



2024UT68

Ref: UTS/AP/24/0033

**DECISION OF**

Sheriff F McCartney

**ON AN APPEAL IN THE CASE OF**

Mr Nigel Chapman

Appellant

**and**

Assessor for Lothian Valuation Joint Board

Respondent

**FTS Case Reference FTS/LTC/CT/23/00858**

22 November 2024

**Decision**

[1] The Upper Tribunal allows the appeal, quashes the decision of the First-tier Tribunal for Scotland dated 30 January 2024, and remits to a freshly constituted tribunal to consider the appeal of new.

## **Introduction**

[2] This is an appeal against the decision of the First-tier Tribunal for Scotland (FTS) dated 30 January 2024.

[3] The appellant submitted an appeal to the FTS following the refusal of Lothian Valuation Joint Board (the respondent) to place his home in band F for council tax purposes. The respondents had placed his home as being in band G. The appeal was competently made in terms of section 287 of the Council Tax (Alteration of Lists and Appeals) (Scotland) Regulations 1993). The FTS refused the appeal. The FTS gave the appellant leave to appeal to the Upper Tribunal (UT) on some of the grounds he sought. The UT subsequently refused leave on the grounds for which the FTS had not granted permission.

[4] The context of this appeal is that residential properties in Scotland are placed into bands for council tax purposes. The more valuable the property is, the higher the letter of banding and thus the council tax that is due. All properties in Scotland were valued as at 1 April 1991. The appellant bought a property in 2022, built the same year. For newly build properties, the same date is used for valuation purposes: that is as at 1 April 1991. Although the appellant's property did not exist in 1991, the law requires the property is valued at 1991. The appellant argued before the FTS that his property should be valued at Band F in 1991; the respondent argued before the FTS that its banding decision of Band G was correct.

[5] The appellant argued before the FTS that the respondent was incorrect to rely on property prices in the Gilberstoun estate for 1991. He argued that the respondent should consider valuations (as at 1991) of properties in the Stoneyhill estate. He put before the FTS a table of valuations for Stoneyhill including three streets: Clayknowes Place, Clayknowes Road and Denholm Road. That table was based on valuations around 1991. His submission before the FTS was that, despite these properties having a larger gross external area (that is the size of the property), the properties in Stoneyhill were still a more suitable comparator to his property than those in Gilberstoun. The properties in Stoneyhill are within band F for council tax purposes. Accordingly the issue before the FTS was whether the correct comparable for the appellant's property was Stoneyhill as argued by the appellant, or Gilberstoun as argued by the respondent.

[6] A hearing was assigned for 17 September 2024. Both parties lodged written notes of argument. Whilst there are a number of grounds of appeal, much of the hearing focused on the reasons given by the FTS for refusing the appeal.

### **Grounds of appeal**

[7] The appellant represented himself during this hearing. For ease, I have summarised his grounds of appeal, noting most of the focus during the hearing was on the issue of reasons. The grounds were:

1. Making findings in fact without a basis in the evidence (referring to findings made re the size of the property)
2. Making findings in fact without a basis in the evidence (referring to the way the FTS dealt with evidence on the tone sales evidence (that is property banding evidence))
3. Taking a wrong approach to the case (relating to the reasons given at paragraph 4.4 (iii) of the FTS' decision for accepting the evidence of the respondent)
4. Error in law (referring to reasons given for accepting the evidence of the respondent re the rejection of the comparable properties at the Stoneyhill estate)
6. Error in law (referring to reasons given for preferring the evidence of the respondent relating to the Gilberstoun estate)
7. Error in law (referring to the weight given by the FTS re the geographical situation of the property relative to amenities)
9. Error in law (referring to the lack of reasons in relation to the accepting the respondent's reliance on properties in Gilberstoun)

[8] Each ground of appeal was opposed.

### **Discussion**

[9] As a generality, I accept the respondent's submissions as to the generality of the law the UT must apply as per paragraphs 5 and 6 of their written arguments (concerning findings in fact).

[10] The respondent argues in paragraph 7 of its written arguments that a court, and the UT, should be reluctant to interfere with a decision of a tribunal concerning a matter of

evaluation or judgement (referring to *Advocate General for Scotland v Murray Group Holdings* 2016 SC 201). Whilst the appellant's written case at times concentrates on detailed and specific facts, taken as a whole the focus of his appeal is as to the reasons given by the FTS in rejecting his arguments. This is acknowledged by the respondent (see paragraph 27 of their written arguments). As such, I do not consider the dicta in the *Murray Group* regarding whether the issue of deference is central to the issue in this case. The issue for the UT, broadly covering most of the grounds of appeal, is whether the FTS have sufficiently explained their decision.

[11] There is an overlap in many of the appellant's grounds of appeal, particularly ground 2 onwards. The reasons given for upholding grounds 2, 3, 4, 6, 7 and 9 should be read together.

### *Ground 1*

[12] The FTS made a finding of the size of the appellant's property, finding it was 139.48m<sup>2</sup>. Other properties in the appellant's estate are said to be 2 square metres smaller. The appellant disputed this, arguing those other properties were the same size as his. The question of the correct size of his property was of importance, as the appellant had provided detailed information on the size of properties in Stoneyhill, which he suggested were more suitable comparators for valuation.

[13] Permission was granted by the FTS on this ground. In granting permission, the FTS Temporary Chamber President explained she had listened to the recording and noted the appellant had cross-examined the respondent's witness as to the correct size of the property.

[14] The other houses in the appellant's estate (no matter what the correct size is) are all within the same council tax banding as the appellant's home. Whilst it was a disputed fact, (and the FTS should have explained why it made the finding that it did that the size was 139.48m<sup>2</sup>) in the context of this appeal, nothing turns on that issue. That is because, whatever the correct size, the FTS did not reject the appellant's proposed comparable properties on the basis that such properties were of a different size compared to the appellant's. As such, whether the FTS was correct to make this finding, that argument does not take the appellant any further in the context of this appeal.

[15] However, given the issue of comparable properties will arise in the future, the question of the correct size of the appellant's property is likely to be relevant in future.

[16] The appellant raises other matters under the proposed first ground of appeal, being the property address and postcode, and its exact location. I do not find that any of those matters form an error in law. That is because, on their own, they are not significant enough to show that the FTS made an error in understanding the location of the appellant's property.

[17] This ground is refused, albeit the issue of the correct size of the appellant's property is likely to be a live matter at a future hearing.

### *Ground 2*

[18] The appellant attacks the FTS making a finding in fact without the evidence to do so, referring to paragraph 4.4 (iii) of the FTS decision, which deals with a table drawn up by the appellant and put before the FTS. This table set out sales information for properties in Stoneyhill. At paragraph 4.4. (iii) the FTS acknowledge the existence of this table, but dismiss it on the basis that it does not contain valuations of the properties for around 1991, being the relevant date for the property to be valued.

[19] In fact, the table contains details of sales of properties between approximately 1991 and 1993. It is agreed the FTS was wrong in its understanding of the information contained in the table. Although the respondent concedes the FTS was incorrect, it argues the error is not material. That is on the basis that as the FTS rejected the appellant's argument that properties in Stoneyhill were the correct comparator to the appellant's property, then the error by the FTS made no difference to its decision. That was clear, in the respondent's view, because the FTS said later in the same paragraph that "[t]he Tribunal also noted and agreed with the reasons given by the Assessor's witness for these properties not being helpful in identifying the correct banding for the Property." When referring to these properties, the FTS was referring to Stoneyhill properties. As such, the respondent's argument is that the FTS gave a comprehensive answer to the rejection of the table, whether it misunderstood the information in the table or not.

[20] The FTS deals with the appellant's table at paragraph 4.4(iii) of its decision, noting:  
"The Appellant provides various alternative sales comparables which he argues provide better sales evidence than those houses identified by the Assessor. Unfortunately, only current market values or sales prices distant to 1991 are provided for those comparables so the Tribunal was not inclined to take these into account."

[21] I reject the respondent's argument that the error by the FTS made no difference in the circumstances. The question of the correct comparator was the critical issue before the FTS. The crux of the appellant's argument was Stoneyhill was the correct comparator, and if that were so, the table was critical in showing that band F was correct. The appellant provided carefully researched information for the FTS to consider. He had put before them information on the size of each property. He provided sales information. He analysed distances between various local amenities, arguing that such information supported his argument that his home was more aligned with the estate of Stoneyhill rather than Gilberstoun. The issue was clearly focused for the FTS to accept or reject his argument regarding Stoneyhill.

[22] The FTS went on to say "[t]he Tribunal also noted and agreed with the reasons given by the Assessor's witness for these properties not being helpful in identifying the correct banding for the Property". The respondent argues this forms a complete answer for the rejection of Stoneyhill as a comparator, and thus makes the error in relation to the table of no relevance, as it would not have made any difference to the FTS's decision. In other words, the error is negated by the rejection by the FTS of Stoneyhill as a comparator.

[23] In order to consider this further, it is necessary to now consider the appellant's grounds in relation to reasons, which although arising under separate grounds, are necessary to consider now to determine whether the respondent's reliance on the reasons given for rejecting Stoneyhill is sufficient.

[24] It is firstly helpful to consider the cases referred to by the respondent as to reasons. Those are given at paragraph 13 of the respondent's note of argument, under the heading of ground 1. The respondent acknowledges that the FTS should provide reasons for its decision (rule 17(4) of the First-tier for Scotland Local Taxation Chamber Rules of Procedure 2022). The respondents set out the test for reasons as per Sheriff Collins' decision in *Manson v Turner* 2023 UT 38 at paragraph 20. The respondent argues that not every point required to be responded to by the FTS (*AJ (Cameroon) v Secretary of State* [2007] EWCA Civ 373 at paragraph 20).

[25] In relation to those submissions, there is no dispute that the FTS requires to provide reasons in terms of its own rules. As to what those reasons must consist of, Sheriff Collins' decision in *Manson v Turner* refers in turn to *Wordie Property Co Ltd v Secretary of State for Scotland* 1984 SLT 345. *Wordie* sets out the test for a reasons challenge at page 348 as

“So far as paragraph 11(1) is concerned all that requires to be said is that in order to comply with the statutory duty imposed upon him the Secretary of State must give proper and adequate reasons for his decision which deal with the substantial questions in issue in an intelligible way. The decision must, in short, leave the informed reader and the court in no real and substantial doubt as to what the reasons for it were and what were the material considerations which were taken into account in reaching it.”

In practice, the reasons must be sufficient to allow the losing party to understand why the decision maker has not found in their favour. It does not require the reasons to deal with each single individual argument that was made. Reasons should not be scrutinised as a conveyancing document might be. A decision should be read as a whole rather than looking at individual paragraphs or reasons.

[26] The respondent also refers to *AJ (Cameroon)*. In that case the appellant sought to appeal on the basis that the judgement from the tribunal below had ignored matters *that reflected favourably on their evidence*. Paragraph 15 of *AJ (Cameroon)* reads:

“15. In my judgment this part of the case is nothing but an assault on the merits of various detailed factual findings made by the AIT. It is an attempt to re-open the facts, and that is an illegitimate exercise. It is elementary that a fact finder does not have to deal with every piece of material or even every point.

16. As regards the specific submission that the AIT approached the evidence in a selective and, for that reason, illegitimate fashion, this seems to me to be a misconceived argument for this short reason. In paragraphs 36 and following the AIT explained the conclusions they reached. They are not summarising the evidence as such. It is inevitable, or almost inevitable, that in performing the exercise of giving their reasons they should concentrate on those aspects of the material before them that have moved their decision.”

[27] I do not think *AJ (Cameroon)* adds anything of significance in the consideration of this case. Wordie Property refers to the requirement that the decision maker expresses what material considerations were taken in account. *AJ (Cameroon)* refers to the need for the

decision maker to concentrate on the aspects of the material before them which were important in the decision. If there is any difference of material note between those two decisions, I do not consider this appeals turns on any such decision.

[28] Turning to the FTS' decision, the relevant parts of its decision are found at paragraph 4.4 (i) to (v). Reasons for rejecting the Stoneyhill comparisons are found at (iii) and (iv). At paragraph (iii) the FTS say that they "noted and agreed with the reasons given by the Assessor's witness for these properties not being helpful in identifying the correct banding for the property." At paragraph (iv) the FTS reject two particular properties in Stoneyhill, but on reasons specific to those properties (that one was undervalued when entering the list, and that the other has been extended and not yet revalued).

[29] Other reasons given by the FTS are found elsewhere in paragraph 4. Paragraph 4 (i) deals with a specific argument put forward by the appellant on evidence from a Nationwide house price calculator. It is not specific to the Stoneyhill area. Paragraph 4 (ii) deals with a property at 10 Milton Road East, which is not in Stoneyhill. Paragraph 4 (v) deals with a specific property put forward to the FTS. Whilst the FTS does not record the address (describing it as an identical property 10 miles away), from the papers, it appears to be Shield Hall Crescent, Rosewell. The FTS rejected certain arguments regarding amenities at paragraph 4.4 (ii).

[30] The FTS deal with the respondent's evidence at paragraph 4.5. Short reasons are given as to why the FTS accepted the respondent's argument that Gilberstoun is the correct comparator. The FTS say that they "agree" with the respondent's sales evidence regarding Gilberstoun, and "observe" that Gilberstoun is located nearby the appellant's property, and has access to the same amenities and transport links.

[31] In analysing these reasons, I am not satisfied that sufficient reasons have been given. Whilst the starting point is not that the FTS need to deal with each individual point, taken as a whole, the FTS need to explain why they accept that Gilberstoun is the correct comparator and Stoneyhill is not.

[32] Whilst I note the respondent's argument, reading the FTS decision does not disclose what the respondent's witness' evidence was on the correct comparator, or why that evidence was preferred. There is a conclusion (reading the FTS "also noted and agreed with the reasons given by the Assessor's witness for these properties not being helpful in identifying the correct



banding”) but no explanation as to why that conclusion has been reached. The respondent may be correct in the question of the undervaluation of two of the Stoneyhill properties, dealt with at paragraph 4.4(iv) of the FTS decision. But it is not sufficient for the respondent to assert this, and the FTS simply to meekly agree with that evidence. It is not clear the evidence was before the FTS. The evidence and in turn, arguments arising from that evidence, are not summarised. More than one argument might have arisen from that evidence. The FTS does not explain why the respondent’s evidence was more compelling than the appellant’s.

[33] Further, the appellant’s arguments included the distance between his home and Stoneyhill, as compared with Gilberstoun are not dealt with by the FTS. Neither are the appellant’s arguments as to public transport links and ability to walk and drive to Stoneyhill, but the lack of a through road between his home and Gilberstoun. The FTS also do not deal with the appellant’s arguments on services used by those living in his estate, in common with those that would be used by the Stoneyhill estate. All the FTS said on the issue of amenities is that the FTS rejected the negative factors cited by the appellant would be “likely to influence the value of the property to any great extent.” That is therefore dealing with negative factors to amenity, and not to the argument that those in the appellant’s estate use the same local GP’s surgery, nursery etc.

[34] The table is found at Appendix C of the appellant’s written submissions before the FTS. It contained market values as at the relevant date. It was directly relevant evidence for the FTS to accept or reject. That first error by the FTS over the table is not vitiated by its preference for the respondent’s witnesses. Accordingly, whilst the FTS do not need to deal with every individual argument put before it, it does need to explain to the appellant why they have rejected the main argument he put before the FTS (that the Valuation Board had picked the wrong comparator houses in choosing Gilberstoun, and instead Stoneyhill was the correct comparator). It follows that the error in relation to the table is not immaterial. The error is fundamental.

[35] Looking at the reasons as a whole, I do not accept the respondent’s argument that the answer to the FTS’s error in the table is that reasons are given for rejecting Stoneyhill as a comparator. I consider that no substantive reasons are given as to why the appellant’s arguments before the FTS failed. The FTS do not deal with some of the appellant’s arguments

(as set out in paragraph 33) and where they do, no explanation is given as to why the respondent's arguments were preferred in comparison to his.

[36] Accordingly the appeal succeeds on this ground.

### ***Ground 3***

[37] Ground 3 argues that the FTS took a wrong approach to the case but is effectively a reasons challenge. It relates to the reasons given for accepting the evidence by witnesses for the respondent in rejecting Stoneyhill as a comparator, and the FTS reasons given at paragraph 4.4(iii). The FTS state they "noted and agreed with the reasons given by the Assessor's witness for these properties not being helpful in identifying the correct banding for the Property."

[38] The question of reasons has already been dealt on under ground 2 above. As indicated in the reasons given in upholding ground 2, the appeal succeeds on the lack of reasons given.

[39] For the sake of completeness, I also deal with the issue of hearsay evidence raised by the appellant. The appellant argues that the hearsay evidence led by the respondent was not properly tested, explained or elaborated. He says in his written concerns that he has concerns as to the reliance on hearsay evidence. If the appellant means that the FTS erred in relying upon hearsay evidence, that point can be dealt with relatively briefly. It appears that the appellant has misunderstood what hearsay evidence is. Hearsay evidence is "in literal terms, hearsay evidence is evidence of what another person has said (orally, in writing or by other physical expression)" (*Walker and Walker 'The Law of Evidence in Scotland' 4<sup>th</sup> ed, paragraph 8.1*). Hearsay evidence is admissible in civil proceedings, both in courts and tribunals. It was competent for the FTS to hear hearsay evidence from each of the witnesses before it.

[40] Read as a whole, the appellant's written argument is more of a complaint as to the reasons given by the FTS to preferring the respondent's case, rather than a complaint about hearsay evidence. He complains of the FTS not "explaining or elaborating" within its decision and of there not being a level playing field. I do not think there is any further point of substance within the appellant's complaint over the question of hearsay evidence.

[41] There is one other matter raised by the appellant on this point. He complains that the Gilberstoun estate comparator appears to have been suggested by an employee of the

Valuation Board who lived on the Gilberstoun estate. That in itself would not necessary be a conflict of interest, given that having local knowledge does not, in itself, suggest something improper in the choice of comparator. The appellant notes that there was no explanation given as to why alternative comparators were considered and discounted. It may be that the Valuation Board will wish to show that the choice of comparator is based on rational, objective reasons. However, on the limited information before me, it is unnecessary to consider the matter any further.

[42] The remainder of the appellant's argument raises the issue as to whether the range of properties in the choice of comparator by the respondent is statistically adequate. This does not appear to be dealt with at all in the FTS decision. As I have already upheld the appeal on the basis of inadequate reasons, it is unnecessary to consider the appellant's submissions in detail, other than to note that the FTS, when reconsidering the matter anew, will wish to carefully consider the issue of the comparator, it going to the heart of the appellant's case.

#### ***Ground 4***

[43] Ground 4 relates to the FTS reasons given at paragraph 4.4(iv) relating to the rejection of the appellant's arguments regarding comparisons with other properties, one in Denholm Road and the other in Denholm Avenue. The FTS deal with these arguments at paragraph 4.4(iv) of their decision.

[44] The FTS say and explain why they reject the arguments around one property in brief terms. Their decision states

"The Tribunal note that the Assessor's witness, having considered the sales evidence for that particular house, believes that the one property identified by the Appellant as Band F appears to have been undervalued when it first entered the Valuation List."

[45] The respondents argue it is not necessary for a decision maker to deal with each line of evidence and give detailed views. Reliance is placed on *Moray Council v Scottish Ministers* 2006 SC 691 at paragraph 35. I accept that *Moray Council* is authority for the proposition that evidence has not necessarily been ignored by a decision maker simply because it has not been expressly dealt referred to. However, that is a slightly different issue

than the matter before me. The issue here is whether the FTS have explained their decision. In explaining their decision, the FTS do not need to deal with every separate argument put before them, but must, read as a whole, have given sufficient reasons to allow both parties to understand the arguments that were accepted and rejected.

[46] In my view, all that the FTS do at paragraph 4.4(iii) is record the evidence of the respondent's witness. The FTS do not say they accept that evidence. The FTS do not explain, if that evidence was accepted, why that evidence was accepted, or preferred over competing evidence.

[47] The respondent points to paragraph 4.5 of the FTS decision. There the FTS say it accepts the respondent's evidence on the Gilberstoun development as the correct comparator. The FTS say in accepting that evidence, they note Gilberstoun is nearby the appellant's home and shares the same amenities and transport links. The respondent relies on this paragraph to be read with paragraph 4.4 (iv) to submit the FTS have therefore given reasons as why the respondent's evidence was accepted.

[48] I consider the reason is inadequate. The FTS simply note the evidence for the respondents. It does not say it accepted such evidence, or why that evidence was preferred. It might be implied that the respondent's evidence was preferred, but simply phrasing it, without an explanation, is insufficient. The FTS must apply its own mind to the arguments before it. It must explain to the appellant, albeit that can be done in brief terms, why the FTS accept the respondent's argument and reject his.

[49] I do not think that paragraph 4.5 assists the respondent. Whilst the FTS give some reasons for accepting Gilberstoun in that it is nearby and it has access to the same transport and amenities as the appellant's property, the problem with those reasons is that the appellant had argued that his suggested comparator (Stoneyhill) shared more amenities, was closer to his property and had more shared transport links than Gilberstoun. I deal with this in more detail below.

[50] This ground of appeal succeeds.

### *Grounds 6 and 7*

[51] Ground 6 overlaps with previous grounds. It concerns the reasons provided for why the FTS accepted the respondent's arguments that the Gilberstoun comparators were to be

preferred. The appellant says the FTS did not deal with his arguments that using Stoneyhill as a comparator would provide a greater volume of sales data, that current values for properties in Gilberstoun show they are more expensive than his now (and by implication would have been more expensive in 1991) and lastly, his argument that Gilberstoun properties are larger than his. It is helpful to consider this in conjunction with ground 7, dealing with ground 7 first.

[52] Ground 7 relates to the issue of amenities available with the comparator homes. The point raised by the appellant is that the FTS placed too much weight on the proximity of the appellant's property to certain amenities, said also to be available to the Gilberstoun property. The respondent argues this is a question of weight, and a matter entirely for the FTS.

[53] As set out, the FTS do not deal with the appellant's arguments on using Stoneyhill as a comparator would provide a greater volume of sales data, that current values for properties in Gilberstoun show they are more expensive than his now (and by implication would have been more expensive in 1991) and lastly, his argument that Gilberstoun properties are larger than his.

[54] In relation to amenities, the FTS only briefly refers to the topic of amenities. In paragraph 4.5, the FTS says "In coming to this conclusion, the Tribunal observes that Gilberstoun is located nearby to the Property and has access to all the same amenities and transport links."

[55] Accordingly the question of amenities, whilst not the central plank of the FTS' decision, was relied upon by it to justify their decision. The appellant's counter arguments on amenities are not narrated. It is difficult to understand why the FTS felt it could place reliance on the Gilberstoun property and its amenities, void of explanation. This is particularly the case given the appellant argued the issue of amenities favoured his comparator of Stoneyhill as the more logical conclusion. I accept the respondent's argument that this might come down a question of weight. However, for it to be a question of weight, there must be some degree of explanation as to the competing arguments and why weight has been given to one argument over another.

[56] In relation to the points raised by the appellant in ground 6, not all of those would necessarily have to be dealt with in detail if the FTS had, as a whole, answered the point as to why the appellant was wrong that Stoneyhill was a comparator. As indicated, a decision

maker does not always need to deal with each individual point so long as its reasoning is overall clear. But in the absence of reasons as to why the appellant has been unsuccessful, ground 6 has merit.

[57] The appeal is upheld on grounds 6 and 7.

### **Ground 9**

[58] This ground concerns arguments put before the FTS by the appellant in relation to the comparisons with Gilberstoun. He argued that the Gilberstoun properties were (at today's prices) more expensive than his own to a degree that could lead to conclusions about the comparative valuations in 1991, that the Stoneyhill properties had various negative amenities in common with his own (proximity to a recycling and recovery centre, proximity to areas of deprivation and school catchment areas and the desirability of those schools).

[59] The appellant's ground of appeal effectively amounts to a reasons challenge (referring in his note of arguments to there being "no discussion of..."). It covers similar ground to that in the previous grounds. I have already considered the respondent's arguments and reject them for the same reasons as set out above.

[60] This ground of appeal is upheld.

### **Conclusion**

[61] The appeal is allowed. Grounds of appeal 2, 3, 4, 6, 7 & 9 are upheld. Ground 1 is refused. The decision of the FTS of 14 March 2023 is quashed. The case is remitted to a freshly constituted tribunal to consider the application of new.

Sheriff McCartney

Member of the Upper Tribunal for Scotland

*A party to this case who is aggrieved by this decision may seek permission to appeal to the Court of Session on a point of law only. A party who wishes to appeal must seek permission to do so from the Upper Tribunal within 30 days of the date on which this decision was sent to him or her. Any such request for permission must be in writing and must (a) identify the decision of the Upper Tribunal to which it relates, (b) identify the alleged error or errors of law in the decision and (c) state in terms of*

*section 50(4) of the Tribunals (Scotland) Act 2014 what important point of principle or practice would be raised or what other compelling reason there is for allowing a further appeal to proceed.*