



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

Case Reference : HAV/43UJ/BSR/2025/0001

Property : Laurels, Salisbury Terrace, Mytchett, Surrey
GU16 6DB

Applicant : Centaur Estates Ltd

Representative :

Respondent : The Health and Safety Executive as the
Building Safety Regulator

Representative : Mr C Adjei

Type of Application : Appeal against a Decision of the Building
Safety Regulator

**Tribunal
Member(s)** : Regional Judge Whitney
Mr I Perry FRICS
Mr A Thomas RBI, FRICS, MIFireE

Date of Hearing : 30 July 2025

Date of Decision : 8 October 2025

DECISION

Decision

1. The appeal is dismissed.

Background

2. The Applicant seeks to appeal pursuant to Section 43A(3) of the Building Act 1984 a decision of the Building Safety Regulator.
3. The Respondent's decision which is subject to this appeal is dated 14th March 2025. The application was received by the Tribunal on 2nd April 2025 and appears to have been made within 21 days of the decision being issued.
4. Directions were issued on 24 April 2025 for an oral case management hearing. That took place on 16th May 2025 and directions were given including for a final hearing.
5. The parties have substantially complied with those directions. The Tribunal had before it an electronic bundle of 166 pages. Page references in [] are to pdf pages within that bundle.

The Law

6. This was an appeal pursuant to Section 43A(3) of the Building Act 1984 ("the Act"):

"Section 43A Appeals under sections 20, 39 and 50: England

(1) This section applies to an appeal to the regulator or the tribunal made under section 20(5), 39 or 50(2).

(2) On determining the appeal, the regulator or the tribunal may give any directions it considers appropriate for giving effect to its determination.

(3) Where the appeal is determined by the regulator, a relevant person may appeal to the tribunal against the regulator's decision (and subsection (2) applies in relation to this appeal).

(4) "Relevant person" means—

(a) the appellant;

(b) the local authority or registered building control approver."

7. We have also had regard to the Building Safety Act 2022 and sections 103-106 inclusive.

Hearing

8. The hearing took place remotely by Cloud Video Platform. Mr Belnik, director, appeared for the Applicant. Mr Adjei, counsel appeared for the Respondent together with Miss Molho, Deputy Director Technical Policy Team Building Safety Division and Mr Romeyer, Head of Technical Policy on Fire and Structural Safety Standards, Technical Policy Team.
9. Both Mr Belnik and Mr Adjei had supplied skeleton arguments.
10. Below sets out a brief summary of the hearing which was recorded.
11. Mr Belnik provided an opening to his case. He confirmed his witness statements [92] and [98] were true. He was cross examined by Mr Adjei.
12. Mr Belnik agreed the injunction obtained by the local authority, Surrey Heath Borough Council, against the Applicant was still valid and the Stop Notice continued to apply.
13. Mr Belnik accepted it was not impossible to comply with the requirements of the Building Regulations however he suggested that it was onerous and difficult. The solution the Applicant had proposed achieved compliance by alternative means.
14. Mr Belnik suggests the Regulator failed to take account of the fact that the roof of the ground floor was a platform. He suggests the Regulator made a procedural error in not taking account of the site-specific circumstances which exist.
15. Upon questioning by the Tribunal Mr Belnik confirmed he had been personally involved in building and development since 2007. He stated he was aware of solutions to the issues and proposed fire escape windows. He believes his method of compliance by way of windows, deployable ladders, using the ground floor pitched roof as a platform thereby reducing the distance of each stage of the escape route to less than 4.5m in height, is acceptable.
16. He suggested the pitched roof has a slope of 12 degrees and is a platform upon which a person could stand. He suggested this led to a safe means of escape.
17. Mr Adjei then called Miss Molho. She confirmed her statement [143] was true.
18. Mr Belnik cross examined.
19. She confirmed she does not have technical expertise in respect of building regulation technical requirements. She had signed and issued the decision letter.

20. She explained she was satisfied that the case worker had the information they required to make a decision. The case worker had considered the information received and carried out an assessment. A template decision letter would then be prepared which would then be signed off and issued by her.
21. The Tribunal had no questions for Miss Molho.
22. Mr Adjei called Mr Romeyer. He confirmed his statement [109] was true.
23. Mr Belnik cross examined him.
24. Mr Romeyer confirmed he is the Head of Technical Policy on Fire and Structural Safety. He explained within his team he has a structural engineer and 2 fire engineers together with case officers. Approximately 10-15 people in the department.
25. By reference to his witness statement he explained the process undertaken by the team. (see [116-118]). He confirmed he had regard to the statement from Surrey Heath Building Control [38].
26. He stated he was satisfied he understood the position and was able to form a view. He did not believe there was any information missing.
27. He referred to the concept of place of “ultimate safety” ([125] para 68). He explained this is a fire safety concept and refers to people reaching a place not part of the actual building. He suggested it was a well-known concept. He explained he looked at the proposals in the round.
28. He was referred to a MHCLG published case ref APP/007/002/012 dated 18 April 2013 being an appeal against a refusal to relax or dispense with requirement B1 of Part B of Schedule 1 to the Building Regulations 2010 previously determined by the Secretary of State. He stated he had reviewed but was satisfied that the issue was significantly different in that in that case:
- There were fixed ladders from the top of the building to the bottom;
 - The roof on to which someone escaping descended was a flat roof (not pitched as here);
 - The building was converted into a block of flats with different compartmentalisation that in this case;
29. Mr Romeyer confirmed when the letter was prepared (see [55] para beginning “Alternative escape....”) he had not seen the additional evidence now provided by Mr Belnik from Mr Irvine. In his opinion evidence re the loading of the roof would not change the decision.

30. In his opinion the means of escape is not adequate. He agreed the windows meet guidance but the entirety of the proposed method was not appropriate in his opinion. The need to get out of the top floor window and then to jump down on to the first floor pitched roof and then from that to the ground meant it was not a suitable escape route. The first-floor roof was of pitched tiled construction. The use of the metal rope ladders was in his opinion highly unreliable.
31. The Tribunal had no questions for Mr Romeyer.
32. Mr Adjei made his submissions.
33. He suggested the Tribunal was limited to only considering those matters the Regulator had at the time of reaching its decision. It is for the Tribunal to consider if the decision was correct at that time.
34. He submitted Mr Belnik was stating he had complied, not that there should be any dispensation or relaxation. He suggested this was not within the Tribunal's jurisdiction as to whether the method Mr Belnik proposed was compliant. It is not for this Tribunal to quash the Stop Notice. He suggests we have no power to direct the council simply to consider the Regulators decision.
35. He suggests that there is no error of fact. He referred to [162] Approved Document B and suggested it was clear the building was a three-storey building and the escape route was more than 4.5m above ground level.
36. He accepted that the Applicant could choose a different method to ensure compliance, the Guidance does not provide every method of compliance. He suggests the method proposed was not compliant.
37. He reminded the Tribunal that Mr Irvine, the Applicant's structural expert was not in attendance nor had he provided a statement. He suggested we should take what was said with caution.
38. In respect of the previous decision of the Secretary of State he had drawn this to the attention of the Tribunal and Mr Belnik. He referred to the distinguishing features Mr Romeyer referred to and suggested in any event such a decision is not binding upon this Tribunal.
39. He concluded that there was no error of fact or law in making the decision. It was for the Applicant to supply all evidence it wished the Regulator to take account of and not for the Regulator to question the Applicant to prove the Applicant's case. The appeal should be dismissed.
40. In reply Mr Belnik suggested there are no prescriptive methods of compliance. He suggested he has shown a method of compliance. He suggested there was an appropriate means of escape via the window with an escape route via the roof below and the ladders supplied. The drop from the window to the roof is 2.7m and he suggests this should be fine.

41. He suggests Mr Irvine had provided calculations as to the strength of the pitched roof and we should accept his emails as evidence. He suggested if the Regulator was not happy then they could have reached out to him for further information or evidence. He suggests the appeal should be allowed.

Decision

42. In reaching our decision we have had regard to all of the submissions and oral evidence. We have read the totality of the bundle and considered the skeleton arguments.
43. In particular whilst we did not inspect we had regard to the photographs at [66-79].
44. The Property is self-contained semi-detached house. Plans are at [57, 64 & 65]. The ground floor is almost entirely open plan with the staircase leading off the kitchen/living room. There are 2 storeys above. The top storey is a bedroom built within the roof with dormer windows. It is escape from this room which has led to the appeal.
45. We are satisfied that the grounds of appeal did not properly identify any procedural irregularity in the method adopted by the Respondent. The Applicant focussed on the fact that he believes that he had a safe system in place which in his submission the Respondent should have accepted as such.
46. Mr Belnik has fitted an escape window to the rear dormer. There is in this room a metal rope ladder and points to attach the same above the window. This leads out to the pitched tiled roof of the ground floor extension. This is said to be 2.7 m below the third-floor window. To the side of the house Mr Belnik has attached a metal rope ladder to be unrolled and used for descending to the ground.
47. At [58-63] are calculations and emails prepared by Mr Irvine. Mr Irvine is said to be a structural engineer. He was not in attendance and did not give evidence. Mr Belnik suggests it is clear from these documents that the pitched tiled roof is strong enough to make it safe for a person to jump on to from the dormer window in the third storey. He did not give any clear evidence as to what might happen to any person jumping onto a sloping roof. He suggests the method he has proposed provides an alternative and safe method of escape such that we should overturn the decision of the Regulator.
48. We accept the submission of Mr Adjei that our role is simply to consider whether or not we allow an appeal of the decision made by the Regulator. Mr Adjei suggests that we should only consider material that was before the Regulator when making their decision.
49. In principle we agree that generally in considering such an appeal we should limit ourselves to considering information which was before the

Respondent when they made their decision. We do however accept that there may be circumstances where it would be appropriate to consider alternative and further evidence obtained after the date of the decision.

50. In this case Mr Belnik invited us to consider the documents provided by Mr Irvine. It was unclear why these had not been obtained and provided to the Respondent when they were making their decision. We agree it is for the Applicant to make their case to the Regulator. We note that Mr Irvine did not attend the hearing and had given no statement. We accept the submission of Mr Adjei that we should not take account of his evidence. If we were wrong on that point we did consider the same and putting it at its highest we were not satisfied that it caused us to change the decision we made.
51. We consider the method of escape to be improbable and inherently dangerous. To suggest that, in an emergency, climbing from a third storey window, affixing a rope ladder and climbing or jumping on to a pitched tiled roof and then jumping or using a second rope ladder to reach the ground to be a safe system we find incredulous. We are satisfied that this system can be distinguished from the case (which we agree we are not bound by) referred to above on the grounds identified by Mr Romeyer. To suggest jumping or climbing on to a pitched tiled roof in an emergency situation produced a safe system of escape is not sustainable in our judgment.
52. We heard no evidence as to why there could not have been compartmentalisation for the staircase or other measures. It appears this was because the Applicant simply preferred this “look” for the Property. It seemed to us that Mr Belnik had given no proper consideration beyond his proposed solution which was cheap and impractical. It did not meet the functional standards in the building regulations in our judgment.
53. We were satisfied that the appeal should be dismissed.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.