



2026UT70

UTS/AP/26/0045

DECISION OF

Sheriff McCartney

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

in the case of

Mrs Daniela Tyszko

Appellant

and

Assessor for Lothian Valuation Joint Board

Respondents

FTS Case Reference: FTS/LTC/CT/23/41158

10 September 2026

Decision

Permission to appeal is REFUSED

Introduction

[1] This is a decision on an application for permission to appeal arising from a decision by the First-tier Tribunal for Scotland (FTS) regarding council tax banding. The FTS determined the appeal on 14 October 2025. It found against the appellant. The appellant wished to appeal the FTS' decision to the Upper Tribunal for Scotland (UTS). After correspondence, the appellant submitted amalgamated grounds of appeal on 14 December 2025.

[2] On 5 February 2026, the FTS refused the application for permission to appeal. It then issued a further decision on 2 March 2026 explaining their earlier decision had not considered all the appellant's proposed grounds. Permission was again refused. The appellant renewed her application for permission to the UTS. That application was considered on the papers and refused on 11 June 2026.

[3] In terms of the Upper Tribunal for Scotland (Rules of Procedure) Regulations 2016, rule 37, if the UTS has refused permission to appeal on the papers (restricted the grant of permission), any reconsideration of the refusal must be considered at a hearing and before a different member of the UTS. Whilst the appellant repeatedly communicated that she did not wish a hearing by any mode and would not attend, the rule is in mandatory terms. I allowed a period for both parties to lodge any further written submissions they wished. A hearing took place on 19 August 2026, which the appellant did not attend and at which the respondents made brief submissions.

[4] It is not straightforward to understand the matters the appellant wishes to put before the UTS. There are 19 points in the appellant's grounds of appeal (submitted on 1 April 2026). The appellant's further written submissions are confusing and do not assist in understanding her proposed arguments. Some submissions are directed to why the UTS

decision of 11 June 2026 is wrong. Some submissions go beyond the grounds of appeal.

Some are an expansion of the grounds of appeal of 1 April 2026. Whilst arguably the UTS should not consider any matters beyond the proposed grounds of appeal lodged on 1 April 2026, for the avoidance of doubt, I have considered all matters before me.

[5] Before I turn to the proposed grounds, as noted some of the appellant's submissions are directed to why the UTS decision of 11 June 2026 is wrong. I do not deal with those arguments, as that is not the issue before me. This is not an appeal against the UTS decision of 11 June 2026. Rather, my task is to consider the proposed grounds for against the FTS decision of 14 October 2025 and to consider such matters afresh.

Background

[6] It is helpful to understand something of the background.

[7] The appellant considers that her property should properly be classed in a lower Council Tax band than it is. She timeously made an application for it to be banded in band C rather than D. That was rejected by the respondents. She sought information as to property valuations and sales data for certain properties in 1991 (the date at which valuations are to be taken at in terms of the statutory framework, which is not in dispute).

[8] Two earlier hearing dates were adjourned due to medical appointments for, or involvement the attendance of the appellant. The appellant then told the FTS that she would not attend the third hearing date arranged. She explained she was unable to participate in a hearing if it was to take place on-line due to reliability with her internet connection. She told the FTS that English was not her first language, and even with an interpreter, attending a hearing in person would be "hugely detrimental" to her and she considered she would not receive a fair hearing. The appellant did not attend the hearing but lodged written

submissions on or about 15 September 2025. She had assisted in the background by third parties who had or have a similar dispute with the respondent regarding their own property.

[9] Accordingly, the FTS hearing proceeded with only the respondent present. Mr Sean Allan, an employee of the respondents, had lodged a lengthy witness statement providing analysis of comparative properties and their valuations, including some comparative properties suggested by, or relied upon, by the appellant. He attended the hearing and spoke to that statement.

The test for permission to appeal

[10] The test for grant of permission to appeal is found in section 46 of the Tribunals (Scotland) Act 2014. The legislation only allows an appeal against the decision of FTS on a point of law. Permission may only be granted if there are arguable grounds for such an appeal.

[11] Accordingly, Parliament has decided that appeals against decisions of the FTS are not unrestricted. As an appeal can only be made on a point of law. That means that an appellant cannot appeal simply because they consider the FTS has taken a different view of the facts than the appellant might wish. Permission to appeal should only be granted if a real issue or argument of law arises for the UTS to rule on. Permission should not be granted unless the point of law is at least properly arguable. Arguments which are disagreement as to the facts that the FTS found proved or not, or disagreements as to the evidence the FTS accepted or rejected, are unlikely to have permission to appeal granted. If there is a point of law, there is a relatively low bar for the grant of permission. However, there must be a point of law to argue.

Proposed grounds of appeal

[12] I start with considering the 19 grounds of appeal in the application of 1 April 2026.

Ground 1 – omission of 1991 valuations

[13] The appellant argues that the FTS did not question Mr Allan relative to various 1991 property sales figures. If it had done so, consideration of the valuations of those properties would have supported the appellant's argument. The point was made to the FTS. The FTS failed to question Mr Allan.

[14] Whilst the appellant did refer to 1991 sales figures and that, in her opinion, the information from Mr Allan required "a more in-depth investigation", that submission was made in a request to the FTS to postpone a hearing date (subsequently granted). Subsequently she told the FTS that she was unable to submit further evidence as she awaited further sales information from the respondents. On 6 March 2025 the appellant sent further correspondence highlighting that tone date data (data relating to property valuations) she had requested from the respondents had not been received. There was further correspondence, but on 14 May 2026, the FTS wrote to the appellant advising her that

"it is not for the tribunal to assist parties in gathering evidence to be lodged.... It is for the appellant to decide how they wish to present their case and obtain any evidence they wish to present...".

[15] The appellant subsequently told the FTS that a complaint had been lodged in relation to the failure of the respondents to provide the data requested.

[16] The appellant's assertion that the FTS failed to question Mr Allan is misleading. It was for the appellant to put before the FTS the evidence or information she wished to rely

upon. The FTS considered the evidence that she did provide (narrated at paragraph 29 of the FTS decision) and gave reasons for rejecting that evidence (at paragraph 33).

[17] There is no error of law and permission to appeal is refused on this proposed ground.

Ground 2 – omission of certain larger properties

[18] The appellant argues the respondent's evidence excluded sales of larger properties sold in 1991. She refers to properties in an address in Hosie Rigg which were said to be omitted from Mr Allan's evidence. The FTS should not have accepted Mr Allan's evidence without scrutiny. She argues as the FTS failed to test the reliability of Mr Allan's evidence, that failure amounts to a procedural unfairness.

[19] The respondents lodged Mr Allan's witness statement before the FTS. It is a detailed statement. It includes analysis of alternative comparative properties suggested by the appellant, and brief reasons for reject those properties as a proper comparator. That includes the properties at Hosie Rigg.

[20] The appellant's difficulty is that if she had wished to test the evidence on a particular property or properties, she did not attend the hearing to put questions to the respondent. No representations were put before the FTS on the particular issue of the Hosie Rigg comparator or why it should be preferred. What the appellant is suggesting is that the FTS should have investigated her case and then advocated that case on her behalf. Such a role would go beyond the role of the FTS. The FTS is an independent judicial body. It cannot take the role of advocating for one or other party.

[21] Permission to appeal on this proposed ground is refused.

Ground 3 – omission of the largest comparative property

[22] The appellant argues that the respondent did not provide the FTS with a particular property valuation from 1990, being 7 Corbieshot. The appellant argues this is a property which is closest in size to the appellant's property. As the respondent did not put it before the FTS, there was a lack of scrutiny of the evidence, and the FTS erred by accepting an incomplete picture.

[23] The difficulty for the appellant is that again, the appellant did not attend the hearing and did not put any arguments on this particular property before the FTS. Reference is made to para [12] above and leave to appeal is refused on this proposed ground for similar reasons as narrated above.

Gound 4 – band area sizes

[24] The appellant complains that the respondent “presented a misleading picture of band C/D cut off size”. She argues the respondents made an incorrect assertion before the FTS concerning the cut off in property sizes between properties found in band C and those within band D, said to be around 65m². She points to several band D properties within the respondent’s case that are just below 65m² (173 and 142 Vexhim Park), referring also to properties in Hosie Rigg and others, including one in band C measuring 79.2m². She argues that such analysis undermines the respondent’s case. The FTS therefore “failed in its duty to test the reliability of expert evidence, particularly conflicted with the documentary evidence before [it]”. Its decision is therefore wrong in law.

[25] Leave to appeal is refused on this proposed ground. This matter was not argued before the FTS by the appellant. For the same reasons as given above, this proposed ground is not arguable.

Ground 5 – failure to test comparisons

[26] The appellant complains the FTS failed to test the respondent's position before it that their comparisons could be described as "good" and "almost perfect". She argues these are subjective terms and unverified opinions rather than evidence. There is evidence in the case file showing the differences between her property and the comparative ones, including a photograph showing that end-terrace properties were used as comparisons rather than mid-terrace ones. The FTS erred by failing to question Mr Allan on such points. She relies on her written position before the FTS that Mr Allan's evidence requires "in-depth investigation".

[27] This proposed ground of appeal is rejected. The selection of which properties are appropriate for comparison, and the valuation of the appellant's property, is inevitably a matter of judgment. Such valuations will, to some degree, be subjective. A valuation may vary between surveyors. Mr Allan appeared before the FTS as a witness with specialist knowledge. There can be no criticism of him using such terms to describe the comparators he used. It was a matter of his opinion. If the appellant had attended the hearing, it would have been open to her to challenge such evidence.

[28] Insofar as the appellant argues that the comparisons used flawed because of differences in terms of terrace location, size, garden, or parking spaces, the appellant did not put the detail of such arguments before the FTS. In her absence, these were not matters in issue before the FTS. The appellant cannot expect the FTS to deal with arguments that are not before it.

[29] Permission to appeal is refused on this proposed ground.

Ground 6 – inappropriate comparisons between private and social housing

[30] The appellant argues the respondents inappropriately compared her home (a property rented from a social landlord) with privately owned housing. She argues privately owned properties are inappropriate comparators. It is inevitable that using such properties will results in an unfair comparison given market values and demand. She referred to this matter in her email to the FTS of 11 September 2025.

[31] The issue of the correct comparators was part and parcel of Mr Allan’s written and oral evidence before the FTS. In the appellant’s submissions she refers to a recording of the hearing, criticising that the FTS did not press the point sufficiently. She refers to a passage of Mr Allan’s evidence where he discounted the issue of social housing having any effect on his valuation, explaining his view of the appearance of the estate where the appellant stays.

[32] The decision of the FTS does not specifically refer to valuations of social housing compared to privately own property. However, reading the whole decision, it is clear the FTS accepted the evidence from the respondents. The FTS noted the evidence for the respondents was credible and reliable. It notes such evidence included a report from Mr Allan. It noted the respondent’s evidence as to comparator properties. It is clear the FTS accepted that evidence; at para [32], the FTS noted the high number of comparator properties near to the appellant’s property. In accepting that evidence, the FTS considered and accepted the respondent’s evidence on this point.

[33] Accordingly, I do not accept the FTS failed to deal with this argument. Leave to appeal under this heading is refused.

Ground 7 – allegation of false and misleading evidence

[34] The appellant argues the respondent gave “false and misleading evidence” by claiming the appellant had asked for tone data evidence out with the local area. That was not true. In fact, her request for data concerned a selection of comparison properties between 0.2-0.4 miles from her home. The comparators the appellant sought valuations for are similar distances from her home judged with the respondents’ comparative properties (0.1-0.3 miles away).

[35] Leave to appeal on this ground is refused. As has already been noted, it was for the appellant to put before the FTS the evidence that she wished to rely on. If the appellant had attended the hearing, she could have asked questions designed to challenge the respondent’s position on comparator properties and could have raised the alternative comparators she considered more appropriate. The FTS cannot consider a case that was not before it. There is no merit in this proposed ground of appeal. Leave on this ground is refused.

Ground 8 – allegation of false claim

[36] This matter concerns Registers of Scotland sales information. The appellant sought certain Register of Scotland sales information from the respondent. She argues the respondents wrongly told the FTS they could not provide such information to her.

[37] This ground of appeal is refused. The FTS can only consider the evidence before it. If the appellant is correct in her assertion that this information should have been sent to her (and it is unclear whether that would have been possible, given it is unclear if that information is held by the respondents), she had other remedies such as an appeal to the

Scottish Information Commissioner or the Scottish Public Services Ombudsman as appropriate. It was for the appellant to present the evidence she wished to rely upon.

Ground 9 – allegation of file being closed/surveying processes

[38] The appellant says the respondents falsely told her that they had closed her case. She seeks leave to bring that matter before the UTS.

[39] Whether or not it was maladministration by wrongly or erroneously telling the appellant her case was closed, that communication does not form a ground of appeal before the UTS. That correspondence did not affect the way the FTS approached matters. It did not affect the FTS decision. The appellant seeks to utilise an appeal to the UTS as a mechanism to raise a grievance as to maladministration by the respondents. Whilst the appellant tries to argue that the FTS should have rejected the submissions made by the respondent because of this, her argument does not stand scrutiny. From the appellant's own submissions, it is clear that the respondent explained to the FTS that a mistake had been made, that the appellant had been wrongly told that her appeal had been closed but that the appellant was then told that was an error. All of that happened at an early stage. It did not impact the FTS's decision. Leave to appeal under this heading is refused.

Ground 10 – withholding of reduced property sizes

[40] The appellant argues that the respondent withheld information as to the internal measurements of her property from the FTS and only provided the overwalls measurement (the gross external measurement). She argues the internal measurements (referred to as the reduced size) were provided for comparator properties but not her own. The reduced size

measurement was not provided to her, and nor was it provided to the FTS. In the absence of that measurement, there was no consistency between the respondent's comparators.

[41] The appellant does not explain how this matter is an error of law. In effect, again noting that the appellant did not attend the hearing, what she in effect wishes to do is challenge the evidence of the respondent via the mechanism of an appeal. That is not a legitimate approach. If she had attended the FTS hearing, she could have put such points to the respondent. The FTS could then have considered the reliability of the respondent's evidence on comparators in light of such points. The issue of the overwalls measurements was not in her written submission to the FTS. The FTS cannot consider a matter not before it. There is no merit in this proposed ground of appeal.

Ground 11 – measurement of properties

[42] This proposed ground of appeal again arises from the appellant having listened or or accessed a transcript of the FTS hearing.

[43] The appellant complains that Mr Flynn, the ordinary member of the FTS, made a comment as to the way that assessors measure properties, referring to measurements as "a statement of fact". She complains that there should be instructions for measurements, and in the absence of such instructions, "any claim cannot be tested or validated and therefore lacks probative value."

[44] Leave on this ground of appeal is refused. There is nothing wrong with the comment that has been said to be made, particularly given the ordinary member's experience (which would be either as a member with surveyor rating experience or valuation experience). But again, this proposed ground of appeal is problematic, given the appellant did not attend the hearing and did not challenge the evidence on measurements.

Ground 12 – information as to whether the appellant accepted size of property

[45] The appellant argues that the FTS should have questioned the respondents' methodology used when measuring the size of her property. This includes asking questions as to the RICS code of measurement, what instructions were given to the respondent's surveyors, and questions on policies of the respondent.

[46] Before the FTS, the respondent explained the appellant disagreed with its measurement as to the size of her property but had not provided an alternative measurement.

[47] The difficulty again is that the appellant did not attend the FTS hearing. If she had, she could have asked questions on the issues she wished to raise, including on methodologies of surveying practice and on internal and external codes and policies. She did not do so. As has already been noted, her failure to attend the FTS hearing does create a duty on the FTS to advocate the appellant's case, particularly when the detail of such a case is not known.

[48] For similar reasons given above, leave on this proposed ground of appeal is refused.

Ground 13 - overwalls

[49] This proposed ground of appeal appears to arise following the appellant listening to a recording of the hearing.

[50] The appellant notes that, during a discussion on the question of the measurement, the ordinary member of the tribunal appeared to say "the law says overwalls". As he did not provide an authority for that proposition, the appellant argues the FTS erred in law.

[51] I refuse permission to appeal on this ground. The FTS made a finding in fact on the size of the appellant's property. It explained why it made that finding at paragraph [34] of its decision, giving reasons and explaining the basis on which the measurements had been made. Any particular remark made by a member of the FTS must be seen in the context of the reasons given for making the finding it did. It heard the evidence from the respondent on measurements, and the size of the appellant's property. It gave reasons for accepting that evidence. There is no error of law in the approach of the FTS.

[52] Accordingly, leave to appeal on this proposed ground is refused.

Ground 14 – questioning of assessor's methodology

[53] The appellant argues that an intervention by the ordinary member, in relation to the methodology of measuring, was done in a way that suggested the FTS was not properly challenging the respondents' case.

[54] There is no merit in this proposed ground. This is a matter of style and tone. The wording used is polite. A courteous interruption by an FTS member does not form a ground of appeal. The appellant's suggestion that the manner of questioning prejudiced the fairness of the hearing is rejected.

Ground 15 – allegation of misleading the FTS re a letter

[55] The appellant argues that the respondent misled the FTS by giving incorrect evidence or information at the hearing. This was in relation to correspondence from third parties, being persons who have assisted the appellant in the preparation of her own case. It appears those third parties have carried out or attempted to carry out investigations for some time as to the respondent's practices, alleging various degrees of maladministration.

[56] The appellant's specific complaint is that the respondent told the FTS that they had not previously seen a particular letter from those third parties. The appellant's position is that this letter had been presented to the respondent on previous occasions.

[57] The letter makes assertions of maladministration by the respondent. It is general. It does not add any specific evidence to the appellant's case. Whether the letter has been seen by the respondents or particular members of staff within the respondents' offices is irrelevant to the issues before the FTS. It does not assist the appellant and does not add anything to the FTS' understanding of the issues involved.

[58] Leave to appeal on this ground is refused.

Ground 16 – allegation as to misleading the FTS re SPSO

[59] This proposed ground is similar to ground 15. It arises from the same (or similar correspondence) and whether that correspondence was copied or sent to the Scottish Public Services Ombudsman.

[60] There are difficulties with this proposed ground of appeal. Firstly, as indicated above, the relevance of the letter to the appellant's case is unclear. The letter was written, not by the appellant, but by those assisting the appellant. If there is a connection between the information in that letter and the issues in this case, that is unclear. Secondly, by not attending the hearing, the appellant has some difficulty in arguing that the FTS erred by accepting the respondent's position as to the relevance of the letter and where it had been sent. Thirdly, it is unclear as to how it is said the FTS erred in law as a result of this letter.

[61] Permission to appeal on this ground is refused.

Ground 17 – allegation of accepting false and misleading information

[62] This proposed ground of appeal again involves those assisting the appellant.

[63] The appellant argues the FTS erred because it accepted “false and misleading” evidence from the respondents without questioning it. That issue concerns whether the respondent referred to the letter from those helping the appellant as “a chain on anonymous messages”. The appellant’s position is that the email chain was not anonymous. It had the details of the third parties on it. It was misleading to say otherwise.

[64] The appellant has reproduced a copy of the letter within her grounds of appeal. Although I have not seen the original, for the purposes of this argument, I accept it is incorrect to say that the correspondence is anonymous. However, there are difficulties with this proposed ground of appeal.

[65] The relevance of the email chain to the appellant’s case is unclear. That email narrates difficulties that those third parties, in their own dispute with the respondent, have experienced with the respondent, their dissatisfaction with “false evidence” produced on behalf of the respondents, the difficulties those third parties have had in preparing their own arguments and their view of the importance of holding the respondents to account as a public authority. All such information is of a general nature. The appellant has not made a link between the email and the issues in her appeal. Even if the email did contain relevant information, by not attending the hearing, the appellant has difficulty in arguing that the FTS erred by accepting the respondent’s position.

[66] Leave to appeal on this ground is refused.

Ground 18 – allegation re appellant's agents

[67] This matter concerns an allegation by the appellant regarding remarks made by the respondent during the hearing. It is said that the respondent told the FTS that the appellant was seeking advice from persons who did not have her interests at heart.

[68] The appellant interprets this as a reference to the third parties referred to in the grounds above. She disputes the respondent's characterisation of the assistance they have given her. She points out that English is not her first language, that those third parties assisted her by in various practical ways, including obtaining documents at their own expense. She considers such comments as an improper allegation which should have been scrutinised. The failure of the FTS to do so compromised the integrity of the hearing and the FTS should have asked all necessary questions to establish the facts.

[69] This is not an arguable ground of appeal. The FTS did not rely upon the involvement of those third parties assisting the appellant, make any findings on that or in any comment on it, far less take a negative view of that assistance. It is not reflected in their written reasons as influencing their decision in any way. It is therefore an irrelevant matter for the appellant to now raise.

[70] There is an additional problem for the appellant with this proposed ground of appeal. In essence the appellant argues that something was said before the FTS which she disputes. She did not attend the hearing. As previously set out, it is not for the FTS to present her case, even if the FTS could somehow know that she disagreed with any particular statement made. Leave is refused on this ground.

Ground 19 – contradictory evidence

[71] This proposed ground of appeal concerns alleged statements as to the provision of historic valuation data to the appellant, to assist in her arguments as to the correct valuation at the relevant date. The appellant refers to a tape recording of the hearing, where she says the respondent indicates they would be “more than happy” to provide sales evidence if the appellant’s comparisons were better. The appellant argues this statement was misleading. The respondents were not prepared to provide her with sales data. As the FTS failed to ask the correct questions to establish the facts, the FTS erred in its approach.

[72] There is no merit in this proposed ground of appeal. It is clear from the appellant’s written arguments that the offer by the respondents was a conditional one. The appellant’s submissions note the respondent’s representative agreed that he “would be more than happy” to provide Sales Evidence if Appellants’ comparisons were closer and better”. If the appellant disagreed that such a statement properly represented the position, if she had attended the hearing, it was open to her to put that matter before the FTS. As she did not attend, any disagreement she had with that statement was not before the FTS.

[73] Accordingly, there is no merit in this proposed ground of appeal.

Other matters

[74] In the appellant’s further written submissions before the UTS, she raises other matters not articulated in her grounds of appeal. For the sake of completeness, I deal with those other arguments.

Other matters - refusal by the FTS to deal with the appeal by written representations

[75] The first is the appellant's complaint that she was denied a hearing before the FTS by written representations alone, despite being medically unfit.

[76] The FTS case papers have extensive correspondence as to the date and the arrangements for the hearing. The hearing was postponed on two occasions to accommodate the appellant not being able to attend. In this correspondence, the appellant sought the appeal to be dealt with by way of written representations. She explained she was unable to join a hearing on-line or in person. The reasons she gave were as follows; her Wi-Fi is insufficient, English is not her first language and whilst she did not require an interpreter, she sometimes struggled to articulate herself. She noted the hearing had already been delayed twice to accommodate her medical appointments. It would have been quicker if written representations had been allowed at the outset. She is on medication for health reasons.

[77] Rule 9 of The First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022 reads:

"Disposal of an appeal without a hearing

- 9.—(1) This rule applies to appeals other than an appeal against a determination of an application for council tax reduction (for which provision is made in rule 46).
- (2) A council tax appeal against a decision under regulation 8 (proposal treated as invalid due to lack of title or being out of time) or regulation 9 (proposal treated as invalid due to lack of information) of the 1993 Regulations may, if the First-tier Tribunal considers it appropriate to do so, be disposed of on the basis of written representations.
- (3) Any other appeal may be disposed of on the basis of written representations, without a hearing, only if—
 - (a) all the parties have given their agreement in writing, and
 - (b) the First-tier Tribunal considers that it is able to decide the matter without a hearing.

- (4) Where it appears to the First-tier Tribunal that an appeal, except an appeal of the kind specified in paragraph (2), is capable of being determined without a hearing it must seek the written agreement of the parties to proceed on this basis.
- (5) Any party may, with or without the agreement of the other parties to an appeal, request in writing to the First-tier Tribunal that the appeal be determined without a hearing.
- (6) On receipt of a request under paragraph (5) the First-tier Tribunal must, unless that request includes the agreement of parties, seek the written agreement of the other parties to determine the appeal without a hearing.”

[78] Accordingly, Rule 9(3) allows an appeal to be disposed of on the papers alone only if both parties agree to that course of action. The respondents did not agree to that course of action. The appellant was permitted to lodge written representations prior to the hearing. The FTS noted those written representations at paras [14] and [27] of its decision. The appellant did not lodge medical evidence to explain whether it would be impossible for her to attend a hearing under any conditions or circumstances, whether in person or remotely. Further, the appellant sought two postponements of earlier hearing dates due to medical appointments. She did not say that she could not attend on any date but rather that she could not attend on those specific dates. The FTS did not err by considering her written submissions and determining the case in circumstances where she made it clear she would not attend. There is no merit in this proposed ground of appeal.

Other matters – observations of the FTS decision at para [26]

[79] The appellant complains as to wording found at para [26] of the FTS’s judgement, arguing the FTS has wrongly criticised her observations of the respondent’s witness. This argument has no merit. Para [26] narrates the respondent’s argument put before the FTS, and not the FTS’s conclusions.

[80] The remainder of the appellant's written submissions do not raise any new matter of substance.

Decision

[81] Leave to appeal is refused.

Sheriff McCartney

Member of the Upper Tribunal for Scotland