



Appeal Decision

Site visit made on 25 March 2025

by **David Jones BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 May 2025

Appeal Ref: APP/B2355/C/23/3328498

783 Burnley Road, Crawshawbooth, Rossendale, Lancashire BB4 8BW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Miss Clair Leyden against an enforcement notice issued by Rossendale Borough Council.
 - The notice was issued on 23 August 2023.
 - The breach of planning control as alleged in the notice is without planning permission, there has been a material change of use from a dwelling (C3) to a residential institution (C1).
 - The requirements of the notice are to: Permanently cease the use of the dwelling as a guest house or hotel.
 - The period for compliance with the requirement is: 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (c) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected by:
 - Substituting the plan attached to the notice with the amended plan annexed to this decision.
 - In section 3 the deletion of the alleged breach of planning control in its entirety and replacement with “The material change of use of the land from a dwelling (C3) to short-term holiday let accommodation (Sui Generis)”.
 - In section 5 the deletion of step 1 in its entirety and replacement with “Cease the use as short-term holiday let accommodation (Sui Generis)”.
 - In section 6 the deletion of the words “i.e on or before 23rd November 2023”.
2. Subject to the above corrections, the appeal is dismissed and the enforcement notice is upheld.

The Notice

3. It is important for me to get the notice in order. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the Town and Country Planning Act 1990 as amended (the 1990 Act), or the terms varied, where the correction or variation will not cause injustice to the appellant or the local planning authority.
4. Based on my observations at the site visit, it is apparent that the plan attached to the enforcement notice does not accurately reflect the area affected by the notice. The alleged breach of planning control relates to the material change of use of 783 Burnley Road. The plan however also included two separate residential properties,

783a Burnley Road and Stonehaven, which are unaffected by the development. As the correction to the plan would reduce the area affected by the notice, it would not cause any injustice to either main party. I will therefore substitute the plan attached to the notice with the amended plan annexed to this decision.

5. The notice alleges that there has been a *“material change of use from a dwelling (C3) to a residential institution (C1)”*. This though is incorrect, as *“residential institutions”* fall under Use Class C2, and not Use Class C1 which covers hotels and guest houses. In any event, the evidence indicates that the alleged breach of planning control would be better described as *“short-term holiday let accommodation”*. Indeed, both parties have referred to the property being used as a *“short-term let”* and *“short-term holiday let accommodation”* in their submissions.
6. I therefore consider that the description of development would be more accurately described as *“The material change of use of the land from a dwelling (C3) to short-term holiday let accommodation (Sui Generis)”*. I am satisfied that this correction can be made without resulting in injustice to the parties.
7. The steps to be taken require the use of the dwelling as a *“guest house or hotel”* to cease. This does not correlate with the allegation as written or corrected. The purpose of the requirement is to remedy the breach of planning control and that can be achieved by the cessation of the use alleged. The requirement shall be varied accordingly.
8. Finally, the time for compliance in section 6 of the notice identifies a specific date, *“on or before 23rd November 2023”*. Whilst this would have been the relevant date for compliance had there been no appeal, this date is now misleading. The period for compliance would commence from the date of my decision. I will therefore correct the notice by deleting any reference to the 23 November 2023.

Ground (b)

9. To succeed on ground (b) the onus is on the appellant to show that what is alleged in the notice has not occurred as a matter of fact.
10. The alleged breach of planning control, as corrected, is a material change of use of the land from a dwelling (C3) to short-term holiday let accommodation (Sui Generis). The appellant has confirmed that guests have stayed at the property having booked the accommodation through websites such as Airbnb and Booking.com. Further details including where guests have travelled from, their age, and the reasons for their visit have also been provided. The Council and a third party have also provided evidence which supports the position that the property has been used as short-term holiday let accommodation.
11. It is therefore clear from all the evidence presented that the property is available as short-term holiday let accommodation, and that guests have stayed at the property for that purpose. The alleged breach of planning control has occurred as a matter of fact. Accordingly, the appeal on ground (b) fails.
12. Much of the appellant's representations are based on the argument that the use of the property for short-term holiday let accommodation does not amount to a material change of use, and therefore is not a breach of planning control. This issue is addressed under the ground (c) appeal below.

Ground (c)

13. An appeal on this ground is that the alleged breach of planning control, as corrected, does not constitute a breach of planning control. It is for the appellant to demonstrate, on the balance of probability, that the use of the property as short-term holiday let accommodation does not constitute a material change of use.
14. Section 57 of the 1990 Act states that planning permission is required for the carrying out of any development of land. Section 55 of the 1990 Act provides the relevant meaning of “development”, which includes the making of any material change in the use of any buildings or other land. The National Planning Policy Guidance (PPG)¹ confirms that there is no statutory definition of “material change of use”. The PPG also advises that whether there is a material change of use is linked to the significance of the change and the resulting impact on the use of land and buildings. Whether a material change of use has taken place is a matter of fact and degree, determined on the individual merits of a case.
15. The courts have held that an essential consideration is whether there has been a material change in the definable character of the use of the land. In the case of *Moore*², the question of whether there had been a material change of use of a dwelling to commercial holiday lettings was considered. The Inspector had applied various criteria to assess whether there had been a material change of use, including the pattern of arrivals and departures, with associated traffic movements, the unlikelihood of occupation by family or household groups, the numbers of people constituting the visiting groups on many occasions, the likely frequency of party type activities, and the potential lack of consideration for neighbours.
16. To establish whether a material change of use has occurred a comparison between the previous use and the current use must be made. The appeal property is a large six-bedroom dwelling which shares its vehicular access with an adjoining dwelling. Very little information has been provided regarding the previous use of the appeal property. Nevertheless, the appellant has not contested the claim that it was previously occupied as a single private dwelling.
17. In terms of its current use and having regard to the evidence, which includes online advertisements and my visit, it appears that the property can occupy up to 14 persons at any one time. The appellant explains that visitor groups to the property are predominantly families meeting for family events and walking, with guests coming from as far afield as the USA, France, Netherlands, and Abu Dhabi.
18. Despite the onus being on the appellant to show why the appeal should succeed, very limited information has been provided with regards to the frequency of visits, number of guests per booking, and length of each stay at the property. The appellant though has not disputed the claims made by the Council and a third party that groups of people rent the property for short periods. Given the nature of the business, I also find it likely that there would be periods when the property is unoccupied.
19. In my view, there are several differences between the use of the property as a single dwellinghouse and its use as short-term visitor accommodation. These include the duration that people stay at the property resulting in a regular turnover

¹ Paragraph: 011 Reference ID: 13-011-20140306

² *Moore v SSCLG* [2012] EWCA Civ 1202

of people, the number of persons occupying the property, the number of vehicles parked at the property, the number of vehicle movements, and the arrival and departure times of guests which, given the appellant's own evidence regarding where guests travel from, could potentially be very early in the morning or late at night depending on their flight times. The difference in the nature and level of activity associated with the property being used as a single-family dwelling and its use as short-term holiday let accommodation is, in my view, significant.

20. To control and manage the impact of the property's use, the appellant has stated that all guests are "vetted" prior to booking, no persons under the age of 25 are allowed, and that there is a stipulation that guests can bring a maximum of five cars. However, no specific details of how guests are "vetted" has been provided by the appellant, and photographic evidence presented by the Council and a third party indicates that there have been more than five cars at the appeal property on more than one occasion. Whilst the success of these measures is disputed, in my judgement the very need to deploy them is indicative that the use has the potential to not be suited to this location. Furthermore, even if these measures were rigorously applied, I find it highly unlikely that all disturbances from guests would be prevented from occurring.
21. I accept that a single household occupying a C3 dwellinghouse could cause noise and disturbance comparable to those reported in the appeal submissions. However, drawing the above considerations together, including that the number of visitors may be up to 14 at any one time, in my judgement, disturbances are far more likely to arise more frequently if the property is occupied by different groups of people as short-term holiday let accommodation.
22. For the reasons set out above, the appellant has failed to show, on the balance of probability, that a material change of use of the dwelling has not occurred. Rather, I find that there is a significant difference in the character of the activities resulting in a material change of use of the land from a dwelling within Use Class C3 to short-term holiday let accommodation (*Sui Generis*). Consequently, the appeal on ground (c) fails.

Other Matters

23. The appellant has referred to an email from the Council dated 29 March 2022, which stated that the Council did not believe that there had been a material change of use of the property. I am unaware as to what information was before the Council at that stage, but in any event, it does not alter my findings in respect of the matters before me in this appeal.
24. Various other complaints and concerns between the appellant and a third party have been raised including alleged harassment, trespass, and a failure to adhere to deeds and covenants. These matters though fall outside the remit of this appeal.

Conclusion

25. For the reasons given above, I conclude that the appeal fails. I have therefore upheld the enforcement notice as corrected.

David Jones

INSPECTOR



Planning Inspectorate

Amended Plan

This is the plan referred to in my decision dated: 29 May 2025

by David Jones BSc (Hons) MPlan MRTPI

Land at: 783 Burnley Road, Crawshawbooth, Rossendale, Lancashire BB4 8BW

Reference: APP/B2355/C/23/3328498

Scale: Not to scale

