



IN THE COMPETITION APPEAL TRIBUNAL

Case No: 1751/5/7/25

BETWEEN:—

**(1) MR GRAHAM THOMAS
(2) BEK DEVELOPMENTS LTD
(3) ALLEYHAUS LTD
(4) DALES AND MOORS DEVELOPMENTS LTD
(5) MASONIC HALL LTD**

Claimants

- v -

DURHAM COUNTY COUNCIL

Defendant

Case No: 1760/12/13/25

AND BETWEEN:—

**(1) BEK DEVELOPMENTS LTD
(2) ALLEYHAUS LTD
(3) DALES AND MOORS DEVELOPMENTS LTD
(4) MASONIC HALL LTD**

Appellants

- v -

DURHAM COUNTY COUNCIL

Respondent

REASONED ORDER

UPON the Order of the Tribunal made on 8 June 2026, (i) striking out the proceedings in Case No: 1751/5/7/25 (“**the CA 1998 Claim**”) and Case No: 1760/12/13/25 (“**the Subsidy Control**”)

Claim”), following the delivery of the Tribunal’s reserved judgment ([2026] CAT 47) on 5 June 2026 (the “**Judgment**”), and (ii) reserving the question of costs

AND UPON the application of the Defendant/Respondent (“**the Council**”) made on 10 June 2026 for its costs of, and occasioned by the CA 1998 Claim and the Subsidy Control Claim

AND UPON considering the response of the Claimants/Appellants to that application filed on 15 June 2026

AND UPON considering the reply of the Council filed on 18 June 2026

IT IS HEREBY ORDERED THAT:—

1. The Claimants shall pay the Council’s costs of and occasioned by the CA 1998 Claim and the Appellants shall pay the Council’s costs of and occasioned by the Subsidy Control Claim, each on the indemnity basis.
2. The costs payable pursuant to paragraph 1 above are summarily assessed on the indemnity basis in the total sum claimed of £96,420.03, apportioned as 75% attributable to the CA 1998 Claim payable by the Claimants (i.e. £72,315.02) and 25% attributable to the Subsidy Control Claim payable by the Appellants (i.e. £24,105.01).
3. The Claimants and Appellants shall pay 50% of the relevant sums set out in paragraph 2 above to the Council within 28 days of the date on which this Order is made, and the remaining 50% within 56 days of the date on which this Order is made.

REASONS

1. An order of costs payable on the indemnity basis is justified by the conduct of the Claimants/Appellants, which was unreasonable to a high degree that was “out of the norm”. In particular:
 - (a) As set out in the Judgment, the CA 1998 claim was repeatedly amended by the Claimants, culminating at the hearing in the abandonment of the case then pleaded and a request to set out a completely new case which counsel accepted

would be a “fourth bite of the cherry”, and which the Tribunal found to be hopeless and unsupported by any evidence before the Tribunal.

- (b) Regarding the Subsidy Control Claim, the Appellants strenuously resisted the Council’s application for a stay of that claim, before then conceding at the hearing that the claim would have to be stayed if it was not struck out. There was no sensible basis on which the Appellants could have opposed at the very least a stay of that part of the claim.
 - (c) While the Claimants/Appellants were initially unrepresented, they were subsequently assisted by solicitors and counsel, with submissions that gave the appearance of being drafted by lawyers, a witness statement provided by their solicitors, and representation by counsel at the hearing. The hearing was, at the Claimants’/Appellants’ request, adjourned from the original date in order for the Claimants’/Appellants’ new legal representatives to be properly instructed and prepared for the hearing. The Claimants/Appellants and their legal representatives therefore had every opportunity to put forward a properly formulated and coherent case on both the CA 1998 Claim and the Subsidy Control Claim, but ultimately did not do so.
 - (d) It is also appropriate to take account of the Council’s offer of settlement on 16 January 2026 on the basis that the claims would be withdrawn with no order for costs. That offer expressly noted that indemnity costs would be sought if the offer was not accepted. The Claimants/Appellants were unreasonable to reject that offer, given the outcome of the proceedings.
2. The total sum claimed by the Council is entirely reasonable in circumstances where the Claimants/Appellants advanced serious allegations of impropriety. To defend those allegations the Council had to consider a series of amended claims by the Claimants/Appellants, prepare responses and witness evidence, and prepare for the hearing including incurring the costs of a last-minute adjournment of the hearing in light of the Claimants’/Appellants’ instruction of new legal representatives. The solicitors’ hourly rates are well below the guideline hourly rates, with an appropriate allocation of work between the Council’s solicitors, and the instruction of a single junior counsel whose fees were modest for the nature of the work done. The

Claimants/Appellants have not identified any element of the costs that is said to have been unreasonable. In those circumstances, even if costs had been assessed on the standard basis, I would have considered the total sum claimed to be both reasonable and proportionate.

3. Given the fact that Mr Thomas is not a party to the Subsidy Control Claim, it is appropriate to allocate the costs as between the two claims. An apportionment of 75% to the CA 1998 Claim and 25% to the Subsidy Control Claim is appropriate, given that the Subsidy Control Claim was not issued until 5 December 2025; the majority of the work on the case concerned the CA 1998 Claim; and the only issue regarding the Subsidy Control Claim at the hearing was the question of whether it should be stayed or struck out.
4. In light of the Claimants'/Appellants' financial circumstances it is, however, appropriate to provide additional time for the Claimants/Appellants to raise the sums required to meet the above costs orders.

The Honourable Mrs Justice Bacon DBE
President of the Competition Appeal Tribunal

Made: 23 June 2026
Drawn: 23 June 2026