



Appeal Decisions

Site visit made on 19 December 2025

by Grahame J Kean BA (Hons) Solicitor, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2025

Appeal A Ref: APP/K0940/C/25/3373154

Appeal B Ref: APP/K0940/C/25/3373155

Haymakers Barn, Hunter Hall Farm, Great Salkeld, Penrith CA11 9NA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Mr Tim Holliday and Appeal B is made by Mrs Karen Holliday against an enforcement notice issued by Westmorland and Furness Council.
 - The notice was issued on 8 August 2025.
 - The breach of planning control as alleged in the notice is: without planning permission the change of use of dwelling to a mixed use of dwelling with a holiday let annex.
 - The requirement of the notice is to cease using Haymakers Barn as holiday let accommodation
 - The period for compliance with the requirement is: three calendar months from the date this Notice takes effect.
 - Appeal A and Appeal B are proceeding on the grounds set out in section 174(2)(c), (g) 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 replacing the wording “change of use of dwelling” with “material change of use of part of a dwelling”.
2. Subject to the corrections the appeals are allowed and the notice is quashed.

The notice

3. Although my decision is to quash the notice, it is important to be clear about the nature of the allegation. Clearly the target of the notice, having regard to the plan attached to it, is that part of the appellants’ home that is converted to an “annex” known as Haymakers Barn. Also, the notice should clarify that the allegation relates to a material change in the use of that part of the property. Therefore, as no injustice will be caused to either party, I will amend the notice accordingly.

Ground (c)

4. An appeal on ground (c) is that the matters alleged in the notice to have occurred, if they have occurred, do not constitute a breach of planning control. The onus falls on the appellants to demonstrate this on the balance of probabilities. Some parts of the appellants’ statement submit facts and arguments based on the planning merits of the use alleged in the notice, however as there is no ground (a) such matters cannot be considered in these appeals.

Reasons

5. The appeal site is used as holiday let accommodation but also used by the appellants, occupiers of Hunter Hall Farm, as part of their home. It is accessed

from the main part of their home by a connecting door through to the snug, the open plan lounge, dining area and kitchen with a staircase to the first floor where there are two bedrooms and a bathroom. It is used by the family for extra living accommodation when it is not being let out for holiday purposes.

6. In their reply to the planning contravention notice (PCN) the appellants stated that the date on which the annex was first used as a holiday let was October 2021. Their case is that in September 2021, the Council's Street Naming Department required the annex to be assigned a separate postal address, "Haymakers Barn." This, they argue, established the annex as a separate property, creating a "legitimate expectation" that it could lawfully function as an independent unit.
7. There was no condition on any relevant planning permission requiring the annex to remain as an ancillary use to the main dwelling, which the appellants claim is common practice where it is wished to prevent independent use. Therefore, they also assert that use of the annex as a dwelling or for holiday letting is not in breach of planning control. The permissions referred to are Ref 19/0743 and Ref 18/0824 to redevelop the former farmhouse including extending into the adjoining barn for extra accommodation. The appellants sought to make it clear that the development including the annex was completed and occupied on 1 July 2021 so, given the reply to the PCN, the annex was occupied before being used as a holiday let.
8. However, it is important not to confuse the appeal site with the various permissions granted in respect of the wider site for new dwellings. The appeal site itself is not shown as separate self-contained accommodation in the planning history provided by the parties. In this connection the requirement of the notice means that if it is upheld and complied with, no permission for a separate dwelling can result.
9. It is also said that following a change of family circumstances between 2020 and September 2021 regarding the use of the annex as part of the family residence, the annex began to be used as a holiday let at the end of October 2021 which is undisputed.
10. The street naming and numbering department of the Council who, it is undisputed is not responsible for planning matters, is said to have "required" the annex to have its own postal address and be treated as a separate property for council tax purposes on 23 September 2021. The exact circumstances of who applied for what are unclear but the annex apparently had its new address confirmed as Haymakers Barn on 5 January 2022. In any case, I disagree with the appellants' interpretation placed on the letter from the street naming department. It clearly states that where the annex is to remain as part of the main property and does not have a separate letterbox one could propose the name 'annexe', but adds:

"however if in the future you rent out the annexe or sell the annexe you would have to apply for a separate address and property name or number, this allows the address to be listed on the Royal Mail Postcode Finder and allows delivery of mail and services as a separate dwelling."
11. No assurance whatsoever was given that the property could in fact be used as a holiday let. The letter merely stated the procedure to adopt for a separate address if it is to be so used. Furthermore, the street naming department had no authority to deal with planning matters, nor did it hold itself out in any way as capable of altering the lawful planning status of a dwelling or indeed any building. No such legitimate expectation arose.

12. The Council states, which is undisputed, that in May 2022, it became aware that there was a mixed use of the dwelling as residential use with a holiday let annex, which first commenced in October 2021. A planning application Ref 22/0762 sought unsuccessfully to retain this mixed use. This is not compelling evidence, as the Council suggests, that the appellants accepted there was a breach of planning control. Later, by 5 December 2024 the Council had noted that the property was still being advertised as a holiday let. Discussions with the appellants ensued and eventually the notice was issued.
13. Outside London there is no statutorily prescribed limit on the number of days a property may be let on a short-term basis. Here, use of a dwelling for a commercial holiday let may be a material change of use but in each case the characteristics of the use should be considered. It can be difficult for a local planning authority to monitor how many nights a property is let and whilst the appellants' point out that there are no relevant conditions restricting the use, the relevant permissions were not granted on the basis that they might be used for holiday lets. The appellants' circumstances may have changed, and these are not explained, but that does not mean that the normal tests should not be applied in determining whether there was a material change that took it outside the scope of a C3 use as a dwellinghouse.
14. The annex accommodation is relatively large, and it is not a case of letting out a single room. If a property has the potential for accommodating a larger number of guests staying at any one time, this may well constitute a material change of use where the property was previously used exclusively as a family home. However, I am aware from the Council's delegated report that it would have granted permission to retain the mixed use but for the fact that the site is in the catchment of the River Eden, designated as a Special Area of Conservation under the Habitats Regulations 2017. In assessing required nutrient neutrality measures, the report noted that the annex could sleep up to four people in a holiday let situation, which could result in double the number of people at the property generating wastewater.
15. The appellants were requested to revise nutrient calculations for this additional wastewater load which it failed to do, for whatever reason. Applying the precautionary principle in favour of nature conservation, the application was refused as it could not be shown that the proposal would be unlikely to affect the integrity of the designated site.
16. Although planning merits are not directly relevant to the appeals, the other considerations that the Council gave to the application to retain the mixed use included matters such as the likely impacts of the development, namely that there are parking spaces to the front, it would be unlikely to have a material effect on existing highway conditions, and it would be unlikely that the holiday let accommodation would have an adverse impact on the amenity of adjoining or nearby residential occupiers.
17. Further, I note the property has been used as such for several years, there is no outward visible sign of a separate annex having been created or any advertisement for the same on or about the premises, and no objection recorded from interested persons. These factors tend to suggest that the use as carried on is not materially different from a C3 dwelling use. Although the site is in a relatively quiet rural village, such evidence as there is of actual use, the layout and

appearance of the premises, suggest that the turnover of guests would not result in conspicuously more comings and goings.

18. As a matter of fact and degree on the evidence, the character of the use as a short-term holiday let here is not materially different from use as a dwelling-house.
19. I would add that the way in which the Council puts its case on ground (c), seems a little disingenuous. It presents it as a case of “creating” the annex without planning permission or that there is a breach of planning control “associated with” its creation, without analysing the central issue of whether or not a material change of use has taken place. Obviously, if it had applied in terms its own reasoning in the previous report, it could have no rational objection. Nor, from what I have seen of the site, the plans and statements submitted, has the development created a separate dwelling even if there is a separate name for the annex. The address is something of a red herring, absent other factors showing it to be a separate unit, whatever name the appellants wish to give it. In any case, no name or separate address was conspicuous outside this part of the appellants’ home when I visited.
20. As no ground (a) is made, the planning merits pertaining to the failure to calculate the required nutrient neutrality measures, are not matters that can be considered on ground (c) which is a legal ground of appeal. Planning permission to retain the mixed use was refused recently, so an appeal on planning merits, ie on ground (a), was not available in any case. In this respect it might be thought the appellants had “got away” with not having to meet the nutrient neutrality requirements, but they have behaved entirely appropriately in seeking to retain the use by making the application in the first place. However, quashing of the notice does not prevent further action if the Council considers guest turnover or other matters have reached a point where the materiality of the use is called into question in future.
21. Thus, on the appeals before me the allegation of a material change of use is unfounded. The annex is not a separate dwelling unit, as correctly identified by the Council, but no breach of planning control has occurred based on the evidence before me.

Ground (g)

22. In light of my decision, the appeals on this ground do not fall to be considered.

Conclusion

23. For the reasons given above, I conclude that the appeals succeed. Subject to corrections, the enforcement notice is quashed.

Grahame J Kean

INSPECTOR