

# Application notice

For help in completing this form please read the notes for guidance form N244 Notes.

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<https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personal-information-charter>

<b>Name of court</b> High Court of Justice Business and Property Courts Property, Trusts and Probate List (ChD)	<b>Claim no.</b> PT-2020-BHM-000017
<b>Fee account no.</b> (if applicable)	<b>Help with Fees – Ref. no.</b> (if applicable) PT-2020-BHM-000017
PBA:0087960	Sub Event ID: 88
<b>Warrant no.</b> (if applicable)	<b>H W F</b> - <input type="text"/> - <input type="text"/>
<b>Claimant's name</b> (including ref.) (1) The Secretary of State for Transport (2) High Speed Two (HS2) Limited	
<b>Defendant's name</b> (including ref.) (1) – (2) Persons Unknown (5) – Elliott Cucuirean	
<b>Date</b>	10 December 2020



1. What is your name or, if you are a legal representative, the name of your firm?

DLA Piper UK LLP

2. Are you a  Claimant  Defendant  Legal Representative  
 Other (please specify)

If you are a legal representative whom do you represent?

Claimants / Applicants

3. What order are you asking the court to make and why?

The Claimants seek:

- The extension of the existing Injunction dated 17 March 2020 and sealed on 23 March 2020 (the “**Order**”) to extend the date at paragraph 6.1 of the Order to 17 April 2021;
- Directions for service of this order; and
- Further case management directions as appropriate.

The terms of the order sought are as per the draft order filed herewith. The reasons for seeking the order are set out in the witness statement of Robert Shaw filed in support of the application.

4. Have you attached a draft of the order you are applying for?  Yes  No
5. How do you want to have this application dealt with?  at a hearing  without a hearing  
 at a telephone hearing
6. How long do you think the hearing will last?  Hours  Minutes
- Is this time estimate agreed by all parties?  Yes  No

7. Give details of any fixed trial date or period  

8. What level of Judge does your hearing need? High Court Judge

9. Who should be served with this application? Claimants to serve

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

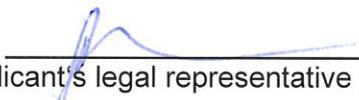
10. What information will you be relying on, in support of your application?

- the attached witness statement
- the statement of case
- the evidence set out in the box below

If necessary, please continue on a separate sheet.

**Statement of Truth**

The applicant believes that the facts stated in this section (and any continuation sheets) are true. The applicant understands that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

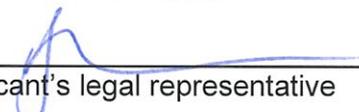
Signed  Dated 10/12/2020  
Applicant's legal representative

Full name: Robert Shaw \_\_\_\_\_

Name of applicant's legal representative's firm: DLA Piper UK LLP \_\_\_\_\_

Position or office held: Solicitor \_\_\_\_\_  
(if signing on behalf of firm or company)

11. Signature and address details

Signed  Dated 10/12/2020  
Applicant's legal representative

Position or office held: Solicitor \_\_\_\_\_  
(if signing on behalf of firm or company)

Applicant's address to which documents about this application should be sent

DLA Piper UK LLP  
1 St. Paul's Place  
Sheffield  
  
Postcode 

		S	1		2	J	X
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If applicable	
Phone no.	0114 283 3312
Fax no.	0114 270 0568
DX no.	708580 Sheffield 10
Ref no.	RXS/380900/346

E-mail address rob.shaw@dlapiper.com and laura.higson@dlapiper.com

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS  
PROPERTY, TRUSTS AND PROBATE LIST  
BIRMINGHAM DISTRICT REGISTRY**

**Before:**

**On: [..] December 2020**

**B E T W E E N:**

(1) THE SECRETARY OF STATE FOR TRANSPORT

(2) HIGH SPEED TWO (HS2) LTD

Claimants / Applicants

-and-

(1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANT(S) ON LAND AT SOUTH CUBBINGTON WOOD, SOUTH OF RUGBY ROAD, CUBBINGTON, LEAMINGTON SPA SHOWN COLOURED GREEN, BLUE AND PINK AND EDGED IN RED ON PLAN A ANNEXED TO THE PARTICULARS OF CLAIM

(2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANT(S) ON LAND AT CRACKLEY WOOD, BIRCHES WOOD AND BROADWELLS WOOD, KENILWORTH, WARWICKSHIRE SHOWN COLOURED GREEN, BLUE AND PINK AND EDGED IN RED ON PLAN B ANNEXED TO THE PARTICULARS OF CLAIM

(5) ELLIOTT CUCIUREAN

Defendants / Respondents

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**ORDER**

**EXTENDING THE DURATION OF THE INJUNCTION MADE BY ANDREWS J. ON 17  
MARCH 2020**

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**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.**

**FURTHER TO** the Order made in these proceedings by Andrews J. on 17 March 2020 (“the **March 2020 Order**”).

**AND UPON** the Claimants’ application by Application Notice dated 10 December 2020, pursuant to the liberty to apply provisions at paragraph 17 of the March 2020 Order, to extend the duration of the injunction contained at paragraphs 4 to 6 of the March 2020 Order (“the **Extension Application**”)

**AND UPON** hearing: (i) Michael Fry and Jonathan Welch, counsel for the Claimants; (ii) **[INSERT]** for the First Defendant; (iii) **[INSERT]** for the Second Defendant; and (iv) **[INSERT AS NECESSARY]**.

**AND UPON** the Claimants indicating that they are content to provide to any named Defendants or persons unknown copies of further evidence or other documents filed in these proceedings from time-to-time at an email address provided to the Claimants, and place all such documents online to be publicly accessible.

**AND UPON** the Claimants indicating that they intend in due course to bring a further application to amend their claim and vary and extend the form of the March 2020 Order so that it: (i) extends for a longer period; (ii) is directed against particular named defendants; and possibly: (iii) covers additional land; and (iv) prevents interference with access to the land to which the injunction applies via public rights of way/highways (“the **Substantive Amendment Application**”).

**AND UPON** the Court accepting the Claimants’ renewed undertaking that the Claimants 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.

**IT IS ORDERED THAT:**

**Continuation of March 2020 Order**

1. The long-stop date of 17 December 2020 at paragraph 6.1 of the March 2020 Order be deleted, and the injunctions at paragraphs 4 to 6 of the March 2020 Order shall continue until 17 April 2021 or further order. At the hearing of the Return Date of the Substantive Amendment Application (as provided for by paragraph 12 below) the further continuation of such injunctive relief beyond the date of that hearing is to be revisited.
2. The injunction at paragraphs 4 to 6 of the March 2020 Order (as amended by paragraph 1 above) shall, further, apply to the Fifth Defendants as well as the First and Second Defendants.

Accordingly, the injunction which continues as against the First and Second and Fifth Defendants is – for the avoidance of doubt - henceforth as set out in paragraphs 3 to 5 of this order.

### **Injunction in force**

3. With immediate effect, and save for the matters set out in paragraph 4 of this Order:
  - 3.1 The First Defendant and each of them are forbidden from entering or remaining upon the Cubbington Land, being the land shaded green, blue and pink and outlined red on Plan A (“the **Cubbington Site**”); and
  - 3.2 The Second Defendant and each of them are forbidden from entering or remaining upon the Crackley Land, being the land shaded green, blue and pink and outlined red on Plan B (“the **Crackley Site**”).
4. Nothing in paragraph 3 of this Order:
  - 4.1 Shall prevent any person from exercising their rights over any open public right of way over the land. Those public rights of way shall, for the purposes of this Order, include the “unofficial footpath” between two points of the public footpath “PROW 130” in the location indicated on Plan C annexed to the Particulars of Claim and reproduced as an annexe to this Order;
  - 4.2 Shall affect any private rights of access over the Land held by any neighbouring landowner.
5. The order at paragraph 3 above shall remain in effect until trial or further order or, if earlier, a long-stop date of 17 April 2021.

### **Service**

6. Pursuant to CPR r.6.27, the steps taken by the Claimants to serve this Extension Application on the First, Second and Fifth Defendants (as set out in the **Second Witness Statement** of Mr Robert Shaw dated **[INSERT]** December 2020, and the Certificate of Service dated **[INSERT]** December 2020 and witness statement of **[Process server]** in Support) shall amount to good and proper service of the Extension Application on those defendants. The deemed date of service is **[INSERT]** December 2020.
7. Pursuant to CPR r. 6.27 and r. 81.8 service of this Order on the First and Second Defendants shall be dealt with as follows:

- 7.1 The Claimants shall affix sealed copies of this Order in transparent envelopes to posts, gates, fences and hedges at conspicuous locations around the Cubbington Land and Crackley Land.
- 7.2 The Claimants shall position signs, no smaller than A3 in size, advertising the existence of this order and providing the Claimant's solicitors contact details in case of requests for a copy of the order or further information in relation to it.
- 7.3 The Claimants shall email a copy of the Order to the following email addresses:
- (i) [crackleyresidents@hotmail.co.uk](mailto:crackleyresidents@hotmail.co.uk)
  - (ii) [peter.delow@ntlworld.com](mailto:peter.delow@ntlworld.com)
  - (iii) [wendyhoulston@hotmail.com](mailto:wendyhoulston@hotmail.com)<sup>1</sup>
- 7.4 The Claimants shall further advertise the existence of this order in a prominent location on the websites:
- (i) <https://hs2inwarwicks.commonplace.is/>; and
  - (ii) <https://www.gov.uk/government/organisations/high-speed-two-limited>,
- together with a link to download an electronic copy of this Order.
- 7.5 The Claimants shall also leave sealed copies of this Order at the protestor campsite marked "Camp 2" on the Plans.
8. The taking of such steps set out at paragraph 7 shall be good and sufficient service of this Order on the First and Second Defendants and each of them. This Order shall be deemed served on those Defendants the date that the last of the above steps is taken, and shall be verified by a certificate of service.
9. The Claimants shall from-time-to-time (and no less frequently than every 28 days) confirm that copies of the orders and signs referred to at paragraphs 7.1 and 7.2 remain in place and legible, and, if not, shall replace them as soon as reasonably practicable.

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<sup>1</sup> These email addresses are taken from the Local Action Groups list on the Contacts page of [stophs2.org/contacts](https://stophs2.org/contacts)

10. The Court will provide sealed copies of this Order to the Claimants' solicitors for service (whose details are set out below).

### **The Substantive Amendment Application / Return Date Hearing**

11. The Claimants shall make their Substantive Amendment Application by 4pm on [1] February 2021. [If that date is before the Court of Appeal hands down judgment in the Fifth Defendant's appeal (Appeal No. A3/2020/1909I) the Claimants shall have liberty to apply to amend the Substantive Amendment Application as necessary.]
12. A hearing of the Substantive Amendment Application ("the **Return Date**") is to be listed within the window from 15 March 2021 to 13 April 2021, with a time estimate of three days.
13. The Court shall provide a notice of hearing to the Claimants' solicitors, which the Claimants are to publicise by posting a copy on the websites at paragraph 7.4 above.
14. Any individual who wishes to contest the Substantive Amendment Application or otherwise who wishes to become a party to these proceedings so as to be able to make representations to the Court on the Claimants' claim shall by 4pm on [22] February 2021:
  - 14.1 file and serve a witness statement on the Claimant's solicitors outlining their interest in this matter and the nature of grounds for that contest or arguments they may wish to raise; and
  - 14.2 provide a postal address for service or email address at which they are prepared to accept electronic service of documents.
15. The Claimants shall file any evidence in response by 4pm on [8] March 2021, and post links to electronic copies of that evidence online at the websites listed at paragraph 7.4 above.

### **Further directions**

16. The Defendants or any other 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).
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.
18. The Claimants have liberty to apply to extend or vary this Order or for further directions.

19. Save as provided for above, the Claim be stayed generally with liberty to restore.
20. Costs reserved. If the Claimant intends 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.

### **Communications with the Court**

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

Court Manager  
Birmingham Civil and Family Justice Centre  
High Court of Justice  
Chancery Division  
Priory Courts  
33 Bull Street  
Birmingham  
B4 6DS

The telephone number is 0121 681 4441. The offices are open weekdays 10.00am to 4.00pm.

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

DLA Piper UK LLP of:

1 St Paul's Place  
Sheffield S1 2JX  
United Kingdom

Tel: +44 114 283 3312

Email: [rob.shaw@dlapiper.com](mailto:rob.shaw@dlapiper.com) and [aryana.bassi@dlapiper.com](mailto:aryana.bassi@dlapiper.com)

Ref: RXS/380900/346

**Dated: [INSERT] December 2020**