



**IN THE COURT OF APPEAL, CIVIL DIVISION**

REF: C1/2014/1702

Her Majesty's  
Court of Appeal  
(CIV.GS:15.05.14)

14 JUL 2014

[SEAL]

**GALLAGHER HOMES LIMITED & ANR –v– SOLIHULL METROPOLITAN BOROUGH COUNCIL**

**ORDER made by the Rt. Hon. Lord Justice Sullivan**

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:** **granted, refused, adjourned.** An order granting permission may limit the issues to be heard or be made subject to conditions.

Permission to appeal granted.

**Reasons**

The grounds of appeal have a real prospect of success and there is a compelling reason for this appeal to be heard. Both grounds raise questions as to the proper interpretation of the NPPF which are of wider significance, viz:

- (i) Whether the NPPF, and in particular paragraph 47 thereof, did effect "a radical policy change in respect of housing provision" (paragraph 98 judgment) so as to render the Inspector's approach to the housing provision in the SLP unlawful.
- (ii) Whether the factors identified by the Inspector in paragraph 137 of his Report (paragraph 121 judgment) were not, as a matter of law, capable of constituting "exceptional circumstances" for the purposes of paragraph 83 of the NPPF.

**Information for or directions to the parties**

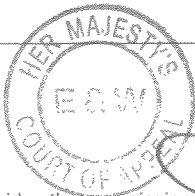
This case falls within the Court of Appeal Mediation Scheme automatic pilot categories\*. Yes  No

Recommended for mediation Yes  No

If not, please give reason:

**Where permission has been granted, or the application adjourned**

- a) time estimate (excluding judgment) 1 1/2 Days
- b) any expedition Expedite so that appeal can be heard in the Michaelmas term.



Signed: \_\_\_\_\_  
Date: 9<sup>th</sup> July 2014

**Notes**

- (1) Rule 52.3(6) 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) Rule 52.3(4) and (5) provide that where the appeal court, without a hearing, refuses permission to appeal that decision may be reconsidered at a hearing, provided that the request for such a hearing is filed in writing within 7 days after service of the notice that permission has been refused. Note the requirement imposed on advocates by paragraph 16(1) of CPR PD 52C.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 7 days of the date of the listing window notification letter and seek to agree the bundle within 21 days of the date of the listing window notification letter (see paragraph 21 of CPR PD 52C).

DATED 9TH JULY 2014  
IN THE COURT OF APPEAL

**ORDER**

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