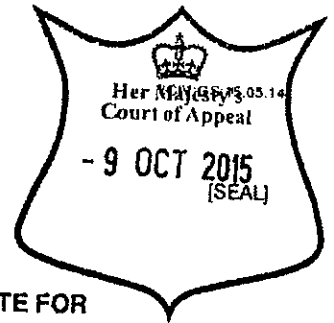


DOCUMENT 6  
COURT OF APPEAL  
DECISION (1)  
9 OCTOBER 2015



IN THE COURT OF APPEAL, CIVIL DIVISION

REF: C1/2015/2945/PTA



WOOD -v- THE SECRETARY OF STATE FOR  
COMMUNITIES AND LOCAL GOVERNMENT  
AND ANR

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

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.

REFUSED

**Reasons**

1. In *Miaris* it was decided that the High Court had power to grant permission to appeal to the Court of Appeal in an appeal under section 289. While it is true that *Miaris* did not specifically address the question whether such an appeal was a second appeal requiring to satisfy the second appeals test, that question was addressed by the Court of Appeal in *Smith International Inc v Specialised Petroleum Services Group Ltd* [2005] EWCA Civ 1357, [2006] 1 WLR 252 at [5] and [6]. The second appeals test does not apply, so the only question is whether the grounds of appeal have real prospects of success.
2. Both the inspector and the judge followed a well-trodden path on the materials available in interpreting a planning permission; and nothing in *Arnold v Brittain* alters those principles. Both the inspector and the judge reached cogent and well-reasoned conclusions, and there is no real prospect of the Court of Appeal taking a different view.
3. Unless the appeal succeeds on the question of interpretation the remaining grounds do not arise.
4. The Secretary of State argues that some of the points sought to be developed in the Grounds of Appeal were not taken before the inspector or the judge. That argument appears to me to be correct; which is another reason for refusing permission to appeal.

**Information for or directions to the parties**

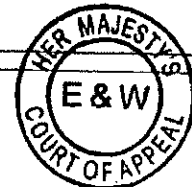
This case falls within the Court of Appeal Mediation Scheme automatic pilot categories\*. Yes  No

Recommended for mediation Yes  No

If not, please give reason:

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

- a) time estimate (excluding judgment)
- b) any expedition



Signed: *Kim Lewis*

Date: 5 OCTOBER 2015

*By the Court*

**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 the 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.

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(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).

Case Number: **C1/2015/2945/PTA**

**DATED 5TH OCTOBER 2015  
IN THE COURT OF APPEAL**

**ORDER**

Copies to:

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Lower Court Ref: CO55382014

