



Neutral Citation Number: [2020] EWHC 3392 (TCC)

Case No: HT-2019-000396

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
TECHNOLOGY AND CONSTRUCTION COURT (QBD)

Rolls Building
Fetter Lane, London, EC4A 1NL

Date: Friday 11th December 2020

Before :

MR ROGER TER HAAR QC
Sitting as a Deputy High Court Judge

Between:

THE UNIVERSITY OF MANCHESTER
Claimant

- and -

(1) JOHN MCASLAN AND PARTNERS
LIMITED
First Defendant

(2) LAING O'ROURKE CONSTRUCTION
LIMITED
Second Defendant

Nicholas Collings (instructed by **Richard Wright**, instructed by **Clyde & Co.LLP**) for the
Claimant

Mark Chennells (instructed by **DWF Law LLP**) for the **First Defendant**
Rupert Choat and **Arthur Graham-Dixon** (instructed by **CMS Cameron McKenna Nabarro**
Olswang LLP) for the **Second Defendant**

Approved Judgment

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Covid-19 Protocol: This judgment will handed down by the judge remotely by circulation to the parties' representatives by email and release to Bailii. The date and time for hand-down is deemed to be 10.30am on Friday 11th December 2020.

Mr Roger ter Haar QC :

1. On 25 November 2020 my judgment on the applications before the Court was handed down under the Covid-19 Protocol.
2. Since then I have received two rounds of written submissions from the Claimant and the Second Defendant as to costs. Those submissions are quite lengthy.
3. Despite the length of those submissions, I can deal with the issues as to costs quite shortly.
4. The First Defendant took a broadly neutral stance. Its costs should be costs in the case.
5. As to the costs of the other two parties: I have accepted that the Particulars of Claim as served needed further explanation and particularisation. In great part that was provided by the “Cross-Referencing Document”. The very substantial work done by the Second Defendant before that was work which would in large part have had to be done as part of work of preparing the Second Defendant’s Defence, and should be costs in the case.
6. As to the costs of the hearing before me, those also should be costs in the case: on the one hand the Second Defendant has obtained directions for a revised pleading. On the other hand the Second Defendant has not succeeded in obtaining orders as draconian as it was seeking. I view the exercise as being a form of clearance of undergrowth in what appears likely to be very substantial litigation. Hence my view that costs in the case is the fair order.
7. Once the terms of an amended pleading have been finalised (and, it is to be hoped, agreed) it would be sensible to have a substituted pleading with fresh paragraph numbering so that the case is not complicated by the need to deal with a pleading in the form of an amendment. In case it becomes necessary in future to identify the changes in the pleadings, I suggest that a table of derivations should be produced.