

UPPER TRIBUNAL (LANDS CHAMBER)



Neutral citation number: [2022] UKUT 176 (LC)
UTLC No: LC-2020-8

Birmingham Civil Justice Centre

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

RESTRICTIVE COVENANTS – DISCHARGE OR MODIFICATION – proposal to erect five dwellings in breach of agricultural buildings only covenant – whether covenant secures practical benefits of substantial value or advantage – application granted with compensation to objector

AN APPLICATION UNDER SECTION 84 OF THE LAW OF PROPERTY ACT 1925

BETWEEN:

MILL STRAND DEVELOPMENTS LTD

Applicant

-and-

JAMES ERNEST TAPP AND SUSAN TAPP (1)
KEITH WILLIAM HENRY JONES AND JENNIFER MARY JONES (2)
HILLYARD COLIN MITCHELL AND MURIEL MITCHELL (3)
GARETH ROBERT OAKES AND DR EMMA JANE WOODWARD (4)
JAMES R CROSSINGHAM AND GEMMA M CROSSINGHAM (5)
PETER CAUSER AND JENNIFER CAUSER (6)

Objectors

Re: Land off Chestnut Close,
Lower Moor,
Pershore,
Worcestershire

Mrs Diane Martin MRICS FAAV

Heard on: 21 April 2022

Decision Date: 5 July 2022

Mr David Mitchell, instructed by DF Legal LLP, for the applicant
Mr Colin Mitchell for himself and the other objectors

The following cases are referred to in this decision:

Shephard v Turner [2006] 2 P&CR 28

Introduction

1. This is an application for the Tribunal to discharge or modify a restrictive covenant that burdens the title to 1.24 acres of land (“the site”) adjoining the village of Lower Moor, Pershore in Worcestershire. The applicant, Mill Strand Developments Limited, holds an option over the site and made the application with the consent of Mr Edward Coomber and Mrs Magdeline Coomber, owners of the freehold interest (“the owners”). Outline planning consent was granted in December 2016 for five detached dwellings (“the development”) on the site which, if constructed, would be in breach of a covenant restricting buildings to those of an agricultural nature (“the restriction”).
2. The restriction is contained in a conveyance of the site dated 7 September 1972 (“the 1972 conveyance”) for the benefit of adjoining land belonging to the vendors, which has since been developed with residential property and is known as Old Manor Close. Objections were received from the owners of all six houses in Old Manor Close, of which No.3 Old Manor Close (“No.3”) and No.4 Old Manor Close (“No.4”) adjoin the site.
3. I made an inspection of the site, the garden of No.3 and the garden and interior of No.4 on 20 April 2022. I was accompanied by Mr John Mill, a director and shareholder of the applicant, Mr David Mitchell counsel for the applicant and Mr Colin Mitchell of No.4 representing the objectors. The indicative footprint of the two proposed dwellings which would be closest to the objectors’ properties had been marked out by the applicant with pegs and string, which was helpful.
4. Counsel called Mr Mill to give evidence of fact and Mr James Greenland MRICS of Savills to give expert evidence. Mr Mitchell made submissions on behalf of the objectors and gave evidence of fact. No objectors other than Mr and Mrs Mitchell attended the hearing. The notices of objection and enclosures of the other objectors stood as their evidence.

The factual background

5. The village of Lower Moor is three miles by road north east of Pershore, lying just south of the A44 which runs between Evesham and Worcester. It is low lying, as the name suggests, but does not suffer from flooding. The site sits on the southern edge of the village, with residential development on three sides and a mown grassy track used as a public footpath running along its southern boundary. Its current state is scrubby grassland, which the applicant manages by cutting once per year. It has an overgrown hedge and small brook along the boundary with No.4, the brook continuing across the site before entering a culvert close to the western boundary. In the autumn storms of 2021 some of the hedgerow trees in the boundary to No.4 blew over across the brook into the garden. Mr Mitchell cleared the fallen trees, which has left a conspicuous gap in the hedge between the garden of No.4 and the site.
6. The history of the site provides helpful context to both the original restriction and the current application. The 1972 conveyance of the site was a sale of the freehold to the sitting tenant, Massingham Bros. (Properties) Limited (“Massingham Bros”), subject to restrictive

site was cultivated for crops. The Lower Moor Farm site was developed for residential use following planning consent in 1992 and is shown on the plan above as Chestnut Close.

9. Mr Edward Coomber purchased the site, together with the larger field to the south of the footpath, outlined yellow (“the yellow land”), in March 1995. By this time the associated agricultural use at Lower Moor Farm had ceased, but the main access to the site remained from the village through Chestnut Close. That same month Mr Coomber’s solicitor wrote to a Mr Hyde of 15 Chestnut Close granting him licence to continue in occupation of part of the site for use as a vegetable plot. Access to the yellow land is gained from site by crossing the footpath where the field gate is marked on the plan. East of the gate the track is only a public footpath, but there are rights of vehicular access from the western end as far as the field gate.

10. The applicant entered into an option agreement with the owners on 10 March 2015, which was extended in February 2020 for a further three years. Mill Strand Properties Limited, a company related to the applicant, gained outline planning consent W/16/00845/OU from Wychavon Council on 2 December 2016 for the erection of five detached dwellings on the site. Only Plot 1 lies within the defined development boundary of Lower Moor; the remaining plots lie in an area designated as open countryside. However, outline consent was granted following a planning balance exercise which supported the presumption in favour of sustainable development.



11. Approval of reserved matters (19/02622/RM) was granted on 1 April 2020. A material start to the development has been made, by digging a drainage trench, so that the consent remains extant. The approved development, shown above, is for one two-bedroom dormer bungalow (Plot 1), one two-bedroom bungalow (Plot 5) and three four-bedroom houses (Plots 2, 3 and 4). The areas coloured green on the plan are the approved provision of green infrastructure, including native hedges on the boundaries, a wild flower meadow around the water course

and a reptile hibernaculum in the triangle beside No 3. The area around the watercourse is designed to provide water attenuation to reduce the risk of surface water flooding.

12. Before the hearing the applicants and the objectors had reached agreement that, should it be relevant, the market value of No.3 is £511,000 and the market value of No.4 is £600,000.

The legal background

13. The restriction is contained in the Schedule to the 1972 conveyance of the site, made between Francis Leader MacCarthy (Vendor) and Massingham Bros. (Properties) Limited (Purchaser), which provides:

“1. No buildings structure or erections of any nature shall be constructed or placed or be permitted to be constructed or placed on the land hereby conveyed except buildings or structures of an agricultural nature to be used solely in connection with agriculture

2. No noisy offensive or dangerous trade or pursuit shall be carried on upon the land hereby conveyed nor any trade or pursuit which may be or become in any way a nuisance annoyance or danger to the Vendor or his successors in title or to the owners or occupiers of any neighbouring property or which may depreciate the value of the Vendor’s adjoining land or any part thereof as residential development”

14. Section 84(1) of the Law of Property Act 1925 gives the Tribunal power to discharge or modify any restriction on the use of freehold land on being satisfied of certain conditions. The application was made under grounds (a), (aa) and (c) although in submissions only grounds (aa) and (c) were relied upon.
15. Condition (aa) of section 84(1) is satisfied where it is shown that the continued existence of the restriction would impede some reasonable use of the land for public or private purposes or that it would do so unless modified. By section 84(1A), in a case where condition (aa) is relied on, the Tribunal may discharge or modify the restriction if it is satisfied that, in impeding the suggested use, the restriction either secures “no practical benefits of substantial value or advantage” to the person with the benefit of the restriction, or that it is contrary to the public interest. The Tribunal must also be satisfied that money will provide adequate compensation for the loss or disadvantage (if any) which that person will suffer from the discharge or modification.
16. In determining whether the requirements of sub-section (1A) are satisfied, and whether a restriction ought to be discharged or modified, the Tribunal is required by sub-section (1B) to take into account “the development plan and any declared or ascertainable pattern for the grant or refusal of planning permissions in the relevant areas, as well as the period at which and context in which the restriction was created or imposed and any other material circumstances.”

17. Where condition (c) is relied on, the Tribunal may discharge or modify a restriction if it is satisfied that doing so will not injure the persons entitled to the benefit of the restriction.
18. The Tribunal may also direct the payment of compensation to any person entitled to the benefit of the restriction to make up for any loss or disadvantage suffered by that person as a result of the discharge or modification, or to make up for any effect which the restriction had, when it was imposed, in reducing the consideration then received for the land affected by it. If the applicant agrees, the Tribunal may also impose some additional restriction on the land at the same time as discharging the original restriction.
19. The applicant's case is that paragraph (1) of the restriction should be modified under ground (aa) to permit the development because it impedes a reasonable use of the land and does not secure to the objectors any practical benefits. Equally, since no injury would be caused to the objectors by implementation of the development the restriction should be modified under ground (c).
20. The objectors say that the purpose of the restriction, to benefit and protect the original property referred to in the 1972 conveyance, can still be served and that the restriction does secure practical benefits of substantial value or advantage to them. These include the preservation of the visual amenity of a rural view and of tranquillity, by protection from the noise and disturbance both of development and the subsequent use of the houses. They say that the development is not a reasonable use of the site and maintain that it remains suitable for agricultural use, even if the owners have chosen to cease that use, referring to the recent use of part by Mr Hyde for growing vegetables.

The evidence of fact for the applicant

21. Mr Mill explained the history of the applicant's option to purchase the site from the owners and that he had the support of the owners to make this application. He had first become acquainted with the site in 2013, since which time it had remained unoccupied for agricultural use. The owners had confirmed in a letter to him dated 26 March 2022 that since they purchased the site in 1995, other than the licence to Mr Hyde to grow vegetables, the land had lain fallow due to its layout and condition and the general reluctance of anyone to bring agricultural equipment into the site through Chestnut Close. They saw no prospect for future agricultural use of the site.
22. The triangle of land beside No.3, now allocated in the approved plans to provide a reptile hibernaculum, had been used informally by the owners of No.3 for some years. In 2017 they erected a fence to enclose it within their garden but following exchanges of correspondence with the applicant, the fence has since been realigned to the original boundary of No.3.
23. Mr Mill described how the character and nature of the area had changed significantly due to the residential development on three sides of the site. From his numerous site visits over the years, Mr Mill was aware that the site had become a location for anti-social behaviour by young people gathering there at night. This was evidenced by the remnants of fires, and rubbish including cans being left on the site. The widow of Mr Hyde, the former licensee,

lives in 15 Chestnut Close beside the entrance to the site and had told him of her concerns over activity and noise on the site. The approved landscape plan would provide an improvement to the amenity of the site through tree and hedge planting, an enhanced water feature with attenuation capacity for excess surface water and ecological features to support wildlife. Mr Mill concluded that modification to permit the development would therefore enhance the visual appearance of the site and provide an improvement for local residents, including the objectors.

24. Addressing the particular concerns of the objectors that they would see the development from their houses, Mr Mill used the approved plan to show that the owners of No.3 would be at a significant distance from any new dwelling and would benefit from screening within the triangle area to protect their outlook. The owners of No.4 would be closer to a new dwelling on Plot 2, but it had been orientated so that no windows would look directly at No.4 and any view of it from No.4 would be of the north corner of the single storey garage.

Expert evidence for the applicant

General observations

25. Mr James Greenland MRICS is a director of Savills and an RICS Registered Valuer working from the Bristol and Bath offices of his firm. He has practiced since 1995 and the majority of his work is the valuation of residential property for various purposes. He was instructed very late in the application process but, following a case management hearing on 31 March 2022, I gave consent for his expert evidence to be admitted on the basis that it could provide assistance to me and would give the objectors, who did not instruct an expert, an opportunity to cross examine an expert opinion. Mr Greenland was instructed to consider the objections to the application and to advise whether there was likely to be any diminution in value or loss of amenity to the objectors' properties if the restriction were to be modified to permit the development.
26. Mr Greenland had inspected the site and the interior of No.4 but was not able to gain access to No.3 at the short notice given. He noted that, in comparison with photographs from November 2017 which he had been shown, there was a new gap in the boundary hedge to No.4 which had opened up its view of the site. He also noted that he was able to hear road noise from the A44 north of the village and intermittent noise from the railway to the south, but he acknowledged that these were dependent on wind direction.
27. Mr Greenland concluded from his inspection that Nos.1, 2, 5 and 6 Old Manor Close have no views of the site since they are orientated east-west facing across the close. Any view from the close in general is screened by Nos.3 and 4 at the end adjacent to the site. The four dwellings are therefore sufficiently removed and screened from the site that they would be completely unaffected by the development.
28. Nos.3 and 4 are orientated north-south with their main outlook towards the site. Because he was unable to inspect No.3, Mr Greenland obtained and reviewed the sales particulars prepared in 2014 when the current owners acquired the house. It had a kitchen/breakfast room, dining room and sitting room on the ground floor facing south over the site. Four of

the five bedrooms also faced south over the site. One photograph in the particulars showed the view towards the site, which was largely restricted by vegetation. Today the boundary between No.3 and the site is formed by a close boarded 6 ft high fence at the bottom of the garden, with significant hedging and trees on the site behind it, which Mr Greenland anticipated would obscure the view of the site from ground and first floor windows.

29. No.4 has a kitchen/breakfast room, dining room, sitting room and study all facing south towards the site through large windows or patio doors. The views through to the site derived mainly from the gap in the hedge. Three of the four bedrooms also face south over the site, with views across it towards Bredon Hill partially obscured by a mature walnut tree in the garden. It was not in leaf when Mr Greenland inspected but he anticipated that when in leaf it would severely restrict those views.

Diminution in value

30. It was Mr Greenland's experience that residential property values are affected by many issues such as size, condition, location, size of garden, number of bedrooms, provision of a garage, off street parking, and orientation. He considered that the potential change in value arising from removal of the covenant and development of the site would be very minor compared to those other factors. There is existing mature vegetation (with the exception of the new gap) between Nos.3 and 4 and the site and the development would include planting of new trees and hedging along that boundary. The new planting would not entirely screen the new two storey dwellings until fully established, but would restrict and limit the views, particularly in summer. The nearest new dwelling would be over 32m away from Nos.3 and 4, which is more distance than between their existing neighbours, and the windows in the new dwellings would not look directly towards them. There may be limited views from the from first floor windows in the new dwellings towards Nos.3 and 4 in winter, but partially obscured and at a distance so as to have no impact on privacy.
31. Considering potential purchasers of Nos.3 and 4, Mr Greenland considered that some may prefer the open outlook which those properties currently have and be prepared to pay slightly less post development. Others would prefer the certainty that development on neighbouring land provides in preventing potentially disruptive agricultural uses, such as spreading of manure and slurry or the keeping of pigs and chickens, or the risk of traveller or gypsy encampments. The vast majority would consider there to be no impact on value and would outbid those who were concerned by the development. Any buyer of a property in a village location will expect to see neighbouring houses.
32. Mr Greenland did consider that there would be at present a short-term diminution in value arising from the uncertainty of development proposals and the fear of the unknown. This would exist from the moment a planning application is submitted until completion of the development and, in this case, be in the order of 5% of the agreed market values for Nos.3 and 4, so £25,550 for No.3 and £30,000 for No.4. Modification of the covenant to permit the development would lead in due course to removal of the uncertainty and the associated diminution in value.

Loss of amenity

33. Mr Greenland understood that the owners of Nos.3 and 4 would fear that there would be a loss of amenity if the development took place, but it was his view that this fear would be eliminated once the new dwellings were built. They have, and would continue to have after the development, larger than average south facing gardens which are private by virtue of the mature vegetation boundary. The site would not be visible from their ground floor rooms, except for the gap in the hedge to No.4. From the bedrooms the views would be partially obscured by the trees within the gardens or on the boundary, especially in summer, but views from bedrooms are considered to be less important than those from ground floor rooms. Depending on the height of the new dwellings there might be some restriction of distant views, but these are already limited by the trees.
34. The objectors had concerns regarding noise and disturbance that would accompany development and the subsequent use of the dwellings. Mr Greenland considered that there might be some impact from carrying out the development, but not its subsequent use. There is already some ambient background noise from the road and railway and any noise from the occupation of the completed development is likely to be insignificant in comparison.
35. He concluded that there would be no material change in the amenity of Nos.3 and 4 on completion of development and that no purchaser would consider that the new dwellings detracted from their amenity.

Evidence for the objectors

36. Mr Mitchell explained that he and his family have lived at No.4 since June 1974 when it was first available for occupation. They purchased the house on that plot in the knowledge that it had open views to the south which were protected by a covenant restricting use of the site to agriculture. Mr Mitchell provided a photograph, taken in winter in 1976, showing the boundary between his garden and the site. The boundary was an agricultural wire fence and there was a large gap in the hedge through which the site could be seen in cultivation. Beyond the site Bredon Hill was clearly visible. Over the years the view has changed through the growth of trees on the site and in the garden, particularly the walnut tree they had planted, but the Mitchells continue to enjoy a rural view.
37. Whilst there has been much development in and around Lower Moor since 1974, almost none of it is visible from No.4. Mr Mitchell believed that the applicant was aware of the impact the development would have on their view, and that this gave rise to the need for the new hedgerow screening. The two storey house approved to be built on Plot 2 would have a roof height similar to that of some trees currently on the site, which are due to be removed, but as a solid and big structure it would obscure much of the view from No.4.
38. Even though he admitted that the site was now fairly described as a rather scrubby bit of wasteland, Mr Mitchell said that they have continued to enjoy the benefits of tranquillity and taken pleasure from the wildlife there and in the adjoining stream. Much of this amenity would be lost if the restriction was modified to allow the development.
39. Mr Mitchell accepted that at No.4 they could hear some background noise from the A44, depending on the wind direction, but said that they only really noticed it when emergency

vehicles were using it with sirens on. He also accepted that there were already close neighbours at Old Manor Close and Back Way from where residential noise can be heard and that the additional noise from a low density development would not be hugely significant.

40. In their notice of objection the Mitchells had placed a figure of £70,000 on their likely claim for compensation, having been advised by someone with experience of residential development. They were no longer seeking compensation since they did not expect to move and therefore would not suffer actual financial loss. Mr Mitchell believed that the practical benefits of the restriction were of substantial advantage to them.
41. Although Mr Mitchell had been the agreed point of contact for all the objectors from Old Manor Close, he was not able to speak for the other objectors beyond repeating what they had stated in their notices of objection. All of those points had been covered within his own evidence.

The arguments and my conclusion on grounds (aa) and (c)

Is the proposed use of the site reasonable and does the restriction impede that use?

42. Counsel submitted that the existence of a full workable planning consent confirmed that the proposed use was reasonable. The objectors had maintained their view that the site remained suitable for agricultural use, but had not challenged the development as an unreasonable use. In my judgement the proposed use is a reasonable one. The development has received scrutiny through the planning process, with amendments and conditions to ensure that it meets the criteria for sustainable development. It is agreed by the parties that the restriction does impede the development.

Does impeding the proposed use secure practical benefits to the objectors?

43. I agree with Mr Greenland's opinion that there is no evidence of any practical benefit secured by the covenant for the objectors living at Nos. 1, 2, 5 and 6 Old Manor Close. They have no view of the site and are separated from it by Nos. 3 and 4.
44. Initially Mr Greenland did not differentiate between Nos.3 and 4 when considering the impact of the proposed development, but he accepted subsequently that the impact on No.4 would be greater than on No.3, due to the proximity of Plot 2 to the boundary of No.4. However, he maintained that the impact on view would be mitigated by new screening and tree planting, as well as the mature walnut tree in the garden, and that there would be no impact on value other than an uplift once the current 5% negative effect of uncertainty was removed.
45. From my own inspection I am clear that the restriction does secure practical benefits to the owners of No.4, by preserving the setting of the property on the edge of the village, from where all ground floor rooms and three of the four bedrooms benefit from southerly rural views over undeveloped land. Modification of the restriction to permit the development

would alter the setting completely by moving the edge of the village to the southern boundary of the site and leaving No.4 surrounded by residential development. This would be very apparent from the south facing windows and garden of No.4 until some mitigation was provided by the approved tree and hedge planting.

46. Whilst the same would be true for No.3, its current outlook is already screened by a more significant hedge and tree boundary, and this would be changed very little by the development due to the siting of a significant area of green infrastructure in front of that boundary. I cannot identify a practical benefit secured to the owners of No.3 by the restriction.

Are those benefits of substantial value or advantage to the owners of No.4?

47. Mr Mitchell contended that as owners and occupiers of No. 4 since its completion in 1974, he and his wife have found the benefits of the restriction to be a substantial advantage. He did not place a value on the benefits, because he simply wished to preserve them, not be compensated for their removal. That does not mean that they have no value, and I will give consideration to what value they may have, and whether that value is substantial.
48. The much-quoted definition of what might be substantial in terms of advantage and/or value is “considerable, solid, big”, taken from the speech of Carnwath LJ in *Shephard v Turner* [2006] 2 P&CR 28, paragraphs [19 – 23]. Whether a benefit is substantial requires a subjective judgment to be made in the particular circumstances of each application and of each property of an objector where benefits are secured.
49. In my judgment, the value or advantage of the practical benefits secured to No.4 by the restriction is not substantial. Although the only alternative form of development which could be carried out without being in breach of the restriction is for the purposes of agriculture, the land is, and is likely to remain, essentially redundant for that purpose as a result of surrounding residential development and restricted access. The resulting reversion of grassland to scrub and waste is typical of land with no economic purpose and, in that state, it is not particularly attractive. Preventing development which would change the setting is of greater advantage than preservation of the immediate outlook.
50. I bear in mind the comments made by Mr Greenland that residential property values are affected by many factors, and that different types of purchaser will weigh these factors in the balance differently. In my view a less than substantial advantage, as here, may well be recognised by the market in terms of value, but not substantial value.

Would money be an adequate compensation for the loss or disadvantage?

51. Mr Greenland’s evidence on value was unusual in suggesting that modification of the restriction to allow the development would lead to an enhancement in the value of the objectors’ properties by removing a discount in the market for uncertainty. It does not appear to me to be a good argument. For the purposes of s.84 (1A) (b) it is not the short term consequences of the threat of modification which are significant, but the longer term perspective. Development is currently prevented by the restriction, and temporary

uncertainty created by the proposal to develop the site must be left out of account when considering whether the value of the objectors' property will be diminished.

52. Whilst the construction period would be the most disruptive phase for the owners of No.4, that would be temporary. The impact on outlook would be most severe during the period between removal of trees on the site for the construction and the point where the approved new planting had become sufficiently established to provide an effective screen. That impact would be more than temporary, and the change in the setting of No.4 would be a permanent disadvantage. The value of No.4 is agreed at £600,000 and, in my view, adequate compensation for the disadvantage arising from modification would be provided by the sum of £25,000.

The Tribunal's discretion

53. S.84(1)(B) requires the Tribunal to take into account the development plan and any declared or ascertainable pattern for the grant or refusal of planning permissions in the relevant area. Evidence on this was provided within the report of the planning officer who recommended the grant of outline planning consent and by the residential development which has taken place all around the site since the restriction was entered into. I am therefore satisfied that the pattern for granting consent is established and apparent.
54. The Tribunal is also required to take into account the period at which and context in which restriction was created or imposed and any other material circumstances. The covenant was entered into 50 years ago when an agricultural business was still operating in the village and the planning policy framework for the area would have been very different. Councils are now required to deliver a sufficient supply of homes and promote sustainable development. The site of former agricultural activity in the village has been developed for housing and the restriction to agricultural use has ceased to have relevance.

Determination

55. I am satisfied that ground (aa) is made out and that I have discretion to modify the restriction which impedes a reasonable use of the site and does not secure to the persons entitled to the benefit of it practical benefits of substantial value or advantage. The amount of £25,000 would be adequate compensation to the owners of No.4 for the loss of practical benefits secured by the restriction.
56. It follows that ground (c) is not made out because the proposed modification will injure the owners of No.4.
57. The following order shall be made:

The restrictions in the Charges Register for the property known as Land at Lower Moor, Pershore (Title HW152974) shall be modified under section 84(1)(aa) of the Law of Property Act 1925 by the insertion of the following words:

“PROVIDED that the development permitted under the grant of planning permission on 2 December 2016 by Wychavon Council under reference W/16/00845/FUL and the approval of reserved matters on 1 April 2020 under reference 19/02622/RM and subject to the conditions attached thereto may be implemented in accordance with the terms, details and approved drawings referred to therein. Reference to the above planning permission shall include any subsequent planning permission that is a renewal of that planning permission and any other matters approved in satisfaction of the conditions thereto.”

58. An order modifying the restriction shall be made by the Tribunal provided, within three months of the date of this decision, the applicant shall have:
- (a) Signified its acceptance of the proposed modification of the restriction in the Charges Register of the Property; and
 - (b) Provided evidence that the sum of £25,000 has been paid to and received by Mr Hillyard Colin Mitchell and Mrs Muriel Mitchell, owners of No. 4 Old Manor Close, Lower Moor, Pershore WR10 2PR.

Mrs Diane Martin MRICS FAAV
Member, Upper Tribunal (Lands Chamber)

5 July 2022

Right of appeal

Any party has a right of appeal to the Court of Appeal on any point of law arising from this decision. The right of appeal may be exercised only with permission. An application for permission to appeal to the Court of Appeal must be sent or delivered to the Tribunal so that it is received within 1 month after the date on which this decision is sent to the parties (unless an application for costs is made within 14 days of the decision being sent to the parties, in which case an application for permission to appeal must be made within 1 month of the date on which the Tribunal’s decision on costs is sent to the parties). An application for permission to appeal must identify the decision of the Tribunal to which it relates, identify the alleged error or errors of law in the decision, and state the result the party making the application is seeking. If the Tribunal refuses permission to appeal a further application may then be made to the Court of Appeal for permission.