



Appeal Decisions

Site visit made on 3 March 2026

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

an Inspector appointed by the Secretary of State

Decision date: 8 May 2026

Appeal A Ref: APP/D0650/C/25/3372125

Appeal B Ref: APP/D0650/C/25/3372126

Rotherham House, Lunts Heath Road, Widnes, Cheshire WA8 5BB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Mrs Sharon Rotherham (Rotherham Escapes Ltd) and Appeal B by Ms Lucy Wardropper against an enforcement notice issued by Halton Borough Council.
 - The notice was issued on 5 August 2025.
 - The breach of planning control as alleged in the notice is the material change of use of the land and buildings from a use as a C3 dwelling house to that of a mixed use being short term holiday let accommodation (sui generis) and a paid events venue (sui generis).
 - The requirements of the notice are to: Cease all unauthorised uses of the land and buildings at Rotherham House including the operation of a short-term holiday let accommodation (sui generis) and as a paid events venue (sui generis).
 - The period for compliance with the requirements is: One month.
 - The appeals are proceeding on the grounds set out in section 174(2)(b), (c), and (f) of the Town and Country Planning Act 1990 (as amended).
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Decisions

1. It is directed that the enforcement notice is corrected by:
 - In section 3 the deletion of the words “It appears to the Council that unauthorised development has occurred within the past 10 years”, “and buildings”, and “a use as a”.
 - In section 4 after the words “REASONS FOR ISSUING THIS NOTICE” the insertion of the words “It appears to the Council that the unauthorised development has occurred within the past 10 years”.
 - In section 5 the deletion of the requirement in its entirety and replacement with “Cease the use of the land as short-term holiday let accommodation and paid events venue”.
2. Subject to the above corrections, the appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

3. The appeals were originally made on grounds (b) and (f). However, in their appeal submissions the appellants asserted that any use of the appeal property as short-term holiday let accommodation and a paid events venue did not amount to a material change of use of the land. Instead, it was argued that such a use may be incidental to the enjoyment of the dwellinghouse. That argument amounts to a hidden ground (c) appeal. The appellants formally requested that the ground (c) appeal was added, and the Council were afforded the opportunity to comment on

the additional ground of appeal. I have had regard to the comments received in my determination of the appeal.

4. The appeal property has been subject to a recent appeal decision¹ under section 78 of the Town and Country Planning Act 1990 (“the 1990 Act”). The development proposed was described as “*flexible letting*”, with the appeal being dismissed on 19 November 2025. In the decision letter the Inspector stated that “*flexible letting*” was not fully explained in the appeal documents but the proposal was described as including “*short-term holiday lets and paid events*”. Consequently, an appeal on ground (a) was barred under section 174(2A) of the 1990 Act. For the avoidance of doubt, in the absence of an appeal under ground (a), the planning merits of the development attacked by the enforcement notice do not fall to be considered.

The Notice

5. 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 1990 Act, or the terms varied, where the correction or variation will not cause injustice to the appellant or the local planning authority.
6. In section 3 of the notice, it is stated that it appears to the Council that the development has occurred within the last ten years. This is not an act of development and is usually a sentence found within the reasons for issuing the notice. I shall therefore re-locate this sentence to section 4 of the notice.
7. The allegation also refers to the material change of use of the “*land and buildings*”. The land identified by the red line plan attached to the notice includes the buildings situated within it, and therefore in the interests of brevity I shall delete the words “*and buildings*” as well as the words “*a use as a*”.
8. Finally, the requirements of the notice should flow neatly from the allegation. As currently set out in section 5 of the notice, the requirement is overly wordy and lengthy. In the interests of clarity and precision I shall replace the requirement with “*Cease the use of the land as short-term holiday let accommodation and paid events venue*”. The above corrections do not fundamentally change the notice or its requirements. Consequently, they do not cause injustice to either party.

Ground (b)

9. To succeed on ground (b) the onus is on the appellants to show that what is alleged in the notice has not occurred as a matter of fact.
10. The alleged breach of planning control is a material change of use of the land from a use as a C3 dwelling house to that of a mixed use being short term holiday let accommodation and a paid events venue. The appellants have confirmed that the property is used for events and short-term holiday lets, and that the average number of bookings is around 4-6 per month. The Council have also provided evidence which supports the position that the property has been used for this purpose.
11. It is therefore clear from all the evidence presented that the property is available as a short-term holiday let accommodation and a paid events venue, and that the

¹ APP/D0650/W/25/3372152

property has been used for that purpose. The alleged breach of planning control has occurred as a matter of fact. Accordingly, the appeals on ground (b) fail.

12. Much of the appellants representations are based on the argument that the use of the property for short-term holiday let accommodation and events venue 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 matters alleged in the notice do not constitute a breach of planning control. The burden of proof falls on the appellants and the relevant test is on the balance of probabilities. It is therefore for the appellants to demonstrate, on the balance of probability, that the use of the property as short-term holiday let accommodation and paid events venue 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)² 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*³, 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 detached five-bedroom dwelling with a hard surfaced area to the front for car parking. To the rear is a garden which includes a swimming pool and detached outbuilding. Very little information has been provided regarding the previous residential use of the appeal property. However, it is not disputed that the lawful use of the property is that of a single residential dwelling (Use Class C3).
17. In terms of its current use and having regard to the evidence, which includes online advertisements and my site visit, it appears that the property can occupy up to 12 guests overnight and up to 40 day guests for events. I saw little evidence during my visit that the property was currently in use as a private residential dwelling. The wardrobes in each bedroom were empty, no food was evident in the fridge or freezer in the kitchen, and there was no evidence of any domestic

² Paragraph: 011 Reference ID: 13-011-20140306

³ *Moore v SSCLG* [2012] EWCA Civ 1202

paraphernalia around the property that you would expect in a family home. On the contrary, there were information signs for guests in the kitchen, and one bedroom was set up as a Spa treatment room.

18. Despite the onus being on the appellants to show why the appeal should succeed, very limited information has been provided with regards to the frequency of visits, the number of guests per booking, and the length of each stay at the property. In terms of events, the appellants claim that none have been held at the property that have accommodated 40 people. However, no information on the number of people that have attended those events have been provided. Nevertheless, even if those events were attended by significantly less than 40 people, in my judgement, the nature and character of this activity is markedly different from that associated with a single-family dwelling.
19. With regards to bookings for holiday let accommodation, the appellants state that the average number of bookings is around 4-6 per month with the number of guests ranging from 6-10. Activities enjoyed by guests may include use of the outdoor swimming pool, cinema room, spa treatments, and cocktail service. The Council have provided evidence that they consider demonstrates that the property was consistently booked for July and August 2025. The appellants argue that these block bookings were in fact when the appellants themselves wanted to stay in the property and use it for their own purposes.
20. The Council though have provided an internet post from Rotherham Escapes that states "*In just three months we'd pretty much sold out for 2025*", as well as a log of noise complaints received by the Council on thirteen different days between 7 June 2025 and 18 July 2025. Consequently, I find it highly unlikely that the property would not have been used at all for either short-term holiday let accommodation or events during this two-month summer period.
21. In my view, there are several differences between the use of the property as a single dwellinghouse and its use as short-term holiday let accommodation and events venue. These include the duration that people stay at the property resulting in a regular turnover of people, the number of persons occupying or attending the property, the number of vehicles and vehicle movements, and the likely frequency of party type activities. The appeal property is clearly available to book for a range of events including kids' parties, spa days, christenings, wedding parties, hen-dos, and corporate events.
22. Even taking the level of bookings as being around 4-6 per month with each being attended by 6-10 guests, plus a small number of other daytime events attended by significantly less than 40 people, as a matter of fact and degree, I find that this has resulted in change in the definable character of the use of the land. The fact that to date the police have not been called to deal with any altercations or anti-social behaviour does not alter my finding in this regard.
23. I acknowledge that a single household occupying a C3 dwellinghouse could cause noise and disturbance to neighbours, including incidents similar to those reported in the appeal submissions such as the playing of music and garden parties. However, drawing the above considerations together, 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 or for events.

24. For the reasons set out above, the appellants have 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 and paid events venue (Sui Generis). Consequently, the appeals on ground (c) fail.

Ground (f)

25. For the appeal to succeed on ground (f), I must be satisfied that the steps required to comply with the notice are excessive and lesser steps could overcome the breach of planning control or, as the case may be, the injury to amenity. It is clear from the requirements of the notice that its purpose is to remedy the breach of planning control.
26. However, far from proposing alternative or lesser steps which would remedy the breach of planning control, the appellants instead argue that the development is in accordance with policies contained in the Halton Local Plan (LP) that support small businesses and the tourism industry. It is further argued that the use of the property as short-term holiday accommodation and events venue can be managed effectively by planning conditions, including securing a management plan which would ensure that any issues to residential amenity could be dealt with.
27. These matters though relate to the planning merits of the development. As there is no appeal under ground (a) there is no deemed application for planning permission before me. I am therefore unable to consider the planning merits of the development, including whether it is in accordance with the LP or whether it could be adequately controlled by planning conditions.
28. In an appeal on ground (f), the only consideration is whether the requirements exceed what is necessary to achieve the identified purpose of the notice, which in this instance is to remedy the breach of planning control. Since no lesser steps other than those set out in the notice would achieve that purpose, the appeals on ground (f) fail.

Other Matters

29. The appellants have drawn my attention to a planning permission⁴ recently granted by the Council for the “*retrospective change of use from dwelling house to mixed use dwelling house and holiday let*” at another property. I do not have the full details of that application, however as already set out above the planning merits of the development do not fall to be considered in this appeal. Furthermore, the Council’s decision to grant planning permission at a property elsewhere in the borough has no bearing on my findings in the legal grounds of appeal above.

Conclusion

30. For the reasons given above, I conclude that the appeals fail. I have therefore upheld the enforcement notice as corrected.

David Jones

INSPECTOR

⁴ Council Ref: 25/00009/COU