



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

Case reference : **CAM/OOKG/HNA/2019/0016**

Property : **521 London Road, South Stifford, Grays,
Essex, RM20 4AD**

Appellants : **Palmview Estates Ltd**

Representative : **None**

Respondents : **Thurrock Council**

Representative : **Nick Ham (counsel)**

Type of application : **Appeal against financial penalties**

Tribunal member(s) : **Jim Shepherd
Mrs M Hardman FRICS IRRV(Hons)
Mr A Ring**

Venue : **Romford County Court**

Date of decision : **15 March 2020**

PERMISSION TO APPEAL DECISION

DECISION OF THE TRIBUNAL

1. The tribunal has considered the Respondent's request for permission to appeal dated 11th March 2020 and determines that:

it will not review its decision; but

it will grant permission to appeal on the basis of Ground 1 only.

2. In accordance with rule 24 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the appellant must provide a notice of appeal to the Upper Tribunal so that it is received within one month after the date that the First-tier Tribunal sent notice of this grant of permission to the appellant.
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. There is a reasonable prospect of success in arguing that the Tribunal's interpretation of the law in relation to the burden of proof in a reasonable excuse defence was incorrect and that the commentary in the Encyclopedia of Housing relied upon by the Tribunal is also incorrect. Accordingly permission to appeal is given in relation to Ground 1 (Burden of proof).
5. Permission is refused in relation to Grounds 2 (Reasonable excuse) and 3 (The Property Condition Offence).
6. Ground 2 is essentially a challenge to findings of fact made by the Tribunal in relation to the question of whether the Appellant was told or led to believe that an application for a license was a waste of time by the local authority. The Ground focusses on an alleged conversation between the Appellant and an officer of the council called Mr Ahmed. The Tribunal's decision was not solely based on this conversation hence the expression "told or led to believe". In the circumstances of the case where the Local Authority had made a plain error in its planning decision the Tribunal was entitled to find that the Appellant had a reasonable excuse for operating without a license during the relevant period. The Tribunal is not condoning breaches of the law and it is disingenuous to suggest that it is.
7. Ground 3 is misconceived. The Tribunal took care to apply the offence matrix and gave reasons for the departure from the original decision.
8. 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 respondent may make further application for

permission to appeal to the Upper Tribunal (Lands Chamber) in relation to Grounds 2 and 3. 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.