



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **CAM/38UE/HNA/2019/0006**

Property : **Tintern House, 37 High Street, Banbury, Oxon
OX16 5ET**

Applicants : **Maria Carr**

Respondent : **Cherwell District Council**

Type of Application : **Permission to appeal**

Tribunal Members : **Tribunal Judge Evans
Mrs S Redmond MRICS
Tribunal Judge Dutton**

Date of Original Decision : **18 July 2019**

DECISION

DECISION OF THE TRIBUNAL

1. The tribunal has considered the Applicant's request for permission to appeal dated 13th August 2019 and determines that:
 - (a) it will not review its decision; and
 - (b) permission be refused.
2. In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the applicant may make further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal.
3. The Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710); or by email: lands@hmcts.gsi.gov.uk .

REASON FOR THE DECISION

4. The reason for the decision is that the Tribunal had considered and taken into account all of the points now raised by the Applicant, when reaching its original decision.
5. The original Tribunal's decision was based on the evidence before it and the Applicant has raised no legal arguments in support of the application for permission to appeal.
6. For the benefit of the parties and of the Upper Tribunal (Lands Chamber) (assuming that further application for permission to appeal is made), the Tribunal has set out its comments on the specific points raised by the Applicant in the application for permission to appeal, in the appendix attached.



Name: Tribunal Judge Evans

Date: 21 August 2019

APPENDIX TO THE DECISION
REFUSING PERMISSION TO APPEAL

For the benefit of the parties and of the Upper Tribunal (Lands Chamber), the Tribunal records below its comments on the grounds of appeal. References in square brackets are to those paragraphs in the main body of the original tribunal decision.

Specific comments on the grounds of appeal

There are two points on which the applicant seeks to appeal.

The first is against the finding in [63] that the Applicant could provide no documentary evidence showing a request for access for specific works to Room 5 had been made and refused. The Tribunal emphasises the word “specific”. There was no evidence by email that Ms Stefanova was asked to give access specifically for fire safety works. In any event, the Tribunal went on to find [63] that Ms Stefanova was not obliged to move to any room without good reason, that she was credible when cross-examined on this point, and that the argument that the Respondent advised Ms Stefanova not to give access should be rejected. Therefore, even if the Applicant could show specific requests for access, Ms Stefanova’s actions were not to be criticised, in the Tribunal’s view.

As to the second, this is sought on the basis that the Applicant did not call Mr Kearney of Diamond Fire & Security to give oral evidence. However, the primary difficulty is that the Applicant had not provided a witness statement from Mr Kearney in accordance with directions. In any event, the Tribunal decision is at pains to point out that the evidence from Mr Kearney was duly considered [76]. For the reasons stated under the first point of appeal, the Applicant’s contention that Ms Stefanova unreasonably refused to give access has no real prospect of success.