



Appeal Decision

Site visit made on 20 May 2025

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th May 2025

Appeal Ref: APP/Q1445/C/25/3360776

19 Highbank, Brighton BN1 5GB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Mr Darren Manley against an enforcement notice issued by Brighton and Hove City Council.
 - The notice was issued on 21 January 2025.
 - The breach of planning control as alleged in the notice is Without planning permission, the change of use from residential (use class C3) to short term visitor accommodation (sui generis).
 - The requirement of the notice is to cease the use as short term visitor accommodation (sui generis).
 - The period for compliance with the requirement is two months after the notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Act.
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Decision

1. It is directed that the enforcement notice is corrected by the deletion of the text 'change of use from residential' and the substitution of the text 'material change of use from a dwellinghouse'. Subject to the correction, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. The description of the alleged breach of planning control in the notice refers to a change of use. With regard to section 55 of the Act, a change of use does not necessarily comprise development requiring planning permission, unless it is a material change of use. It is clear from reading the notice as a whole that it is alleged that a material change in the use of the land has taken place from a dwellinghouse falling in the C3 use class, as defined in The Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO). I shall therefore correct the notice to ensure it refers to a material change of use from that type of dwellinghouse using my powers under section 176(1) of the Act. This will not cause injustice to any parties as it will be a minor change to clarify the alleged breach without affecting the merits of the appeal.

Reasons

3. The appeal is under ground (c) only. For the appeal to succeed the appellant needs to show, on the balance of probabilities, that the use of the property as short-term visitor accommodation does not constitute a breach of planning control. Very limited information has been provided by the appellant, and claims made by other parties have not been disputed in formal submissions, despite the onus being on the appellant to show why the appeal should succeed.

4. Section 57 of the Act states that planning permission is required for the carrying out of any development of land. As referred to above, section 55 of the Act provides the relevant meaning of 'development', which includes the making of any material change in the use of any buildings or other land.
5. The site is a four-bedroom dwellinghouse set over three levels. The appellant is the owner of the site, but it is not his main residence. He stays at the site occasionally and rents it out for short-term periods when he is not staying there. The evidence indicates that it is popular for groups of people to stay at the site over weekends, and that it has been advertised as being suitable for up to ten guests, with two double beds, six single beds, and two sofa beds. During my site visit I saw there were only four single beds and two double beds, that noise detectors had been installed on the top and bottom floors, and that signs had been placed within the site explaining noise/behaviour restrictions imposed by the appellant on any guests staying there.
6. The UCO sets out that the C3 use class includes: 'Use as a dwellinghouse (whether or not as a sole or main residence) by- (a) a single person or by people to be regarded as forming a single household; (b) not more than six residents living together as a single household where care is provided for residents; or (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4)'. This covers a range of different types of living accommodation, where residents live together as a single household. To clarify, the C4 use class refers to the use of a dwellinghouse by not more than six residents as a house in multiple occupation.
7. The evidence shows that there is a regular turnover of a large number of guests, many of whom cause significant disruption to local residents, notwithstanding the noise/disturbance control measures now put in place by the appellant. A high volume of guests return to the site and socialise in the outside area of the property late in the evenings and into the following mornings. There is no evidence that any of the guests form a single household during their stays or that the property continues to be used for purposes falling within the C3 use class.
8. It is possible that a single household occupying a C3 dwellinghouse could be capable of causing noise and disturbance issues comparable to those reported in the appeal submissions, although that would not be a typical or regular characteristic of such use. It is also possible for a C3 dwellinghouse to be rented out as short-term visitor accommodation without bringing about a material change of use.
9. However, in this particular case, the high number of large groups of different people regularly staying at the property, where there is no consistently intervening occupancy by a single household, has resulted in a significant change in the character of the use of the property and how it is experienced by people living nearby. This view is supported by the appellant deciding to install noise detectors and signage warning guests about their behaviour, which are not normally necessary in dwellinghouses falling within the C3 use class.
10. On the very limited evidence available, the appellant has not shown that the use of the property as short-term visitor accommodation has not resulted in development requiring planning permission, on the balance of probabilities. As a matter of fact and degree, I find that a material change of use of the property to short-term visitor

accommodation has taken place, and as no planning permission exists for that development, it is in breach of planning control.

11. The appeal under ground (c) must therefore fail.

Conclusion

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction.

L Douglas

INSPECTOR