



Appeal Decision

Site visit made on 23 June 2026

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2026

Appeal Ref: APP/N1920/C/25/3367903

42 Rutherford Close, Hertsmere WD6 5RZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Michael Firestone against an enforcement notice issued by Hertsmere Borough Council.
 - The notice was issued on 12 May 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use from a residential dwelling (Use Class C3) to a commercial short-term let operation (Sui Generis).
 - The requirements of the notice are: 1. Cease the unauthorised use of the premises as a commercial short-term let operation, which constitutes a material change of use, and restore the property to its lawful use as a single-family dwelling (Class C3). 2. Remove from the land all materials, signage, and equipment associated with the unauthorised short-term letting activities.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c) and (f) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fee has not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act has lapsed.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Application for costs

2. An application for costs has been made by Mr Michael Firestone against Hertsmere Borough Council. This application is the subject of a separate Decision.

Ground (b) and (c) appeals

3. The ground (b) appeal is that the matters stated in the enforcement notice have not occurred. The ground (c) appeal is that those matters (i.e., the matters stated in the notice), if they occurred, do not constitute a breach of planning control. The burden is firmly on the appellant to show why their appeal should succeed on ground (b), or failing that on ground (c), the relevant test of the evidence in both grounds of appeal being on the balance of probability.
4. The appeal premises contains a modern residential building, with living accommodation arranged over two floors. On the ground floor is a lounge and kitchen/diner along with a separate WC and a separate WC/shower. An attached garage has been converted to a double bedroom. On the first floor are two further double bedrooms and a single bedroom, along with a main bathroom. Externally, two vehicles can be parked on the driveway at the front of the premises. At the rear is a patio and a small freestanding outbuilding, with a private garden largely laid to grass. The premises are located on the corner of a residential cul-de-sac at the end

of a short terrace of dwellings, occupying a relatively quiet, predominantly residential setting forming part of a planned estate of modern suburban housing.

5. The notice alleges that the premises are in use as a commercial short-term let operation. Since the appellant accepts that such use has occurred, the ground (b) appeal must fail. Whether the use as a short-term let has resulted in a material change of use is a matter for the ground (c) appeal, to which I now turn.
6. There is no dispute that the lawful use of the premises is as a dwelling within Class C3 of the UCO.¹ Class C3 provides for use as a dwelling (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. The definition of development set out in s55(1) of the Act includes the making of any material change in the use of any buildings or land. The concept of a material change of use is not defined in legislation and is a matter of fact and degree in every case. For a material change of use to have taken place there has to be some significant difference in the character of the activities compared to what has gone on previously.
8. There is no specific Class in the UCO for short-term lets. However, that does not necessarily mean there has been no material change of use from a Class C3 dwelling. Not all uses conveniently fall within a specific Use Class; it is well-established that a use can be *sui generis*, or in a class of its own. Moreover, relevant case law confirms that whether the use of a dwelling for commercial holiday letting amounts to a material change of use would be a question of fact and degree in each case, the answer depending on the particular characteristics of the use. It was not correct to say that using a dwellinghouse for commercial holiday letting would always amount to a material change of use; nor was it correct that it could never amount to a change of use.²
9. The appellant explained that the premises are let to single families (one family each letting) and groups of unrelated people such as friends, living as one household, where there is a maximum of six occupiers. Little other information concerning the use was provided. Information in the Council's officer delegated report indicates that, amongst other things, an average stay at the premises is one to two weeks per booking, with a minimum stay of three days, and a maximum of seven guests.
10. Although the premises might only be let on the basis that the guest numbers do not exceed the threshold in Class C3, that alone is not definitive of whether there has been a material change of use. The average and minimum letting periods suggests that there is a significantly greater frequency in the turnover of people staying at the premises compared to most dwellings, where persons generally reside for significantly longer than a couple of weeks.
11. Most guests staying at the premises are probably on holiday and so largely aiming to relax and enjoy themselves. In consequence, there are likely to be frequent incidences of socialising at the premises, including in the rear garden when

¹ The Town and Country Planning (Use Classes) Order 1987

² *Moore v SSCLG & Suffolk Coastal DC* [2012] EWCA Civ 1202

weather conditions allow, along with outings to local entertainment venues. It is entirely possible that incidences of guests socialising and other activities at the premises, as well as guests returning to the premises following outings, can often extend later into the evening and early morning, on weekdays as well as at weekends. Also, given the transient nature of the occupation of the premises, guests might well be less mindful of the effects of their activities on the enjoyment of neighbouring residential property compared to the mostly longer-term residential occupiers of a dwelling. Since the appellant does not reside at the premises, there is limited supervision of guest activity and behaviour.

12. Whilst some of the guests might reasonably be expected to arrive at the premises together in one vehicle, it is distinctly likely that in a number of instances they arrive separately, i.e., a group of friends. It is also entirely conceivable that other visits to the premises associated with the use occur frequently, including between bookings to clean the accommodation and provide fresh linen. Due to this and the other factors identified above, it is highly likely that compared to use as a dwelling within Class C3 the use as a short-term let generates additional noise and disturbance from the activities at the premises along with the pedestrian and vehicular comings and goings thereto, with a consequential impact on residential amenity. There is little firm evidence before me which might suggest otherwise.
13. Accordingly, based on the available evidence, as a matter of fact and degree and in the particular circumstances of this case, I find that the use as a short-term let is materially different in character to use as a Class C3 dwelling and has involved the making of a material change in the use of the premises. Planning permission is required for the development of land, having regard to s57(1) of the Act. To my knowledge, no express planning permission for the use has been granted following the submission of a planning application to the Council. The definition of a breach of planning control in s171A(1)(a) of the Act includes carrying out development without the required planning permission.
14. Since the appellant has been unable to show to the required standard that the matter alleged in the notice does not constitute a breach of planning control, the ground (c) appeal also fails.

Ground (f) appeal

15. The ground of appeal is that the requirements of the notice are excessive.
16. An enforcement notice can have the purpose of remedying the breach of planning control, including by restoring the land to its condition before the breach took place, or it can seek to remedy any injury to amenity caused by the breach. Although the notice does not state as such, its purpose must be to remedy the breach. Ceasing the use as a short-term let and complying with the other notice requirements would restore the premises to its condition before the breach took place.
17. A variation which required the use as a short-term let to cease other than for a set maximum period would sustain the breach and so would not achieve the purpose of the notice. The appellant did not suggest another alternative to ceasing the unauthorised use and in my view, nothing short of doing so would remedy the breach.
18. When read fairly and in the context of the notice as a whole, the requirement to restore the premises to use as a single family dwelling in Class C3 is not more

onerous than that necessary to remedy the breach. The requirement does not purport to restrict the premises from being used in accordance with Class C3. Nor does it purport to prevent the appellant from exercising any permitted development rights³ for a change of use from Class C3 to a Class C4 small House in Multiple Occupation. Also, I did not read the requirement to remove all materials, signage and equipment associated with the unauthorised use from the premises as extending to items such as fittings, furniture and household electrical appliances associated with a Class C3 use. An enforcement notice cannot be interpreted so as to prevent lawful activity.

19. Therefore, the notice requirements are not excessive; they represent a proportionate remedy, being the minimum steps necessary to restore the premises to its condition prior to the breach taking place. The ground (f) appeal also fails.

Conclusion

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

Stephen Hawkins

INSPECTOR

³ The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)