Neutral Citation Number: [2024] EWHC 1971 (KB)

Case No's: KB-2024-000425
KB-2022-005009
KB-2022-000360
KB-2024-001620

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
MESOTHELIOMA LIST

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29/07/2024

Before :

MRS JUSTICE HILL DBE

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Between:

Claim No. KB-2024-000425

DAVID WORMLEIGHTON
(Personal Representative of the Estate of ROY WORMLEIGHTON)

Claimant

and

CAPE INTERMEDIATE HOLDINGS LIMITED

Defendant

Claim No. KB-2022-005009

ANDREW FRAYNE
(Executor of the Estate of FELIX FREEMAN)

Claimant

and

CAPE INTERMEDIATE HOLDINGS LIMITED

Defendant

Claim No. KB-2024-000360

PAUL RAYMOND PESKETT

Claimant

and

(1) CAPE INTERMEDIATE HOLDINGS LIMITED
(2) CAPE BUILDING PRODUCTS LIMITED

Defendants

Claim No. KB-2024-001620

JAMES SWEENEY

Claimant

and

(1) CAPE INTERMEDIATE HOLDINGS LIMITED
(2) CAPE BUILDING PRODUCTS LIMITED

Defendants

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Aliyah Akram (instructed by **Hugh James Solicitors**) for the **Claimants**
Jayne Adams KC (instructed by **Horwich Farrelly Limited**) for the **Defendants**

Hearing date: 22 July 2024

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Approved Judgment

This judgment was handed down remotely at 2:00 pm on 29 July 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MRS JUSTICE HILL

Mrs Justice Hill DBE:

Introduction

1. By application notices dated 14 June 2024 the Claimants in each of these claims seek an order that the claims be consolidated under CPR 3.1(2)(g). The Defendants oppose these applications.

2. Each application is supported by a witness statement from Mary Mulhall, the Claimants' solicitor. Simon Lindsey, the Defendants' solicitor, has provided a witness statement setting out a composite response to all four applications.

3. I have also been greatly assisted by the written and oral submissions from Aliyah Akram for the Claimants and Jane Adams KC for the Defendants.

The factual and procedural background

4. Each of the Claimants seeks damages following the development of mesothelioma alleged to have arisen as a result of exposure to asbestos while working directly with Asbestolux boards. The boards contained amosite, also known as brown asbestos.

5. All four Claimants pursue their claims against the Cape Intermediate Holdings Limited ("CIHL"). Two have also sued Cape Building Products Limited ("CBPL"). The Defendant companies were the producers of the material rather than the Claimants' employers.

6. CIHL is the parent company of a group of companies. It is now a non-trading holding company. CIHL manufactured Asbestolux itself from 1951 and 1956, at a factory on Iver Lane in Uxbridge. Thereafter Asbestolux was manufactured by its subsidiary companies, including CBPL. CBPL began manufacturing Asbestolux from the Uxbridge factory in 1974. CBPL is now a dormant company.

7. In two of the claims (*Wormleighton* and *Frayne*) the original Claimants have died and the Claimants represent their estates. Although the Claimants in *Peskett* and *Sweeney* are still alive they both have extremely limited life expectancies.

8. Directions have already been given in *Frayne* with a five day trial listed to take place between 9 and 13 December 2024. *Peskett* has also been case managed and is currently due to be heard in a trial window between 6 and 27 January 2025 with a time estimate of five days. In both cases the current proposal is that liability and quantum are tried together.

9. In *Wormleighton* a Defence has been served but disclosure and witness statements have not yet been provided.

10. *Sweeney* is at an earlier stage and a Defence has not yet been served but is due imminently.

11. The Claimants' primary position is that if the cases are consolidated, case management directions should be given so as to achieve a position whereby the

liability issues on all four claims are tried during the five day period in December 2024 currently set aside for *Frayne*. Alternatively they seek directions so as to enable the liability aspect of all four claims to be tried in the January 2025 trial window currently allocated to *Peskett*.

The legal framework

12. There was no dispute between the parties as to the relevant legal framework.

13. Under section 49(2) of the Senior Courts Act 1981, subject to the provisions of that Act itself or any other enactment, every court shall exercise its jurisdiction in every cause or matter before it so as to secure that "as far as possible, all matters in dispute between the parties are completely and finally determined, and all multiplicity of legal proceedings with respect to any of those matters is avoided.

14. The court's case management powers are to be exercised in accordance with the overriding objective of enabling the court to deal with cases justly and at proportionate cost: see CPR 1.1 and 1.2.

15. In *Harrington v Mehta* [2023] EWHC 998 (Ch) at [56], Miles J set out various factors which the court will consider in determining whether to consolidate proceedings, as follows:

    (i) The extent to which there is an overlap of facts and issues;

    (ii) The extent to which consolidation might avoid the risk of inconsistent findings;

    (iii) The cost and delays involved in a multiplicity of proceedings that might be avoided if consolidation were ordered;

    (iv) The stage in the proceedings at which consolidation is sought;

    (v) The extent to which the advantages of consolidation might be achieved by other means, including, not limited to an order under CPR 3.12(h) for the claims to be tried on the same occasion; and

    (vi) Whether the claimants in the consolidated claim can be jointly represented by the same legal representatives.

16. The Claimants contended that all these factors militated in favour of consolidation. The Defendants conceded that factor (vi) was applicable here but otherwise argued that none of the others justified consolidation.

Application of the *Harrington* factors to this case
(i): The extent to which there is an overlap of facts and issues

17. In my judgment it is clear that there are a significant number of overlapping facts and issues across all four claims.

18. First, all four claims are based on the central allegation that the Defendant companies manufactured, supplied and sold an inherently dangerous product, such that the Defendant breached its duty of care to each Claimant. Accordingly the same overarching issue in all the claims is whether CIHL is liable to the Claimants in respect of a product manufactured by its subsidiaries.

19. Second, as Ms Mulhall's evidence and Ms Akram's submissions made clear, this overarching issue distils into the following separate issues which are common to all the claims:

    (i) Whether the Claimants worked with Asbestolux or whether the name was used as a generic term to describe asbestos insulation boards which were not manufactured by CIHL or its subsidiaries;

    (ii) What percentage of amosite the Asbestolux boards contained;

    (iii) Whether working with Asbestolux gave rise to substantial asbestos exposure:

    (iv) Whether suitable and sufficient respiratory protection was required to safely work with Asbestolux;

    (v) Whether the Claimants or their employers failed to comply with their obligations;

    (vi) Whether the Defendants had knowledge of the risks created by the supply and use of Asbestolux by virtue of general public knowledge and/or their own superior knowledge from its position as developer and manufacturer of the product in question;

    (vii) Whether CIHL assumed a duty of care because it had sufficient control over its subsidiary companies;

    (viii) Whether the design and composition of Asbestolux was a design defect;

    (ix) Whether the Defendants failed to withdraw Asbestolux from the market;

    (x) Whether the Defendants failed to manufacture a safe alternative to Asbestolux; and

    (xi) Whether the Defendants adequately warned anyone else using Asbestolux of the risks posed by working with the product.

20. Third, issue (vii) above will require consideration in all the claims of the implications of *Chandler v Cape Plc* [2012] EWCA Civ 525. There, the Court of Appeal held that CIHL, as the parent company, had sufficient overall responsibility for the business of the group and exercised sufficient control over its subsidiaries to assume liability for their acts or omissions.

21. While *Chandler* involved a claim by an employee of a subsidiary, the Claimants' position is that the factors taken into account by the Court of Appeal will also be relevant to the issues in these claims. I was taken, in particular, to the aspects of the *Chandler* judgment finding that CIHL had superior knowledge of the asbestos business; had superior knowledge of the nature and management of asbestos risks; exerted control over health and safety issues within its subsidiaries; centralised product development, including the composition of the boards; and employed a group medical advisor to research the link between exposure to asbestos dust and asbestosis, and related diseases: [73] and [75]-[78].

22. The Defendants do not accept that the question of whether CIHL is responsible for its subsidiaries is answered by *Chandler*, because they contend that a decision in the context of the health and safety of the company's own employees is not directly comparable to the company's role as a manufacturer.

23. However, the fact remains that whether *Chandler* is of relevance to, or even determinative of, the liability question is a common legal issue across all four claims.

24. The Defendants pointed to the fact that in two of the claims there is an additional defendant, namely CBPL as well as CIHL, which may generate some additional issues common only to those two claims. However the facts of *Harrington* make clear that additional defendants to some parts of the claim is no bar to consolidation. I accept the Claimants' submission that this is especially so where both Defendants have the same legal representatives. I note, also, that in *Peskett* the Defendants have filed a joint defence.

25. In my judgment the same approach applies to the fact that *Wormleighton* and *Peskett* involve consideration of the role of two further companies, namely Cape Distribution Limited and Plumefern. This aspect adds to the number of issues on those two claims, but does not detract from the fact that many of the other issues are common across all four claims.

26. The Defendants placed significant reliance on the fact that the Claimants complain of exposure to asbestos over different time periods. In *Wormleighton* the period of exposure was from 1961-1963, whereas the other claims rely on exposure on various dates beginning after 1967 and continuing in *Frayne* until 1983. In his witness statement Mr Lindsey provided a detailed table showing how this aspect of the claims rendered some of the issues on the claims different.

27. Ms Adams KC contended that *Wormleighton* is an "outlier" because 1961-1963 is recognised as being before the accepted date of knowledge of low levels of exposure giving rise to the risk of mesothelioma, as considered recently in *Cuthbert v Taylor Woodrow Construction Holdings* [2024] EWCA Civ 244 at [86]-[87] and [107]-[109].

28. By contrast, the other cases would involve different considerations such as the impact of the Asbestos Regulations 1969 and the applicable Health and Safety Executive guidance, the role of sealing, marking and labelling of the boards at different times and the impact of the alleged removal of Asbestolux from the market. Mr Lindsey's

table also made clear that contributory negligence is a further issue in two of the claims.

29. However, in my judgment, the fact that the issues raised across the claims are similar, but not identical, is not fatal to the consolidation application. I note that that this *Harrington* factor requires consideration of whether the facts or issues in the claims "overlap", not whether they are identical (nor, realistically, could they ever be).

30. An example of this principle in operation is *Atos v Secretary of State for Business* [2022] EWHC 787 (TCC) at [15]. There, consolidation was ordered of claims which raised different alleged breaches, but which all concerned the same procurement exercise, the evaluation of tenders, the treatment of the competing bidders and basis on which the defendants disqualified the claimant and awarded the contract to another party. The relief sought across the claims was also essentially the same.

31. In my judgment the same applies here. As set out above, there are a series of overlapping issues, but also some that are particular to each claim. For the purposes of *Harrington* factor (i), I consider that the extent to which the facts and issues overlap is significant. I consider that this is a highly persuasive factor in favour of consolidation.

(ii): The extent to which consolidation might avoid the risk of inconsistent findings

32. As noted above, *Frayne* is due for trial in December 2024 and *Peskett* in January 2025. Given the proximity of those dates, and the significant overlap of facts and issues between these two claims, there is already a real and undesirable risk that different judges will make inconsistent findings on common facts or issues. This will be added to if the other two cases are tried separately. Consolidation would avoid this risk.

33. The Defendants argued that given the different time periods involved in each claim there was a limited risk of inconsistent findings. The period of more than 20 years over which the claims ranged was one in which knowledge of the dangers of asbestos developed and altered considerably such that a finding in *Wormleighton* would have no application to that in *Frayne* and vice versa.

34. It is right that the issues in *Wormleighton* relate solely to the period from 1961 to 1963. However the other three claims all involved some element of exposure during the 1970s. I accept the Claimants' submission that it would be much more sensible for all of the issues relating to knowledge and exposure throughout this lengthy period to be resolved together, so as to reduce the risk of inconsistent findings, at least across the three claims other than *Wormleighton*.

35. Further I agree that it would be artificial and undesirable to have one court consider the issues in *Wormleighton* separately, because in respect of each time period, arguments are likely to be made about what was known before the period began.

36. I am also not persuaded by the Defendants' submission that because the Claimants worked in different jobs, and/or because some were employed and some were self-

employed, their claims are so different that there is no risk of inconsistent findings. In my judgment there is such a risk, and an undesirable one, because the crux of all the claims is the same overarching allegation of breach and the issues that flow from it, as set out at [18]-[23] above.

37. Accordingly in my judgment this factor also militates in favour of consolidation.

(iii): The cost and delays involved in a multiplicity of proceedings that might be avoided if consolidation were ordered

38. Expert evidence. The central factor relevant to both cost and delay in this case is the need for expert engineering/occupational hygiene evidence in all four claims.

39. The parties agree that there is a very limited pool of suitable experts and they have lengthy waiting lists. The Defendants raised concerns as to the costs and delays in obtaining such evidence at the case management conference in *Peskett* on 15 April 2024 (and indeed the Claimants submitted that these concerns are what prompted this application).

40. Expert reports have not been exchanged in any of these claims so far. The directions in *Frayne* are for the parties to exchange their expert evidence from this discipline by 14 October 2024 and in *Peskett* by 18 November 2024.

41. The Claimants proposed that if the claims were consolidated each party would rely on a single expert, jointly across all four claims. Ms Akram suggested that the October 2024 deadline from *Frayne* could be used for the joint reports, or the November date from *Peskett* could be used if the January 2025 trial window was being adopted.

42. The Defendants contended that it is unrealistic to assume that the timetables set in *Peskett* and *Frayne* can be kept if consolidation is ordered. Mr Lindsey predicted that the experts currently retained in *Peskett* and *Frayne* would be unable to address the further issues involved in *Wormleighton* and *Sweeney* before March or April 2025.

43. The effect of the Claimants' submission was that this was unduly pessimistic. I accept that argument, at least as far as *Sweeney* is concerned. If the later of the Claimants' proposed dates for exchange is adopted (18 November 2024), that allows just under four months for the experts to address the further issues *Sweeney* raises. That should not be unduly difficult given that (i) on the Defendants' case, the time of the alleged exposure and thus the Defendants' knowledge of the risk is what is crucial; and (ii) the time period in *Sweeney* (1973-77) is almost entirely subsumed by the time period already being considered by the experts in respect of *Peskett* (1968-1978). Although no Defence has yet been served in *Sweeney* I note Mr Lindsey's evidence that it will involve allegations of contributory negligence. However it was not suggested that these were extensive. They may well overlap with the allegations of contributory negligence already being considered by the experts in *Frayne*.

44. I acknowledge that the position is more complex in respect of *Wormleighton* because that claim involves an earlier time period. Although this did not feature in Mr

Lindsey's evidence, I was told in oral submissions that there has been previous litigation in which this time period was considered which involved extensive disclosure. Ms Adams contended that there would be real difficulties in providing disclosure in *Wormleighton* in time for the experts to consider it; and that this discrete time period would add to the burden for the experts such that delay was inevitable.

45. However as Ms Akram highlighted, the Defendants had the same representatives in the previous litigation and so should be able to provide the same disclosure for the purposes of *Wormleighton* relatively easily: this was not a situation of examining a "warehouse" of documents for the first time. Moreover, she made the point that the Defendants' knowledge during the earlier period in *Wormleighton* is relevant, on the Claimant's case, to their knowledge during the time in issue in *Peskett*, and yet the Defendant had only disclosed 74 documents in that case. As the issue has been traversed in earlier litigation it is also to be hoped that the experts can address it in time.

46. Accordingly, at this stage, I do not consider that the particular issues relevant to *Wormleighton* are so insurmountable that a January 2025 trial is unrealistic.

47. A trial at that point has the additional benefit of meeting the important requirement of urgency given that *Peskett* and *Sweeney* are "living mesothelioma" claims. In such claims "the essence of justice (for both sides) is avoidance of delay in the gathering of evidence during the life of the claimant, and if possible the resolution of the claim before the Claimant passes away": *Yates v HMRC* [2014] EWHC 2311 (QB) at [14]. Indeed it is for that reason that the CPR PD 49B, paragraph 7.1 provides for a general timescale of a trial within 16 weeks of the service of the claim form.

48. If these claims are heard in January 2025, then there is a better chance that they can be resolved in the lifetimes of Mr Peskett and Mr Sweeney. Trial in January 2025 would involve a modest delay in Mr Frayne's case but he was no doubt advised of that risk when he gave instructions to make one of the applications for consolidation.

49. Costs: The Claimants submitted that costs would be saved by jointly instructing the engineering/occupational hygiene experts and by hearing a preliminary issue trial of all the claims.

50. The Defendants' position was that costs would be increased by there being one joint expert on each side, but, respectfully, it was not clear why. The different claims will require expert evidence on the discrete issues that each claim raises. However it will surely be more cost effective for that evidence to be provided in the context of joint reports that otherwise deal with the generic issues together. Further it will surely save costs for each expert to attend court only once, in a consolidated trial. That trial is also likely to be more cost effective in terms of legal costs and the court's costs than separate trials raising the same and similar legal issues.

51. I therefore agree with the Claimants that consolidation is, overall, likely to lead to a saving of costs. This is particularly relevant given the concerns already expressed by the Defendants about the level of the Claimants' expert fees to date.

52. Witness evidence: Each Claimant intends to rely on the evidence of the other Claimants and any witnesses on whom they rely to prove the circumstances of their exposure. This would relate to issues such as common working practices, their experience of cutting into the boards or what they say was a widespread lack of labels on the Asbestolux boards.

53. The Defendants doubted how the Claimants could give relevant evidence in each other's claims given that they had had different jobs: they variously worked on putting up internal partitions or panelling, on construction sites and in placing boards beneath Aga cookers and performing other tasks. They also complained of exposure at different times.

54. As witness statements have not been served in all the claims yet it is not possible to assess whether each Claimant can properly rely on witness evidence in the other's claims. However how they present their claims is ultimately a matter for the Claimants, and the trial judge if they are asked to rule on any argument as to cross-admissibility. For present purposes it seems to me a realistic possibility that the Claimants will seek to rely on each other's witness evidence.

55. These are witnesses who are elderly or unwell. It would clearly be desirable for them to give evidence only once, and sooner rather than later. This would be a further benefit of consolidation. Ms Akram proposed that if consolidation is ordered all remaining witness statements could be served in September or October to allow time for the experts to consider them. I see no reason why that cannot be achieved.

56. Length of trial: As Mr Freeman has sadly died since his claim was issued, the Claimants are likely to call only three factual witnesses between them. The Defendant has served no factual evidence in *Frayne* or *Peskett*. The main focus at the liability trial is likely to be the engineering/occupational expert evidence and legal submissions. On that basis Ms Akram argued that a five day trial would be sufficient for all four cases, albeit accepting in oral submissions that this was optimistic.

57. In my judgment the Defendants' position that the time estimate will need to be increased if there is consolidation was more realistic. In my judgment and increased time estimate is necessary, so as to ensure sufficient court time is available to cater for the additional issues involved in some of the claims reflected at [24]-[28] above. I agree with Mr Lindsey's prediction that a ten day time estimate is required if all four claims are consolidated.

58. The court staff have confirmed that it would not be possible to expand the December trial listing to a 10 day time estimate, but the January listing could be so extended.

59. Statements of case: The Claimants proposed that the claims could be consolidated without common statements of case. However given that the effect of consolidation is that the claims "proceed thereafter as one claim" (see the White Book at 3.1.19) such re-drafting is desirable (and arguably necessary, as the Defendants contended). Given the very similar ways in which the Claimants' Particulars of Claim have been advanced and the fact that Defences have already been served in three of the claims, the costs of the re-drafting exercise should not be substantial.

60. Quantum issues: The Claimants contended that consolidation is appropriate to determine liability, and that quantum should be individually determined. Consolidation of liability issues only is no barrier to consolidation: *Healey v A Waddington* [1954] WLR 688.

61. Although the draft order provided by the Claimants in support of the application made provision for expert medical evidence, during the hearing Ms Akram accepted that if liability was tried as a preliminary issue, it was premature to make any further directions in respect of medical evidence on quantum issues. Accordingly the costs of this evidence could be saved by consolidation and trying liability as a preliminary issue.

62. If liability is determined in the Claimants' favour, further directions can be given for the resolution of quantum issues if they cannot be agreed. I note that Ms Mulhall's evidence, as an experienced solicitor in the field, was that it was "very likely" that the parties could agree quantum if the Claimants succeeded on liability. Mr Lindsey, who is similarly experienced, said that quantum "may not often present as the most difficult aspect" of these kinds of cases, albeit pointing to some areas of potential difficulty for the Claimants' claims.

63. Further claims by estates: Mr Lindsey made the point in his witness statement that sadly given the nature of their illness either Mr Peskett or Mr Sweeney could die before the consolidated trial might take place; and thus a stay would be required to address the procedural consequences of their deaths.

64. However that is already a risk in *Peskett*. As Ms Akram highlighted, both he and Mr Sweeney have wills in place, which nominate their children as executors. If either were to die before the trial then the court would be able to appoint their executor to represent their estate, under CPR 19.8(1)(b): *Carey v Vauxhall Motors* [2019] EWHC 238 (QB) at [1]. With experienced representatives on both sides, and especially if one Claimant remained alive, it is to be hoped that this process would not lead to delay.

65. Further possible cases: Ms Mulhall's evidence referred to two potential further claims involving Asbestolux. These claims have not yet been issued and the Claimants do not intend to seek consolidation of them with these four claims. However I accept Ms Akram's submission that a consolidated judgment on these four claims is also likely to assist in resolving these further claims.

66. Overall, for all these reasons, I conclude that consolidation is likely to lead to a saving of costs and the avoidance of delay, which is particularly important given the nature of these claims.

(iv): The stage in the proceedings at which consolidation is sought

67. The Claimants submitted that the claims are at relatively early stages: no Defence has yet been filed in *Sweeney* and although the parties have exchanged disclosure and witness evidence in *Peskett* and *Frayne*, there has been no expert evidence in any of

the claims. The Defendants took issue with this proposition, given that *Peskett* and *Frayne* have both already been timetabled to trial.

68. The reality of the situation is that *Peskett* and *Frayne* have both been listed for trial, but those trials are some time away, at five and six months respectively. For the reasons I have set out above I consider that the other two cases can be case managed so as to "catch up" with the *Peskett* trial window.

69. In any case, the stage of proceedings should not be a barrier to consolidation where it is otherwise appropriate to make such an order: in *Atos*, for example, a consolidation order was made just six weeks before trial.

(v): The extent to which the advantages of consolidation might be achieved by other means, including, not limited to an order under CPR 3.12(h) for the claims to be tried on the same occasion

70. The court's power to try these claims together, pursuant to CPR 3.1(2)(h), is to be governed by the principles summarised by Murray J in *Al Sadeq v Dechert and Quzmar v Dechert* [2021] EWHC 1149 (QB) at [35], thus:

> "The following statements apply to the exercise of the court's discretion in this regard:
>
> i) the court must further the overriding objective by actively managing cases, including under CPR r 1.4(l) by "giving directions to ensure that the trial of a case proceeds quickly and efficiently";
>
> ii) the court should bear in mind that "a litigant is entitled not to be delayed in the determination of his dispute without good cause": *J Bollinger SA v Goldwell Ltd* [1971] FSR 405 (Megarry J) at 408;
>
> iii) the exercise is fact-sensitive; and
>
> iv) the court is required to identify various factors weighing for and against the exercise of its discretion, having regard to fairness to each of the parties and the efficient management of the court's business.

71. Ms Akram highlighted that one of the key benefits of consolidation is that the parties would save costs through the obtaining of joint expert engineering or occupational hygiene evidence across all four claims. That would not be possible if an order was simply made under CPR 3.1(2)(h).

72. The Defendants did not seek to persuade me that an order under CPR 3.1(2)(h) was more appropriate than consolidation: rather, they contended that neither order was justified.

(vi): Whether the claimants in the consolidated claim can be jointly represented by the same legal representatives

73. The Claimants in all four claims are jointly represented. The Defendants' solicitors are also common across all four claims.

Conclusion

74. For these reasons I consider that all the *Harrington* criteria militate in favour of consolidation. Application of s.49(2) of the Senior Courts Act 1981 and the overriding objective further justifies this course. I therefore order that all four claims are consolidated under CPR 3.1(2)(g).

75. Liability should be tried as a separate issue under CPR 3.1(2)(i). That trial should be on a date to be fixed within the current January 2025 trial window set aside for *Peskett*, with a ten day time estimate. The trial listing for *Frayne* is therefore vacated.

76. Directions in relation to the statements of case, disclosure, witness statements and the instruction by each party of a single expert in engineering/occupational hygiene across all the claims will be needed. I invite counsel to agree a draft.

77. Should the distinct chronological features of *Wormleighton* render it impossible to comply with the disclosure or expert evidence deadlines, the parties will need to seek further directions. However at present the factors set out above strongly support consolidation. It is therefore to be hoped that a joint trial of all four claims, consolidated as one claim, in January 2025 can be achieved.