



Appeal Decision

Site Visit made on 8 July 2024

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2024

Appeal Ref: APP/J2373/C/24/3336544

51 Bond Street, Blackpool FY4 1BW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr James Cheston, ACJC Properties Limited against an enforcement notice issued by Blackpool Borough Council (the LPA).
- The enforcement notice was issued on 27 November 2023.
- The breach of planning control as alleged in the notice is, without planning permission, the use of the property as a self-contained holiday let.
- The requirements of the notice are to: cease the use of 51 Bond Street as a self-contained holiday let.
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the grounds set out in section 174(2)(b) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed, and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.

The Notice

1. The notice alleges a breach of planning control of the use of the property as a self-contained holiday let. However, the use of a property is not an act of development. Rather, development is defined in statute as the making of a material change of use of the land. The appellant's case is predicated on the basis that the notice alleges a material change of use. Correcting the notice to reflect the correct terminology in statute would not broaden the scope of the notice. I am satisfied, therefore, that I can correct the notice such that it alleges the material change of use of the property to a self-contained holiday let without injustice to the appellant or the LPA.

The appeal on ground (b)

2. An appeal on ground (b) is made on the basis that in relation to any breach of planning control which may be constituted by the matters stated in the notice, those matters have not occurred. The notice, as corrected, alleges a breach of planning control of the material change of use of the property to a self-contained holiday let.
3. The appellant's case is that such a breach of planning has not occurred. It is said that the property is in use as a dwellinghouse with only occasional use as a short-term holiday let.
4. The LPA's case is that holiday let uses are, as a result of the increased potential for noise and activity, materially different from dwellinghouses which fall under

Class C3 of the Town and Country Planning (Use Classes) Order 1987. I note the LPA's points that temporary occupants can have less consideration for neighbours than permanent residents whilst also, holiday let uses can have impacts on housing provision.

5. However, to establish whether or not the breach has occurred, it is necessary to look at the evidence regarding the physical condition of the property at the date the notice was issued and the actual use of the property at that date. General assertions regarding the materiality in differences between dwellinghouses and holiday lets do not satisfy the question of whether the breach has occurred.
6. Indeed, the limited use of a family home for holiday lettings would not necessarily be a material change of use. The Court of Appeal held in *Moore v SSCLG* [2012] EWCA Civ 1202 that materiality in such cases will be a matter of fact and degree, with the answer depending on the characteristics of the use as holiday accommodation.
7. Nonetheless, the LPA has provided an excerpt from a property letting website, Booking.com, which advertises the property as a four bedroom apartment with living room, a fully equipped kitchenette and two bathrooms. The listing indicates that towels and bed-linen are provided and that the apartment is non-smoking. Moreover, a listing is provided from AirBnb which shows the property as able to accommodate 15 guests with four bedrooms, 10 beds and two bathrooms. The listing is advertised by SASCO Apartments, described as Blackpool's biggest and most trusted serviced accommodation company. There is a similar listing from the Hotels.com and Trip.com websites provided.
8. The listings indicate that two of the bedrooms contain a double bed sleeping two people, one bedroom contains a double bed and single bed sleeping three people, one bedroom contains two double beds and one single bed sleeping five people whilst three double sofa beds are contained in the living room. That level of occupancy and sleeping arrangements are beyond what would typically be expected of a four bedroom dwellinghouse.
9. I saw from my site visit that the sleeping arrangements in the property were as set out above. I also saw there was a guest welcome pack by SASCO Apartments. Almost all of the light switches were labelled "light switch" which one would typically not expect in a dwelling where occupiers are familiar with their home. Moreover, there were "no smoking" signs, guest information signs and fire action instructions displayed. Again, these would not typically be found in a dwellinghouse where occupants are familiar with their property. Whilst what matters is the situation at the date the notice was issued, I have no reason to believe my observations were not reflective of the property at that time. As a result, I consider the evidence indicates the property was available and being actively advertised for short-term letting use at the time the notice was issued.
10. Whilst the internal arrangements and listing of a property does not necessarily demonstrate actual use, the Booking.com listing has 33 guest reviews, whilst the AirBnb listing has 19 reviews. The Trip.com excerpt shows a rating score of 4.1/5. Thus, the fact that people have reviewed the property points to guests having stayed at the property on several occasions.

11. Moreover, whilst availability excerpts have not been provided, the LPA states that the property is shown as available for any date and time. The LPA argues that, if the property were being let only occasionally, then one would expect to see dates and times when the property is unavailable during the appellant's primary occupation. In the absence of contrary evidence from the appellant, this further points to the property's primary use as a holiday let.
12. The appellant has provided a Statutory Declaration in which it is said that 51 Bond Street remains their primary place of residence and that it remains in residential use as a dwellinghouse, with any alternative uses solely as a secondary activity. However, the appellant has not indicated how often the property was let out for holiday use. Nor is there any substantive evidence before me regarding the frequency and times of the property being occupied as a dwellinghouse.
13. Furthermore, there is little documentary evidence which supports the appellant's case. The appellant has provided a letter dated 29 November 2023 from energy company EDF. However, the letter is addressed to the appellant at 51a Bond Street and refers to the occupancy of a first floor flat at the property. Moreover, the purpose of the letter is to welcome the recipient into their new home and guide them on the tariffs available. Furthermore, the letter post-dates the enforcement notice. In addition, a holiday let would still require a gas and electricity supply for use by guests. As such, it does not assist in demonstrating that the entirety of 51 Bond Street was not in use as a holiday let as of 27 November 2023.
14. Similarly, the appellant has provided an internet excerpt which shows the first floor flat at 51 Bond Street, was registered for Council Tax in Band A from 4 May 2009. Again, however, this does not demonstrate how the property was occupied on 27 November 2023 or that it was not in use as a holiday let.
15. Ultimately, the onus is on the appellant to provide evidence to support their case which is sufficiently precise and unambiguous. That is not the case here.
16. Thus, I am satisfied that, at the date the notice was issued, it would have appeared to the LPA that the material change of use of the property to a self-contained let had taken place.
17. The appeal on ground (b) therefore fails.

Formal Decision

18. It is directed that the enforcement notice be corrected by:
 - the deletion of the words, "the use of the property as a self-contained holiday let" and their substitution with the words, "the material change of use of the property to a self-contained holiday let", in section 3 of the notice.
19. Subject to this correction, the appeal is dismissed, and the enforcement notice is upheld.

J Whitfield

INSPECTOR