



DECISION OF

Mr N S Taylor

**ON AN APPLICATION FOR PERMISSION TO APPEAL
(DECISION OF FIRST-TIER TRIBUNAL FOR SCOTLAND)
IN THE CASE OF**

Mr Paul Wylie
per Mrs June Hamilton

Appellant

- and -

Assessor for Dunbartonshire and Argyll and Bute Valuation Joint Board

Respondent

FTS Case Reference: FTS/LTC/CT/25/00224

18 August 2026

Decision

The application for permission to appeal by the appellant against the decision of the First-tier Tribunal for Scotland dated 29 June 2026 is refused.

Background

[1] This application for permission to appeal is in respect of the decision of the First-tier Tribunal for Scotland granting the postponement of a hearing scheduled for 10 August 2026. The decision of the First-tier Tribunal was made on 29 June 2026 (the 'postponement decision').



[2] The postponement decision explained its rationale at paragraph 2.1 –

“2.1 The Tribunal considered the postponement request. They were mindful of the overriding objectives to deal with proceedings fairly and justly and also to avoid delay, so far as compatible with proper consideration of the issues. They considered that the balance fell in favour of granting the postponement. The Respondent’s representative has pre-arranged annual leave which falls over the period the submissions are due to be lodged with the Tribunal. The Respondent has now engaged Counsel and further time is required to fully instruct Counsel ahead of the hearing. The Tribunal noted the chronology provided by the Appellant’s representative. The Tribunal accepts the Respondent wishes to re-evaluate their case ahead of the new hearing date. It is in the interests of justice that a site visit is undertaken to ensure full facts and submissions are before the Tribunal. Accordingly, the Tribunal grants the application for the postponement.”

Application for permission from the First-tier Tribunal to appeal to the Upper Tribunal

[3] The appellant sought permission from the First-tier Tribunal to appeal the postponement decision to this Tribunal.

[4] The appellant lodged four grounds of appeal in support of the application for permission to appeal. These were as follows –

Ground 1 – Failure to adequately address the Respondent’s delay and the requirement for “exceptional circumstances”

On 23 April 2026 the Tribunal notified the parties that the rehearing would take place on 10 August 2026. That notification expressly stated: “If you are unable to attend on the scheduled date and time above, you must notify our office as soon as possible... a change to the date would only be considered in exceptional circumstances.” The Respondent therefore had approximately 109 days’ notice of the hearing. Despite this, the Respondent did not notify the Tribunal immediately that it required a postponement but did so several weeks later. The Respondent relied upon: • Counsel availability; • annual leave commitments during June and July 2026; and • the need for an expert witness to undertake a site visit and prepare valuation evidence. The Tribunal accepted those matters as justifying postponement but did not explain: • why the Respondent’s application was not made “as soon as possible” following notification of the hearing date; • why the matters relied upon amounted to “exceptional circumstances”; • why approximately 109 days was insufficient to undertake a site inspection, prepare expert evidence and instruct Counsel; or • why those matters outweighed the Tribunal’s own expectation that parties should notify any difficulty promptly. The Appellant respectfully submits that these were material considerations requiring express reasoning.



Ground 2 – Failure to consider the history of the Respondent’s case preparation

The appeal has been ongoing since 2024. The Respondent has throughout been aware of: • the statutory grounds of appeal; • the evidence lodged by the Appellant; • the issues requiring determination; and • the hearing timetable. The Assessor took approximately six months to determine that the proposal was “not well founded”. Thereafter, the Assessor advised that a courtesy review had confirmed that the existing Council Tax band was correct. Neither decision contained substantive valuation reasoning explaining how those conclusions had been reached. The Respondent now asserts that additional time is required because an expert witness has yet to undertake a site visit and prepare valuation evidence. The Respondent also maintains a valuation office in Campbeltown staffed by experienced valuation personnel. The Appellant does not suggest that local staff were necessarily the intended expert witness. However, the Tribunal’s decision does not explain why the Respondent’s local valuation resources, together with the lengthy period during which the appeal has been pending, did not provide sufficient opportunity to arrange any inspection or preparatory work considered necessary before seeking postponement. Nor does the Decision explain why it was fair to permit additional time to prepare evidence which, on the Respondent’s own account, had not yet been obtained despite the lengthy history of the proceedings.

Ground 3 – Failure to adequately consider prejudice to the Appellant

The Appellant is a private individual represented by a lay representative. Neither the Appellant nor his representative has professional qualifications in Council Tax valuation or legal advocacy. Page 19 In order to understand the relevant Scottish legislation and Tribunal procedure, the Appellant and representative purchased the Council Tax Handbook published by the Child Poverty Action Group, following the guidance published by the Local Taxation Chamber for appellants. The Appellant and representative arranged their commitments, including annual leave, specifically to ensure their availability for the hearing on 10 August 2026. The Decision acknowledges the Respondent’s reasons for postponement but does not adequately explain why the resulting prejudice to the Appellant, including further delay in proceedings that have already been ongoing for a considerable period, was outweighed by the Respondent’s late preparation difficulties.

Ground 4 – Inadequate reasons

The Appellant respectfully submits that the Decision does not sufficiently engage with a number of material submissions advanced in opposition to the postponement request, including: • the Respondent’s delay in seeking postponement after notification of the hearing date; • the



Respondent's previous conclusion that the proposal was "not well founded"; • the Respondent's subsequent confirmation that the existing band was correct following a courtesy review; • the Respondent's assertion that expert valuation evidence and a site visit were still required; • the availability of local valuation resources; and • the prejudice to the Appellant arising from further delay. Whilst the Tribunal gave reasons for granting the application, the Appellant respectfully submits that the Decision does not explain why those contrary considerations did not outweigh the reasons advanced by the Respondent. Accordingly, it is respectfully submitted that the reasons are insufficient to enable the Appellant properly to understand why the Tribunal concluded that postponement was justified in the circumstances of this case.

[5] The First-tier Tribunal refused permission to appeal to the Upper Tribunal by a decision dated 3 July 2026. That decision narrated that—

"3.1 The Tribunal considered the matters raised in the application for permission to appeal and determined that there are no arguable grounds for the appeal stated at this stage.

3.2 Under Section 46(2)(b) of the Tribunal (Scotland) Act 2014 an appeal can be made on a point of law only. A decision to grant or refuse a postponement request is an exercise of judicial discretion regarding case management and procedure. It is not a final disposal. An appeal can only be made following the final determination of the case should the Appellant conclude that the decision to postpone the hearing scheduled for 10 August 2026 was unfair and constituted a procedural error giving rise to a point of law."

Application for leave from the Upper Tribunal to appeal to the Upper Tribunal

[6] The application for permission from the Upper Tribunal to appeal to the Upper Tribunal was made on 3 July 2026. Four grounds of appeal were lodged with the application to the Upper Tribunal in the following terms—

Ground 1 – Interpretation of Section 46

The First-tier Tribunal erred in law by refusing permission to appeal on the basis that an appeal against a postponement decision can only be made following final determination of the substantive appeal. Paragraph 3.2 of the refusal decision states: "A decision to grant or refuse a postponement request is an exercise of judicial discretion regarding case management and procedure. It is not a final disposal. An appeal can only be made following the final determination of the case..." The refusal decision identifies no statutory provision, Rule of Procedure or judicial authority in support of that proposition. The Appellant respectfully submits that this proposition requires legal justification, yet none is identified within the refusal decision.

Ground 2 – Published Tribunal Guidance



The Tribunal's conclusion appears inconsistent with its own published Council Tax, Council Tax Reduction and Water Charges Appeal and Review Guidance, which states: "Any decision that is not an excluded decision in terms of the Tribunals (Scotland) Act 2014 (see section 46(5))." The refusal decision does not explain why the postponement decision is said to fall outside that published guidance, nor does it identify any excluded decision within section 46(5). The Appellant respectfully submits that this raises an arguable point of law concerning the interpretation and application of section 46 of the Tribunals (Scotland) Act 2014.

Ground 3 – Wrong Legal Test Applied

The Tribunal did not determine whether the Appellant's application disclosed an arguable point of law. Instead, the application was refused on the basis that the postponement decision could not be appealed until after final determination of the substantive proceedings. Page 11 The Appellant respectfully submits that the Tribunal therefore determined the application by reference to a preliminary legal proposition rather than addressing whether the grounds advanced disclosed an arguable point of law.

Ground 4 – Failure to Engage with the Grounds Raised

The Appellant respectfully submits that the refusal decision does not engage with the individual grounds contained within the application for permission to appeal. Instead, the application was disposed of by reference to the Tribunal's conclusion that an appeal was premature. If that conclusion is incorrect in law, the Appellant respectfully submits that the Tribunal failed to carry out the assessment required by section 46 of the Tribunals (Scotland) Act 2014.

Permission hearing before the Upper Tribunal: 6 August 2026

- [7] A hearing took place on 6 August 2026 by Webex on the appellant's application for permission to appeal. Mrs Hamilton, a lay representative, appeared for the appellant (Mr Wylie was not present). The respondent chose not to appear but had indicated earlier was content for the hearing to take place in their absence.
- [8] It was of benefit to hear directly from Mrs Hamilton. I noted that she found it confusing that the First-tier Tribunal stated in one decision that Mr Wylie was able to appeal the postponement decision and in another decision that he was not (or at least it was premature to do so). Mrs Hamilton submitted that one reason behind the application direct to the Upper Tribunal for permission to appeal was the desire to establish the correctness of the position in relation to section 46 of the Tribunals (Scotland) Act 2014.
- [9] Mrs Hamilton also mentioned a number of incidents throughout the life of this case in which she has felt it was a struggle for herself and Mr Wylie to understand the Tribunal procedure, or some of the comments, directions and decisions made. Despite this, as narrated to me, Mrs Hamilton observed that several of the things she has queried on Mr Wylie's behalf have been



corrected or overturned by the First-tier Tribunal. However, those past events are not a concern for this Tribunal.

[10] I took the opportunity of the Webex hearing to outline to Mrs Hamilton the constraints on the matters on which I am able to adjudicate. My primary focus at the hearing was to hear from Mrs Hamilton as to whether there were any arguable errors of law contained in the postponement decision.

[11] It is not the purpose of this Tribunal to assess whether the First-tier Tribunal erred in law when making its decision on permission. A refusal by the First-tier Tribunal to give permission required by section 46(3) is not appealable (section 55(2) of the Tribunals (Scotland) Act 2014).

[12] As explained to Mrs Hamilton at the hearing, if I needed to take a view on section 46 of the Tribunals (Scotland) Act 2014, I had the appellant's arguments noted as outlined in the grounds of appeal lodged with the Upper Tribunal.

[13] I also explained that it is not within the remit of this permission hearing to decide that the hearing set down for 10 August should proceed as originally planned. I can only refuse or give permission to appeal in relation to the postponement decision. That would result in either a hearing date being set for the Upper Tribunal to hear the appeal on the postponement decision or, what is happening now, permission to appeal is refused and the First-tier Tribunal must proceed to fix a date for the full hearing of the case.

[14] The task of this Tribunal is to make its own assessment of whether there are arguable points of law presented to it in relation to the postponement decision. It was discussed with the appellant's representative that the grounds lodged with the Upper Tribunal were a critique of the decision of the First-tier Tribunal in refusing permission to appeal; not the postponement decision.

[15] However, this is a tribunal not a court. I undertook to also consider the grounds of appeal submitted by the appellant to the First-tier Tribunal in support of the appellant's application to seek permission to appeal. Those grounds are a critique of the postponement decision. Mrs Hamilton was given the opportunity to speak to all of those grounds.

The law as regards appeals to the Upper Tribunal

[16] An appeal to the Upper Tribunal can only be made on a point of law: section 46(2)(b) of the Tribunals (Scotland) Act 2014. Permission to appeal is required under section 46(3) which must be sought first from the tribunal below, and if there refused, must be sought directly from this Tribunal. Permission will only be granted if there are arguable grounds for the appeal (section 46(4)).



[17] The meaning of an appeal on a point of law in the context of appeals against a tribunal decision was set out in *Advocate General for Scotland v Murray Group Holdings Ltd* 2016 SC 201, [2015] CSIH 77 at paragraphs 41 to 43. There are four categories: general law (being the content or interpretation of the law); application of the law to the facts; a finding for which there is no evidence or which is inconsistent with the evidence and contradictory of it; fundamental error in the tribunal's approach or a decision which no reasonable tribunal could have reached.

[18] The test for arguability is not a high one. The appellant is not required to prove that the tribunal did actually err in law. That is for determination at a later hearing should permission be granted. However, the appellant does require to identify at permission stage that there is an error in law that is capable of being argued at a full hearing for proper resolution.

Reasons

[19] I will now deal with the grounds of appeal submitted to the First-tier Tribunal given they are in relation to the postponement decision.

[20] There is no arguable error of general law contained in the grounds of appeal. Rule 4 of the First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022 (S.S.I. 2022/364) (the 'First-tier Tribunal Rules') sets out certain case management powers. The First-tier Tribunal is entitled to decide if a case should be postponed in terms of case management (see rule 4(3)(i) of the First-tier Tribunal Rules).

[21] Other than the power to postpone the hearing, it is not immediately obvious that there was any particular law to be applied in terms of making the postponement decision. The issue was a case management decision, having taken all submissions into account, as to whether to grant the postponement bearing in mind the overriding objective of the tribunal.

[22] There were no facts which the tribunal took into account which it could be argued had no basis in evidence or were inconsistent with evidence. (The grounds of appeal do not attempt to advance this point.) It was simply a matter of the tribunal weighing up the facts and issues put to it in making its postponement decision.

[23] There is no arguable error of approach: the First-tier Tribunal applied its mind to the submissions and everything before it. There is no evidence of the First-tier Tribunal taking into account manifestly irrelevant considerations. It is not arguable that it is in the category where it could be said that it is a decision that no reasonable tribunal could have properly reached. The appellant wishes that the First-tier Tribunal had come to a different conclusion having weighted up the issues put to it. But that is not an arguable error of law. The appellant may be frustrated by lengthy delays and a perceived lack of equality in terms of resource and expertise. However, the postponement decision is not impenetrable or absurd.



[24] The Upper Tribunal should be slow to interfere with the decision of the First-tier tribunal where that decision is one that involves elements of evaluation and judgement (*Advocate General for Scotland v Murray Group Holdings Ltd* at paragraph 45). Further, the Upper Tribunal, when deciding to interfere should do so when the legal element of any evaluative exercise is identifiable and clearly raises a point of law; the higher the factual component the slower the Upper Tribunal should be to interfere (*Advocate General for Scotland v Murray Group Holdings Ltd* at paragraph 47).

[25] I cannot discern much in the way of distinguishing features between the four grounds put forward on behalf of Mr Wylie to the First-tier Tribunal. Indeed, it is not clear what, if any, legal element can be identified within the grounds of appeal. They are all, in essence, questioning the weight and significance allocated to various elements by the First-tier Tribunal in coming to its case management decision to grant the postponement. It is not for the Upper Tribunal to re-hear and re-weigh those matters.

[26] The decision of the First-tier Tribunal is relatively short (para 2.1 of the decision quoted above) but it does not necessarily suffer from its brevity. It is clear from the narration of the correspondence with the appellant (email dated 12 June 2026) and the respondent (emails dated 11 and 26 June 2026) that the First-tier Tribunal was fully aware of the reasons which both parties felt were relevant to the question of a postponement (and of the long history of the case). It is clear the First-tier Tribunal had its overriding objective in mind when making the postponement decision.

[27] One can step back and understand from reading the postponement decision that despite the delays to the progress of the case and the various views on resourcing and other information put to it, the First-tier Tribunal did not want to punish the proper consideration of the case by pressing ahead with the date of 10 August. Instead, it chose to grant the request for a 'short postponement' in the hope, one can reasonably infer, that the eventual hearing goes ahead in a manner, and with the information and personnel before it, which allows the case to be dealt with properly and conclusively.

[28] There is no arguable point of law identified. I refuse permission to appeal.

Other issues

[29] Having come to that conclusion, it is unnecessary for this Tribunal to decide whether the postponement decision is appealable, either now or at a later stage of proceedings. This is broadly the point in relation to which Mr Wylie seeks clarity in the four grounds of appeal submitted to this Tribunal (which all critique the decision of the First-tier Tribunal refusing permission to appeal).



[30] **There is no appeal against this decision or right of review: section 48 and 55(2) of the Tribunal (Scotland) Act 2014.**

Mr N S Taylor

Legal member of the Upper Tribunal for Scotland