



Appeal Decision

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th August 2026

Appeal Ref: APP/J1860/C/25/3376591

54 Malvern Road, Powick, Worcester WR2 4RT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Dacey John Poole against an enforcement notice issued by Malvern Hills District Council.
 - The notice was issued on 31 October 2025.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of land from a residential dwellinghouse (C3) to a mixed use of residential and short-term visitor accommodation for paying guests (*sui generis*).
 - The requirements of the notice are to: Permanently cease the use of the land for short-term visitor accommodation for paying guests.
 - The period for compliance with the requirements is 3 (three) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended) (the Act).
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Decision

1. It is directed that the enforcement notice is varied by:

The deletion of the requirement at Section 5 “Permanently cease the use of the land for short-term visitor accommodation for paying guests” and its substitution with “Permanently cease the mixed use of the land”.

2. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

The Notice

3. I have a duty to get the notice in order if I can do so without prejudice to the parties. The allegation in Section 3 of the notice relates to a material change of use of the land. The steps for compliance with the notice should reflect the breach of planning control, which is the single mixed use of the land. The requirements should therefore refer to that mixed use rather than individual alleged unlawful uses. As this does not substantively change the requirements of the notice, I am satisfied that under my powers pursuant to s176(1) of the Act no injustice would be caused to any party by varying the notice accordingly.

Preliminary Matters

4. As there is no appeal on ground (a), an application for planning permission does not fall to be considered. The planning merits of the development are therefore not before me. Having regard to the nature of the appeal and the evidence submitted by the parties, I am satisfied that the matter can be determined without a site inspection. The parties were given the opportunity to comment on that approach and no objections were received.

Ground (c)

5. In an appeal on this legal ground the burden of proof rests with the appellant to demonstrate, on the balance of probabilities, that the matters alleged in the enforcement notice do not constitute a breach of planning control. To achieve success on ground (c) the appellant must show that either there has been no development, or that planning permission is not required for whatever reason, or that what is alleged complies with the terms and conditions of a planning permission. The meaning of development is set out in s55(1) of the Act which defines the two limbs of development, namely operational development or the making of a material change of use.
6. The appellant does not dispute that the appeal property has been used for short-stay accommodation for paying visitors but contends that such use did not amount to a material change of use from its lawful use as a dwellinghouse within Class C3¹.
7. Use Class C3 is broad in scope and can encompass a variety of forms of residential occupation. However, whether a material change of use has occurred is ultimately a matter of fact and degree. Established case law² confirms that use of a dwellinghouse for holiday accommodation will not always amount to a material change of use, but nor is it necessarily immune from planning control. The question is whether the characteristics of the use are materially different from those ordinarily associated with the occupation of a dwellinghouse as a single household. Relevant considerations include the frequency and duration of stays, the turnover of occupiers, the scale and intensity of the activity, the nature of the accommodation provided and any effects arising from the use.
8. The appeal property is a substantial detached five-bedroom dwelling located within a residential area. The evidence shows that the property was actively advertised and made available for short-term occupation by groups of up to 12 people. Alongside the sleeping accommodation, the property offered facilities including multiple bathrooms, a cinema room, games room, hot tub, outdoor bar, extensive parking and a large garden. Online reviews refer to family gatherings, groups of friends, celebrations and other social occasions. These features indicate that the property was marketed and equipped in a manner intended to attract larger group bookings.
9. The appellant's own records demonstrate that the property was let for paying guests throughout much of 2025. Letting activity occurred during nine separate months and amounted to approximately 79 days of guest occupation. Individual bookings generally ranged between 1 and 6 nights. While the appellant characterises the activity as episodic rather than continuous, the records nevertheless represent a substantial level of visitor occupation spread across much of the year rather than occasional or sporadic use. In addition, interested parties have submitted evidence suggesting further periods of visitor occupation during November and December 2025 and January and February 2026. While vehicle logs and photographs are not conclusive evidence when considered in isolation, they provide context when viewed alongside the appellant's admissions, online advertising and guest reviews.

¹ The Town and Country Planning (use Classes) Order 1987 (as amended) (the UCO).

² *Moore v SSCLG & Suffolk Coastal DC* [2012] EWCA Civ 2101.

10. The nature of that occupation is also significant. The evidence points towards occupation by changing groups of visitors staying for relatively short periods rather than by a settled household. While the precise relationships between occupiers are not always known, the advertising material and reviews refer to separate groups of family members, friends and other visitors using the property for short stays and gatherings. The brief duration of occupation and regular changeover of occupants would be unlikely to establish the degree of permanence, continuity and shared domestic living arrangements ordinarily associated with occupation as a single household within Use Class C3. These characteristics distinguish the visitor accommodation activity from the more settled and predictable pattern of residential occupation ordinarily associated with a dwellinghouse.
11. Representations from neighbouring residents refer to noise, disturbance and antisocial behaviour associated with some occupiers, including activity around the outdoor facilities into the night and early hours. While the evidence does not demonstrate that such incidents occurred during every letting, the representations indicate that the use at times generated activity beyond that ordinarily associated with occupation of a private dwellinghouse. Nevertheless, my conclusion does not depend solely on allegations of disturbance. Rather, it is based on the overall character of the use when considered in the round.
12. I acknowledge the appellant's reliance upon an absence of physical alterations and lack of commercial infrastructure such as reception facilities, management offices or external signage. However, a material change of use may occur without any physical alteration to a property, and the decisive issue is the character of the activities taking place on the land. Careful consideration has also been given to the appellant's submission that the property remained a single family home throughout the relevant period. I accept that the evidence demonstrates continued residential occupation by the appellant and that the residential use was not abandoned. However, that is not determinative of the matter before me. The allegation in the notice is not that the residential use ceased altogether, but that an additional use was introduced.
13. Having considered all of the evidence, I find that the short-term letting activity by paying guests introduced a distinct visitor accommodation function alongside the continued residential occupation of the property. This activity was not merely incidental to the enjoyment of the dwellinghouse, but constituted a separate commercial use characterised by a sufficient degree of permanence, regularity and organisation to amount to a use in its own right.
14. As a matter of fact and degree, the scale, frequency and nature of the short-term activity went beyond what could reasonably be regarded as incidental or ancillary to the residential use of the dwelling. The pattern of use was marked by recurring bookings over an extended period, short stays, regular turnover of paying guests and active commercial marketing. Taken together, these factors indicate a form of occupation that was functionally and characteristically different from occupation by a single household within Use Class C3.
15. I am satisfied that the residential occupation of the property and the short-term visitor accommodation use operated concurrently within the same planning unit. The continuation of residential occupation does not prevent a finding that a material change of use occurred. Rather, it supports the conclusion that a mixed use

became established, comprising both residential occupation and commercial short-term accommodation.

16. Accordingly, I conclude that the property did not function solely as a dwellinghouse within Use Class C3 during the period material to the notice. The evidence demonstrates that a material change of use occurred resulting in a mixed use. Planning permission was therefore required for that development. As no such permission exists, I find that the matters alleged in the enforcement notice constitute a breach of planning control.
17. The appeal on ground (c) therefore fails.

S A Hanson

INSPECTOR