

Y TRIBIWNLYS EIDDO PRESWYL (CYMRU)

THE RESIDENTIAL PROPERTY TRIBUNAL (WALES)

- Reference:** RPT/0003/04/17
- Tribunal:** Dr Christopher McNall (Lawyer – Chairperson)
- Applicants:** Mr Richard Morrison
Ms Jacqueline Anne Kendall
- Respondent:** Neath Port Talbot County Borough Council /
Castell-Nedd Port Talbot Cyngor Bwrdeistref Sirol
- Hearing:** An application for permission to appeal, dealt with without a hearing.
- Property:** 86 Cyfyng Road, Ystalyfera, Swansea SA9 2BT

Decision on an Application for Permission to Appeal

1. This is my decision in relation to a request by Mr Morrison and Ms Kendall for permission to appeal the Tribunal's decision (given on 23 May 2018) to confirm the Emergency Prohibition Order dated 15 August 2017 which was imposed on 86 Cyfyng Road Ystalyfera, Swansea SA9 2BT.
2. **I have decided to refuse the request for permission to appeal to the Upper Tribunal. I set out my reasons below.**
3. The request is made by way of a letter dated 11 June 2018, which was received by the Tribunal today – 13 June 2018 – and forwarded to me for my consideration. Today is the last day of the 'window' within which any request for permission to appeal must be brought.
4. The material part of the request reads as follows:

“We are completely dissatisfied with the decision made by the RPT. We find ourselves in an impossible situation, but have been told at a recent meeting that there are ‘engineering solutions’ to the ongoing problems concerning Cyfyng Road, our house in particular.”
5. I can only grant permission to appeal to the Upper Tribunal where an error of law has been identified: section 11 of the Tribunals, Courts and Enforcement Act 2007.

6. The grounds of appeal do not identify any such error in the Tribunal's decision. Dissatisfaction with a Tribunal's decision is not a ground of appeal.
7. The request for permission seems to suggest that engineering solutions have been recently proposed, and that these (by inference) are material which would be relevant in considering a request for permission to appeal. But it is not said what those proposed solutions are, or when they were put forward.
8. The issue of potential engineering solutions is not an entirely new one, bearing in mind that the local authority's own evidence at the hearing – and particularly that of Mr Bodycombe – was that there were potentially engineering solutions, but that these would (in effect) involve demolishing the property in order to undertake extensive underpinning works: see Paragraph [53] of our decision.
9. I had considered whether it would be appropriate to give Mr Morrison and Ms Kendall a short extension of time to allow them to put any such evidence before me so as to allow me to assess (for example) how any such evidence measured up against the tests for late evidence in appeals set out by the Court of Appeal in Ladd v Marshall [1954] EWCA 1.
10. I have decided not to do that. Firstly, the appeal comes before me on the very last day of the appeal window. Rule 37(3) of the Residential Property Tribunal Procedures and Fees (Wales) Regulations 2016 says that a request for permission to appeal must be made within 21 days of the date specified in the decision notice. There is nothing in the Rules which allows me to extend the period. Secondly, it would in my view be going a step too far for me (in effect) to start advising Mr Morrison and Ms Kendall as to how best to frame their request for permission to appeal.
11. Therefore, I refuse their request for permission to appeal. No further request for permission to appeal can be made to this Tribunal. Any further requests or applications must be taken up with the Lands Chamber of the Upper Tribunal, in accordance with the Upper Tribunal's rules and the timescales for such applications to the Upper Tribunal.
12. I also direct that a copy of this Decision Notice be sent to the local authority.

Dated this 13th day of June 2018



CHAIRMAN