



Appeal Decision

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2024

Appeal Ref: APP/J2373/C/23/3325913

44 Lincoln Road, Blackpool FY1 4HB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Andice Ltd against an enforcement notice issued by Blackpool Council.
 - The notice was issued on 12 June 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of 44 Lincoln Road from a single private dwelling house, to a self-contained holiday let.
 - The requirements of the notice are to: cease the use of 44 Lincoln Road as a self-contained holiday let.
 - The period for compliance with the requirement is: one month after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matter

2. The appellant was notified that a site visit had been arranged to view the appeal property by letter, dated 28 May 2024. That visit was to take place on 4 June between 11:00 and 12:00. Prior to that visit taking place the appellant explained that they were unavailable and could not attend that visit. Consequently, a letter, dated 5 June 2024 confirmed the date and time of a site visit on 26 June 2024 at 10:15. However, the appellant explained on 22 June 2024 that they were on holiday on 26 June 2024 and would be unable to attend that visit. Given that two attempts have been made to visit the appeal property and advance notification has been provided on both occasions, I have determined the appeal based on the written evidence submitted.

Reasons

The appeal on ground (c)

3. An appeal under ground (c) is that those matters do not constitute a breach of planning control.
4. The Town and Country Planning (Use Classes) Order 1987 (as amended) ("the UCO") and the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 set out the Use Classes and confirm that the use of a building or land for any other purpose within the same use class is not taken to involve development.

5. Neither the Act nor the UCO define the term 'dwelling' or 'dwellinghouse'. The UCO categorises the uses of land and buildings. A change of use can take place within the same use class or from one use class to another. Such changes, which may otherwise be deemed to be material, are not considered to constitute 'development' under section 55(2)(f) of the Act. For a material change of use to have occurred, there must be some significant difference in the character of the activities from what has gone on previously, as a matter of fact and degree. That could include factors such as whether there has been a change in the character of the use, any effects of the change upon neighbouring uses and the locality, and the extent to which the existing use fulfils a legitimate or recognised planning purpose.
6. The terms 'dwelling' and 'dwellinghouse' refer to a unit of residential accommodation that provides the facilities needed for day-to-day private domestic existence. There is no dispute that the appeal property has all the facilities needed for a single private dwellinghouse that falls within Use Class C3. That is what the property has historically been used for.
7. The limited use of a family home for holiday lettings may not necessarily be a material change of use. However, as established by *Moore v SSCLG & Suffolk Coastal DC* [2012] EWCA Civ 2101, materiality will be a matter of fact and degree and will depend on the characteristics of the use as holiday accommodation.
8. A Class C3 use would mean the appeal property would typically be occupied by a family or group of up to 6 people living together as a single household. In either case, residents would be permanent, and they tend to build relationships with the surrounding community. They are also more likely to have regular routines and commitments, which result in regular comings and goings. They usually also have greater consideration for their neighbours.
9. The property is rented out as short-term visitor accommodation, and it is available for up to 6 guests. It is not occupied by a family or group of 6 people living as a single household. The evidence indicates that the appeal property can be rented out during the year to a range of different people, including groups who live elsewhere and who are visiting the area, and that there is a high turnover of guests. There is no suggestion that the property's occupation is controlled in any way.
10. I understand arrangements exist so that persons renting the property can access and return the key without the need for the owners to be present. Added to this, linens are provided and changed after each stay, and provision is made for the property to be cleaned after each rental and waste removed. A bond is also paid to cover any potential damages (returned on departure if there are no damages), and there is no on-site live-in management.
11. As the accommodation is not self-contained and there is no on-site management, the use of the appeal property does not fall within Use Class C1.
12. The occupiers of the property are principally tourists who come to the area to use the resort's tourism offer. That includes its night life. Nearby residents have experienced occupiers who have been loud, inconsiderate, and who have come and gone from the property at various times of the day. The noise, disturbance, and other amenity related issues from occupiers seem to be due to the use of the hot tub in the communal garden area by groups occupying the

property. They explain that there is not any on-site management to effectively control this behaviour.

13. As such, the circumstances in this case mean that the use has the potential to generate more noise and disturbance than a Class C3 use, and it is clearly occupied and managed in a different manner to a Class C3 use. A change in the character of the use has therefore occurred. As such, I consider that the use of the appeal property is as a holiday let. That use does not fit into Class C3. Instead, it is a Sui Generis use. Development as defined by the Act, has therefore occurred as the change of use is material. There is no planning permission in place for that use, nor is the change from Use Class C3 to Sui Generis permitted by the UCO.
14. Even if the property is registered for business rates, that does not change the fact that a breach of planning control has occurred as a matter of fact. Furthermore, the appellant's points about the planning merits of the use are not relevant to the consideration of the appeal on ground (c). For the reasons set out, the appeal on ground (c) fails.

The appeal on ground (a)

Main Issues

15. The main issues are: (a) whether the proposal would accord with the leisure and business tourism strategy for new visitor accommodation; and (b) the effect of the proposal on the character of the area and the living conditions of nearby residents, with regards to noise and disturbance.

Leisure and business tourism strategy

16. To physically and economically regenerate Blackpool's resort core and town centre, Policy CS21 of the Blackpool Local Plan Part 1: Core Strategy (2012 – 2027) (CS) explains that the focus will be on strengthening the resort's appeal to attract new audiences year-round. To achieve this, proposals for new visitor accommodation will be focused on the town centre, resort core, and defined holiday accommodation areas, unless exceptional circumstances justify a peripheral location outside these areas.
17. The Holiday Accommodation Supplementary Planning Document (SPD) defines the main holiday accommodation areas (MHAA). The appeal property is not within the town centre, resort core or a MHAA. The property may be near other business premises and a main road, and the type and size of the accommodation may contribute to the local economy, but these are not exceptional reasons to justify the holiday accommodation use of the property. Thus, the property's location does not accord with the Council's strategy to locate such accommodation in areas to support the vitality of the resort and to improve the quality of holiday accommodation and reduce their number.
18. I conclude, on this issue, that the proposal does not accord with the leisure and business tourism strategy for new visitor accommodation. The proposal conflicts with CS Policy CS21 and the SPD in this regard, and despite the property being registered for business rates, this does not change that conclusion or the harm that flows from that insofar as strengthening and supporting the resort's leisure and business tourism appeal.

Character of the area and living conditions

19. Lincoln Road is characterised by dwellinghouses within Use Class C3. I

understand that they are occupied by residents on a permanent basis. The appeal property is detached and has modest sized rear garden. The curtilage of the property adjoins 46 Lincoln Road and 196 Hornby Road and their gardens/driveway. No 46's garage adjoins the garage serving the appeal property. There are semi-detached dwellings to the north, east and west.

20. Guests staying in the holiday accommodation are transient in nature compared to residents permanently living at their home. Although every potential guest may not cause noise and disturbance to neighbouring occupiers, the appeal property has, by all accounts, been occupied by groups of individuals, and noise and disturbance has been caused by them. Noise from within the appeal property will typically be attenuated by the building envelope, though noise can still spill out of doors or windows if they are open. However, in this case, the evidence points to the hot tub within the rear garden area acting as a focal point for people staying in the accommodation to gather. Given this, the proximity of the property's rear garden to Nos 46 and 196, and the enclosed nature of the rear garden, the use of the property as holiday accommodation has, and would likely, adversely affect the living conditions of nearby residents through noise and disturbance. I also note residents cite issues in respect of litter and vehicular parking.
21. Even if the appellant is correct that the property is not located in a quiet area and there are no privacy issues, nearby residents have still experienced harmful effects on their living conditions, whether the property is occupied by six people or up to the eight that residents suggest. I am not aware that there is any on-site management provided or any management employed to ensure that no adverse effects are felt by nearby residents. Therefore, I consider the proposal harms the character and the area and the living conditions of nearby residents. In conclusion, the proposal conflicts with CS Policy CS7 and Policy DM36 of the Blackpool Local Plan Part 2: Site Allocations and Development Management Policies (SADPD). Jointly, both seek development to enhance the character of the local area, be compatible with adjacent land uses, and not adversely affect the amenities of nearby residents and potential occupiers.

Other Matters

22. The appeal property lies within the Raikes Hall Conservation Area. Its significance is historic and architectural, based on the cohesive nature of buildings in the area that reflect the area's position in relation to the resort. The conservation area has a strong residential character influenced by the predominate mix of semi-detached and terraced dwellings. Although the proposal involves a different use of the appeal property, the historic and architectural significance of the conservation would remain, therefore, preserving its character and appearance. There would be no conflict with SADPD Policy DM27 in that respect.
23. Even though the property benefits from off-street parking provision, refuse storage provision, CCTV, and adheres to safety standards, these matters do not alter or outweigh the harms identified in each main issue.

Conclusion on ground (a)

24. The proposal causes harm in respect of both main issues, and I have identified conflict with CS Policies CS7 and CS21, SADPD Policy DM36 together with the SPD. Despite the proposal preserving the Conservation Area, there are no material considerations that indicate that I should take a decision other than in

accordance with the development plan. For the reasons explained, the appeal on ground (a) fails, and planning permission is refused.

The appeal on ground (f)

25. An appeal on ground (f) is that the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections. The purposes of the notice are to: remedy the breach of planning control; and remedy the injury to amenity caused by the breach.
26. I note the appellant's points about tourism in the area, how holiday accommodation contributes to the local economy, and the need for a range of holiday accommodation options. However, these points relate to the planning merits of the use subject of the notice. No lesser steps have been submitted to overcome the issues identified with the use, which would therefore remedy the purposes of the notice. As such, the step set out on the notice is not excessive and is necessary to remedy the breach of planning control. Hence, I conclude that the appeal on ground (f) fails.

The appeal on ground (g)

27. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed.
28. The notice requires the use to cease. It does not require any changes or alterations to be made to the property. I note the appellant's concerns about communication with the Council and the availability of information, but neither are required for the use of the property to cease. No other reasons have been put forward why the specified compliance period falls short of what should reasonably be allowed, nor any alternative compliance period. I recognise the stated compliance period may result in the cancellation of future bookings at short notice, but that is a matter for the appellant to resolve, and they have been aware of this potential scenario since the notice was served, although they do have a right of appeal. Therefore, I consider the stated compliance period to be reasonable, and I conclude that the appeal on ground (g) fails.

Conclusion

29. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Andrew McGlone

INSPECTOR