



Appeal Decision

Site visit made on 12 January 2026

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2026

Appeal Ref: APP/Z3445/C/24/3346118

Land at 3 Mickleton, Stoneydelph, Tamworth B77 4QY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Dario Pazzaglia against an enforcement notice issued by Tamworth Borough Council.
 - The notice was issued on 20 May 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the making of a material change of use of a dwelling house (C3) to use as accommodation for a boarding and guest house (C1).
 - The requirements of the notice are to permanently cease the unauthorised use of the Land as accommodation for a boarding and guest house (C1).
 - The period for compliance with the requirement is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) 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 by:
 - the deletion of the word "for a boarding and guest house (C1)" and their substitution with the words "as a short term holiday let" in paragraphs 3 and 5.
2. Subject to the corrections, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the use of the Land as accommodation as a short term holiday let as shown on the plan attached to the notice and subject to the following conditions:
 - 1) The maximum number of guests accommodated at the property shall not exceed four at any one time. An up-to-date register shall be kept and be made available for inspection by the local planning authority on request. The register shall contain details of the names of all the guest accommodated, their main home addresses and their date of arrival and departure from the accommodation.
 - 2) The garage shall be retained for the purposes of parking of vehicles only and for no other use. It shall be made available at all times to guests for the parking of their vehicles.

Procedural Matters

3. The appeal was initially brought on ground (a). However, the appellant's statement of case also included a ground (c) appeal. The Council have had an opportunity to address the ground (c) matters and have not therefore been prejudiced.

The Enforcement Notice

4. The enforcement notice alleges, "*Without planning permission, the making of a material change of use of a dwellinghouse (C3) to use as accommodation for a boarding and guest house (C1)*". However, from the evidence submitted by the Council, the appellant and by third parties, it is apparent that the appeal property has not been in use as accommodation for a boarding or guest house (C1) but instead is being used as a short term holiday let. The main parties agree that there would be no injustice to either party if I were to correct the allegation to, "*Without planning permission, the making of a material change of use of a dwellinghouse (C3) to use as accommodation as a short term holiday let*". The requirements of the notice should also be amended to reflect that correction. I have thus determined the appeal on that basis.

Appeal on ground (c)

5. The ground of appeal is that the matters alleged in the notice do not constitute a breach of planning control. On this legal ground of appeal the onus of proof is on the appellant to make out his case, and the test is on the balance of probability.
6. The Town and Country Planning (Use Classes) Order 1987, as amended, sets out how dwellinghouses are defined for the purposes of the Order in Class C3. These are:

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).
7. It is established case law that the distinctive characteristics of a dwellinghouse is its ability to afford those who use it, the facilities required for day-to-day private domestic existence. It is also settled law that the limited use of a family home for holiday lettings would not necessarily be a material change of use of a dwellinghouse. The issue is whether as a matter of fact and degree there was a material change of use of the Land such as would amount to development requiring planning permission¹. A main consideration is whether there is a significant difference in the character of the activities from what has gone on previously.
8. The appeal property is a detached four bedroom dwelling situated within a cul-de-sac, on a large residential housing estate. The property has an integral double garage with a front driveway providing space for the parking of up to four cars. It has a modest rear garden which abuts neighbouring residential properties on either side and to its rear.

¹ In the terms of s55(1) of the 1990 Act.

9. It is understood that the appellant has owned the property for approximately 20 years and has been renting it out as a short-term holiday let since January 2020. It is not known how the property was occupied prior to January 2020, but there is no evidence to suggest that it was occupied other than by persons forming a single household.
10. Evidence of the characteristics of the use of the appeal property as holiday lettings is to be found in third party representations, both in response to the notification of the appeal against the Enforcement Notice and those in response to an earlier planning application for the change of use from a dwelling to a boarding and guest house and as set out in the Council Officer's Report for Application Ref: 0011/2022². Reference is made to the use of the property between 2020 and 2022 for large gatherings, of up to 10 persons, with resultant noise/nuisance from those guests utilising the rear garden; ever changing visitors to the property, contractors staying at the property who park large vehicles and block pavements. The officer report in summarising the 15 letters of objection to the planning application states: *"consistency of topics raised by objectors from properties surrounding the dwelling has been notable and would suggest that the concerns raised are widely shared locally"*. Concerns largely relate to excessive noise within and external to the property.
11. Reviews of the accommodation supplied by the appellant³ in his statement of case, show that the property is not just occupied by family groups. Many of the bookings did not include children and are stated as people staying with friends. Thus, the occupation is often not by persons forming a single household. Furthermore, the duration of the stays is generally one or two nights, which is indicative of a rapid turnover of occupiers. Furthermore, the pattern of arrivals, departures of guests, associated traffic movements, including those associated with the cleaning companies employed to clean the premises between visits is different from those associated with the occupation of the property by a single household.
12. Consequently, since the use of the property as a short term holiday use commenced, the key characteristics include the rapid turnover of occupants; the pattern of arrivals and departures, with associated traffic movements; the occupation in many instances by unrelated persons which are not families or household groups; the numbers of people constituting the visiting group (which has been up to 10); the more likely frequency of party-type activities, and the potential lack of consideration for neighbours.
13. I therefore find that, as a matter of fact and degree, the use for holiday lettings of the appeal property has resulted in a use quite different in character from that of an ordinary dwellinghouse, where occupation is generally by a single household, and frequent large gatherings and changes in occupiers is not a regular occurrence with those associated traffic movements. This difference amounts to a definable change in the character of the use and therefore to a material change of use. Development took place for which no planning permission was granted by the local planning authority and the change of use is not permitted under any provision of the Town and Country Planning (General Permitted Development) (England) Order 1995, as amended.

² Appendix A, Local Planning Authority's Statement of Case.

³ Appendix 7, Appellant's Statement of Case.

14. I conclude that, on the balance of probability, the matters stated in the notice, as corrected, do constitute a breach of planning control. Accordingly, the appeal on ground (c) fails.

The appeal on ground (a), deemed planning application.

15. The ground of appeal is that, in respect of any breach of planning control which is constituted by the matters in the notice, planning permission ought to be granted.

Main Issue

16. The main issue in this case is the effect of the development on the living conditions of neighbouring residents, having particular regard to noise and disturbance and uncontrolled/sporadic vehicle parking.

Reasons

17. The representations made by neighbouring residents in response to the application for planning permission to change the use of the property to a boarding/guest house (retrospective), and in relation to this appeal, primarily concern the number of guests in the visiting groups and anti-social behaviour. When the lettings were first taken in 2020 those guests were in some cases up to 10 persons. Groups of this size resulted in noise/disturbance to neighbouring residents, particularly when the guests were utilising the rear garden for gatherings. Whilst it is accepted that on occasion families occupying a conventional dwelling will have gatherings and entertain, a property advertising to accommodate up to 10 persons and let out regularly for that purpose will inevitably result in large gatherings happening more frequently.
18. Furthermore, guests not forming a single household will generally arrive independently. It is understood that when a large number of individuals, all travelling in different vehicles arrive at the property, cars often park sporadically on the street/pavement and without consideration to neighbouring residents.
19. It can be seen by the previous Inspector's decision, in January 2023, that he considered the use of the property as a holiday let to have a harmful effect on the living conditions of neighbouring residents by reason of noise and disturbance⁴.
20. Mickleton is a residential cul-de-sac. Although the properties situated within it are relatively large, detached dwellings, their plot size is modest. Thus, the living and outdoor amenity spaces of neighbouring dwellings are in relatively close proximity. I understand that since the Inspector's decision the appellant has sought to reduce the number of guests permitted to book the accommodation to six and has made other changes and conditions through the booking system. However, I am also aware from the responses to this appeal that neighbours continue to raise concerns about the activities associated with the continued use of the property as a short-term holiday let. I have reservations as to the effectiveness of the measures put forward and how these could be controlled by conditions. The suggested curfew of 21.30hours for outside areas, of which guests would be informed, would require constant monitoring which would make it very difficult to enforce. Moreover, the curfew and other noise reduction and guest monitoring is only likely to be managed reactively and thus would not stop occurrences at the outset.

⁴ APP/Z3445/W/22/3306268

21. However, the appellant has requested that consideration be given to granting permission with a restriction on the number of guests to four. This number could be enforced by a planning condition, including a condition that would require a written register to be kept of all guests accommodated which would be required to be made available on request from the local planning authority, and to ensure compliance with the maximum permitted number of guests.
22. Restricting the number of guests to four, at any one time, would reduce the number of vehicles likely to be parked at the property, and there are four off street parking spaces available on the Land. Moreover, the noise and disturbance that may result from the comings and goings associated with four people staying for short periods of time, including their use of the rear garden, is unlikely to be materially different from the movements and activities associated with a large family occupying this four bedroomed property. I am also mindful that Policy EC5 of the Tamworth Local Plan 2006-2031, seeks to encourage appropriate tourist infrastructure, including accommodation. It is evident from the original planning application that the use as holiday lettings lends support to the local economy, with letters received in support of the development from local businesses which provide services to the applicant at the property.
23. I conclude that the development, subject to conditions which would limit the number of guests occupying the accommodation, would not have a harmful effect on the living conditions of neighbouring residents. There would also be no conflict with the amenity aims of paragraph 135. f) of the National Planning Policy Framework nor those set out in Policy EN5 g) of the Tamworth Local Plan 2006-2031.

Conditions

24. The Council has suggested a number of conditions which I have considered against the advice in the Framework and Planning practice Guidance. I have amended some for clarity. The development has already commenced so there is no requirement to place a time limit on commencement.
25. I have imposed a condition to limit the occupancy of the accommodation to four and to require a written register to be kept of all guests accommodated. These conditions are necessary to protect the amenity of neighbouring residents.
26. A condition requiring the garage to be used solely for the purposes of providing car parking space is necessary to ensure adequate on-site parking is available for the guests occupying the property and prevent obstruction on the adjoining highway.

Conclusion

27. For the reasons given above and taking into account all other matter raised, I conclude that the appeal should succeed.

Elizabeth Pleasant

INSPECTOR