, it's very, very dark times, I struggle daily to function because I *know* what's coming; I could really do with something to make me genuinely laugh.

Why don't you change career and actually do something useful, rather than wasting time and resource every day – perhaps show some love to the young ones in your family by working for [ClientEarth](#), maybe ?

Can you read a graph ?

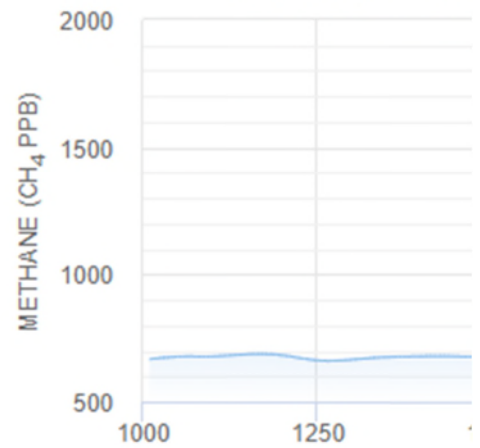


GLOBAL CO₂ LEVELS

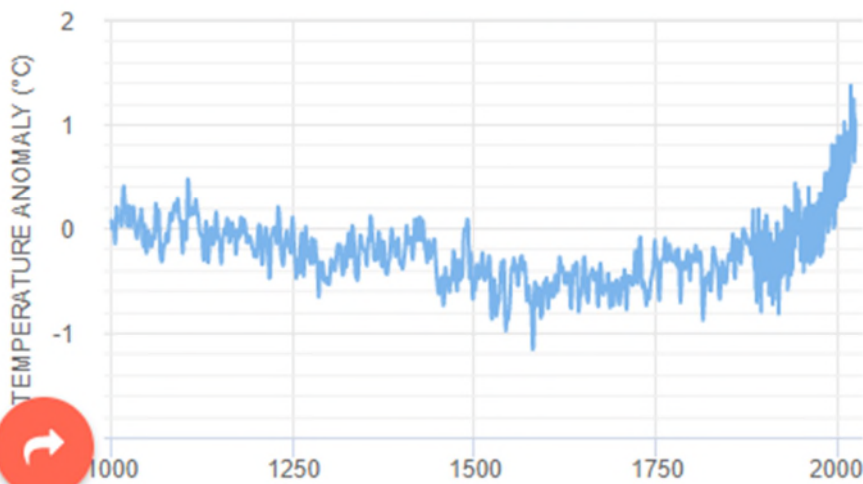


GLOBAL CH₄ LEVELS

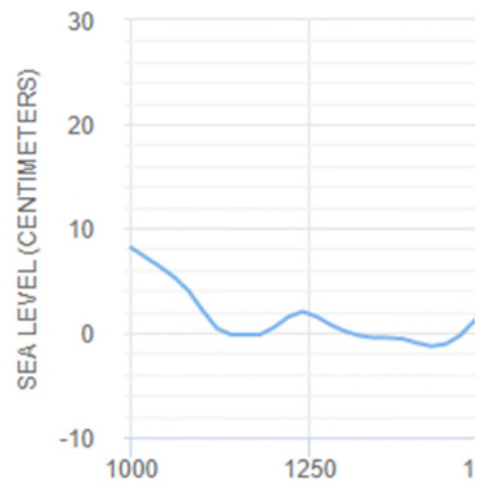
Click and drag in the plot



GLOBAL TEMPERATURE RECORD



GLOBAL SEA LEVEL RECORD



What does each one they tell you about what you're doing *today* ?

Any ideas on how to turn each of these measurements around ... because let me tell you, to make it crystal clear: **Shooting the messenger just isn't going to do it.**

As you're not a politician, I expect a reply to each question above, hopefully soon.

Adrian

p.s. I trust you to reply by email, not on paper with envelope, delivered with diesel, driven by billing.

Adrian Temple-Brown

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

Ref. LNH/DLE/366530/107 UKM/118572879.1
CLAIM NO'S: QB-2021-003576, 003626 AND 003737

23 May 2022

Dear Sir or Madam

I have received your mailing of 17 May and many previous ones concerning the injunctions and subsequent claims for costs on the part of National Highways Ltd.

These communications do not appear relevant to me. At the time I took part in a motorway block on 27 September 2021 I was unaware of any injunction, which was served on me only several days later. As you can no doubt readily confirm, I have taken no part in any further road blocks since that date. Nevertheless, ever since then I have been subjected to repeated deliveries of bulky sheaves of paper relating to this injunction.

As a person concerned about the environment and unnecessary use of resources including paper products, it distresses me to have to dispose of these mailings. Another aspect is that on two occasions alarming notices referring to the High Court have been attached to my front door while I have been away from home. Such publicly visible notices seem to me defamatory, and moreover they leave the premises at enhanced risk from intruders.

In summary I request you to cease these mailings, as they are not relevant to me.

Yours sincerely



JULIA MERCER

Laura Higson

From: Info DLA Piper <info@us.dlapiper.com>
Sent: 01 June 2022 11:41
To: Laura Higson
Subject: Fw: Email from dlapiper.com website 'contact us' form

Hi Laura,
I'm forwarding you an email from the general mail box.

Many thanks
Ruth

Kind regards,

DLA Piper

From: info@dlapiper.com <info@dlapiper.com>
Sent: Wednesday, June 1, 2022 11:21 AM
To: info@dlapiper.com <info@dlapiper.com>
Subject: Email from dlapiper.com website 'contact us' form

First Name: MARY
Last Name: LIGHT
Company: N/A
Email: lightmarylight@gmail.com
Phone:
Country: United Kingdom
Type: General/Other

Comments: Your Ref LNH/RCH/366530/239 and UKM/118797106.1 I would prefer to receive documents electronically, where possible. I am very pleased you have given me this option as, up to now, the extraordinary amount of paper documentation I have received, frequently in duplicate, has seemed an unnecessary expense for you. I confirm that I will accept service of documents by email.

The information contained in this email may be confidential and/or legally privileged. It has been sent for the sole use of the intended recipient(s). If the reader of this message is not an intended recipient, you are hereby notified that any unauthorized review, use, disclosure, dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please reply to the sender and destroy all copies of the message. To contact us directly, send to postmaster@dlapiper.com. Thank you.

ATTENDANCE NOTE

CLIENT: National Highways

MATTER: IB Protests/Injunctions – Hearing of the 17 November 2021 for the Committal of Ana Heyatawin (**AH**), Ben Taylor (**BT**), Benjamin Buse, Emma Smart (**ES**), James Thomas (**JT**), Louis McKechnie (**LM**), Oliver Rock (**OR**), Roman Paluch-Machnik (**RPM**) and Tim Speers (**TS**)

ATTENDING: Dame Victoria Sharp (**DVS**), Mr Justice Chamberlain (**MJC**)
Myriam Stacey QC (**MS**), Joel Semakula (**Counsel for the Claimant**)
Lucy Tangen, Antonia Burt (**National Highways**)
Rob Shaw, Laura Higson, Jenna Snook (**DLA Piper**)
Owen Greenhall (**OG**) (**Counsel for Benjamin Buse**)

DATE: 17 November 2021

REF AND FILE NO:

Start time: 10:02

DVS: Do you want to say anything about the costs schedule?

MS: We have prepared a revised schedule overnight which has amended the inclusion of costs for 3 days for the hearing to 2 days.

[hands a copy to the judges]

In the schedule, the headline figure sets out the common costs. The schedule we have handed up in revision brings these down by some £8,000.

The common costs are costs which are not specific to one defendant; therefore, we have divided them between the 9 defendants equally – which you can find on page 2 in the second column.

Back on the first page, under the header of costs, there have been identifiable costs for each individual defendant which we have set out.

DVS: Has a copy been given to each of the defendants?

MS: Yes. The breakdown behind the figures can be found on page 2 in the third column. Behind page 2 is a more granular breakdown of how the costs have been arrived at. The costs arrived at only relate to this application and do not include costs incurred previously to this application.

MJC: Am I correct in thinking the individual costs relate to things like service?

MS: Yes, on page 3 there is a breakdown of the common costs of £75,000. On page 4, there is a schedule in relation to the individual costs. Unfortunately, the pages are not numbered but, for example, on page 4 is Ana Heyatawin's breakdown and there is a summary of the work done for her and in respect of each defendant.

DVS: As the question of costs relates to the principle and quantity of them, do you have anything you wish to say?

OG: Yes, my Lady. The principles which are to apply to costs I have included in my skeleton argument submitted to the court. The recent decision of *Crosland* [2021] UKSC 15 in para 18 of my skeleton argument is set out which is a case from this year concerning the breach of a court order and an embargo. The principles outlined in this case are that the costs should be fair, just and reasonable. When a defendant is found in contempt, the cost order depends on whether the costs are reasonable and proportionate. When determining this, the court can take into account the individual defendant's means.

There is a requirement on the court to take a step back to look at the sanctions and impose those rules and make an assessment of proportionality. I would submit there are general points of principle primarily relating to the criminal jurisdiction which sets out when a sentence of imprisonment is imposed, that introduces a complexity to the defendant's financial position as imprisonment may have unforeseen circumstances on their financial situation in relation to their employment – they may lose their job. That is an important factor for this court to have regard to and falls under a general requirement to be proportionate.

Those are my submissions on the point of principle. Does my Lady want me to make submissions on behalf of my client Ben Buse in these circumstances or in relation to the costs sought?

DVS: Yes please.

OG: My client Ben Buse works as lab technician. He is in employment and is a person of limited means. His income is in the region of £2,000 a month post-tax. He has accommodation and living costs and, therefore, he has no savings of any significant amount or disposable income following his own expenses. He may be able to make a monthly contribution to sanction costs. He currently pays around £250 a month to charity but this is not part of his living expenses. That is his personal position in terms of costs.

In terms of the amount sought by the claimant, in my submission, this is a relatively straightforward committal application where the contempt has been admitted prior to the hearing. In terms of the evidence, it was all largely captured on video footage and therefore has not been in dispute.

MJC: Was the contempt admitted prior to the hearing?

OG: Yes, my Lord, on Friday of last week. The proceedings have moved relatively quickly following legal advice given to the defendants. We indicated that no witnesses would be required to attend and the matters in contention had been admitted. We raised one matter – 2.8 – but that is it, in any event. The admissions were made across the court.

DVS: Do you have anything to say about any items listed in the schedule?

OG: Yes, my Lady. I have only had a brief opportunity to see the updated schedule. In my submission looking at, for example, the amounts claimed for advice in this matter. There is a total of nearly £17,000 claimed including two Queens Counsels (QC) and junior advocates. In my submission, for a case of this nature, that is not a reasonable and proportionate sum to claim.

DVS: What page is this on?

OG: In the updated schedule, this is on the third page.

That is the sum claimed for advice. Then the amount claimed for the hearing are amounts claimed for a QC and two junior counsel which, again, in my submission, for a straightforward matter such as this, a single junior counsel could be used. It doesn't require that level of expenditure.

The overall amounts claimed in relation to preparation of the case are high - nearly £1,000 claimed for reviewing evidence such as body cam video evidence and press coverage. In my opinion, this doesn't take long to review. There is a £5,000 claimed for the specimen evidence pack. Those claimed, in my opinion, are out of proportion to matters in this application as they result in almost £40,000 and that is not including the individual costs per defendant.

I am grateful my Learned Friend has clarified this costs order is only to this application, but this means, in my opinion, disclosure etc should not be part of this claim.

In relation to the specific costs, my general submission is it is overall too much and should be reduced. In any event, it may well be that a further reduction may be required, depending on the sanctions imposed by the court today.

Unless I can assist further my Lady, I can see my Learned Friend wishes to speak.

DVS: We should hear from the individual defendants about their own means and their views on the schedule of costs before hearing from Ms Stacey. Ana Heyatawin, you can begin.

AH: I don't really get the prosecution's case - it relates a lot to press coverage. I don't have contempt for the court, I know I am brought here in contempt of court, but contempt means hate and I don't have hate for the court.

DVS: This is just on cost so we will move to Mr Taylor. This is just on your ability to pay the costs and your view on the schedule setting out the amount for each of you to pay. It is just for you to discuss your means and your ability to pay.

BT: For the last couple of years, I have been volunteering and I have been on universal credit which has been cut recently. £10,000 is a lot of money for me to pay so unless there's a deadline, it'll take me a long time to pay that.

DVS: Next Ms Smart. You've heard what Mr Greenhall has said. You may speak about your means to pay.

ES: I don't have any money. I've spent the last 3 years voluntarily working in wildlife conservation and climate activism. You're claiming more for postage than I have earned in the last three years which is obscene. The fact you are profiting from our stand and protecting the lives of others is obscene. Take what I have, come to my house and sell my clothing, take my money, that is what I have.

DVS: Mr Thomas.

JT: I have nothing to add to what has been said.

DVS: Mr McKechnie.

LM: My whole income is my student loan, so I make about £10,000 from that. I have to use almost all of it for my accommodation costs, so you won't get much money out of me.

DVS: Mr Rock.

OR: Yeah, I'm a carpenter so the last couple of years I've probably earned around £10,000 a year. My business was affected a lot by COVID. I have no savings or other assets, I just this morning paid my rent for next month and I have no idea how I'll pay my rent after that.

DVS: Mr Speers.

TS: Pretty much the same. I've been a full-time volunteer and I'm currently on universal credit. I might be dead before I can pay these costs.

DVS: Ms Stacey, do you have anything to add?

MS: I didn't address on principles before, if I can address on those now. The *Crosland* case from the UK Supreme Court set out the principle that costs can be derived, as set out in paragraphs 8 to 11, and that costs follow the event. So, when the defendant is in contempt, we accept the means of each defendant is relevant and must be taken into account for the assessment of the costs and whether the costs made are just, fair and reasonable.

The fact a defendant has limited means does not negate a claimant's entitlement to costs in circumstances such as here where the defendants have been found to be in contempt of court. The normal rules should apply, subject to costs being just, fair and reasonable.

It is important that cost sanctions are part of a package and are an effect of a party being in contempt of court. It should be a deterrent element and I ask you to bear in mind there are further rounds of contempt applications coming.

If there is further evidence as we have found out today about each defendants' means, it may affect the order. The claimant brings this claim pursuant to statutory duties and has a duty in relation to public funds which have been used to bring this litigation. It has a duty to manage public funds.

Your Ladyship may wish to take into account the CPR provision 44.4 in relation to the factors to apply when awarding costs. The court can't be seen to stand by and let the protests happen.

This is not a straightforward contempt application. It involved nine defendants, witness summonses from police officers, a statement of case, third party disclosure orders, reviewing body worn camera footage and social media including press releases. The work done in terms of advice on page 4 includes all of that, alternative service, witness summonses, affidavits for service, draft order and evidence review.

In terms of admissions, the defendants admitted they were in breach only very shortly before the hearing. The preparation had to include the anticipation of calling all evidence in chief into question and the cross-examination of individual defendants to prove contempt which had to be proved to the criminal standard. The hearing has been less complex due to admissions, but it doesn't negate that groundwork and preparation has been done and had to be done for different outcomes.

We are aware the costs order may well become very symbolic.

RPM: You didn't give me a chance to speak.

DVS: I am very sorry.

RPM: I don't have a job currently. I was paid by a charity before which covered my costs, but that project finished in August and I don't have a job now so have no ability to pay back costs.

This is also to respond to some of what Ms Stacey said. This whole application isn't about statutory duties, it is about profit. We said we didn't need the witnesses and we accepted breach. We admitted days ago so you had enough time, 4 or 5 days.

Social media is free to look at for everyone. Maybe you charge for time etc, but this is a nonsense point. As Ana has said, our frugality is shown. We've all self-represented. You booked three days for the hearing and we've done it in only two.

MS: One point on rates, DLA have specific discounted rates for this client.

OG: My Lady, might I respond to one brief point my Learned Friend raised on cost and deterrent. That is a submission made without authority. That is not a factor mentioned by the Supreme Court in the *Crosland* case and it is surprising to be omitted by the Supreme Court if it was to be a proper factor to be taken into account when assessing costs. My submission is this should be made to the own individuals rather than to wider impact.

In terms of the wider suggestion to costs that included the third-party wider disclosure order, this was made as part of the underlying claim so that isn't part of this application.

MJC: Ms Stacey, can I ask this? The schedule you have provided including general costs and the breakdown of specific costs. What order are you seeking? Are you wanting an order per individual as per the column on page 2 or a global order?

MS: Individual orders. We have endeavoured to split by nine and we don't find a joint and several order suitable.

MJC: Is there anything else you want to say?

MS: I wasn't suggesting that was what the Supreme Court considered in terms of deterrent. This is simply part of principle.

DVS: We will make our decision on costs in writing in due course. The full reason for the following judgment to be handed down will be made available on the judicial website once I have read out the summary.

Ana Heyatawin, Ben Taylor, Benjamin Buse, Emma Smart, James Thomas, Louis McKechnie, Oliver Rock, Roman Paluch-Machnik and Tim Speers, on the morning of 8 October 2021, you all took part in an organised protest at the Waltham Cross Interchange roundabout at Junction 25 of the M25. Each of you placed yourselves on the highway with the point of obstructing the highway and had to be removed by police.

You were all served in accordance with the orders and your actions were intentional and in contempt of court. We have considered the culpability and harm of each individual defendant. As to culpability, this isn't a case of an inadvertent breach. This was a deliberate act of defiance to an order of the court, albeit undertaken for conscientious reasons. There was no pressure on any of you to commit the breach, each of you decided freely and individually to breach the order.

As to harm, the protest occurred on a slip road of a busy motorway at rush hour on a weekday. The protest was intended to and affected large numbers of the general public. The road was blocked from 8:35 am until around 9:55 am. The time at which you protested was when traffic would have been heavy as commuters were travelling to work.

The blocking was intended to and did cause inconvenience to a large number of the general public. It caused harm to those held up in emergency vehicles or travelling to work – with economic losses for those who couldn't get to work. You also diverted police resources away from other important tasks.

Although of your own cause, you created an obvious risk of serious injury to yourselves and to other motorists who may have had to swerve for pedestrians who were not to be expected on a motorway. You also placed a risk of injury on the police who had to remove you.

In a democratic society which allows for non-violent protests, free protests are expected and, up to a point, tolerated. It is the *up to a point* which is important. The ordinary general public have a right to use the public highways uninterrupted. The public's toleration of peaceful protest

accepts in society there is a balance between your rights to protest and the rights set out by the law. It is according to law, not to your say so.

In this case, the exercise of balancing your rights was shown by the High Court on 22 September. The order granted prohibited protests blocking the M25. The order didn't prevent protesting or prevent you from expressing your views in other ways and you were given a hearing date for which the injunction could be challenged.

If you had challenged and been unsuccessful, you could have appealed. However, you didn't do any of this. Rather, you decided what inconvenience and harm the public would have to put up with. Breaching a court of order breaks the social contract under which, in a democratic society, the public can tolerate to allow peaceful protest. This is the most significant harm caused by your actions in our view.

[AH and OR shout]

DVS: Please be quiet.

On the basis of what has been said, we consider it clear that the custody threshold is passed. No lesser sanction than imprisonment will deter you or others to breach other orders.

For the length of custodial term, the contempt is one non-violent protest, committed not for personal gain, but each for conscientious motives, as shown in the accounts given in relation to personal circumstances. Although actions have differed to some degree, they have not differed enough to result in different sanctions. Each of you deliberately flouted the court order with no demonstration of any contrition or appreciation of the seriousness of the breach. You have not shown that you will cease actions. Indeed, what has been said to us is that you will continue to do so. Therefore, we will order for imprisonment in each case.

We have considered carefully whether these should be suspended sentences. However, in light of your statements, suspension would be inappropriate. Therefore, orders will take effect immediately.

Ana Heyatawin, please stand. We have taken into account your submissions in relation to your mental conditions and so we order imprisonment for 3 months.

Ben Taylor, please stand. Your submissions were inflammatory and quite rightly described as a call to arms. For this reason, a greater sanction is required for you. We order imprisonment for 6 months.

Benjamin Buse, please stand. We order imprisonment for 4 months.

Emma Smart, please stand. We order imprisonment for 4 months.

James Thomas, please stand. We order imprisonment for 4 months.

Louis McKechnie, please stand. We have taken into account your youth and for that reason, we impose an order of imprisonment for 3 months.

Oliver Rock, please stand. We order imprisonment for 4 months.

Roman Paluch-Machnik, please stand. We order imprisonment for 4 months.

Tim Speers, please stand. We order imprisonment for 4 months.

In accordance with the law, each of you will be released after serving half of your term. The tipstaff will now escort you down.

[chanting starts from families and friends of the defendants in the courtroom as the defendants are escorted down: “we are unstoppable, another world is possible”]

[judges leave while security removes the families and friends, but the judges return at 10:46]

DVS: The judgment in full is in writing and copies in court are available. Can the representative from HJA please ensure copies are made available to the defendants?

OG: One procedural matter, I just want to double check. I believe there is an obligation on the court to inform the defendants who have been committed of their right to appeal. I plan on speaking to my client Ben Buse.

DVS: Thank you very much. If they wish to appeal, please make us aware. Is there anything else?

MS: Nothing else.

DVS: I will sign the warrants and the orders for committal.

[court ends]

End time: 10:48

ATTENDANCE NOTE

CLIENT: National Highways Limited

MATTER: Insulate Britain – Hearing of 14 December 2021

ATTENDING: Lord Justice Dingemans (**LJD**), Mr Justice Johnson (**JJ**)
Myriam Stacey QC (**MS**), Joel Semakula (**Counsel for the Claimant**)
Ruth Hobbs, Lucy Tangen (**National Highways**)
Rob Shaw, Laura Higson (**DLA Piper**)
Owen Greenhall (**OG**) (**Counsel for Benjamin Buse**)
Catherine Osborne (**CO**) (**Counsel for Diana Warner**)

DATE: 14 December 2021

Start time: 10:32

MS: My Lords, I appear for NHL. Owen Greenhall for Benjamin Buse, Catherine Osborne for Diana Warner. All defendants are represented by solicitors and those not represented by council are representing themselves. We are informed that Benjamin Buse and Diana Warner are not here yet. Attempts have been made to contact Diana Warner but with no success yet.

LJD: Let's deal with that first.

[Addresses OG] The court made an order for the production of Mr Buse. Which prison is he currently at?

OG: He is at HMP Thameside. I had asked for a conference before the hearing and I have not been able to see him.

LJD: It is obvious that you should have time to speak to him beforehand. Is any information available about where he is?

OG: There appears to have been a breakdown in the system at Thameside.

LJD: Does anyone know where he is at the moment?

[LJD in discussions with clerk]

LJD: [addressing OG] I suspect the least worst option is to progress with hearing the other cases but not Mr. Buse because it would be unfair to hear the matter without him, but with you present throughout so if you hear anything from anyone else you can then address that. Do you foresee any difficulties with this?

OG: I am concerned that Mr. Buse is facing a potential further sentence and he should have the right to hear the case as presented by NHL for himself. I have had very limited opportunity to obtain instructions. I'd prefer to adjourn until he is here and we will then start matters this afternoon if he can be brought from HMP Thameside by then.

LJD: I'll come back to that. As I understand, he has accepted his liability for contempt. Is that right?

OG: He has accepted liability, but the issue is the severity of the disruption.

LJD: I accept that but he will be here for his case and he will hear the points that are relevant to his case. At the moment you do not know where he is, or if he is on his way?

OG: We had anticipated that I would set out the legal framework in relation to the defendants broadly, thus taking the burden off the other defendants.

LJD: Thank you, your skeleton was very useful for pre-reading. If you are not representing the others you can't really do that in some respects but we can address that depending on what MS says. CO you are representing Ms. Warner?

CO: She is not present at Court. My instructing solicitors have emailed her four times yesterday, twice this morning and have called her several times including around 10 minutes ago. The telephone went straight to voicemail. I am unable to tell my Lord her whereabouts.

LJD: Thank you for efforts made to contact her. Is she London based?

CO: She is based in Bristol.

LJD: Has a mobile number been called? There is nothing to suggest she has been taken ill?

CO: We have called her numerous times. There is nothing to suggest that she has been taken ill.

LJD: She was aware of the date of the hearing?

CO: Yes.

LJD: Do you have anything else to bring to our attention before MS begins?

CO: No.

MS: I suggest that it may help to set out what I was proposing to do regarding the opening and you can direct me.

LJD: Starting a case without a defendant present is something that the Court needs to engage on before it is started with. It looks like it is a deliberate decision from Ms. Warner not to attend.

MS: I have no information about her whereabouts. I would emphasise also that she too has admitted liability.

LJD: There is the right to be heard and present and these are serious matters for your clients and for those facing contempt.

MS: I accept that and I am not pushing, I simply want to offer any assistance that I can.

LJD: The Court has the right to issue a bench warrant – would you want to make this application?

[MS takes instructions]

MS: In anticipation that Mr. Buse will be brought to the Court, are we simply talking about Ms. Warner not being here today, and is it a choice between no progress in her absence pending the application if that is what you had in mind?

LJD: We consider that in the circumstance where she has admitted, the critical question is sentence for Ms. Warner and we would be able to make some progress in relation to others but the issue of sentence would have to wait for her attendance and that would require us to take a step down and compel her attendance. Would you make the application for a warrant for her arrest where the Court has jurisdiction to do so?

[MS takes instructions]

MS: I am instructed to make that application.

LJD: [addressing CO] Is there any reason why we should not issue a warrant for Ms. Warner's arrest to bring her back here?

CO: There is no reason that I can respectfully submit. The court has the power to do so under 81.7(2).

LJD: We will rise to consider this and to enable further enquiries to be made as to Mr. Buse's position. While we rise, please make a further attempt to contact Ms. Warner. Otherwise, I suspect we will issue a warrant and see what other progress we can make.

CO: The Court could consider the warrant being backed by bail, but in the circumstance where I have been unable to make contact with Ms. Warner it is hard for me to make any more meaningful submissions.

LJD: I did issue a warrant backed by bail earlier in the year for a 79 year old with heart problems, but they were not someone who was arrested, immediately released, and asked to attend Court at a later date. Do you consider that there are any circumstances like that?

CO: Ms. Warner is 62 years old but there are no particular medical circumstances.

LJD: Thank you. We will rise now.

[Rise at 10:43]

[Return at 10:45]

LJD: Thank you for your submissions. We will issue a warrant for the arrest of Ms. Warner for her to be called to this Court as soon as possible so that she can be present for her contempt proceedings. It will not be backed by bail. If you get any further information in the interim, the Court may revisit it. We will draw that warrant up as quickly as possible.

[Addressing OG] Regarding Mr. Buse, I understand that we have no further information [clerk confirms]. I am aware of what has been happening generally with production of prisoners around the country - we will not adjourn and he may not be produced until tomorrow. As far as you representing Mr. Buse is concerned, we will start again as we will with Ms. Warner because these are separate contempt proceedings and they should hear everything said against them. When he turns up that will give you the opportunity to take instructions. I am conscious of the current difficulties with producing prisoners from custody.

OG: To confirm, efforts are being made to get him here today?

LJD: Every effort will be made, there is a possibility albeit remote that he will be here in time for the afternoon session but he may be here tomorrow and we will start again then. I will let you know as soon as I hear further.

OG: It may be possible for the Governor of Thameside to offer a temporary licence and put him in a taxi to the Court.

LJD: We would not want him to go missing as Ms. Warner has. That raises the issue of making progress with other defendants.

[Addressing the defendants] You are all represented by solicitors but not formally by OG. OG has produced a note about sentencing.

[Addressing OG] If you are present then it may be that you can address us as an advocate to the Court on the principles.

OG: I would of course be willing to assist the Court in whatever way that I can. I would like to make Mr. Buse a particular approach which may not be the same as the others.

LJD: I well understand why in the circumstances – there are separate interests, but all are relevant on the principles.

[Addressing MS] Back to you in relation only to those Defendants unrepresented by counsel.

MS: I don't think that changes the nature of my opening. I propose to set out the background and take you through the material documents and the same with the framework and the principles relating to liability, specifically in relation to sentencing. Before I do that, can I ask what you have and what you've read – you should have the hearing bundle, an authorities bundle...

LJD: I have that, we have watched the videos provided to us which give indication of what individuals were doing.

MS: You have also have been handed a letter by Mr. Ramsden which he has requested remains confidential. I have read the letter but my team has not. [RR's letter is handed up]

[Judges read the letter]

MS: It is Mr. Ramsden's desire that it be kept confidential.

LJD: [Addressing Mr. Ramsden] Court proceedings are held in public court for a reason, so that court can have the public's confidence. May I summarise the letter as it being in regards to the health of family member? [Mr. Ramsden confirms]

MS: You have also been handed up a document with an Insulate Britain Twitter post, dated 9 December 2021 and regarding Paul Sheeky, and a news article dated 11 December 2021 regarding Sue Parfitt.

NHL is the highways authority for the Strategic Road Network in the UK. This application concerns a protest by IB which took place on the morning of 27 October 2021 and in relation to Biff Whipster only on the morning of 8 October 2021 which formed the subject of first contempt hearing – a copy of the judgment is in the bundle.

Both protests were in breach of the Order of Mr. Justice Lavender of 21 September 2021. The Defendants have all admitted their breach and have admitted that they were properly served with the relevant documentation. There are two issues for the Court – (i) has the Claimant proved that the Defendants are in contempt of Court, and (ii) if the Claimant has proved contempt, what sanctions should be imposed.

By way of background to the IB protests, the genesis of the M25 Order was a series of protests organised by IB which started on 13 September 2021. The protests involved the creation of human road blocks, protestors sitting down on and sometimes gluing themselves to motorways and slip roads, wearing in some cases orange hi-vis jackets and carrying IB banners.

Referring to tab 35 of the hearing bundle, the witness statement of Nicola Bell (at p. 718 of Bundle B) on page 2 she refers to the M25 motorway as the Lavender Order did. Paragraph 9 of her witness statement summarises the protest activity and a spreadsheet of protest incidents is referred to at paragraph 10. At page 791 of the hearing bundle is the summary of incidents to which she referred – it summarises the protests, with the date of the protest in the left column.

JJ: The road traffic collision is unrelated? There are two specified in the schedule – one at Junction 9 and one at Junction 10 where it seems that was related.

MS: [takes instructions] We can't say for sure.

At page 792 is an extract of an email from Sean Martell sent out to police forces to alert them to protest activity to make the necessary preparations, referring to specifically to protest activity on M25.

At page 795 of the hearing bundle is a series of Tweets dated from 13 September 2021 where Surrey Police refer to overseeing protests.

Flicking forward three pages to page 798, a Tweet dated 20 September 2021 from Hertfordshire Police stating that they had been called to a protest at Junction 18 of the M25.

At page 801, there is reference to 12 protestors blocking the carriageway using glue.

At page 802 is an email from IB to NHL. The second paragraph refers to a request made of the Police on 16 September 2021 to slow down the traffic on the M25 because IB would be participating in acts of civil disobedience. This request was refused. IB say that they believe it is proportionate to create disruption and on the basis that IB had made it clear that they intended to continue their protests, the Claimant obtained emergency injunctions.

There were a series of breaches of the injunctions, resulting in the first contempt hearing on 16 and 17 November 2021 and again today. The hearing on 16 and 17 November 2021 was in relation to the protest on 8 October 2021 – the judgment is at tab 4 of the authorities bundle. An appeal against sentence has been lodged yesterday to the Court of Appeal – no permission is required.

LJD: A question about the routes of appeal. The White Book says that there is an unfettered right of appeal but the route from a Divisional Court is to the Supreme Court, see the Administration of Justice Act 1960 at s.13(2). The appeal lodged in respect of Mr. Buse I suspect will need to be relogged for want of jurisdiction and the Court will then need to amend the Order and add extra time for the appeal. We were aware of it from the submissions made for Mr. Buse but that triggered my concern as to whether you had been misled by the notes in the White Book. I set this out in open Court so you can check this.

OG: I am grateful for the clarification.

LJD: To be fair to you, you followed the White Book and the Court's order.

MS: For completeness, an appeal against the costs order was also lodged but that was refused. Insofar as the first hearing is concerned, we have today's hearing and the Court should also be aware that there are other contempt applications pending.

JJ: When was the last protest?

MS: The last protest in relation to the latest application was 2 November 2021. Our intelligence suggests that protests will resume in Spring 2022, and there have been no protests for the last 3 weeks on NHL roads. We asked for the source for the intelligence but we weren't told – that information stems from the Police. There have been protests on other roads – i.e. Lambeth Bridge was blocked in response to first contempt hearing.

JJ: There has been no breach of Lavender J's Order since then?

MS: Yes there have been no further breaches of Lavender J's Order, which can be found at page 36 of the hearing bundle. The Order was granted originally against persons unknown along the M25.

The M25 is defined in the Order at page 37 of the hearing bundle at paragraph 1 as including the "on- and off-slip roads, over bridges and underbridges" and prohibits the Defendants from doing any of the acts in paragraph 2 of the Order until 21 March 2022. They list includes: blocking; slowing down; preventing or obstructing the free flow of traffic. Paragraphs 2.3, 2.6, 2.8 and 2.9 are the particularly relevant ones for today. There is a penal notice on the first page of the Order at page 36 of the bundle advising the Defendants to take legal advice. The Order granted by May J joined named defendants to the injunction (see tab 23 of Bundle B). The Defendants to this application are all amongst the defendant's to that application at the time. There is no dispute as to service.

In relation to IB's response to the applications made, numerous statements were made showing that they appreciate that the protests are in defiance of the Court Orders, showing that the breaches are deliberate and orchestrated to provide the protestors with the best possible platform to cause a change of Government policy and that it was regarded as proportionate to the goal. Tab 9 of the bundle is the affidavit of Laura Higson which I will take you through for the relevant context. At paragraph 24 of the affidavit you will see references to press releases of IB – these start at page 433 of the bundle.

LJD: In relation to those Defendants before us, the evidence shows that they are part of IB?

MS: I'll refer to the evidence against the defendants next. These press releases predate the protest to which this application concerns. Page 433 is where press releases start. At page 449, there is reference to Sue Parfitt from Bristol who was involved in the first of today's actions.

[Judges reading]

MS: The press releases continue at pages 437, 441, 445, 449 is the article to which I just referred, 453, 457 related to a protest at the M4 and M1, 461 relating to major A roads in London, 465, 467 –

OG: It is difficult for the Defendants to refer to what is being spoken about – they do not have copies of the bundles with them.

[NHL provide spare copies of bundles to Defendants]

LJD: I will ask MS to explain clearly.

Sue P: I would like to know what I have been accused of saying.

LJD: I would strongly advise you speak with solicitors before stating any admission in open Court.

MS: At page 449 of bundle is an IB press release titled "Insulate Britain returns to block M25 Junction for Second Time Today" - This follows an earlier action on the same junction where IB supporters sat down on carriageway –

"Reverend Sue Parfitt from Bristol who was involved in first of today's actions said earlier: "Many people will ask why a 79 year old Anglican priest is sitting in the road causing disruption and how can I justify participating in such actions? I simply feel called to do everything in my power to protect God's planet, his creatures and the people. If we are successful in persuading the Government to do what is necessary, the actions I am taking today will help to prevent a much greater harm – no less than the destruction of everything we hold dear"

JJ: There is a footnote – what does that lead to?

MS: Over the page you'll see there are some notes about IB and it refers to the fact that IB is a new campaign group calling on the government for national home insulation and then sets out the demand for the Prime Minister to get on with the job, and a series of demands follow. Then it states that "*We are scared, our livelihoods are at risk and the futures of our children are uncertain. The Climate Crisis is a threat to all: we demand the government to act now*" and then two demands follow: (1) for the government to take responsibility for insulation of social housing by 2025 and (2) for a national plan to fund a low energy and low-carbon whole house retrofit by 2030.

At page 467 is a further press release from IB dated 11 October 2021 headed "For Immediate Release" stating that "*On Tuesday the hearing, adjourned from last week, will continue in the High Court relating to the Highways England injunction aimed at Insulate Britain. Government ministers have not hidden that they have requested this injunction be brought, as they believe the actions of Insulate Britain are dangerous to the public and economically damaging. The original injunction was granted in the absence of representatives from Insulate Britain, who now have a right to apply for a variation in the terms of the injunction or to argue that it should not have been granted. Insulate Britain does not intend to contest the injunction*". The last line of next paragraph – the government should be in Court for treason. At 468 a reference at the bottom of the release to IB blue lights policy "*to move out of the way for emergency vehicles with blue lights on*".

At page 473 – a press release dated 14 October publishes a letter from Liam Norton (not a Defendant to these proceedings) to the PM signalling a pause in the campaign. The last line of page 473: "*ahead of COP26, IB will suspend its campaign of civil resistance until Monday 25 October 2021 in light of speech you made [...] We invite you to make a meaningful statement that we can trust.*"

At page 476 – a press release dated 25 October states "*IB is back on the roads today after 10 day break*", "*This is the fourteenth time that IB has caused disruption on the motorways and A roads as part of our campaign of non-violent civil resistance.*"

At page 479 – a press release dated 26 October and headed "We declare the M25 a site of non-violent civil resistance". At the 3rd paragraph – "*we are not concerned with endless injunctions. We are not concerned with our fears. We are concerned with fulfilling our duties and responsibilities at this 'period of consequence'. Starting at 7:00 on the morning of Wednesday 27 October the M25 will become a place of nonviolent civil resistance to stop our government committing crimes against humanity*". In the previous paragraph – "*you can't imprison a flood, there are no unlimited fines against a famine, you can't bankrupt a fire. You can imprison the ordinary people of Britain, yet the lives of our children and future generations hang in the balance*". In the 3rd paragraph, "*IB acknowledges the inconvenience and irritation we are causing to the public in our campaign and we ask that you understand that the days of disruption are necessary to force a government to fulfil its most basic of duties*". Then a list of demands follow.

At page 486 – a press release dated 28 October headed "A statement from IB on yet another injunction hearing". The first paragraph states "*The blanket injunction granted to NHL on Monday is being considered in the High Court today. The injunction, which prohibits people from IB, and anyone else, from protesting on any part of the strategic road network in England is breath-taking in its scope and a massive overreach*". At the second paragraph – "*The injunction was granted in absence of representatives from Insulate Britain*". At paragraph 4 – "*We agree that disrupting everyday life for ordinary people is unacceptable.*"

At page 492 – a press release dated 03 November – "32 IB injunction breakers face 2 years in prison". Photographs of IB facing committal order are at the top of the release which says that they have been summoned to appear at the High Court on 16 November 2021 for breach. There is reference to a Paul from Warrington who took part in M56 disruption which states "*I am knowingly breaking a high court injunction by sitting in a road, as the courts in this country are no longer about justice, but are about preserving injustice. Our government will lock us up and leave thousands of people dying of cold this winter. By failing to take the first basic step to reduce our carbon emissions, the government is licking in the death of millions from starvation and conflict caused by climate collapse*". We believe that quote is from Mr. Sheeky but we may be told otherwise.

At page 498 – a press release dated 4 November headed "A statement from IB". The first paragraph refers to the success of the campaign: "*Insulate Britain has been one of the most successful campaigns in history: our name recognition went from zero to 77% of the public in three weeks, we have attracted enormous media interest and we have started thousands of conversations, in the press, on social media, and in homes up and down the country. Importantly, we have exposed the government's refusal to act on home insulation as cowardly and vindictive and their refusal to protect our country and our children from the climate crisis as genocidal and treasonous*".

At page 507 – a press release dated 15 November referring to the first hearing but there are no quotations from any of these defendants.

At page 510 – a press release dated 18 November is the reaction to the sentence handed down. 9 people were sentenced, with reference made to Emma Smart's intention to go on a hunger strike. Over the page it refers to an act of civil resistance on 20 November 2021: "*IB understands that there will be a day of civil resistance in London on Saturday 20th November inspired by our campaign. The action will be to express solidarity with the 34 people from IB who face imprisonment for up to two years for contempt of court for breaking morotway injunctions. Nine of them were sentenced yesterday, and a further 23 are expected to be summoned in the coming weeks*".

At page 513 we see a press release relating to 20 November act of civil resistance. At page 516 another press release dated 22 November refers to 124 arrests on 20 November – the 5th para down: "*People from a variety of groups joined Saturday's action to knowingly break the injunctions*".

At page 519 – a press release dated 26 November relates to this hearing and photos of the defendants are on the top again. There is reference in the second paragraph to the group including Ben Buse, Ruth Jarman, Biff Whipster, Diana Warner, Paul Sheeky, Richard Ramsden, Stephen Gower, Stephen Pritchard and the Rev Sue Parfitt. It goes on to state that "*A further 17 IB supporters who have openly defied one or more of injunctions granted to TfL and NHL are expected to be summoned to Court in the coming days*" and then a quote from Stephen Gower states: "*The government didn't need to imprison scientists, tradespeople, teachers. Te government needs to insulate Britain's leaky homes, to stop thousands dying this winter from fuel poverty, to end hundreds of thousands of families being cold and hungry, and to start really acting on the climate crisis now the UK's number one public concern*".

At page 522 begins a number of Twitter extracts dated from 20 November 2021 where IB call people to join them and refer to national Zoom sessions on Sundays. At page 523 a reference thanking people for standing up. At page 525, a Tweet dated 22 November stating that the floodgates are open "*get out on the streets*", "*get on the roads*". At page 528 a Tweet dated 1 December states "*only civil resistance can change the tide*" and another on 1 December says

"join the resistance". At page 530 a Tweet dated 5 December – "*and we're just getting started*". At page 531 a Tweet showing a picture of Stephen Gower posted on 8 December states "*I'm Steve, a volunteer for the homeless in my city. I live in fuel poverty, I can't get over the fact that 8,500 people perished in their own homes in 2019. We've just had the preventable deaths figure from 2020 and that number has risen. That is the reason why I went on the road, and continued to go on the road regardless of an injunction. On December 14th I will be at the High Court to plead my case.*". At page 532 there is a Tweet relating to Diana Warner but she isn't here so I will skip over that.

At page 533 is an article from Kent Online dated 1 December 2021 referring to Biff Whipster which states that he "*faces the very real prospect of being sent to prison this month for his part in blocking motorways and bridges*", "*he remains adamant his actions on M25 slip roads and London bridges were justified*", "*he stands held in contempt of court for breaching injunctions and he says he is expecting a sentence of 6 months when he admits the offences on December 14th*". At page 535 there is reference to him having insulated his own home and to his motivations for continuing the campaign. At page 536 he says "*I know we have upset a lot of people and we've suffered a lot of hate as a result*", "*direct non-violent action is the only way to get through to ministers*". Further down page is a reference to an arrest earlier in this year. At page 538 is a quote from Mr. Whipster.

We have handed up two further articles which brings us fully up to date – turning to the Tweet first – there is a photo of Mr. Sheeky dated 9 December. The second is an article from the Bristol Post dated 11 December 2021 in which there is a quote from Sue Parfitt on page 3: "*all of us will be going to prison at this rate*", "*in regards to possible 2 year prison sentence Sue said she is ready*" and ""*They may hesitate a little bit because I'm 79 but I shall do my best to make sure they do send me to prison,*" she said. "*I wouldn't at all want to be not sent if my fellow defendants are being sent. I'm well prepared for it, I'm busy packing my prison bag now. I'm scared to death, it's such an unusual thing to be facing at my time of life and for no criminal reason whatsoever. Although we're going to prison for longer than anticipated, it was all part of the plan. I'm happy in the sense of believing it to be one part of the effort to get the Government to take this seriously and act to insulate Britain. [Our] demand on the Government was extremely modest, 6,000 people die of cold each year and fuel poverty is getting worse by the price hikes. All we were asking was that they insulate homes and we would be off the highway in a minute. But I also know that going to prison is part of the protest. If you think back to the other big protests of our previous century - like the Suffragettes - they were in and out of prison all the time.*"

OG: A comment was read attributed to Sue Parfit saying "all of us are going to prison" – that was in relation to the Police Crime and Sentencing Bill before Parliament.

LJD: Thank you.

MS: Turning to the breaches. The breaches not disputed. The protest on 8 October 2021 took place on Waltham cross interchange at J25 of M25 and formed subject of first contempt judgment. The 27 October protest took place on the Littlebrook interchange.

LJD: The 8 October protest only relates to Mr. Whipster?

MS: Yes.

OG: Benjamin Buse was also part of that protest.

MS: For today's purposes only Mr. Whipster. The location is described in the affidavit of Nicola Bell on page 200 of the bundle and has a plan appended. The location of the protest is undeniably part of the Order.

LJD: We have done the pre-reading.

MS: The breaches are evidenced by PC Jennings at page 127, PC Batterbee at page 149 and PC Blackburn-Maze at 182. Those affidavits refer to body worn camera footage which has been put on a USB stick and sent to all defendants and to your Lordships. All witnesses are in Court and available to give evidence to expand on anything for your Lordships if it would assist but the breaches are not disputed. The Statement of Case at page 29 (paragraph 24) refers to the very serious and significant effect of these actions.

JJ: Does the statement of truth in the application notice cover the Statement of Case?

MS: Yes, it is appended. You will have seen from evidence that the police acted quickly and the duration of protest was relatively short lived but it was clear protestors were not going to remove themselves and would stay there until they were moved.

LJD: The longest disruption was on the Queen Elizabeth bridge?

MS: You may see that there was a long tail back.

LJD: Do we have evidence of the length of the tail back?

MS: In Nicola Bell's affidavit at tab 6 of the bundle there are references to images of Google traffic maps at paragraph 16 (page 203).

LJD: Does it say how long the tailback was?

MS: At paragraph 17 you'll see the time line.

JJ: 3.9 km is the length of the tailback?

LJD: No, the length of the bridge. The Google map does not have a scale on it.

MS: The image does not show how long the tailback is. In another screen shot taken at 9:52 the tailback is shown by red lines. Ms. Bell is here and has clarified that it is the distance from J1a to J30.

LJD: It is not for us to ask a witness. If you want to call a witness, let me explain to the Defendants. [addressing Ds] A witness is going to come up to give some evidence about the length of the tailback.

[NB enters witness box]

MS: You have a bundle in front of you, please turn to tab 6. Is that your affidavit?

NB: Yes.

MS: And on page 204 that is your signature?

NB: Yes.

MS: What is your profession?

NB: I am the regional director for NHL covering the south east.

MS: Please turn to paragraph 16. You refer at paragraph 17 to a traffic map, and there is a series of those from page 218. At 219 is that the second traffic map?

NB: Yes.

MS: At page 220 – is that the third?

NB: Yes.

MS: Please can you help the court with this – do you know how long the tail back was and if you do know, how do you know?

NB: Page 220 of the bundle shows 2 roundabouts depicted by red circles. You can see using the Google maps the amber traffic and then see that continues right back to just under Junction 31 where you see the red becomes amber again. That is Junction 31.

MS: Can you approximate the distance?

NB: That is 4 km approximately.

MS: When was the protest disbursed?

NB: 10:48

LJD: Mr. Whipster, any questions? [no]. Mr. Sheekey?

PS: At page 203 of the bundle at paragraph 13 you state delays peaked at 8:45/8:50 am. Are you aware that our protest began at 9 am? So traffic reduced after the protest started?

NB: It is not that simple. The impact of an incident of the road takes a while for the shockwaves to happen. Whilst the protest happened at 9, the traffic didn't disburse until 10:48.

PS: But the peak was before the protest, regardless of the protest. How can you be sure that protest caused delays?

NB: We collect traffic data from electronic loops in the road and we would see the normal delay on the road and we would see what a normal period of delay and take the lower number available to us when considering the protest – congestion over and above what would be normal.

PS: How is normal determines?

NB: By the loops on the road, we do this for all our roads so we know what a typical delay would be.

PS: But there are natural peaks and troughs?

NB: This is already taken into account.

LJD: Mr Ramsden?

RR: On all the plans there isn't local congestion on the roundabouts where we caused the blockage but there appears to be no connection in terms of congestion between the roundabouts and the main carriageway.

NB: Because they will account for SRN only and not the local authority road network.

RR: What are the colourations on the roundabout based on at page 218 to 220?

NB: If you look at page 218 you'll see some red down at the bottom where LI is. Red means traffic is stationary or below 25 mph and amber between 25 mph and 50 mph. If it is black it is absolutely stationary.

RR: So the key colours relate to speeds on the road. So my point is that there appears to be no connection between the red on the roundabout and the rest of the colours on the main carriageway, particularly on page 220.

NB: On page 220 – the two roundabouts have turned red.

PS: But the main carriageway is green.

NB: The traffic moving northbound was flowing fine but traffic could not exit southbound and was stationary.

PS: That is not illustrated very well by these plans.

NB: On page 220 you can see the congestion is heading back into Thurrock and is turning amber.

LJD: Ms. Jarman? [no]. Mr. Gower?

SG: Black means stationary?

NB: Yes.

SG: There is no black so there was no stationary traffic either on the junction or the carriageway.

LJD: So SG is asking if there is any black and your answer is no?

NB: Yes.

SG: When approaching a junction you would naturally slow down anyway.

NB: They slowed down because of the protest.

LJD: Mr. Pritchard? [To CO and OG] Any questions?

OG: In relation to the statement you have made, and your role, you work for NHL?

NB: Yes.

OG: Don't work for Google?

NB: No.

OG: Your affidavit refers to a number of Google maps from your statement from page 218 onwards but you have no expertise in how google maps work and have no expertise in how google maps work?

NB: We have reported them this way because is it an easy way for people to understand traffic flow.

MS: At page 218 you say the heat maps show that traffic is stationary on the roundabout and at 220 you refer to stationary and very slow moving traffic. Given your response to the colours, can you clarify what you mean by stationary?

NB: At page 218 it shows amber which shows some traffic is moving and demonstrated by northbound it is green so slowing. Between 9:34 and at page 220 at 10:12 you'll see quite clearly that roundabouts are red meaning traffic almost at a standstill.

MS: No further questions.

[NB steps down]

MS: Going back to breaches, the specific acts are set out in the Statement of Case at page 25 of Bundle at paragraphs 16 to 19. That is repeated in the skeleton argument. Paragraph 17 refers

to incident regarding Mr. Whipster on 8 October. Paragraph 18 refers to the evidence. At page 26 there is reference to schedule 1 which is at pages 32 to 34 of the bundle and contains a summary of incidents in relation to each defendant, with reference to the paragraph of the Order they are said to be in contravention of.

Moving to the application which is at page 19 to 20 of bundle behind tab 2 and which appends the Statement of Case. At page 1 of the Statement of Case there is a notice. There is no dispute that the Defendants were served with the application. Service is evidenced by the affidavits of Vicky Davies Short and supporting certificates are found from tab 8 of bundle. As regards liability, the components are found in the Claimant's skeleton argument at paragraph 20 which well establishes as a matter of law the fact that they are involved in civil disobedience has no bearing on liability – see *Cucurian* as emphasised by *Heyatawin* at paragraph 44. Which brings me onto principles of sanction.

LJD: You have identified that all have admitted their breaches? When were the breaches admitted?

MS: We don't take an issue on timing.

LJD: [Addressing defendants] What we are now going to be doing is looking at previous and similar cases – you have a copy of the authorities bundle.

MS: To go back one step to answer the question on dates – at page 407 of the bundle, 3 December is the date when they accepted service and that they accept their contempt. A point of clarification – Vicky Davies Short's affidavit relates to service of the Order, the affidavit of Laura Higson relates to service of the application. Page 158 of auth bundle at paragraph 32 – starting with "*there are two functions*". Mr Justice Murray sets out the two functions of civil contempt – first to uphold the authority and second to provide incentive for compliance. A summary of key principles which guide the approach to sentence is set out in first contempt application behind tab 4 at paragraph 48 at page 57 of the authorities bundle.

Paragraph 48 states there is "*no tariff for sanctions for contempt of court, because every case depends on its own facts. The sanction for contempt of court "has nothing to do with dignity of court and everything to do with the public interest that court orders should be obeyed"*" Jackson LJ says that it provides an incentive if he purges his contempt. At paragraph 49 the general key principles are enumerated:

(a) the court has broad discretion when considering the nature and length of any penalty for civil contempt. It may impose (i) an immediate or suspended custodial sentence; (ii) an unlimited fine; or (iii) sequestration of assets.

(b) The discretion should be exercised with a view to achieving purpose of the contempt jurisdiction which is said to be threefold: (i) punishment for breach; (ii) ensuring future compliance with court's orders; and (iii) rehabilitation of the contemnor.

Over the page at 58, (c) the first step is to consider culpability and harm intended or likely to be caused, (d) all the circumstances should be considered, including but not limited to (i) whether there has been prejudice and whether that prejudice is capable of remedy; (ii) the extent to which the contemnor has acted under pressure; (iii) whether the breach was deliberate; (iv) the degree of culpability; (v) whether placed in breach by conduct of others; (vi) whether he appreciated the seriousness of the breach; (vii) whether they have co-operated; (viii) whether they have admitted their contempt; (ix) whether a sincere apology has been given; (x) the contemnor's previous good character; and (xi) any other personal mitigation. That is a non-exclusive checklist.

(e) Prison can only be imposed where the custody threshold is passed. (f) The maximum sentence 2 years, with unconditional release after serving half. (g) the term of imprisonment should be as short as possible but commensurate with the gravity of the events, and (h) the sentence may be suspended on terms appropriate by the court.

At paragraph 50 – Cuadrilla makes reference to the contemnor's conscientious motives. We accept that this relates to Articles 10 and 11 and that is relevant to Court's consideration of sanction. In such cases, a lesser sanction may be appropriate. This is one reason why an order by imprisonment is sometimes suspended. The speech of Lord Hoffman sets out reason why civil disobedience is treated differently – *"there are conventions which are generally accepted by the law breakers on one side and the law enforcers on the other"*. This was also cited by *Roberts* – the Defendants showed remorse and the custody threshold was not met.

At paragraph 53, there may be scope for the Court to temper the sanction because there is a realistic prospect that it will deter further action. Is there such a prospect on the facts? There is no principle which justifies flouting court orders with impunity.

The *Roberts* judgment is at tab 10 (page 165). This was a protest which involved a public nuisance arising from fracking. At paragraph 31 (page 171) – headed a custodial sentence not appropriate as a matter of principle. The submission was that those convicted on any offence in the course of protesting, as a matter of domestic and ECHR law, should not receive a custodial sentence, which was rejected by the Lord Chief Justice *"but the essential approach to sentencing by looking at harm and culpability and with the three aims of sentencing in mind (punishment, deterrence and rehabilitation remain in play. The motivation of an offender can go to increase or diminish culpability. It forms no part of a court's function to adjudicate on the merits of controversial issues but it is well established that committing crimes, at least non-violent crimes, in the course of a peaceful protest does not generally impute high level of culpability"*

At paragraph 33 there is a reference to Hoffman J in *Margaret Jones*. He made importance observations about protest and the criminal process: At paragraph 90 he refers to controversial activities and the emergence of new a phenomenon. At the bottom of para 90 *"the protestors claim that their honestly held opinion of the legality or dangerous character of the activities in question justifies trespass, causing damage to property or the use of force. By this means they invite the court to adjudicate upon the merits of their opinions and provide themselves with a platform to address the media"*. At paragraph 89 referred to on page 174 – the conscientious motives of protestors will be taken into account when sentencing but there is a bargain – matched by a benign approach to sentencing. At paragraph 35 – *"the succeeding paragraphs emphasise the limited of an appeal to legal justification in the offending behaviour. It should not be overlooked that public nuisance is a serious offence."*

The Divisional court said in *Heytawin* that there was a broken social contract – at paragraph 58 of *Heytawin*, *"The harm caused by the breach of the court's order goes beyond the inconvenience and economic damage mentioned. By deliberately breaching the Order, these defendants broke the social contract under which in a democratic society the public can properly by expected to tolerate peaceful protest"*. Note paragraph 37 of *Roberts* which talks about recognition of value of peaceful protest and free speech. At paragraph 38 by reference to Articles 10 and 11, both are qualified rights subject to the law which is necessary in a democratic society. At paragraph 39, there is no doubt that the direction action protest falls within the scope of Articles 10 and 11 and we don't dispute that. The quotation from *Lucas* at the bottom of the page *"the court must examine with particular scrutiny the cases where sanctions imposed by the national authorities for non-violent conduct involve a prison sentence"*. At paragraph 43 on page 177 *"jurisprudence does not support the proposition that*

detention is necessarily disproportionate for the conduct which these appeals are concerned. The court accepted as proportionate both immediate sentences of imprisonment and suspended sentences in cases where the conduct in question caused less harm and was less culpable. There are no bright lines, but particular caution attaches to immediate custodial sentences". There is a reference in paragraph 45 to a judgment in light of all the circumstances, "*having regard to the good character and underlying motivation for their behaviour, even taking into account the widespread disruption for which they were responsible, the custody threshold was not crossed*", including at 47 the reference to the likelihood of reoffending which is qualified to the extent that it is necessary to make a judgment on the likelihood of reoffending. That's *Roberts*.

I will now take you to Cuadrilla behind tab 8 of the authorities bundle. The judgment of Leggatt LJ at paragraph 87 on page 144 – the approach to sentencing: "*the fact that acts of deliberate disobedience to the law were committed as part of a peaceful protest will seldom provide a defence to a criminal charge. But it is well established that it is a relevant factor in assessing culpability*". It is culpability and harm in the background of the three purposes. At paragraph 88 – this was approved by Lord Burnett. On page 145, paragraphs 90 and 91 refer to the fact that conscientious motives are not a licence to flout court orders with impunity, whatever the nature or extent of the harm intended provided only that no violence is used. Court orders would become toothless if such an approach were adopted – particularly in relation to those for whom a financial penalty holds no deterrent because it cannot be enforced as they do not have funds from which to pay it. No case law was cited and it was rejected in the *Roberts* case in the context of sentencing for criminal offences, but it is also inconsistent with the jurisprudence of the ECHR".

At paragraph 94 on page 146 – it is said that "*a common feature of these cases [meaning a suspended sentence] is that the disruption caused was not a side-effect of a protest held in a public place but was an intended aim. This is an important distinction. It was underlined in Zeigler that persuasion is very different from attempting (through physical obstruction or similar conduct) to compel others to act in the way you desire*". And at paragraph 95 "where as in the present case individuals do not only resort to compulsion to hinder or try to stop lawful activities of others of which they disapprove, they do so in deliberate defiance of a court order. They have no reason to expect that their conscientious motive will insulate them from the sanction of imprisonment. On other hand (96) courts are frequently reluctant to make orders for the immediate imprisonment of protestors who engage in deliberately disruptive but non-violent forms of direct action protest for conscientious reasons" and at 96 "there are no bright lines but particular caution attaches to immediate custodial sentences".

So we're clear, civil disobedience is explained at 97 and we don't take issue with this being civil disobedience. There are 3 reasons for greater clemency: "*by adhering to the conditions, a person who engages in acts of civil disobedience establishes a moral difference between herself and ordinary law-breakers which is right to take into account in determining what punishment is deserved. Second, by reason of that difference and the fact that such a protester is generally – but for their protest activity – a law-abiding citizen, there is reason to expect that a less severe punishment is necessary to deter such a person from further law breaking. Third, part of the purpose of imposing sanctions, whether for a criminal offence or for intentional breach of an injunction, is to engage in a dialogue with the defendant to that he or she appreciates the reasons why in a democratic society it is the duty of responsible citizens to obey the law and respect the rights of others, even where contrary to the protestor's own moral convictions. Such dialogue is more likely to be effective where authorities show restraint in anticipation that the defendant will respond by desisting from further breaches*". At paragraph 99 – "these considerations explain why where an act of civil disobedience constitutes an offence or contempt of a court order which is so serious that it crosses the custody threshold, it will none

the less very often be appropriate to suspend the sanction". That was applied in *Cucurian* at tab 7 – the judgment of Marcus Smith J is at paragraph 8 onwards at page 115 of bundle. Paragraph 8 introduces the facts, 9 refers to the court's discretion, 10 refers to the purpose of the contempt jurisdiction, in 11 there is reference to *McKendrick*, 12 is the starting point checklist, 13 is the precursor to civil disobedience point, also referred to as the Cuadrilla discount. Paragraph 14 refers to prison being the most serious sanction "*where an immediate custodial sentence must be imposed*". At 15 – this will be passed where a serious contumacious flouting. The term of imprisonment should be as short as possible, and commensurate with the events with the need to achieve the objectives of the court's jurisdiction. The sentence may be suspended on any terms. At paragraph 19 there is a reference to *R v Jones*. Paragraph 43 at page 123 makes reference to *Cuadrilla* and at 44 there is reference to the Sentencing Council guideline on breach which provides a useful comparison. At 45 is the factors which the judge in *Cucurian* had in mind. The sentence was overturned by the Court of Appeal but no principles were affected. At 45(c) – "*I must evaluate the extent to which Mr Cuciurean was willing to subordinate his understandable desire to protest against the primacy of the rule in law*". At paragraph 47 at page 125, when considering the question of suspension, Smith J refers to the moral difference between the defendant and an ordinary law breaker and at the last sentence of 47 – "*if I impose a condition on the sentence, it will be complied with*" – the first reason why a sentence should be suspended. Each case depends on the facts. This was not campaign group, this was an individual. At tab 5 of the bundle is the Court of Appeal judgment. *Crosland* is at tab 6 - the Supreme Court decision at paragraph 33 on page 100 – there is no such thing as justifiable contempt "*in particular, it is clear on the authorities that a person may have an intention to interfere with the administration of justice even if he or she acts with the motive of securing what he or she considers to be a just outcome overall*". At paragraph 43 on page 103, headed "Penalty". The general guidance is at paragraph 44 – there are 7 considerations:

- (1) The court should adopt an approach analogous with that in criminal cases where the Sentencing Council's Guidelines require the court to assess the seriousness of the conduct by reference to the offender's culpability and the harm causes, intended or likely to be caused;
- (2) The court must first consider whether a fine would be a sufficient penalty;
- (3) If the contempt is so serious that only a custodial penalty will suffice, the shortest period of imprisonment should be imposed which properly reflects the seriousness of the contempt;
- (4) Due weight should be given to matters of mitigation, such as genuine remorse;
- (5) Due weight should also be given to the impact of committal on persons other than the contemnor, such as children of vulnerable adults in their care;
- (6) There should be a reduction for an early admission of the contempt, calculated consistently approach with the approach set out in the Sentencing Council's Guidelines;
- (7) Consideration should be given to suspending the term of imprisonment.

At paragraph 46 is reference to culpability and harm. At paragraph 47, reference to respondents motivations relating to his cause "*we do accept that greater clemency is normally required to be shown in cases of civil disobedience than in other cases*". At 50 – "*any penalty imposed must be necessary for the legitimate objective of maintaining the authority and impartiality of the judiciary and must be proportionate for that purpose*". Those are the principles of law which you must have regard to. It is not for the Claimant to make submissions on sanctions. The material factors are set out in the skeleton.

There is nothing to distinguish the defendants – all took part in the protest as the same group. We are dealing with generality rather than focusing on one individual. Regarding culpability – they were well organised, gathered together, there is reference to Zoom meetings on the IB website, there are in some instances banners, hi-vis jackets, press releases. We can safely infer that the protests were planned. The defendants were there voluntarily – a clear interference with the administration of justice. They intended deliberately to flout the court order with a view to attracting the greatest publicity. They could apply to vary the order and we have seen reference on the IB website that they chose not to do so. They chose to take their own view on what was admissible. The court may wish to be satisfied that there is remorse.

JJ: Is it relevant to culpability that they tried to reduce the risk, for example by reducing speed on the motorway, and complying with police?

MS: It is relevant to culpability. No matter what one does regarding speed, the Police, there is inevitable disruption and inconvenience to the public. And that is a necessary corollary of their action. They choose the location and time of their protest to draw the maximum attention to their cause. It is relevant but it is not enough because even if the traffic were going at 20 mph they are still in breach of the Order. In terms of harm, you have reference in the Statement of Case to the harm in terms of the undermining of court orders and the judicial systems. These acts occurred after the Court had determined what was appropriate so it is a case of a broken social contract so until they distance themselves from the IB statements, it is safe to presume that they will continue. If they were to tell you that they will continue their campaign..

LJD: It wouldn't have any bearing on the harm caused on the day – conflating the two issues.

MS: It is connected to the fact that they have made an admission and you must look at the admission in the context – if the admission is not followed by any expression of contrition or remorse then its open for you to...

JJ: The admission opens the discount but remorse is a separate matter?

MS: When sentencing you have to have regard to the purpose, and what is the lowest sentence reasonably necessary. That is where remorse/ contrition or lack thereof is concerned. Those objectives may not be met by lesser sanction following the admission. The admissions are made in context of ongoing protest campaign. The breaches are not singular, they are deliberately and widely publicised by asking others to join in and this adds to the harm to the judicial system and society – laws are there to be abided by. The actual harm caused on the day and the foreseeable harm should be regarded to. The incidents were relatively short lived, in terms of foreseeable harm given the location, time of day, going on slip road of M25 and blocking members of public where they have no means of turning around would cause inconvenience to public and emergency vehicles, threat to life, anger, economic damage. The blue lights policy doesn't help an emergency vehicle at the back of the queue. Paragraph 54(b) of *Heyatawin* – it is objective as to the harm caused. Moving to deterrent...

LJD: That may be a convenient time. How long would you say you have?

MS: Around 3 minutes.

[LJD speaks with clerk about Benjamin Buse].

MS: We have intelligence about Diana Warner – a press statement from IB from today – saying "*we understand that Dr Warner has decided to defy the court summons by not attending court*".

[Court rise 13:00]

[Resume 14:00]

- LJD:** To update everyone on what has been said over the adjournment. Regarding Benjamin Buse - the order was sent to the prison on 10 December so there is no reason why he shouldn't be here – they are going to try to produce him this afternoon. The prison asked if he could attend by video link but refused because OG has not been able to have a conference with Mr. Buse. If he can't come this afternoon he is also due to appear tomorrow at 10:30. The bench warrant for Dr. Warner is being issued for her to attend at 10:30 tomorrow.
- MS:** In connection with both matters there is the press release in relation to Dr Warner which I will hand up.
- LJD:** We will keep it in our files for when Dr Warner shows up.
- MS:** In relation to Mr Buse, there is another round of applications pending and Mr. Buse is a defendant in relation to those so the Claimant has suggested an adjournment to avoid having to go through the same grounds again so we may consider adjourning.
- LJD:** Why was that not included in this application?
- MS:** Evidential gathering reasons.
- LJD:** There may be benefits to the court in managing that. At the moment Mr. Buse will be produced and OG will be able to advise. At the moment I propose to leave it as it is.
- MS:** One point on harm – to deal with the blue lights point. It doesn't cut it, an emergency vehicle may be at the back of the queue. It only deals with emergency vehicles and not critical workers. In terms of slowing down and whether that is relevant to harm – the order covers slowing down, it is not limited to obstruction and interfering and entering without a vehicle. They were still trying to impose their own view on what was reasonable. Insofar as suspension is concerned, at paragraphs 47 and 48 is a passage from *Cuciurean* – see page 125 of the bundle – he considers the question of suspension. The first question is whether your Lordships can be assured of compliance with any condition imposed, second reason at paragraph 49 is to give an opportunity to the protestor to enter into a dialogue. They are coupled together – giving the opportunity to enter into a dialogue if they will not comply with a condition, it is a matter of judgment.
- LJD:** How does that engage with the fact that they have stopped protesting?
- MS:** That is intelligence that we have been able to gather but there is no statement from IB and they have made statements to the contrary that they intend to continue.
- JJ:** There is no statement that they intend to continue in the near future?
- MS:** No. After the sentencing following the last application, a statement was made by one of the defendants that if you send me to prison 10 take my place and 100 will take their place...
- JJ:** But none of these statements have been made by these defendants?
- MS:** No, all this is prefaced on the basis of what they may say in reply. There is no press release saying that they will continue to protest or that they will desist.
- LJD:** [Addressing the defendants] Are you all content with OG making points on your behalf? [nodding] I suspect that they will be helpful but OG we will be grateful for any assistance.
- OG:** I make my submissions directly on behalf of Mr Buse. You have a copy of my skeleton argument. I would like to first raise a point on sanction – credit should be given for admitting contempts.

LJD: We needn't trouble you on that, it is clear that they have admitted as soon as reasonably practicable.

OG: Credit is also to be considered independently of remorse and should be taken into account by the Court. MS made a submission that not much weight should be given but I submit that that is contrary to the guidance from the Sentencing Council. To pick up on a few points in MS's submissions relating to sentencing principles: MS made a reference to Hoffman LJ in *Jones* and to *Roberts* and to *Cuadrilla*. Although she said each case should be decided on the facts, it is illustrative to look at the facts of those cases as they concerned significant disruption. See page 7 of the Defendant's authorities bundle at paragraph 21 where the facts are set out – 7 lorries were travelling to a fracking site, the Police were given around 15 mins advance notice and protestors began to block the roads.

LJD: I am told that DW is outside [14:16].

[CO exits to see DW]

OG: Mr Roberts got through the police cordon and climbed on top of the cab of the first lorry. The traffic on the road came to a standstill in both directions. There were around 75 police officers on site and massive disruption develops. The road is still blocked when a third defendant climbs atop another lorry. The disruption continues for a full working day and the defendants remain on the lorries for between 1.5 and 3.5 days. A fourth man who also climbed on a lorry was also on the lorry for 3 days as well. Significant disruption was caused – the Court of Appeal did not take issue with the level of disruption but reduced the immediate custodial sentence to a community order and conditional discharge. The court went on to refer to the fact that there are no bright lines but particular caution should be exercised with an immediate custodial sentence. The case of *Murat Vural* was also not brought to the Court's attention and that states in principle that an immediate custodial sentence should not be imposed for a peaceful protest.

LJD: Roberts was not a private injunction?

OG: It was a public nuisance. Looking at Hoffman LJ's passage in *Margaret Jones* – looking at the facts of the case, it was a set of conjoined appeals the facts being in the first case that the appellants broke into an RAF base, causing damage to fuel tankers. One defendant was given a conditional discharge and one a suspended sentence. In the second matter, one defendant along with 9 others trespassed on a military base to cause damage to equipment and was given conditional discharge. These were offences which concerned serious matters, and matters of security. The House of Lords endorsed very low penalties. In the other case of *Jones (Annwen)* at tab 11 of the joint authorities bundle, a number of protestors disrupted the DLR to protest against an arms fair, causing massive disruption to the public. They were convicted on guilty pleas and the court imposed community orders with 80 hours unpaid work. On appeal the Court of Appeal reduced the sentences to 12 months' conditional discharge with some variations for personal circumstances. There is clear guidance from criminal courts that for civil disobedience penalties are on the lower end. In relation to the committals, the case of *Cuadrilla* in the Court of Appeal sets out at least 3 reasons for showing grater clemency (i) the first is the moral difference (conscientious objectives); (ii) the second is that such persons are generally law abiding persons; and (iii) the third is that there is a need for the court to engage in a dialogue with those persons. This dialogue is demonstrated (see paragraph 80 of the defendant's skeleton argument) by showing restraint in anticipation of the defendant desisting from future breaches. If the breach is so serious that it passes the custody threshold it will nonetheless be appropriate to suspend the sentence. In *Cuadrilla*, the Court of Appeal reduced the sentence for a second contempt (not admitted) to a suspended sentence. The discussion of sentence is one of weeks, not months.

- LJD:** The authorities said that there are no rule to that and it depends on the facts. Different principles may apply.
- OG:** Where suspended sentences have been approved on appeal are where they have been contested or repeated breaches. That is demonstrated by *Cuciurean* (see page 10 of the skeleton argument) which took these factors into account – there were 12 breaches of the order. It was a sustained, deliberate and contumacious breach, and the defendant showed no remorse. The judge did not regard as an aggravating factor. Where an act of civil disobedience is taken for conscientious reasons, to make expressing remorse or regret a precondition would be wrong – they believe strongly in their reasons for action and in *Cuciurean* the judge did not expect an apology. *Cuciurean* was acting voluntarily and appreciated the seriousness of his conduct, he did not assist with committal proceedings, he made no admission and gave no apology.
- LJD:** The important point in that case was that he made it clear that he breached the order.
- OG:** The judge was able to make a finding that it was possible that the order would be complied with.
- LJD:** That is a matter for every judge on individual circumstance and is the immediate reason why the sentence was suspended.
- OG:** That was one factor that meant it could be suspended amongst several relevant factors, including the need for the court to engage in a dialogue. At paragraph 29 of the skeleton argument in *Cuciurean*, the importance of the dialogue between court and protestors is stated. The importance of that dialogue carrying on, including the conduct of contemnor – there is a right to give such a protestor an opportunity to avoid prison by complying with the conditions. The court says "this is your opportunity" and it is then for the defendant to show with their conduct whether they intend to further breach. It is not the be all and end all.
- JJ:** Are they really independent points there? This assumes that there are parties to the dialogue – if protestors are determined not to comply then the dialogue is futile.
- OG:** A dialogue should start somewhere and it is open for the court to say that the order will be suspended and it will be up to you as to what you will say. I expect Mr. Buse will say that he will comply but I need to take final instructions on that point. They are different points and the court should not be confined to simply focussing on intention. When assessing intention it is clearly the intention of the defendant which should be considered and not the wider campaign.
- LJD:** Of course, each individual defendant has to be assessed on their individual circumstances.
- OG:** The basis of the campaign commencing again in the Spring has not been set out and the Court ought not to hold that against the defendants.
- JJ:** The converse is that IB has not shown any intention to immediately breach the order.
- OG:** Exactly. When looking at intention to comply, the court has to make an assessment. It is not a situation which is alien to the criminal court when considering a suspended order or community order – there may be an element of doubt as to compliance, and the court can have degrees of confidence. That may need to be assessed taking into account the circumstances after the committal hearing when considering the terms of suspension. It will depend individually and will depend on what the defendant's own position is. That deals with the facts of *Cuciurean* in which six months suspended sentence was imposed by the High Court, which the Court of Appeal reduced to three months suspended and again that is a contested hearing. The *Crosland* Supreme Court case concerned a breach of an embargo and the point is that it was dealt with by way of a fine – the lower end of the scale on sanction. I have touched on EU caselaw –

Murat Vural was cited in *Roberts*. The court considered that peaceful non-violent forms of protest should not have an immediate custodial sentence. Cases before the ECtHR regarding blockage of roads is referred to at paragraph 35 of the skeleton argument. In *Barraco*, a five hour long protest with complete blockage of motorway traffic resulted in a three month suspended sentence of imprisonment with a fine. In *Kudrevicius*, a protest blocked the three main roads in the country for around 48 hours and a 60 day suspended sentence was imposed for serious breach of public order. Following a large protest in Russia the defendant was subject to 15 days administrative detention and that was found to be a breach of Article 11.

I won't address the Court on costs now.

LJD: No thank you.

OG: That deals with legal principles. In relation to the general factual matters, I would submit that MS said that the defendants could have made an application to vary the order. I submit that one has to have one eye on the financial reality – seeking to amend a High Court order has cost considerations and no legal aid is available for this. One has to consider the costs.

JJ: It does have the consequence that the balance is being struck – it has been struck by Lavender J and there has been no challenge to the decision.

OG: The balance was struck on the basis of an ex parte hearing. A number of orders have been made, some of which have been challenged. The order in relation to the SRN was challenged in relation to alternative service and the provision relating to overbridges was struck out. The TfL order that was made has been modified to bring it in line with the decision of Lavender J on the SRN and the definition of persons unknown has been reduced. Because MS made reference to a demonstration in London, having participated in that hearing TfL did not intend to pursue a contempt application, because the protest falls within the scope of Article 11.

LJD: However, the court has made an order and those terms should be obeyed.

OG: I refer also to the point MS made in relation to compulsion taking protest outside of the scope of Art 10 and 11 and that was not the approach of the Supreme Court in *Zeigler*. It is a fact specific enquiry in every case and one should look at the disruption caused.

LJD: They were assessing whether a criminal matter had taken place.

OG: I accept that. In relation to the general evidence in this case, I have made reference to the intelligence. In terms of the evidence of collision – that was at a different location on a different occasion. These are committal proceedings to the criminal standard.

JJ: It seems pretty unlikely in any event.

OG: It is for the court to make an assessment on the evidence provided. We have heard evidence from Nicola Bell on the Google maps, who has been cross examined and it has been established that the highest peak of traffic was before the protest took place. On the interpretation of Google maps – she is not an expert, she can of course exhibit them but what that translates to on the ground, she is not competent to say. We are talking about people losing their liberty and the discussion of Google maps is not enough. I would accept that there was some disruption but would invite the court to exercise caution.

JJ: We can also look at the harm that was intended to be caused and the point of the protest was to cause significant delays – the potential for the impact on critical workers and blue light vehicles.

OG: It will be for the defendants to say what they intended to achieve. Steps were taken for the protest to take place as safely as possible, yes it caused disruption and was intended to cause

some disruption but the degree of the disruption that was intended is for the court to assess. The blue light policy is that there would be at least one lane where one person was not glued and if they were informed of an emergency vehicle or worker then they would move to allow that to happen.

LJD: [To OG] I am informed that Mr. Buse should be here at 3:30.

OG: In terms of actual harm, the evidence needs to be looked at with some care. In terms of what was intended to happen the defendants are best placed to advise the court, I would not dispute that they intended some disruption. The general points that apply to all defendants, and that about covers it.

Biff Whipster

LJD: I would caution you that you are not required to say anything.

BW: Thank you for allowing me to speak in mitigation.

I was born in a typical household and brought up to have integrity, I have not had so much as a speeding ticket and have recently been asked to be a local councillor. I used to work in a well-paid job and the more I conformed the more I earned, I was living the capitalist dream – I didn't save lives but it paid very well. I was part of the cycle to create the illusion that someone in a suit knows best and is better. I had my humanity sucked out of me by the corporate world. I became a volunteer, picked up litter, wanted to reconnect with nature. The countryside was a shadow of what it used to be. Our way of life where economy is king was killing the environment. Using all the proper channels fell on deaf ears. Each day the government fails to act on extinction level events. People will start killing each other. Our government does not care – they allowed COP26 to be an unmitigated disaster. Democracy is a charade, the government is treasonous designed to benefit the rich. The UK's continued underwriting of the fossil fuel industry is genocide.

We're being judged by the media – the original witness statement by Duncan Smith was peppered with hyperbole. He wasn't there, I was at 14 of those protests since September. After 5 mins of conversation with a lorry driver at a protest he shook my hand and thanked me. NHL's witness could have quoted public and police officers who said well done. The Attorney General stated in 2013 that we are not to have trial by newspaper.

Let's talk about the ambulances – motorways have hard shoulders. The ambulance trust has confirmed that no emergency vehicles were stopped that day. There are people dying of fuel poverty. The prosecution presented no evidence of injury or harm. That's why I sat on the road and why I broke the injunctions. I apologise to my fellow members of the public for the inconvenience. I cannot in good conscious apologise to this court for breaching the injunction. I am proud to join the ranks of protestors before the Court. I ask the prosecution – is this what you want to see, you have the power to stop this right now. I have been careful to not word this as a call to arms – but "violent revolution is inevitable" – the battlelines are being drawn between those in power on the one side and those members of the public.

LJD: Are you a person of previous good character?

BW: I have no previous convictions.

LJD: [Addressing CO] Do you want to give us an update on Dr. Warner who is next on the list? There was a letter which I hoped to email to clerks. Dr Warner has lost her place in the list due to her own actions, so we'll come back to the letter.

CO: In relation to the warrant, I will need to address my Lord as to what he wants to do with the warrant.

MS: Could my witnesses be stood down?

LJD: [Addressing CO and OG] Do you need them?

[Addressing the defendants] Is anything further required?

[Police witnesses dismissed at 15:02]

Paul Sheeky

I broke an injunction imposed by this court. It is not contempt I feel for this court but pity. Pity that the court is used in a contemptuous manner by the Government to imprison peaceful protesters. It is a violation of the basic principle of law that I may be judged by a jury of my peers. NHL is acting under government instruction. Grant Shapps Tweet in September – "I asked NHL to seek" and then "I instructed NH to apply for an injunction".

It is a basic principle of justice that when a wrong is committed it should be put right. The frequency and severity of extreme weather events effecting those who contributed the least carbon. I acted for justice. The 27 October protest aim was to draw media attention to the cause. The only way to achieve this was to cause disruption. The action at LI failed to cause much disruption – traffic delays reduced after 08:59 and the disruption we caused was less than that caused by ordinary traffic. I adhered to a strict blue light policy, which we also did for a red car that stated they needed to get somewhere urgently. I acted to reduce the harm caused by the government.

I am sorry to the drivers who were disrupted on the day. I am an upstanding member of my community, befriend elderly in hospital and give platelets once a month. In regards to costs, these should not be punitive and I should not have to pay for the inefficiency of DLA. I received duplications of documents, special deliveries unnecessary. An award of costs should take this into account. Sir David King stated that the next 3-4 years will determine future of humanity. I ask the government to take the first step to decarbonise the country by insulating homes. Sorry if the court is offended by my actions, but I believe they were right to do.

LJD: Are you of previous good character?

PS: I have previous convictions.

Richard Ramsden

I believe the government is responding to the science of the climate emergency far too slowly. The Paris Agreement set out the ground rules and we are already witnessing the devastating impact of damage. I have a democratic say in what should happen in the UK. We have heard promises over the years and we are seeing the ongoing mismanagement of the climate.

I am a retired chartered civil engineer – have attended conferences on climate change over the years. [Statements made about climate change] The Government is off track for carbon budget, policy gap widening, strategic gaps in government policy. Fuel costs are increasing – people will not be able to afford to insulate their homes. Warmer homes save money for the NHS, it is in the public interest for homes to be insulated.

Our protest was non-violent. The government has tried to punish us, concentrating on congestion – we stop traffic at red lights only. Congestion is a matter drivers live with every day. I did not take the decision to stop traffic lightly. In reaching your judgment please take

into account we are citizens acting in public interest. I have admitted guilt but I believe that because of the shortcomings of the government, any reasonable citizen would not think they have a chance at a future. Surely it is reasonable to protest in this case.

I request that I have a suspended sentence – the climate collapse is a matter of global importance and that in deciding in a fair and proportionate outcome you should have regard for this. I am willing to wait for a period of 6 months for the government to catch up with climate committee advice.

LJD: Do you have any convictions?

RR: I have been arrested but never been convicted.

Ruth Jarman

I felt that not participating in IB protest would make me complicit in the climate emergency.

I am sorry for the disruption caused by the protests. I do not regret breaking the injunction and I cannot promise not to break it again.

The government acted in breach of its legal obligations under the climate act.

I am a Christian and a mother. My faith tells me to care for what God has created and love my neighbour. To not raise the alarm on the climate crisis would be like walking by on the other side of the road (see the parable of the good Samaritan). I cannot stand by and watch the destruction of God's earth without trying to respond in a way that is commensurate with the severity of the crisis.

I don't have particular contempt for this court or the highways authority but I do have contempt for the system in which we are embedded. We must all make a choice between good and evil. I have to resist evil as a Christian. Breaking the injunction was a visible way of doing that.

LJD: Are you of previous good character?

RJ: No, I have plenty of convictions.

Stephen Gower

I am a volunteer advocate for poorest people in Gloucestershire. I have recently been sanctioned by the DWP for not attending a meeting, and the same for non-payment of council tax. I am living in abject poverty. I survive by using foodbanks, living on universal credit being paid £330 per month. My rent is £400. Have applied for an advance payment of UC but I am not eligible. I have applied for a winter fuel allowance but that won't be paid until March 2022. I can be warm and hungry or cold and fed. I am in default of council tax and tv licence. I don't seek imprisonment but I can't afford to live in liberty.

I work around unpredictable hours as an unpaid advocate for the homeless or soon to be homeless. I was homeless a few years ago and that has driven me to work to try to save the lives of the vulnerable on the streets. In my role I have been able to help people who have been side lined. I am available every day for those in need. I have always been in or close to poverty. I worked on building sites for 15-20 years. My voluntary work has been going on for 5 years. I have a strong bond with the homeless community – it brings financial hardship. I work to empower the voiceless. I have advocated for homeless war veterans, people in abusive homes/relationships, once successful people.

National Highways have said that I am a man of responsibility, and I agree. Traffic management is incorporated in my qualification. I would have known better than most the consequences of

my actions. I am expecting to be served a custodial sentence. The judge said in the previous hearing that the defendants had broken a civil contract. I will go to prison for non-violent civil action – at least I will be warm and fed and won't have to choose between food and heating. Surely it is not me who has broken the social contract? It is the UK government that has broken the social contract with the British people. In the course of civil nonviolent direct action, no evidence of us causing injuries, emergency access routes were kept clear – a vehicle was allowed through to get to their destination in the video evidence. A Policeman can then be seen dragging a 79 year old woman with me reiterating that we are non-violent. No resistance to any arrests can be seen.

If the retrofitting of British homes had been done would have prevented deaths of 8,500 people in their homes in 2019. Insulating homes will reduce carbon emissions and help those in fuel poverty. Food banks have proliferated, life expectancy is falling for certain groups, legal aid has been decimated. Excess deaths from malnutrition/ poverty. Shame on the establishment/ media. All of us are poorer for the inaction of those in responsibility. History tells us that only through civil non-violent direct action makes change – sitting on the road gives a voice to the helpless. I believe I have upheld my side of the social contract. There is a higher court of courts of justice and that is the court of personal justice. I understand that when I am freed the law prohibits me from participating in non-violent protests. I have recently been awarded an upstanding member of the community award – I am a proud community member. Every day the media tells us of motorway blockages. I took part in a short non-violent action for those not in a position to make their voices heard. We allowed essential vehicles through and I regret any inconvenience caused. I would gladly hang up my orange hi-vis once and for all if both parties abide by the social contract.

LJD: Are you of previous good character?

SG: I have been arrested.

Stephen Pritchard

I non-violently placed my body in the road to force action to decarbonise our homes. The purpose of the injunctions is to prevent peaceful protests. I have breached around 5 times and more if you count when I have supported others to do the same. The court's problem is to reconnect me with fear of its punishment. My grief eclipses anything that this court can inflict on me. The heating of the planet is accelerating and the Courts do not challenge this. I work in property maintenance. I serve my community as a parish councillor. It has long been understood that home insulation is the most cost effective way to reduce emissions. Even those people abusing me when I sat in the road are starting by saying "I fucking agree with you" and people serving me are apologising to me when they hand me an injunction. A police custody sergeant thanked me when releasing me for my moral stance.

The only option is disruptive non-violent civil disobedience. I have been struck by the amount of councillors and clergy taking part in these protests. Contempt of court has never been the purpose of my protests, but a by-product of my right to peaceful protest. I will without hesitation continue to block roads in peaceful protest regardless of the consequences for me personally. This situation requires all of us to take risks. Sadly I don't believe Courts possess the combination of moral strength and imagination to take a life affirming decision.

LJD: Are you of good character?

SP: I am not of previous good character.

LJD: Mr. Buse has just arrived. [OG steps out to speak to Mr Buse at 15:54].

Sue Parfitt

How could I possibly not do all that I can to shout from the housetops, scream from the highways that our world is heading for extinction because of the neglect of our government. I follow in the footsteps of the radical non-violent Jesus...

I call out this injustice. Right now in this court I am faced with prosecution lawyers who are earning around £600 an hour for their work in prosecuting me when the minimum wage is less than £10 an hour. When I was ordained a priest I made a solemn promise to look after the weak and poor. IB started its campaign in the run up to the COP26 conference and we did not appreciate what a disaster that would be.

Sitting on the motorways, interrupting business as usual – we must focus all our attention on reducing carbon emissions.

We all now know that the promises made at COP26 cannot do enough. The prosecution says that we were intent upon imposing our views – these are not our views, the facts of the impending climate catastrophe are the views of 99% of climate scientists.

[climate change information]

It is my duty to say the government being criminally negligent no matter the cost for me. Grandchildren do not have a future. Wasn't it worth me sitting on the motorway to flag up this message and to interrupt other peoples lives for an hour or so to protect your children? It is the greatest honour that I find myself before you in court today who have been called to stand up for justice. It is of no consequence to me what you decide to do to me today.

If you send me to prison I will use the time profitably in what ever way I can to sound the alarm. If you leave me to liberty I will continue to protest in the way that most dramatically brings attention to the situation we are in whether that means breaking the law or not. I think putting peaceful protestors in prison is extraordinary.

Your decision is of no consequence to me and my fellow protestors but it is of consequence to the climate. You have been given the enormous opportunity to declare the outrageous actions we have taken on the nations highways are the only sensible actions that we could take in the face of inaction from our own government. The government has broken the social contract – this dereliction of duty must be called out by individuals and by you. By not doing so you become complicit. I have no power to change the course that the government is taking other than continuing to exercise acts of civil disobedience which I shall indeed continue to do if you leave me at liberty. You have the power to send a powerful message by finding me not guilty.

As for myself, please be assured that I shall continue in this path of civil disobedience to be obedient to the God that I serve. At my age the only important thing to do is to do what is right which I shall do whatever the consequence is to me personally. I expect and hope that if you must find me guilty that you will impose the maximum prison sentence upon me which I will receive gladly in reparation for my own part in the unfolding tragedy of our time, it will be the greatest privilege to follow in the path of many prisoners who have gone before me.

LJD: Anything to say about your character?

SP: I would say I am of good character, but for crime and process I have been arrested and convicted many times.

LJD: We are now back to Dr Warner. Can I deal with the Order – it won't surprise you to know we will not give judgment today, I suspect it is probably best to deal with the matter cleanly at 10:30 when we deal with Mr Buse. Any submissions?

CO: No.

MS: Perfectly fine for me – do I start from scratch?

LJD: It was important when all defendants were unrepresented by counsel to have said it all so they can respond. It will be easier to deal with tomorrow when CO and OG have been present throughout. You will be entitled to say that issues of liability are accepted and then address your submission shortly on culpability so Mr Buse and Dr Warner can hear it – I do not expect it to be more than 30 minute speech and CO and OG will be in a position to address you in relation to that.

In relation to Mr Whipster, Mr Sheeky, Mr Ramsden, Ms Jarma, Mr Gower, Mr Prichard, and Ms Parfitt, we will adjourn your case until 2 pm tomorrow afternoon. I will need to hear from Mr Buse and Dr Warner who were not present today. I will then give a judgment at 2 pm. That means that you will come back to court and I will announce the judgment on the contempt and we will announce what sanctions we will give. We won't be in this court first thing tomorrow – we will be in Court 76 tomorrow at 10:30 and Court 4 at 2 pm.

MS: One point from me regarding Nicola Bell - is she released?

LJD: Yes, she is free to go.

CO: In relation to the warrant, our application will be that it is withdrawn. The reason for Dr Warner's failure to attend was that she attended a demonstration in relation to Drax Power Station. She is now here and arrived shortly after lunch and she intends to attend court tomorrow and she will co-operate and she has co-operated to the extent that she is here now in that she has not had to be arrested and brought to the court. I have researched the law as regards the Court's powers as to what the Court may do over night as Dr Warner has attended and has not been arrested (as these are civil matters and there is no bail), in *Arlidge and Eady* the authority of *Delaney v Delaney* [1996] QB 387 is cited in relation to contempt in family proceedings. Where contempt was not in face of court there was no power to detain a contemnor without imposing a penalty. The court can permit Dr Warner her liberty over night or the Court can impose an immediate sanction which the court could review tomorrow in terms of its ultimate length.

LJD: The purpose of issuing a warrant is to obtain her attendance then we have powers to sentence but that would warp this whole process. Your submission is that the warrant has served its purpose and Dr Warner should be free to attend tomorrow of her own will.

CO: The court may not be satisfied with the reason for non-attendance.

LJD: We can get into that tomorrow and will go to co-operation. Anything from MS?

MS: It is a matter for your Lordship – Dr Warner knew of the order, and she knew of the proceedings – we are concerned with the deterrent effect of the order compelling her to attend.

LJD: Continued detention would require us to impose a penalty.

MS: I am not in a position to make submissions on jurisdiction because I have not looked into the law. Our primary concern is to ensure that she attends.

LJD: Everyone shares your concern.

[LJD discusses with JJ]

LJD: My provisional understanding is that the law isn't accepted. Dr Warner is belatedly at court so the order has achieved its purpose. We are permitted to sanction her for breach and we do not

consider that to be right. If Dr Warner does not attend tomorrow then the hearing will continue in her absence and her non attendance has caused enough disruption and there will be no further option for her or we will proceed to sanction. I hope that is as fair as we can be.

[Adjourn at 16:20]

WE ALL WANT TO JUST STOP OIL

Sign up for News, Updates and Events via the Action Network [here](#)



M25 Motorway, London | September 2021

“History will vindicate the people putting their liberty on the line to try to stop the collapse of our life support systems.

Please help to fund this courageous movement.” – George Monbiot, Author & Columnist

Help Support the Insulate Britain Campaign

We need the government to insulate Britain’s homes to save thousands of lives and prevent economic and social collapse.

Each year in the UK, hundreds of thousands of families are forced

to choose between heating or eating, cold children or hungry children, and many 1000s die because they are too cold. Insulating the homes of Britain will save lives and provide warm homes while pound for pound making the most effective contribution to reducing carbon and providing meaningful jobs. Insulating Britain is the levelling up agenda writ large.

Sir David King (the former Chief Scientist) has stated in 2021 that *“what we do in the next 3 to 4 years will impact the future of humanity”*.

The enormity of this statement takes some time to sink in – everything we value is at risk, schools, hospitals, law and order, ultimately all that we love.

National Zoom Meeting

Join the Insulate Britain Campaign to force the government to insulate Britain’s leaky homes starting with social housing.

Register in advance for this meeting [here](#).

How Can I Help?

Come and join one of our zoom workshops where we discuss together what Our Responsibilities are in 2022 and find out more about how you can get involved. Register in advance for this meeting [here](#).

Good Morning Britain | Liam Norton | 22 September 2021 | Insulate Britain



WE DEMAND

1) That the UK government immediately promises to fully fund and take responsibility for the insulation of all social housing in Britain by 2025.

2) That the UK government immediately promises to produce within four months a legally binding national plan to fully fund and take responsibility for the full low-energy and low-carbon whole-house retrofit , with no externalised costs, of all homes in Britain by 2030 as part of a **just** transition to full decarbonisation of all parts of society and the economy.

Humanity is at a pivotal crossroads: accelerated human-caused global heating is threatening to destroy human civilisation unless urgent action is taken to rapidly reduce our greenhouse gas emissions (GHG). The science is not disputed and now is the time to act. Improving the quality of our homes is fundamental to achieve the British Government's climate change, fuel poverty and water reduction targets. Furthermore, as the host of the global climate conference (COP26) in Glasgow in November 2021, the UK can take a strong leadership role by demonstrating real action.

Background

The UK has some 29 million homes and they are the oldest and least energy efficient housing stock in Europe.

Every year vast amounts of precious energy are wasted in heating and, increasingly, cooling our buildings. In order to meet UK commitments under the Paris Agreement to stay below 1.5C, and legal obligations under the Climate Change Act 2008, as amended in 2019, emissions from heating and powering homes must be reduced by 78% in less than 15 years and then to zero by 2050.

Nearly 15% of the UK's total emissions comes from heating

homes: an overhaul of the energy performance of the UK's housing stock is needed to reduce the energy demand.

Retrofitting Shortfall

The UK needs a nation-wide programme to upgrade almost every house. The Institution of Engineering and Technology (IET) 2018 report, *Scaling Up Retro fit 2050*, advises that nearly every home in the UK needs to be upgraded with energy efficiency measures.

That is 1.5 homes per minute to the year 2050. Currently, the UK Government does not have a robust long-term national strategy with a funding mechanism in place to retrofit our homes. Please see more in depth technical summary [here](#).



The science is clear. We are facing an
unprecedented
emergency that will destroy this country. We
must act now.

*“This is an emergency and for emergency situations we need
emergency action.”*

Ban Ki-Moon, Former UN Secretary-General

*“The climate emergency is our third world war.
Our lives and civilization as we know it are at stake, **just** as they
were in the Second World War.”*

Professor Joseph Stiglitz, Economist, recipient of the Nobel
Memorial Prize in Economic Sciences

*“Based on sober scientific analysis, we are deeply within a
climate emergency state but people are not aware of it.”*

Professor Hans Schellnhuber, Founding Director of the Potsdam
Institute for Climate Impact Research

*“There is sufficient evidence to draw the most fundamental of
conclusions: now is the time to declare a state of planetary
emergency. The point is not to admit defeat, but to match the risk
with the necessary action to protect the global commons for our
own future.”*

Professor Johan Rockstrom, Director of the Potsdam Institute for
Climate Impact Research

For more detail please read the following reports:
[IPCC Report](#) | [IB Master Report](#)

Get Involved

How Can I Help? Come and join one of our zoom workshops where we discuss together what Our Responsibilities are in 2022 and find out more about how you can get involved.

Register in advance for this meeting here.

Sign our petition here (now closed)



"Those with the privilege to know, have a duty to act." – Albert Einstein



Copyright © 2022 Insulate Britain

[Privacy Policy](#)



Day 32: Just Stop Oil target Downing Street to demand no new oil and gas

Press / November 1, 2022

Just Stop Oil supporters have attempted to scale the gates of Downing Street and blocked Whitehall to demand that the government halts all new oil and gas licences and consents. [1]

At 11:20am today, a group of Just Stop Oil supporters swarmed towards the entrance to Downing street on Whitehall and attempted to scale the gates. A further group sat down in the road with banners to block Whitehall. Some have glued themselves to the tarmac. 22 people are involved in the actions today.

A Just Stop Oil spokesperson said:

"Rishi Sunak is about to U-turn on attending COP27. We demand that he also U-turn on new oil and gas. This genocidal policy will kill millions of people, while failing to address the worst cost of living crisis this country has ever seen.

"Its time for a serious windfall tax on big oil, without the get-out-of-jail-free tax credits that will encourage more oil and gas that we cannot afford. Vulnerable people will be freezing to death in their homes this

winter, unable to afford a can of soup, while his government refuses to tax the rich and the big energy companies that are profiting from our misery.

“We owe it to our young people to stop fossil fuels, we owe it to our workers to create a just transition to a zero carbon economy, we owe it to our old people to enable them to live with dignity. We are not prepared to stand by and watch while everything we love is destroyed.”

The action today follows the announcement by BP of a bumper profit of £7bn for the last quarter alone, while it expects to pay only £700m in windfall tax on its North Sea operations for the whole year. It also announced that rather than reinvesting its profits in the transition to renewable energy as it claims or in reducing costs for customers, it is prioritising transfers to wealthy shareholders by spending \$8.5bn so far this year on share buy backs. [2].

Today’s action follows four weeks of continuous civil resistance by supporters of Just Stop Oil during which the police have made 678 arrests. Since the campaign began on April 1st, Just Stop Oil supporters have been arrested nearly 2,000 times, with 6 supporters currently in prison.[3]

This is not a one day event, expect us every day and anywhere. This is an act of resistance against a criminal government and their genocidal death project. Our supporters will be returning – today, tomorrow and the next day – and the next day after that – and every day until our demand is met: no new oil and gas in the UK.

We will not be intimidated by changes to the law, we will not be stopped by private injunctions sought to silence peaceful people. Our supporters understand that these are irrelevant when set against mass starvation, slaughter, the loss of our rights, freedoms and communities.

Stand with our supporters in prison, with the 1,700 murdered across the global south, for protecting all our lives. We will not die silently, it will be ordinary people, like you, your friends, colleagues and neighbours who do what our government cannot. It will take all of us. [4]

ENDS

Press contact: 07762 987334

Press email: juststopoilpress@protonmail.com

High quality images & video here: <https://juststopoil.org/press-media>

Website: <https://juststopoil.org/>

Facebook: <https://www.facebook.com/JustStopOil/>

Instagram: <https://www.instagram.com/just.stopoil/>

Twitter: https://twitter.com/JustStop_Oil

Youtube: <https://juststopoil.org/youtube>

Notes to Editors

[1] [Just Stop Oil](#) is a coalition of groups working together to demand that the government immediately halt all future licensing and consents for the exploration, development and production of fossil fuels in the UK. Just Stop Oil is a member of the A22 Network of civil resistance projects. [Climate Emergency Fund](#) is Just Stop Oil's primary funder for recruitment, training, and capacity building.

[2] <https://www.theguardian.com/business/2022/nov/01/bp-pay-windfall-tax-profits-oil>

[3] There are now 6 Just Stop Oil supporters in prison on remand or serving sentences for taking action to demand that the government halts new oil and gas licences. They are Joshua Smith, Louis McKechnie, Simon Milner-Edwards, Michelle Charlesworth, Morgan Trowland and Marcus Decker. Elliott Cuciurean is also in prison for taking action against HS2

[4] A [recent report from Global Witness](#) says that more than 1,700 people have died while trying to prevent mining, oil drilling or logging on their lands.

[← Previous Post](#)

[Next Post →](#)

Related Posts

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

MR JUSTICE JULIAN KNOWLES
Between:



QB-2022-BHM-000044

(1) HIGH SPEED TWO (HS2) LIMITED

(2) THE SECRETARY OF STATE FOR TRANSPORT

Claimants

-and-

- (1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND KNOWN AS LAND AT CASH'S PIT, STAFFORDSHIRE SHOWN COLOURED ORANGE ON PLAN A ANNEXED TO THE ~~PARTICULARS OF CLAIM 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 ~~AND BLUE~~ ON THE ~~HS2 LAND PLANS AT ANNEXED TO THE APPLICATION—NOTICE~~ <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 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

DIRECTIONS ORDER

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

AND UPON this Directions Hearing being ordered by Mr Justice Cotter.

AND UPON HEARING Counsel for the Claimants Mr Richard Kimblin QC and Michael Fry and Owen Greenhall for the Sixth Defendant.

AND UPON the Claimants confirming that nothing in the Application or draft Order is intended or will be applicable to lawful freeholders or leaseholders on land over which the Claimants have taken temporary possession.

IT IS ORDERED THAT:

Amendments to the Application

1. The Claimants have permission:

a. To amend the description of the First, Second and Third Defendants as follows:

- (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 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 ~~AND BLUE~~ ON THE ~~HS2 LAND PLANS AT ANNEXED TO THE APPLICATION NOTICE~~ <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~~ ~~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

b. To amend the Particulars of Claim in accordance with the Amended Particulars of Claim dated 26 April 2022.

c. To remove the original HS2 Land Plans and the accompanying tables from the HS2 proceedings website: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> ("HS2 Proceedings Website").

d. To amend the draft Order in the Application in order to update it in respect of the possession order, injunctive relief and declaratory relief already granted, and to make

other consequential amendments from the preliminary hearings in these proceedings including, but not limited to, amending the descriptions of the Defendants and explicitly removing leaseholders and freeholders from the scope of the prohibited activities.

- e. To remove Named Defendants from the Schedule to the Particulars of Claim where expedient.

Service of the Application

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

- a. The Court is satisfied that at the date of the certificates of service, good and sufficient service of the Application has been effected on the named defendants and each of them and personal service is dispensed with subject to the Claimants' carrying out the following additional methods within 14 days of the date of this order:
 - i. advertising the existence of these proceedings in the Times and Guardian newspapers, and in particular advertising the web address of the HS2 Proceedings website.
 - ii. where permission is granted by the relevant authority, by placing an advertisement and/or a hard copy of the papers in the proceedings within 14 libraries approximately every 10 miles along the route of the HS2 Scheme. In the alternative, if permission is not granted, the Claimants shall use reasonable endeavours to place advertisements on local parish notice boards in the same approximate location.
 - iii. making social media posts on the HS2 twitter and Facebook pages advertising the existence of these proceedings and the web address of the HS2 Proceedings website.
- b. Compliance with 2 (a)(i), (ii) and (iii) above will be good and sufficient service on "persons unknown"

Service of this Order and Amended Application Documents

3. The Court will provide sealed copies of this Order to the Claimants' solicitors for service (whose details are set out below).
4. Pursuant to CPR r. 6.27, the Claimants shall serve this Order, any documents in the proceedings, and any amended documents on the Defendants by placing it in a prominent location on the following website:

<https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> and by emailing the documents, or a link to the document where the documents is too large for email, to Counsel for D6 and to any other party who provides an email address to the Claimants at the address set out in paragraph 24 below.

Case Management Directions

5. The final hearing for the Claimants' Application is to be listed at 10.30am on 26 – 27 May and 30 May 2022 in the High Court in Birmingham before Mr Justice Julian Knowles.
6. Any person, other than a Named Defendant (D5 – 63), who wishes to attend the hearing must inform the Court of their intention to attend by 4pm on 25 May 2022 to the address set out in paragraph 23 below.
7. By 4pm on 6 May 2022, the Claimant to file and serve any amended documents, and an amended draft Order in accordance with paragraph 4 above.
8. By 4pm on 16 May 2022, any person seeking to defend the Application must file and serve a statement of case and any evidence upon which that person seeks to rely on the Court and the Claimants. At the same time and date, any party requiring any of the Claimants' witnesses to attend for cross-examination are to give notice of the name of the witness required together with reasons why that person is required. For the avoidance of doubt, whether live evidence will be permitted will remain to be determined by the Court.
9. By 4pm on 17 May 2022, any person who wishes to comment on the Hearing Bundle must notify the Claimants of their wish to comment by email to the address in paragraph 24 below. Any person who has filed a statement of case in accordance with paragraph 8 shall be taken to have notified the Claimants.
10. By 5pm on 17 May 2022, the Claimants shall send by email a draft Hearing Bundle index to any person who has notified the Claimants in accordance with paragraph 9 above.

11. By 4pm on 18 May 2022, any person who wishes to comment on the draft Hearing Bundle shall provide suggested documents for inclusion to the Claimants. Where there is disagreement between the Claimants and that person as to the relevance of any document, that disagreement will be noted in the Hearing Bundle index and the document shall be provided to the Court in a separate bundle by the person seeking to rely upon it, with reasons provided as to the document's relevance.
12. By 4pm on 19 May 2022, the Claimants shall file and serve a properly paginated and indexed Hearing Bundle on the Court by email and in hard copy, and on other parties in accordance with paragraph 4 of this Order.
13. By 4pm 19 May 2022, the Claimants have permission to file and serve any evidence in rebuttal if so advised.
14. By 4pm on 20 May 2022, the Claimants and any other person seeking to address the Court at the hearing shall file and serve any skeleton argument or speaking note.
15. By 4pm on 25 May 2022, the Claimants shall file and serve a final schedule of Named Defendants, taking into account any removed by the Claimants in accordance with paragraph 1(e) above.
16. The Claimants have permission to serve notice of acting by DLA Piper pursuant to CPR r. 42.2(2)(b) and CPR r. 6.27 in accordance with paragraph 4 above. For the avoidance of doubt, the email address for the Claimants' solicitors has not been changed.
17. The Claimants otherwise have liberty to apply to extend or vary this Order or for further directions on an urgent basis.
18. Costs reserved.

Documents in the Claim and Application

19. All documents relating to these proceedings and this Order may be downloaded at: <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings>. There is a button on the webpage which allows any person to register to be informed of any updates to that webpage. Any person interested in the proceedings should consider registering for updates.
20. A single hard copy of any document will be sent, so far as practicable, within 7 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 included a postal address and the full name of the requestor.

21. Service of any document upon the Claimants is only to be effected by email at the address in paragraph 24 below.
22. Schedule A to this Order contains useful references for any party seeking to oppose or understand this Order.

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 6DW

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

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

DLA PIPER UK LLP
1 St Paul's Place
Sheffield
S1 2JX

E: HS2Injunction@governmentlegal.gov.uk
T: 0114 283 3312
DX: 708580 Sheffield 10
R: RXS/380900/378

Dated:

SCHEDULE A – 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/>

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

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

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

MR JUSTICE JULIAN KNOWLES

Between:

(1) HIGH SPEED TWO (HS2) LIMITED

(2) THE SECRETARY OF STATE FOR TRANSPORT

-and-

Claimants

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

Defendants

ORDER

PENAL NOTICE

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

IMPORTANT NOTICE TO THE DEFENDANTS

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

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

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

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

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

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

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

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

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

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

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

IT IS ORDERED THAT:

Definitions

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

Service by Alternative Method – Proceedings

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

Injunction in force

3. With immediate effect, and until 23.59 on 31 May 2023 unless varied, discharged or extended by further order, the Defendants and each of them are forbidden from doing the following:
 - a. entering or remaining upon the HS2 Land;
 - b. deliberately obstructing or otherwise interfering with the free movement of vehicles, equipment or persons accessing or egressing the HS2 Land; or
 - c. interfering with any fence or gate on or at the perimeter of the HS2 Land.

4. Nothing in paragraph 3 of this Order:
 - a. Shall prevent any person from exercising their rights over any open public right of way over the HS2 Land.
 - b. Shall affect any private rights of access over the HS2 Land.
 - c. Shall prevent any person from exercising their lawful rights over any public highway.
 - d. Shall extend to any person holding a lawful freehold or leasehold interest in land over which the Claimants have taken temporary possession.
 - e. Shall extend to any interest in land held by statutory undertakers.

5. For the purposes of paragraph 3(b) prohibited acts of obstruction and interference shall include (but not be limited to):
 - a. standing, kneeling, sitting or lying or otherwise remaining present on the carriageway when any vehicle is attempting to turn into the HS2 Land or attempting to turn out of the HS2 Land in a manner which impedes the free passage of the vehicle;
 - b. digging, erecting any structure or otherwise placing or leaving any object or thing on the carriageway which may slow or impede the safe and uninterrupted passage of vehicles or persons onto or from the HS2 Land;
 - c. affixing or attaching their person to the surface of the carriageway where it may slow or impede the safe and uninterrupted passage of vehicles onto or from the HS2 Land;
 - d. affixing any other object to the HS2 Land which may delay or impede the free passage of any vehicle or person to or from the HS2 Land;
 - e. climbing on to or affixing any object or person to any vehicle in the vicinity of the HS2 Land; and
 - f. deliberate slow walking in front of vehicles in the vicinity of the HS2 Land.

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

Service by Alternative Method – This Order

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

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

Discontinuance and discharge of Orders

12. The following claims are discontinued with no order as to costs:
 - a. PT-2018-000098 (Harvil Road); and
 - b. PT-2020-BHM-000017 (Cubbington and Crackley).

13. The following orders of the court are discharged and replaced by the injunction contained in paragraph 3 of this Order:
 - a. The Order of David Holland QC (sitting as Deputy Judge of the High Court) in PT-2018-000098 dated 4 September 2020 and sealed on 18 September 2020 and the Order of Mrs Justice Heather Williams dated 1 September 2022 (in respect of the Harvil Road Land);
 - b. The Order of Mr Justice Marcus Smith in PT-2020-BHM-000017 dated 3 May 2021 and sealed on 7 May 2021 (in respect of the Crackley and Cubbington Land); and
 - c. The Order of Mr Justice Cotter dated 11 April 2022 and sealed on 12 April 2022 (in respect of the Cash's Pit Land).

14. The Claimants' application, dated 23 August 2022 to extend the three interim injunctions referred to in paragraph 13 above, shall stand withdrawn with no order as to costs.

Further Case Management

15. This Order will be reconsidered at a hearing to be listed on approximately a yearly basis between 15 and 31 May to determine whether there is a continued threat which justifies continuation of this Order. It will be the Claimants' responsibility to arrange such a hearing and to place details of any such hearing on the HS2 Proceedings Website.

16. Without prejudice to the foregoing, any person affected by this Order may apply to the Court at any time to vary or discharge it but if they wish to do so they must inform the Claimants' solicitors immediately (and in any event not less than 48 hours before the hearing of any such application) via the contact details set out below. Schedule A to this Order indicates the process

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

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

Costs

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

Documents in the Claim and Application

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

Communications with Claimants and the Court

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

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

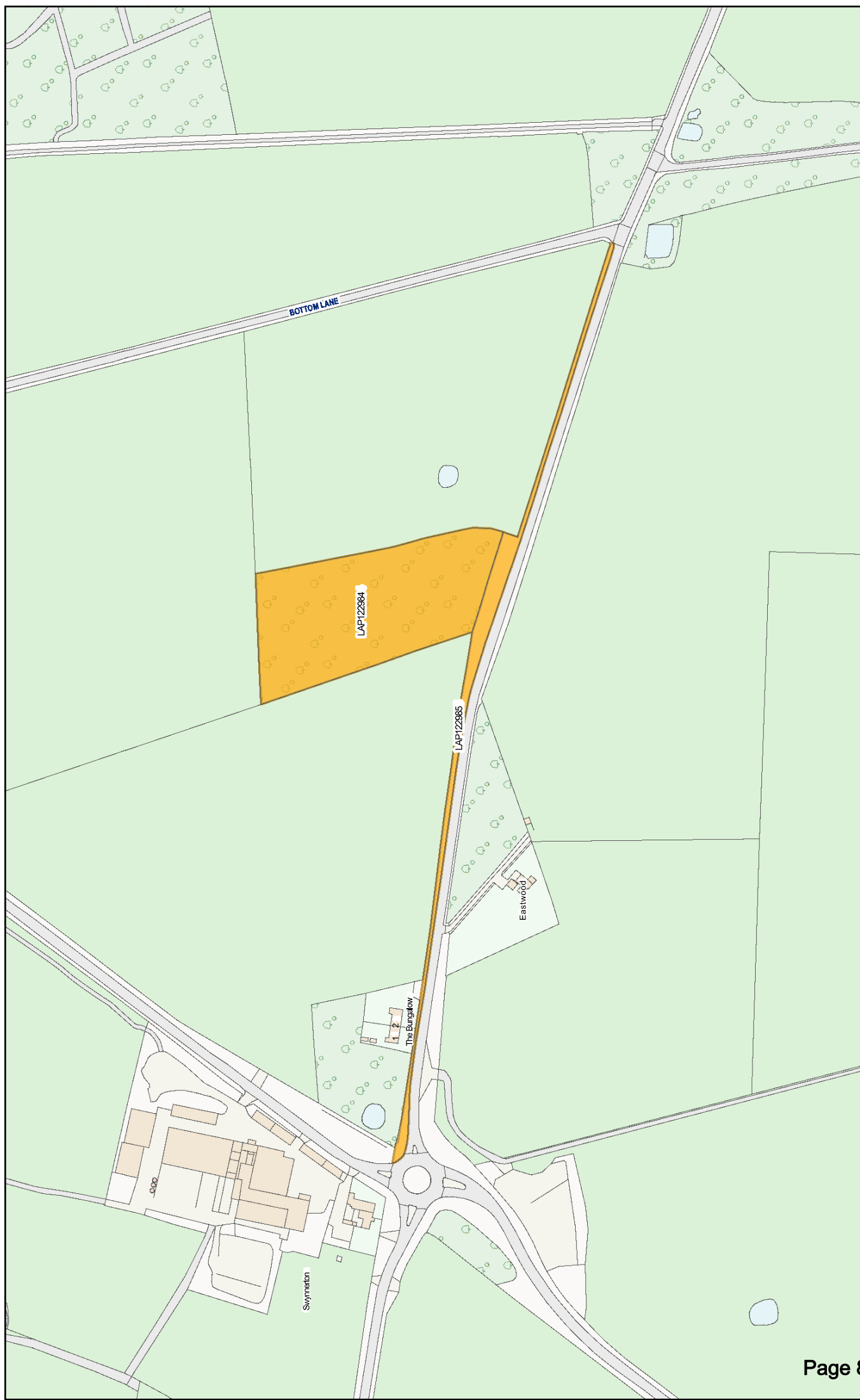
E: qb.birmingham@justice.gov.uk
T: 0121 681 4441
F: 01264 785 131
DX: 701987 Birmingham 7

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

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

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

Dated: 20 September 2022



HS2

Registered in England. Registration number 03701884.
Registered office: 2, Shirehill, Cotswold, Birmingham B15 1QA.

Scale at A3: 1:2,500

High Speed Two
Phase One/Phase 2A
Injunction Mapping

PLAN A

Internal

Doc Number: PH1-HS2-LP-MAP-000-000085

Date: 22/03/22

Legend

- Cash's Pit Land

HS2 Ltd is not responsible for any circumstances which arise from the reproduction of this map after alteration, amendment or abbreviation or if it is issued in part or issued incomplete in any way.

© Crown copyright and database rights

Map data © Ordnance Survey, the scale of the BGS data used, is scale BGS Digital Data under licence 2011/111 BP British Geological Survey, © NERC.

Contains Environment Agency information © Environment Agency and database right.

© Crown copyright material is reproduced with the permission of Land Registry under delegated authority from the Controller of HMSO.

This material was last updated on (date) and may not be copied, distributed, sold or published without the formal permission of Land Registry and Ordnance Survey. Only an official copy of a title plan or register obtained from the Land Registry may be used for legal or other official purposes. © Crown Copyright Ordnance Survey.

ANNEX A – SCHEDULE OF DEFENDANTS

PART 1

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

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

PART 2

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

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

ANNEX B – WORDING FOR NOTICES

[On the package containing the Order]

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

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

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

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

SCHEDULE A – STEPS TO VARY OR DISCHARGE THIS ORDER

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

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

(a) An N244 application form¹;

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

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

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

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

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

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

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

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

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

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

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

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

6. Within 21 days, the Court shall decide:

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

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

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

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

SCHEDULE B – STEPS TO BRING MATTER TO TRIAL

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

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

(a) An N244 Application form²; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Further:

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

SCHEDULE C – USEFUL REFERENCES AND RESOURCES

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

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

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

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

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

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

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