



Appeal Decision

Site visit made on 3 June 2025

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th June 2025

Appeal Ref: APP/N4205/C/25/3359488

Land at Old Croft Warehouse, 94 Smithills Croft Road, Bolton, BL1 6NG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr John Bateman against an enforcement notice issued by Bolton Metropolitan Borough Council.
 - The notice was issued on 20 December 2024.
 - The breach of planning control as alleged in the notice is: without planning permission, the unauthorised material change of use of the property from a dwellinghouse (Class C3) to short term holiday letting accommodation (sui generis).
 - The requirements of the notice are to: cease the use of the property as short-term letting accommodation (use class sui generis) for lettings of less than three months.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the ground set out in section 174(2)(c) 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.

Procedural Matters

2. Neither the appellant nor their agent was present at the appointed date and time of my site visit and only representatives of the Council attended. I decided to undertake the visit on an unaccompanied basis and I was able to see all I needed to in order to determine the appeal. I invited the appellant's comments on this matter but they did not respond. I am satisfied that neither party has been prejudiced by this approach. During my visit I noted the Closure Order that has been imposed on the appeal property, though this matter has had no bearing on my decision.

The appeal on ground (c)

3. An appeal on ground (c) is that the matters alleged in the notice do not constitute a breach of planning control. The onus of proof lies with the appellant, with the relevant test being the balance of probability. In this case, therefore, the main issue is whether there has been a material change of use from a dwelling house to short term letting accommodation and a breach of planning control.
4. Case law¹ has established that whether the use of a dwelling for commercial holiday lettings amounts to a material change of use is a question of fact and degree in each case and the answer depends on the particular characteristics of the use as holiday accommodation.

¹ Moore v SSCLG & Suffolk Coastal DC [2012] EWCA Civ 1202

5. Third party representations refer to the effects of the development on neighbouring occupiers' living conditions, particularly in terms of noise and disturbance, together with its impact on parking and highway safety. The appellant also addresses these matters. Although there is no ground (a) appeal and I am not considering the planning merits of the case, these matters are relevant in determining whether there has been a change in the character of the activities taking place so as to amount to a material change of use.
6. The appeal property is a large dwelling set back from Smithills Croft Road with a shared access driveway to the front and gardens to the south side and the rear. The surrounding area is mainly residential and is characterised by houses of varied size and style which are generally set within spacious, mature gardens interspersed by areas of woodland. There are several neighbouring dwellings within proximity of the site, with the nearest being 92 Smithills Croft Road which adjoins the appeal property at the eastern corner. The northern side elevation of the appeal property forms the boundary with the garden of this neighbouring property.
7. The appellant acknowledges that the dwelling is used for short term holiday lettings. I have not been provided with details of the number of lettings that have occurred at the property. However, the Council has submitted online marketing details showing that the property has been advertised as short term holiday letting accommodation with 5 bedrooms and 3 bathrooms which can accommodate 18 individuals. The online reviews provided indicate that the property has been let on a frequent basis and that it has been occupied by large groups of up to 18 individuals at a time.
8. Such large numbers of occupiers far exceeds the level of occupancy that would normally be expected with a family dwelling, even a large one such as this. The property has been occupied by large extended families for short term holidays as well as by similarly large gatherings of unrelated visitors. The frequent use of the property by such groups for holding parties and celebrating special occasions has a significantly different character to the typical use of a family dwelling, with the potential to cause noise and disturbance to the neighbours, particularly to those closest to the site. The games room within the property and the hot tub in the garden are further indications that the property is geared more towards leisure and entertainment than might be expected in a traditional family home.
9. There is likely to be a more transient pattern of occupancy and a consequent increase in activity with people arriving and leaving the property at different times of the day including late at night, more vehicular comings and goings and increased parking requirements than that associated with a family dwelling, where more consistent and modest patterns of movement would be expected.
10. The appellant states that there is no evidence of noise disturbance or complaints from neighbouring residents, and points to the misuse of adjacent land as being unfairly attributed to activity on the appeal site. However, the large number of representations from third parties, some of whom live nearby, attest to frequent incidents of noise nuisance and anti-social behaviour from visitors to the property, particularly in terms of comings and goings and when the hot tub is being used, together with inconsiderate parking on the road due to insufficient provision on the driveway. Noise and disturbance appear on occasion to have occurred late at night when neighbouring residents can reasonably expect peace and quiet in what seemed to me to be an otherwise quiet residential neighbourhood. This was apparent during an incident in March 2025 when police officers attended the site

due to disruption from a significant number of visitors to the property. Notwithstanding that a family dwelling can also be capable of generating levels of activity including noise, there are all clear indications that there has been a significant change in the character and use of the appeal property.

11. Although I note the steps taken by the appellant to manage the property and the additional measures proposed to address any issues that may arise, these do not alter my conclusion that there has been a material change in the character of the property. Moreover, the appellant's wish to submit a planning application to regularise the use of the property as short term letting accommodation amounts to an acknowledgement that planning permission is required for it.
12. I have had regard to the appeal decisions provided by the Council². However, other than the decisions, the substantive details of these cases have not been provided and I cannot be sure that they are directly comparable to the appeal that is before me, which I have determined on its own merits.
13. The appellant criticises the Council's handling of the case, stating that they were denied the opportunity of submitting a planning application to regularise the use of the property, and that the Council's decision to take enforcement action was premature and unfair. However, these are procedural matters which does not impact on my assessment of the case.
14. For the above reasons I conclude, as a matter of fact and degree, that a material change of use of the property had occurred from a dwelling house to short term holiday accommodation. Since planning permission has not been granted for that use, there has been a breach of planning control.
15. Accordingly, the appeal on ground (c) must fail.

Conclusion

16. For the reasons given above, I conclude that the appeal should not succeed, and I shall uphold the enforcement notice.

M Ollerenshaw

INSPECTOR

² Appeal ref. APP/G3110/C/19/3239740 and APP/C2741/C/24/3338729