



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

Case reference : **BIR/31UG/LIS/2021/0049**

Property : **Flat 1, Burton Hall, Burton Hall Drive,
Burton Lazars, Melton Mowbray,
Leicestershire LN14 2UN**

Applicant : **Mr Michael Arnott**

Representative : **None**

Respondent : **Waterglen Ltd**

Representative : **J B Leitch, Solicitors**

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

Tribunal member(s) : **Judge C Goodall
Mr R P Cammidge FRICS**

Date of decision : **25 May 2022**

DECISION REFUSING PERMISSION TO APPEAL

DECISION OF THE TRIBUNAL

1. The tribunal has considered the Applicant's request for permission (dated 17 May 2022) to appeal the Tribunal's decision of 6 May 2022, 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 a 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. Where possible, you should send your further application for permission to appeal **by email** to Lands@justice.gov.uk, as this will enable the Upper Tribunal (Lands Chamber) to deal with it more efficiently.
4. Alternatively, 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).

REASONS FOR THE DECISION

5. The test for whether to grant permission to appeal is whether there is a realistic prospect of success.
6. In the present case, the tribunal does not consider that any ground of appeal has a realistic prospect of success.
7. For the benefit of the parties and the Upper Tribunal (Lands Chamber), the tribunal records below its comments on the grounds of appeal in the following paragraphs. References in square brackets are to those paragraphs in the main body of the original tribunal decision.
8. The Applicant raises a ground of appeal relating to the correctness of the Tribunal's finding about the effect of the Regulatory Reform (Fire Safety) Order 2005. These findings were made in the Previous Decision (as defined in [3]). An appeal against those findings is out of time.
9. In so far as the Applicant challenges whether the Tribunal was correct to accept that the LFRS letter was "legislative pressure to install an integrated system" in the flats as well as the communal areas, we refer to [5] where the LFRS requirements clearly require a fully integrated system. Installation of fire alarms in the common areas alone would not have complied with the requirement to install an LD2 fire alarm system.

10. The kernel of the Applicant's grounds for appeal raises the question of whether service charge costs can ever be levied for work undertaken in the private flats of the lessees.
11. The Tribunal's view was expressed in paragraphs [37] and [38]. Our answer is that it depends on the terms of the lease. We considered that paragraph 12 of the 5th Schedule is clearly expressed, and permits works in the private flats to install a system that protects the whole building including the communal areas.
12. The Applicant was correct to assert that if permission to enter a flat had been refused, work under the Fire Safety Order could not have been carried out in it. But permission was not refused by any lessee except the Applicant.
13. In our respectful view, it is not arguable that paragraph 12 of the 5th Schedule does not permit the Respondent to carry out works in the flats of lessees who have consented to those works being carried out, where the works are to install a fire alarm system providing protection to the whole building, including the common parts.

Name: Judge C Goodall

Date: 25 May 2022