



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: 18th July 2024

Appeal Ref: APP/J2373/C/23/3331700
309 St. Annes Road, Blackpool FY4 2EE

- 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 Mrs Lorraine Kirkland Smith against an enforcement notice issued by Blackpool Borough Council.
 - The enforcement notice was issued on 14 September 2023.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of 309 St. Annes Road from a single private dwelling-house (Use Class C3), to a self-contained holiday let (sui generis).
 - The requirements of the notice are: cease the use of 309 St. Annes Road 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.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Appeal on ground (b)

2. An appeal on ground (b) is made on the basis that the breach of planning control stated in the notice has not occurred. The notice alleges a breach of planning control comprising the material change of use of the Land from a single private dwelling-house to a self-contained holiday let.
3. The appellant's case is that the primary use of the property is a dwellinghouse with only occasional use as a short-term holiday let such that the alleged material change of use had not occurred at the date the notice was issued.
4. In contrast, the LPA argues that holiday let uses are materially different from dwellinghouses. The LPA points to holiday lets being occupied differently from dwellinghouses due to the transient nature of occupants, the potential for noise and disturbance and the effect it can have on the provision of housing in the area.
5. Notwithstanding that, to establish whether 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. The LPA's submissions regarding the materiality in differences between dwellinghouses and holiday lets do not go to the question of whether the breach has occurred.

6. I note the limited use of a dwellinghouse 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. However, in this instance, the appellant's evidence regarding the use of the property as a dwellinghouse is limited.
7. It indicated that the appellant has owned the property since 2003 and whilst they do not reside at the property, it has been maintained for residential use. At final comments stage the appellant has indicated that the majority of the time, the appellant's daughter, who receives care, occupies the property on a regular basis.
8. However, it is not stated that the property is the appellant's daughter's primary residence. Indeed, the property is referred to as a, "sanctuary for the appellant and their daughter, who requires respite accommodation on a regular basis".
9. An electricity bill has been provided which is dated May 2023. It is addressed to the appellant at the appeal property and covers usage for the period May 2022 to May 2023. However, the bill does not demonstrate how the property was occupied throughout that period. Since the provision of electricity would be necessary whether the property was used as a dwellinghouse or as a short-term holiday let, it does little to assist the appellant's case.
10. Likewise, the fact the property was registered for Council Tax in Band C from 1 April 1993 does not demonstrate that the property was not in use as a holiday let at the date the notice was issued. Indeed, whilst they have not been provided, the LPA indicates that Council Tax records show the property has a "Second Home – Class B" exemption effective from August 2022 which relates to, "periodically occupied dwellings which are furnished and no persons sole or main residence".
11. The appellant points to the LPA's refusal of a planning application for the property in August 2022¹ in which it is said the LPA considered the property as a two-storey, semi-detached residential dwelling. However, regardless of whether that is sufficient to demonstrate the LPA considered the property to be a dwellinghouse as of August 2022, it does not assist in demonstrating that a material change of use to a holiday let had not occurred by the time the notice was issued in September 2023.
12. I note that no complaints have been lodged with the Council's Environmental Protection Team. However, the lack of complaints in itself does not demonstrate the property was not in use as short-term holiday let at the time the notice was issued. Likewise, whilst I note the property is fitted with noise monitoring equipment, this does not evidence the absence of holiday-let use.
13. In contrast, the LPA points to property being advertised on several holiday accommodation websites. Firstly, there is a listing provided from Booking.com, which indicates the property is available to let as a 3 bedroom holiday home. Secondly, the property is listed on AirBnB for let. At the time of the excerpt, 26 reviews had been left for the property, pointing towards its occupation on several occasions by guests, since people are unlikely (and indeed may be

¹ LPA Ref: 22/0487

unable) to leave reviews if they did not stay at the property. Thereafter the property is also listed for let on Hotels.com and vrbo.com.

14. Furthermore, I was able to see from my site visit that the property contained a key box at the front door, which suggests the capability to provide access for guests who come and go without the need for the appellant to be present. Moreover, I saw a notice on the rear door from, "JETT Serviced Accommodation", which requested for noise to be kept to a minimum after 10pm with no use of the hot tub and that fines would be issued if that was breached. One would not expect a resident of a dwellinghouse to need to provide signs advising themselves of such restrictions, even if self-imposed. Nor would one expect a dwellinghouse to be looked after by a serviced accommodation provider. Whilst what matters is what existed at the date the notice was issued, there is nothing before me which suggest such features were not present in the property at that time.
15. The onus is on the appellant to provide evidence to support their case which is sufficiently precise and unambiguous. For the reasons given above, I consider that is not the case here.
16. As a result, I conclude that, at the date the notice was issued, it would have appeared to the LPA that the material change of use of 309 St. Annes Road from a single private dwelling-house to a self-contained holiday let had occurred.
17. The appeal on ground (b) therefore fails.

J Whitfield

INSPECTOR