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The Court of Appeal (Civil Division)

Civil Appeals Office
Room E307
Royal Courts of Justice
Strand
London
WC2A 2LL

Your reference

Our reference

LNH/LNH/366530/239
UKM/122630616.1

By Email only: civilappeals.cmsA@justice.gov.uk

24 November 2022

Dear Sirs/Madams

APPELLANT: NATIONAL HIGHWAYS LIMITED

COURT OF APPEAL REF. NOS: CA-2022-001066 AND CA-2022-001105

RESPONDENTS: (1) PERSONS UNKNOWN AND (2) MR ALEXANDER RODGER AND 132 OTHERS

We are instructed by National Highways Limited, the Appellant in the above matter.

On 31 October 2022, the Appellant received the Listing Window Notification Letter from the Civil Appeals Office, which, at paragraph 13, assigned this matter a hear-by-date of 2 October 2023.

Pursuant to Paragraph 26(2) of Practice Direction 52C ("**PD 52C**"), the Appellant hereby respectfully requests that the Court expedite the hear-by-date of this matter under paragraph 26(1) of PD 52C, such that the Appeal will be heard by 24 February 2023. The grounds on which expedition is sought are set out briefly below.

The final injunction that forms part of the Order of Mr. Justice Bennathan made on 9 May 2022 ("**Bennathan Order**") which is the subject of the Appeal has an expiry date of 9 May 2023. The Bennathan Order is due to be considered for an extension at a review date hearing to be listed in April 2023 ("**Review Hearing**"). The Review Hearing is yet to be listed.

The Appellant expects that the determination of the Appeal will be relevant to the manner in which the High Court addresses an extension to the Bennathan Order at the Review Hearing. As such, the Appellant requests that the Appeal is heard in sufficient time prior to the Review Hearing, such that there is adequate time for the Court of Appeal to hand down its judgment and for the High Court to consider the implications of that judgment in good time before the Review Hearing in April 2023.

Furthermore, the Order of the Rt. Hon. Lady Justice Whipple dated 27 October 2022 granting permission for the Appeal provides, when referring to the timeframe in which the Appeal should be heard, that "*Some expedition [is] required, to be heard this term or early next term if possible*".

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Absent expedition, the Claimant risks being placed in the position of having to address the continuation or amendment of the injunctions granted in the Bennathan Order while the appeal on the correctness in law of the Bennathan Order is still outstanding.

The Court will note that there is also a hearing of the appeal against this Court's decision in London Borough of Barking and Dagenham and others v Persons Unknown and others [2022] EWCA Civ 13 before the Supreme Court in February 2023. The need for the Claimant to have the appeal against the Bennathan Order disposed of in advance of the Review Hearing, however, arises independently of the determination of that appeal.

Accordingly, the Appellant should be grateful if its request for expedition of the hear-by-date for the Appeal contained in this letter could be placed before a Judge for consideration at the earliest opportunity.

We look forward to hearing from the Court as soon as possible.

Yours faithfully



DLA Piper UK LLP

CC: The Respondents (by email or by post according to the preference of the Respondents and the terms of the Order of the Rt. Hon. Lady Justice Whipple dated 8 November 2022).