



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

**HMCTS code
(audio, video,
paper)**

P: PAPERREMOTE

Case Reference : **CAM/00MC/LSC/2020/0025**

Property : **16 & 35 Albion Terrace
Reading
Berks
RG1 5BG.**

Applicant : **Peter Bishop**

Respondent : **Albion Place Reading Limited**

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

Tribunal Members : **Tribunal Judge S Evans
Mrs A Flynn MA MRICS**

**Date of written
decision** : **23 December 2020**

Date of this decision : **8 February 2021**

DECISION

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Covid-19 pandemic: description of hearing

This has been a remote decision. The form of remote decision is P: PAPERREMOTE. A face-to-face hearing was not held because it was not practicable on account of the Coronavirus pandemic, and all issues could be determined remotely. The documents before the Tribunal are contained in a bundle of 469 pages, and a supplemental bundle of 111 pages, and documents sent by the Applicant under cover of email dated 25 January 2021.

DECISION OF THE TRIBUNAL

1. The Tribunal has considered the grounds for appeal and determines:
 - (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 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. 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); or by email: lands@hmcts.gsi.gov.uk .

REASON FOR THE DECISION

4. The reason for the decision is that the Tribunal had considered and taken into account all of the points now raised by the Applicant, when reaching its original decision, save in relation to the fresh evidence (considered below).
5. The original Tribunal's decision was based on the evidence before it and the Applicant has raised no legal arguments in support of the application for permission to appeal.
6. The Applicant now seeks to rely on fresh evidence, being a grant of planning permission dated 24 June 1986, which was not in evidence in at the hearing, which could have been adduced with reasonable diligence but was not, and in any event the Tribunal decides that its contents do not have a material impact on the Tribunal's decision.
7. For the benefit of the parties and of the Upper Tribunal (Lands Chamber) (assuming that further application for permission to appeal

is made), the Tribunal has set out its comments on the specific points raised by the Applicant in the application for permission to appeal, in the appendix attached.

APPENDIX TO THE DECISION
REFUSING PERMISSION TO APPEAL

For the benefit of the parties and of the Upper Tribunal (Lands Chamber), the Tribunal records below its comments on the grounds of appeal.

Specific comments on the grounds of appeal

1. In relation to determination (1) of the decision dated 23 December 2020, being the apportionment for each of the Applicant's flats of 1/58th of General Expenditure including that on 65A Albion Place, the Applicant's request was for 1/57th of such expenditure excluding 65A. The Tribunal had a broad discretion in relation to that issue, given that the lease does not apply a fraction or percentage of expenditure.
2. The Tribunal notes that the Applicant had not sought to join the lessees of 65A to the application, despite being invited to do so by the Regional Judge giving directions (paragraph 36). The Tribunal was not concerned with what was/is a reasonable proportion for 65A to pay the Respondent.
3. Notwithstanding the above, the apportionment made by the Tribunal means in practice that the Respondent will not be able to recover all its expenditure without an appropriate contribution from the lessee of 65A, which the Tribunal fully expects the Respondent to do.
4. Paragraphs 58 and 59 of the Tribunal's decision encompassed reasoning on one aspect only of its decision under determination (1). No challenge is advanced by the Applicant to the other 3 reasons, in particular the Tribunal's determination that the size of 65A has less relevance than the Applicant suggests.
5. The Tribunal was fully aware (paragraph 8) that 65A was not part of the conversion of the building, and has sympathy with the Applicant in so far as he is correct to assert that he was assured by the developer that they hoped to acquire 65A in due course and redevelop it, and/or that his lawyer in 1988 failed to inform him that 65A would never be developed. However, that is not a matter which can materially alter the Tribunal's decision. At paragraph 41 of the decision, this Tribunal had taken into account that the Applicant believed he would be paying 1/60th for each of his flats.

6. At paragraph 50, the Tribunal also noted that neither party could assist it as to historic documents appearing to show payments by 65A. The Applicant's representations on this application for permission to appeal do not clarify or advance those matters further.
7. The Tribunal is satisfied the apportionment for the Applicant was in all the circumstances fair and reasonable in relation to the years concerned.
8. As regards determination (7), the Tribunal did not make an order under Sch.11 paragraph 5A of the Commonhold and Leasehold Reform Act 2002 because the Respondent did not suggest that any legal costs could be recoverable as an administration charge (paragraph 71 of the decision). The Tribunal took that as a clear concession on the Respondent's part that there is no liability on the Applicant's part to pay such a charge.
9. No application was made for Tribunal fees to be reimbursed, and the Tribunal declines to do so, given its overall findings.
10. The Tribunal does not have jurisdiction to make its decision applicable to all 57 Albion Terrace leaseholders. Its decision binds only the parties to the Application.
11. Nor does the Tribunal have any jurisdiction to make an order concerning the redecoration of the communal hallway. The Applicant must go elsewhere to enforce any such contractual right.

Name: Tribunal Judge S Evans **Date:** 8 February 2021