



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

**Case reference** : CAM/38UB/HNA/2024/0614  
CAM/38UB/HNA/2024/0615  
CAM/38UB/HIR/2025/0001  
CAM/38UB/HIN/2025/0002

**HMCTS code** : P:PAPERREMOTE

**Property** : 1-3 The Blarney Stone,  
Lower Windsor Street,  
Banbury, OX16 5AS

**Applicant** : OX1 Limited  
Tariq Qume Khuja

**Respondent** : Cherwell District Council

**Type of application** : Application for permission to  
appeal

**Tribunal members** : Judge A. Arul  
Gerard F. Smith MRICS FAAV

**Date of Decision** : 22 December 2025

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**DECISION – Applicants’ Appeal**

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## **Decision**

1. The Tribunal has considered the Applicants' request for permission to appeal to the Upper Tribunal (Lands Chamber) dated 25 November 2025 and determines that:
  - a. It will not review its Decision; and
  - b. Permission be refused for appeal to the Upper Tribunal (Lands Chamber).
2. The Applicants may make a further application for permission to appeal directly to the Upper Tribunal (Lands Chamber). Any such application must be made 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. Where possible, the Applicants should make any further application for permission to appeal online using the Upper Tribunal's online document filing system, called CE-File. This will enable the Upper Tribunal to deal with it more efficiently and will enable the parties to follow the progress of the application and submit any additional documents quickly and easily.
4. Information about how to register to use CE-File can be found by going to the following web address:  
  
<https://www.judiciary.uk/guidance-and-resources/practice-direction-for-the-lands-chamber-of-the-upper-tribunal-electronic-filing-ce-file/>
5. Alternatively, it is possible to submit an application for permission to appeal by email to: [Lands@justice.gov.uk](mailto:Lands@justice.gov.uk).
6. The Upper Tribunal can also be contacted by post or by telephone at: Upper Tribunal (Lands Chamber), 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (Tel: 020 7612 9710).

## **Reasons**

7. The relevant provisions in respect of appeals are set out in the Practice Directions of the Upper Tribunal (Lands Chamber) dated 2 January 2024 ("the Practice Directions").
8. Paragraph 11.14 of the Practice Directions provides that permission to appeal will be granted if the Tribunal considers that the proposed appeal has a realistic prospect of success, unless the sum or issue involved is so modest or unimportant that an appeal would be disproportionate. Permission to appeal may also be granted if the Tribunal considers there is some other good reason for an appeal.
9. There are five principal grounds of appeal, identified as A, B, C, D and E, which are addressed in turn below.

## **Ground A**

10. Ground A argues that the Tribunal failed to conclude (and by inference, erred) that all notices signed by an officer of the Respondent, Carolyn Arnold, were signed *ultra vires* because Ms Arnold was not the proper officer and had no authority to sign those notices.
11. Paragraph 100 of the Decision explains the Tribunal's finding that Nicola Riley, the proper officer, had as a matter of fact delegated authority to Ms Arnold to sign notices. The Tribunal was shown a signed authority to this effect (Page 33 of the Respondent's Bundle). The Respondent's Scheme of Delegation, shown at page 200 of the Applicants' Bundle, states: "*Officers with delegated powers may in writing authorise another officer or officers to exercise those powers*". There was no finding that Ms Arnold was herself the proper officer, or that she needed to be given the delegated powers bestowed upon her. There is no realistic prospect of a successful argument that the Tribunal's finding that Ms Riley could, and did, delegate her power as a proper officer to her subordinate, Ms Arnold, was perverse or irrational.

## **Ground B**

12. Ground B argues that the Tribunal erred in finding that there was a continuing breach of the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 ("the Regulations") to at least 16 August 2023, and consequently the notices of intention to impose a financial penalty were out of time. The notices of intention referred to 8-10 August 2023. Those are the dates when the offences were first identified. The Tribunal found as a fact that the offences continued after that date. That finding was open to it on the evidence. The Applicants have identified no principle of law which constrains the financial penalty to the date of discovery where there is a continuing breach. Indeed, Schedule 13A of the Housing Act 2004 ("the Act") expressly acknowledges that the 6 month time limit runs from the last day of the conduct.
13. The grounds of appeal seem to assert that the date of the notice of intention was 'altered' – this is not correct, the Tribunal accepted that the dates identified were 8-10 August 2023, the issue is the calculation of time. Paragraph 2 of Schedule 13A to the Housing Act 2004 permits the notice of intent to be served: "*within the period of 6 months beginning with the last day on which the conduct occurs*". It was open to the Tribunal to find that the conduct was continuing. Paragraph 3 of Schedule 13A to the Housing Act 2004 does not require the notice to give comprehensive dates of offences, nor does it preclude a penalty covering other dates. Indeed, as a matter of logic, the provision for service of a notice whilst conduct is continuing under Paragraph 2(2)(a) infers that a notice of intent may, by definition, not include future conduct.
14. The Applicants also argue that the notices of intent to issue a financial penalty were not 'given'. Paragraph 114 of the Decision sets out the Tribunal's findings, in particular that service by email was insufficient and that simply leaving a document in a post room was not in itself evidence of service.

However, the Tribunal heard evidence from Ms Arnold that the notices were sent on 7 February 2024. This was not challenged by the Applicants. The tracking information provided by the Applicants is inconclusive as to the notices being signed for as received. However, the Tribunal was shown evidence that the Applicants had in fact received the notices – for example an email dated 21 February 2024 in which Mr Khuja refers to having received them. There was no suggestion by either party that the defects identified in the improvement notices had been rectified between the visit on 16 August 2023 and 21 August 2023 which is the date six months prior to the aforementioned written acknowledgement of actual receipt of the notices of intent. The Applicants’ reference to works being completed by 11 August 2023 relates to the urgent fire safety works, not all the required works.

### **Ground C**

15. Ground A argues that the Tribunal erred in law in finding that Ms Arnold was authorised to exercise the power of entry under section 239 of the Act.
16. The first argument is that the power could only be exercised if Ms Riley authorised it in writing and that this authority must state the particular purpose of the entry. The Tribunal was shown the authority signed by Ms Riley on 8 November 2023 (Page 33 of the Respondent’s Bundle). This stated that Ms Arnold was: “... *appointed and authorised by me to exercise powers delegated ... This includes powers to enter premises in accordance with the specified legislation*”. The accompanying summary of legislation included the Housing Act 2004 and expressly stated: “*This summary includes the officer’s authority to exercise the Council’s powers and duties, including powers of entry.*” The evidence was clear that Ms Arnold had a signed authority from Ms Riley to exercise powers under the Act, including the power of entry. The Applicants contend for a strained interpretation of ‘particular purpose’ to mean ‘particular property’. That is not what section 239(9) of the Act says.
17. The second argument is that Ms Arnold did not have authority to enter the Property, and this defect could not be rectified. Paragraph 98 of the Decision makes clear that the Tribunal accepted Ms Arnold’s evidence that she entered flat 2 of the Property with the tenant’s permission. Under section 239(5) of the Act, the authorised person must be exercising their power under section 239(3). The evidence of the authorised person, Ms. Arnold, was that she was not exercising her statutory powers on 8 August 2023.
18. It was common ground that Mr Khuja, had at least 24 hours’ notice of visits on 10 August 2023 and 16 August 2023 and, in fact, attended those inspections. The Applicants have misquoted paragraph 99 of the Decision, this was referring to those subsequent visits. The visit on 8 August 2023 was not a section 239 visit. Even if the evidence had been inadmissible from that visit, further photographs were obtained during those subsequent visits.

### **Ground D**

19. Ground D argues that the Tribunal erred in finding that Mr Khuja had consented or connived with OX1 Limited to commit the offences. The argument is that, for such consent, being the controlling mind of the company

is insufficient and Mr Khuja must have had ‘a level of knowledge’ about the underlying offence. This is to be assessed to the standard of beyond reasonable doubt.

20. The Applicants argue that Mr Khuja was not in control of the ground floor premises due to the existence of a commercial lease. The existence of the lease may impact access for remedial works but it does not negate control of the remainder of the Property for the purposes of the Regulations. Paragraph 46 of the grounds of appeal lists out breaches of the Regulations, however minor, which were not contingent upon access to the ground floor commercial premises. This ground of appeal appears to try and re-run the hearing to contend that the breaches were minor or that ones the Applicants, or at least Mr Khuja, had no control over. It was permissible for the Tribunal to find that a breach of the Regulations had occurred and that it was reasonable to expect the Applicants to have had control over the relevant parts of the Property where the breaches were occurring (leaving aside other parts where access was required for remedial works).
21. The Applicants argue that consent cannot be assumed or attributed solely on the basis of the company’s controller. The evidence before the Tribunal was that Mr Khuja was the sole director and shareholder of OX1 Limited. There was no evidence from either party that any person other than Mr Khuja was ultimately responsible for managing the Property and in control of it (irrespective of delegation to Mr Khuja’s subordinate staff in his property management business).
22. The Applicants’ argument that, if there is no knowledge, there cannot be consent, ignores the fact that these are offences by omission. Consent is deemed by the failure to comply with the statutory obligations.

### **Ground E**

23. Ground E argues that the Tribunal erred in that, having identified a potential for double counting of financial penalties, it failed to address the issue. As paragraph 113 of the Decision identifies, there is a clear statutory basis for a director who has consented to the offence to face a separate penalty to the company. Having found such consent, the Tribunal had no discretion to avoid the consequence that Mr Khuja as well as the company had committed the offence and was liable to a penalty. There can be no error of law where the Tribunal were bound by section 251 of the Act.

### **Summary**

24. None of the grounds have a realistic prospect of success and they are largely seeking to re-run the factual enquiry which the Tribunal undertook in reaching its decision.
25. In the circumstances the Tribunal does not consider that there is any realistic prospect of a successful appeal in this case. The Tribunal also does not

consider that there is any other good reason for an appeal and therefore permission to appeal is refused.

**Name: Judge A. Arul**

**Date: 22 December 2025**