



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: OA/15396/2013
OA/15397/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 17 July 2014**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**ENTRY CLEARANCE OFFICER
BEIJING**

Appellant

and

**MENGFEI LIN LIN
XIAOYU LIN LIN**

(NO ANONYMITY ORDER MADE)

Respondent

ORDER AND DIRECTIONS

1. The Secretary of State appeals with permission against the determination of First-tier Tribunal Judge Sweet, allowing the claimants' appeal against her refusal to issue them entry clearance as adult dependant relatives of their sponsor father, Mr Xi Lin, who has indefinite leave to remain in the United Kingdom. The claimants are Chinese citizens.
2. In an error of law decision made by Deputy Upper Tribunal Judge Phillips on 17 July 2014, that determination was set aside and the Judge adjourned

the appeal for the decision to be remade in the Upper Tribunal, limited to Article 8 ECHR outside the Immigration Rules HC 395 (as amended).

3. He considered that it might be necessary for witness statements to be provided on behalf of the claimants, as well as updated witness statements from his United Kingdom sponsor and his wife. I note that by letter dated 15 July 2014, the sponsor indicated that although he speaks some English, it might not be sufficient for him to give evidence at the hearing, and that he will require a Mandarin interpreter.
4. I do not consider that it is appropriate for this appeal to be retained in the Upper Tribunal, since further findings of fact will be required. I also have regard to the public interest considerations introduced as part 5A of the Nationality Immigration and Asylum Act 2002 by s.19 of the Immigration Act 2014 with effect from 28 July 2014, and which will have to be considered when this determination is remade.
5. I therefore make the following order and direction:
 - (1) I order that the appeal be transferred for hearing in the First-tier Tribunal (Hatton Cross); and
 - (2) I direct that a Mandarin interpreter be provided for the rehearing.
6. Any additional directions required for the hearing to remake the determination will be given by that Tribunal in due course.

Date

Signed

Judith Gleeson

Judge of the Upper Tribunal