



Appeal Decision

Site visit made on 28 August 2025

by Chris Preston BA (Hons) Town and Country Planning, Bachelor of Planning (BPI)

an Inspector appointed by the Secretary of State

Decision date: 22 September 2025

Appeal Ref: APP/F0114/C/24/3344790

14 Newbridge Road, Bath, BA1 3JX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Michael Newby-Vincent against an enforcement notice issued by Bath and North East Somerset Council.
 - The notice was issued on 17 April 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, change of use from nil use property to commercial holiday let accommodation (Use Class Sui Generis).
 - The requirements of the notice are to cease the use of the premises as commercial holiday let accommodation.
 - The period[s] for compliance with the requirement is one month from the date the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f), (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. It is directed that the enforcement notice is corrected and varied by:
 - The insertion of the word “material” in between the words “permission” and “change” within the description of the alleged breach; and
 - The deletion of the words “One month” in respect of the time period for compliance at section 6 and the substitution with the words “Three months”.
2. Subject to that correction and variation 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.

Procedural Matter

3. The description of the breach is set out above and refers to a “change of use” of the property in question. Under the terms of s55 of the Town and Country Planning Act 1990, planning permission is required for the making of a “material” change in the use of buildings or land. In the interests of clarity and to ensure that the breach is properly described in respect of an act of development I shall correct the notice accordingly. I am satisfied that no injustice will arise as a result of my decision to do so, given that both main parties have an understanding of the relevant legislation in that respect, as evident in the way their cases have been presented.

The Appeal on Ground (c)

4. The appellant contends that there has not been a breach of planning control on the basis that the use of the property prior to the present use was not a “nil” use as alleged

but was lawfully in use as student accommodation and that use was not materially different to the present use as holiday let accommodation. There is an element of an appeal under ground (b)¹ within the appellant's case. Whilst there is no dispute over what the current use of the property is, he argues that the prior use was not that alleged by the Council but was something different.

5. An appeal under ground (c) is predicated on the fact that the matters stated in the notice have occurred and that they do not constitute a breach of planning control. However, it is not uncommon for there to be an overlap between grounds (b) and (c) and I shall consider the arguments presented in light of that.

6. It is common ground that the property was in use as a guesthouse² known as Dorset Villa and a Certificate of Lawful Use for that purpose, for up to 14 guests, was granted in 1996. The property was sold in 1997 and it appears not to have been used as a guesthouse following that time, albeit that little evidence of use between 1997 and 2003 has been provided.

7. The property was then sold to Bath Academy (BA), a language school, in December 2002. BA then began using the property for student lettings through a subsidiary company, "Cambridge Hostel Ltd." which managed the premises. Within his Statutory Declaration the appellant states that "it appears that from September 2003 onwards BA had been using the building to house groups of foreign students who resided there full-time".

8. Corroboratory evidence of the precise date when the first students moved in is limited. An email to the appellant from the Principal of BA³ noted that no records were kept of occupancy dating back over that period. However, in a subsequent letter⁴ he did confirm that students moved in at the start of term in September 2003. Given that a meeting was held to discuss teething problems in the management of the property in November 2003⁵, it seems likely that students did move in at the September date, as suggested. The appellant contends that it was likely that students actually moved in earlier, during the summer months but there is no factual evidence to support that assertion.

9. The initial student use was provided on a boarding basis, with on site cooks, cleaners and laundry facilities as part of the offer. It seems that the students were aged between 14 and 19 with a member of BA resident in the property at a "houseparent" during term times. In the summer months when the regular students were absent, the property was used by students attending junior summer schools run by BA.

10. On the face of the information presented, the occupation by students in that manner would appear to be materially different to the former use as a guesthouse. The presence of children and the need for an onsite houseparent providing care would not fit readily into Use Class C1 and the nature of occupation was different, with students occupying the building during term times, as opposed to a guest house where the duration of stays was likely to be much shorter.

11. The occupation seemingly carried on in that manner until 2011 when BA decided to sublet the building to Bath Community College (BCC), with the aim of increasing

¹ Section 174 of the Town and Country Planning Act 1990

² Within Use Class C1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO)

³ MNV14 in the bundle appended to Mr Newby-Vincent's Statutory Declaration

⁴ MNV15

⁵ MNV11

occupancy rates. That appears to have brought about a change in the way the building was occupied. In January 2012 BCC applied for a change of rating liability from commercial rates to council tax and a HMO licence was granted in January 2012, running to August 2013.

12. The precise number or age of the students who resided at the property after September 2011 is not clear but BCC was a further education college and it seems likely that they were young adults as opposed to younger children. Following late night disturbances in May 2013, a meeting was held with students during which they were told that a notice to quit would be served on them⁶. There is no record of any parental involvement which hints that they had a degree of independence. There is reference to a warden but email correspondence suggests that the warden needed to be a full-time student, otherwise there would be implications for Council Tax. The arrangement would seem to be different to the houseparent referred to previously.

13. There is no indication of the layout of the property, whether there was shared space, how cooking facilities were arranged etc. The Council maintain that the change in occupancy in 2011 resulted in a further material change of use. The fact that it was still occupied by students does not automatically mean that the use in planning terms was the same as the previous student use. A large HMO without the same management arrangements or on-site boarding/ cooking provisions, with people of a different age range, seems likely to have been materially different in my view.

14. The group of students were served with a notice to quit in May 2013 and that required 28 days notice which would have led up to June 2013. In August 2013 it seems that the Council revoked the HMO licence as the property was no longer being managed by BCC. There is no evidence of any students moving into the property after those who were required to quit had left or after the licence was revoked. The use of the property as a large HMO seemingly ceased at that time and it was subsequently sold to the appellant later in 2013, refurbished and let as holiday accommodation, with the first guests arriving in September 2014.

15. Putting all of that together, there was at least one but probably two material changes of use in between the boarding house and the commencement of the holiday let use. Neither of the subsequent uses continued for sufficient time to gain immunity from enforcement action. Even if there was no material change in 2011 when the property was sublet to BCC and seemingly used as a HMO (which seems unlikely) the evidence of occupation by students does not, on the balance of probability, cover the required ten-year period, running from September 2003 to June/ July 2013.

16. Given the intervening uses, there would be no right of reversion back to a guesthouse from the present use under section 57(4) of the Town and Country Planning Act. Having regard to the length of time since the property was used as a guesthouse, the subsequent material changes in use and the lack of any intention of subsequent owners to use the premises for that purpose the Council is correct to conclude that the former use had been abandoned, with reference to the tests laid down in caselaw⁷.

17. In which case, the Council is correct in its interpretation that the property had a "nil" use in planning terms at the point at which the holiday letting use commenced.

⁶ MNV17

⁷ Hughes v SSETR [2000] 1 PLR 76, as referred to by the Council and associated relevant authorities set out within the legal opinion of Ben Garbett, 20 May 2024

From that base position any new use would represent a material change of use for which planning permission would be required. In the absence of planning permission in this case the holiday letting business is unauthorised and represents a breach of planning control such that the appeal on ground (c) should fail.

18. In any event, the use as holiday let accommodation for up to 24 people would have amounted to a breach of planning control and a material change of use when set against any of the previous uses. The use is notably different to that of a guesthouse for up to 14 people, not only in terms of the number of occupants but the type of accommodation. A guest house would typically be run by a proprietor with rooms let to guests who often may be unconnected to one another. A local Councillor with knowledge of the area at the time described the use of Dorset Villa as bed and breakfast accommodation which would fall squarely in Class C1 of the UCO⁸.

19. A large holiday let property is very different in that it is let to single groups who will all have a connection with one another, for example friends and relatives attending hen parties which is the primary market served by the property. They are likely to cater for themselves, come and go together as a group and socialise together in the lounge areas and outdoor space. Such a use would not fall within Class C1 and would be materially different in nature. It would not appear to fall readily within any particular use class, being far larger than a normal C3 dwellinghouse and serving a different function, not as a main place of residence. The number of occupants catered for is also materially different to that found lawful in 1996.

20. Similarly, the characteristics are different to the occupation by students described above. Certainly the use between 2003 and 2011 was markedly different because the students appeared to be children, with a houseparent and meals provided as part of the accommodation which was linked to education provided by BA. They lived there during term time in contrast to the holiday let business where different occupants come and go each week on a short term basis. The nature of accommodation, comings and goings and the purpose of the use is fundamentally different.

21. Less information is available as to precisely how the property was occupied from 2011 to 2013 but it appears to have been a large HMO occupied by older students/young adults. Given the short time frame there is no suggestion that use gained immunity through the passage of time. In any event, the students lived there as their main place of residence which is in contrast to a holiday let business where periods of occupancy are shorter, resulting in different patterns of movement, activity and serving a different need in terms of the housing market.

22. The number of occupants is also markedly larger, with the appellant having extended into the roofspace to be able to accommodate up to 24 residents. In contrast the sublet contract to BCC limited occupancy to no more than 16 but in reality the maximum occupancy was said to be 13 on account of the number of available beds⁹.

23. Consequently, on the balance of the evidence before me the Council's description of the breach is accurate and it is clear that a material change of use has occurred which represents a breach of planning control. The appeal on ground (c) therefore must fail.

⁸ MNV8

⁹ MNV14 & 15

The Appeal on Ground (a)

24. The main issue in the appeal on ground (a) is the effect of the development on the living conditions of neighbouring residents with particular regard to noise and disturbance.

Reasons

25. The appeal property is a substantial semi-detached building, situated on Newbridge Road which is a busy highway to the west of the city centre. The immediate vicinity is mixed in character, with residential properties leading to the small shopping parade at the junction with Chelsea Road. No.16, immediately to the west is in use as a dwellinghouse and No.12 to the east has been converted into flats. The driveway of the appeal property sits adjacent to the drive of No.16 and the entrance doors of the respective properties face one another.

26. The Council contend that a large holiday let is unacceptable “in principle” in a residential area. That position does not appear to be supported in planning policy terms and there is no inherent objection to holiday let accommodation which will support the tourist related economy. Nonetheless, whether any specific property is suitable for such use will be sensitive to the specific circumstances involved.

27. The scale of the property, accommodating up to 24 guests is such that the target market is large group gatherings with hen parties evidently being a primary source of bookings. The property is advertised on “Go-Hen” a website specialising in such accommodation. I recognise that the use has been continuing for a number of years prior to the Council taking formal action.

28. However, of itself, that is not indicative that no issues have been caused and complaints have been made to the environmental health department over that period. Correspondence between the appellant and the EHO identifies that the complaints stemmed from noise associated with guests congregating outside the property, singing, talking loudly, music playing within the property etc. No noise recordings have been provided such that no technical data is before me. I understand that the appellant requested copies of recordings that had been made from the neighbouring property but the Council did not provide the information, citing data protection issues. The appellant has provided no noise data of his own.

29. Nonetheless, it is not difficult to imagine that a group of such size, in high spirits at a celebratory event will generate noise of the kind referred to, potentially late into the evening if returning from a night out or entertaining themselves at the property. Clearly, each group will be different and some more respectful of neighbours than others but unlike a dwellinghouse where people live alongside one another permanently, there may be less incentive to maintain neighbourly relations for those only staying a short period. The primary focus is likely to be on having a good time.

30. The appellant notes that those complaints to the EHO appear to have been made solely by the residents of No.16. That is perhaps unsurprising, given that is the property directly adjacent to the entrance and driveway and closest to the living room where guests would congregate. Letters of support from residents of flats in No.12 have been received but they are on the opposite side of the party wall, whereas No.16 has an entrance door and driveway which is in close proximity to the entrance of the appeal property.

31. In any event, objection letters to the planning application that was submitted were not only received from the direct neighbour but others in the local area and the nature of the use is such that I consider it has caused significant harm to the living conditions of neighbouring properties, particularly No.16.

32. The fact that a number of suggested mitigation measures are put forward is perhaps a tacit acknowledgement that without control, the impact would be unacceptable. I have significant reservations as to the effectiveness of the measures put forward. The suggested curfew of 10.30 for outside areas, of which guests are informed, would require almost constant maintenance which would make it difficult to enforce. Moreover, the curfew is only likely to be managed reactively. Even with the appellant on site in the bungalow to the rear, as could be secured through the Unilateral Undertaking, he or another manager could not be expected to be in place at all times and could only realistically react to situations where noise is being generated, as opposed to stopping occurrences at the outset. In fact, the appellant has been living close by already and actively tries to manage guests but those efforts have not been successful on the balance of the evidence presented.

33. It would be difficult to control what time people returned to the property if they had been out late in the city centre and the noise from late night returning guests, in multiple taxis given the numbers involved is likely to be substantial, particularly if high spirits and alcohol are added into the mix.

34. It may not be possible to keep the living room windows fixed shut on account of fire regulations and even though air conditioning may reduce the likelihood of those windows being opened it may not be entirely effective in that regard. Even if it was the benefit in reducing noise emanating from within the property but would do little to prevent noise from comings and goings to the property or from people gathering outside to smoke or simply to take fresh air etc. It would also be difficult to police, as would any requirement to keep the entrance door or rear door to the small amenity area closed.

35. Neither am I satisfied that a condition to limit the number of days that the property could be let to guests would be sufficient to overcome those concerns. If the limit was 140 days as suggested by the appellant that would still allow occupation over every weekend which is the time when disturbances are most likely.

36. Overall, a holiday rental of this size and type seems wholly unsuited to a semi-detached dwelling in such close proximity to the neighbouring dwellinghouse and I have no doubt that the use has had a significant impact on neighbouring amenity. The fact that Newbridge Road is a busy thoroughfare does not alter my conclusion in that regard. It may lessen any impact for those living on the opposite side of the road but not on the immediate neighbours, especially given the intimate relationship with No.16.

37. For those reasons, the proposal is contrary to the aims of policy D6 of the Bath & North East Somerset Local Plan (2023) which, amongst other things, requires that development should not cause significant harm to the amenities of existing occupiers of, or visitors to, residential or other sensitive premises by reason of increased noise or other disturbance.

Other Matters

38. The appellant has referred to potential fall-back scenarios and comparisons with a use for student occupation. For the reasons set out above I am not satisfied that such

a fall-back exists so attach no weight to that matter. Even if it did, the uses are of a different nature. Clearly, students can create late night noise and disturbance on occasion but the management of such matters has more serious ramifications. For example historic records indicate that students were served a notice to quit after continued disturbance to neighbours. There is no similar sanction available to someone staying over a short weekend. The loss of a deposit shared between 24 guests is unlikely to be a notable deterrent.

39. The use of the property will have economic benefits for the area through spend in local bars, pubs, restaurants and other attractions. Whether people would find alternative accommodation in Bath if the premises was closed is unclear but it may be that the destination, as opposed to the property itself is the reason for at least some of those visits. Nonetheless, setting that aside, the property is well located to support local business in the Chelsea Road vicinity and the economic benefits are a matter to which I attach moderate weight in favour of the development.

40. The appellant asserts that it is likely that the property may fall idle if the appeal were dismissed and enforcement notice upheld. It is not for me to speculate on the uses to which the property could be put if the appeal is dismissed. However, there are a range of uses in evidence within the local area and little evidence to support the assertion that no alternative use could be found. Consideration of such matters does not, therefore, influence my decision.

Conclusion on Ground (a)

41. For the reasons given, the impact of the use on neighbouring living conditions causes significant harm and is contrary to the relevant policy of the development plan in that respect. The harm cannot be adequately mitigated through the use of conditions or the measures of the submitted UU. The other matters put forward are not sufficient to outweigh that harm or the conflict with the development plan and it follows that the appeal on ground (a) should fail and I shall refuse to grant planning permission on the deemed application.

The Appeal on Ground (f)

42. The aim of the notice is to remedy the breach of planning control. In simple terms, nothing short of the cessation of the use would achieve that aim. I have considered whether lesser measures or alternative measures could be implemented in respect of the appeal on ground (a) but am not satisfied that such measures would be sufficient to make the use acceptable in planning terms.

43. It follows that there are no alternative measures that would remedy the breach of control and the appeal on ground (f) must fail.

The Appeal on Ground (g)

44. The notice gives a period of one month for the cessation of the use. The key question in such cases is what is 'reasonable' which essentially involves a balance of the public interest in the harm being mitigated and the notice being complied with expeditiously against the private interests involved.

45. It is never an easy judgement. In this case, there is clear public interest in requiring that the use ceases given the significant harm to neighbouring amenity. However, I am also minded of the disruption that would cause to the business arrangements of the appellant and those who may already have booked the premises

to stay. Clearly, upholding the notice at all would have consequences, whatever the time period but it seems to me that a month is an unreasonably short period for the appellant to get affairs in order and contact future bookings etc.

46. Six months would appear to be unnecessarily long given the harm caused. A three-month period would strike a proportionate balance to allow those affected to make alternative arrangements in terms of bookings and for the appellant to make necessary administrative arrangements in that regard. I am mindful that the Inspector in the Greenway Lane appeal referred to considered 2 months was sufficient but that was a different appeal, with different circumstances and a property of a different scale. Accordingly, the appeal on ground (g) succeeds to that extent and I shall vary the notice accordingly.

Conclusion

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

Chris Preston

INSPECTOR