
Appeal Decisions

Site visit made on 1 August 2024

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 22 August 2024

Appeal Refs: APP/M0933/C/23/3322970 & 3322971

Land at Stone Arthur, School Road, Kirkby-in-Furness LA17 7TF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Patricia Kilty and Mr Michael Kilty against an enforcement notice issued by Westmorland and Furness Council.
 - The enforcement notice was issued on 18 April 2023.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the Land from residential dwelling (Use Class C3) to a holiday let (*sui generis*).
 - The requirements of the notice are;
 - (A) Permanently cease the use and letting of the premises for commercial gain in association with a holiday let on the land.
 - (B) Permanently cease the use of outdoor spaces in connection with the holiday let
 - The period for compliance with the requirements is 13 weeks.
 - The appeals are proceeding on the grounds set out in section 174(2) (a), (c) and (g) of the Town and Country Planning Act 1990 as amended.
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Summary Decisions: the appeals are dismissed and the enforcement notice is upheld with variations as set out in the Formal Decision below.

Procedural matters

1. The car parking for the use alleged in the notice is provided on a separate parcel of land that is also within the appellants ownership, located to the south of the A595. This parcel of land is not within the red line as shown on the plan attached to the enforcement notice. However, since the appeal is to be dismissed and the use alleged in the notice required to cease, there is no merit in amending the plan attached to the notice to include the parcel of land used for car parking in association with that use.

The Enforcement Notice

2. The requirements at both paragraph 5(A) and 5(B) of the notice include the word 'permanently'. Having regard to the provisions of Section 181(1) of the 1990 Act, which states that compliance with an enforcement notice shall not discharge that notice, the word 'permanently' is unnecessary and inappropriate. I shall therefore delete it.
3. The breach of planning control alleged in the notice is, without planning permission, the material change of use of the Land from residential dwelling (Use Class C3) to a holiday let (*sui generis*). The requirement at paragraph 5(A) of the notice is to cease the use and letting of the premises for commercial gain in association with a holiday let on the land.

4. There is therefore a slight mismatch between the breach of planning control alleged and the requirement at paragraph 5(A), insofar as the latter goes beyond the breach of planning control alleged. Moreover, the concept of 'commercial gain' referred to in paragraph 5(A) is not relevant to the material change of use that is alleged in the notice. I shall vary the requirement at paragraph 5(A) to more closely reflect the breach of planning control that is alleged.
5. The requirement at paragraph 5(B) of the notice is to cease the use of outdoor spaces in connection with the holiday let. Given that the requirement at paragraph 5(A) of the notice (as I propose to vary it) is to cease the use of the premises as a holiday let, this requirement is not necessary as the use of the outdoor spaces in connection with the holiday let will automatically cease when the use of premises ceases. I shall therefore delete this requirement.
6. I am satisfied that no injustice would be caused by varying the notice in these respects.

The appeals on ground (c)

7. The ground of appeal is that, in respect of any breach of planning control that may be constituted by the matters stated in the notice, those matters do not constitute a breach of planning control. An appeal on this ground is one of the 'legal' grounds of appeal, in which the burden of proof is on the appellant to show, on the balance of probability, that the matters alleged in the notice do not constitute a breach of planning control.
8. The Town and Country Planning (Use Classes) Order 1987 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
 - (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).
9. In *Gravesham BC v SSE & O'Brien* [1982] 47 P&CR 142; [1983] JPL 307, it was held that the distinctive characteristic of a dwellinghouse was its ability to afford those who used it, the facilities required for day-to-day private domestic existence. It is settled case law that the limited use of a family home for holiday lettings would not necessarily be a material change of use of a dwellinghouse. In *Moore v SSCLG* [2012] EWCA Civ 1202, the Court of Appeal held that materiality in such cases will be a matter of fact and degree, with the answer depending on the characteristics of the use as holiday accommodation.
10. In *Moore*, a single dwelling was being used as a holiday let for up to 18 people with an additional 2 on a sofa-bed and was let generally for short periods of 3, 4 or 7 nights. The Court of Appeal concurred with the Inspector's assessment that this represented a material change of use. As part of his reasoning, the Inspector had highlighted 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. The Inspector concluded that the use was materially different to that of a dwelling, giving it a use class of its own (*Sui Generis*).

11. The Court of Appeal went on hold that:

"... he (the Inspector) was not merely entitled to reach this conclusion; it was clearly, on the facts of this case, the correct conclusion. As a matter of common sense, this particular use for holiday letting is very far removed from the permitted use as a dwellinghouse and a material change of use has occurred."

12. The facts in *Moore* are somewhat different to the facts in this case: the house was larger, being an 8-bed dwelling with a 20-person occupancy. This exceeds the 6-bed dwelling with a 12-person occupancy of the appeal property. Nevertheless, the principle established in *Moore* remains relevant.

13. As per *Moore*, it is necessary to examine the characteristics of the use of the appeal property as holiday accommodation. Evidence of the characteristics of the use of 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 dwelling to holiday let (Council Ref: SL/2022/1099)¹.

14. Three representations were received directly in response to notification of these appeals, including a letter from Kirkby Ireleth Parish Council enclosing a detailed letter made in objection to the planning application. In addition to that letter, a total of 43 representations were received (albeit in some cases two or more from one household) in response to the planning application, all objecting to the use of the appeal property for short-term letting accommodation. Some of the representations are supported by photographic evidence, which lends further credence to that evidence.

15. I was immediately struck by the consistency of the evidence contained within these representations and the significant proportion of the households in Coombe Crescent that made representations, as well as from properties in Askew Gate Brow, School Road and even further afield. This indicates just how widespread the characteristics of the use of the appeal property as a holiday let are evident from within Kirkby-in-Furness and are not just experienced by the occupiers of the dwellings directly adjoining the appeal site.

16. The points made in those representations are too numerous to list individually, but in summary the key points are:

- evenings disturbed by noise/music/parting extending into the early hours of the morning, preventing residents from enjoying their outdoor amenity space and in some instances forcing them indoors. One local resident records that this disturbance is not occasional, occurs nearly every week and every night in good weather.
- sleep disturbance due to the noise associated with the use.

¹ Copies of the latter provided with the Council's Statement of Case.

- excessive noise from the use of the hot tub, sometimes into the early hours of the morning (one local resident cites 04:00 hours in one instance, and another resident cites 07:00).
 - frequent barbeques with the attendant noise and smells.
 - light pollution
 - noise disturbance in the early morning when the cleaners are present.
 - the number of vehicles associated with the use, resulting in up to 8 vehicles being parked on School Road and Coombe Crescent, blocking driveways and resulting in inconvenience to local residents.
17. The appellants point out that Lady Cumbria Ltd (who manage the appeal property on behalf of the appellants) clearly set out the procedures and processes the company follow in managing their properties in a Serviced Accommodation Management Plan and Noise Management Plan (Management Plan). This document sets out rules with which guests are expected to comply, including typical arrival and departure arrangements, and specific rules sent direct to those booking the property (but which I note is wholly silent on parking arrangements). The Management Plan emphasises, amongst other things, that noise should be kept to a minimum after 22:00 and specifically states that Stag or Hen Do parties or other large parties are not allowed.
18. The evidence in the third-party representations clearly shows that the measures in the Management Plan have been wholly ineffective. The references to music being played late at night in these representations put to the sword the appellants' claim that music is turned off at 22:00. The description by local residents of occupation by large groups of adults would also suggest that the appellants (or Lady Cumbria Ltd acting on their behalf) have not been particularly stringent in the vetting process or in enforcing the strict conditions to which renting the property is said to be subject. The representations from local residents also dispel the notion that the property is rented exclusively, or predominantly, to families.
19. The Management Plan goes on to state that, should there be an issue related to anti-social behaviour, the guest will be issued with a warning but if further disturbance occurs, the guests will be asked to leave immediately. Those guests who cause major disturbances will be asked not to make any further bookings or return to the property in the future. On my reading, that is an implicit acceptance that anti-social behaviour may occur and that corrective action can only be taken after the anti-social behaviour has already occurred. It also directly contradicts the appellant's claim that the property has been developed and marketed with family or household groups in mind.
20. The Property Booking History provided by the appellant shows that the property is not just occupied by family groups. The average occupancy for the period covered by the Property Booking History is under 10 persons averaging out, as I understand it, at 9.7 persons per booking. I note that figure is significantly higher than a household of six residents referred to in Use Class C.3 (b) and (c) of the UCO.
21. But that average figure disguises the true nature of the booking history. Of the 105 entries in the Property Booking History, 41 bookings (put another way, 39% or more than one-third) did not include children. Amongst that figure are

several instances of large groups of adults without any children: for example, the booking made on 22 December 2021 for 12 adults, 0 children; the booking made on 16 January 2022, also for 12 adults, 0 children; and the booking made on 27 April 2022 for 10 adults, 0 children.

22. The Property Booking History does not reveal whether the adults were related or formed one household but it is unlikely (albeit possible) that occupation by this number of adults without being accompanied by children constituted a family or household group. Indeed, one local resident describes that "This property can accommodate 12+ people who appear to come from different households and travel separately". This was one of the factors that the court found in *Moore* was indicative of a material change of use from a dwellinghouse.
23. Further evidence that the appeal property is not used exclusively by families is to be found in advertisements for the accommodation offered, as detailed in representations from local residents. One advertisement describes the appeal property as a "Luxury farmhouse with large enclosed garden and hot tub. Perfect for families, *celebrations and special occasions*" (emphasis added). Another advertisement describes the appeal property as "This luxury farmhouse is just perfect for a family reunion, celebrating a special birthday or anniversary, and perfect for multiple couples or multi-generations to get together, relax, unwind, and make special memories together". The emphasis in both advertisements, it seems to me, is on celebrations and special occasions that are likely to appeal to groups of adults as distinct from family holidays.
24. The Property Booking History also reveals that the average stay duration was relatively short. There were 10 occasions (some 10%) where the duration of stay was 7 nights and on those occasions the adults were typically (but not exclusively) accompanied by children. But there were 68 occasions (some 65%) where the duration of stay was 3 nights and 9 occasions (some 9%) where the duration of stay was 2 nights. There was also one occasion where the duration of stay was for just a single night (1%). The remainder of the stays were for between 4 and 6 nights, and none were for a stay duration of more than 7 nights.
25. This means that on some 78% of the total number of stays booked, or put another way over two-thirds, the duration of stay was 3 nights or less. This is indicative of a rapid turnover of occupiers. This pattern of arrivals and departures, with associated traffic movements, was another of the factors that the court found in *Moore* was indicative of a material change of use from a dwellinghouse.
26. Taking all this together, and notwithstanding the differences in scale, the characteristic of the use of the appeal property use do seem quite similar to those in *Moore*. The key characteristics include the rapid turnover of occupants; 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 (10+ on several occasions); the likely frequency of party-type activities, and the potential lack of consideration for neighbours.
27. 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 of quite different character from

that of an ordinary dwellinghouse. This difference amounts definable change in the character of the use and therefore to a material change of use.

28. The meaning of development for the purposes of the 1990 Act is defined at Section 55(1) of that Act as including the making of any material change in the use of any building or other land. Section 57 of the 1990 Act states that planning permission is required for development. There is no planning permission in place, deemed or otherwise, for the matters stated in the notice.
29. I conclude that, on the balance of probability, the matters stated in the notice do constitute a breach of planning control. Accordingly, the appeals on ground (c) fail.

The appeals on ground (a) and the deemed planning applications

30. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The Council has stated one substantive reason for issuing the enforcement notice, from which the main issue raised is the effect, if any, on the living conditions of the occupiers of the surrounding residential properties.
31. The representations made by local residents both directly in response to notification of these appeals and in objection to the earlier planning application (Council Ref: SL/2022/1099) explain with compelling detail how the use of the appeal property for short-term holiday letting accommodation has adversely affected their living conditions. I have already documented that evidence in relation to the appeal on ground (c) above, and do not repeat that here.
32. Furthermore, some of the representations refer to the harmful impact of the use on their mental well-being, with one local resident "dreading the summer months when the garden activities will commence once again". Although not a physical manifestation of the impacts associated with the use of the premises as a holiday let (such as noise), it is nevertheless a consequence of the use that would not normally be associated with use as a dwellinghouse and is a material consideration to which I attach significant weight.
33. As part of my site visit, I was able to view neighbouring properties from the garden of the appeal property as well from an upper floor window. I immediately noted the proximity of those neighbouring properties, and their outdoor amenity space, to the garden of the appeal property. I noted that the rear elevations of the neighbouring properties facing onto the garden of the appeal property appeared to include habitable rooms (bedrooms, living rooms, and possibly kitchens) and featured window openings to those habitable rooms.
34. The aforementioned planning application (Council Ref: SL/2022/1099) was supported by an Acoustic Survey and Assessment (Acoustic Survey). The Council has not challenged the methodology of that Acoustic Survey, and I see no reason to take a different view. The Acoustic Survey concluded that the likely sound levels, combined with a 1.8m high close-boarded fencing to the garden, would be below the recommended sound levels within BS8233:2014 and suggested by the World Health Organisation. The Acoustic Survey recommended that a noise management plan be introduced to minimise any adverse impact on neighbouring properties, this to include limitations on the use of the garden area. The recommendation was that there should be no use

of the garden area before 09:00, or after 21:30 Sunday to Thursday and after 22:00 Friday and Saturday.

35. I have great difficulty reconciling the findings of the Acoustic Survey with the experience of the occupiers of the dwellings that directly adjoin the appeal property. This may, in part, be because the hours at which the noise disturbance occurs is regularly much later than those recommended in the Acoustic Survey. It may also be because the recommendations in the Acoustic Survey are predicated on the attenuation qualities of 1.8m high close-boarded fencing to the garden. The existing fencing may not perform to the standard anticipated in the Acoustic Survey.
36. Pursuant to the recommendation in the Acoustic Survey, the proposed Noise Management Plan includes a specific Noise Management Plan. I note that the appellants would agree to a condition requiring that a Management Plan be submitted. The success or otherwise of a Management Plan depends to a large extent on the effective enforcement of the measures within it. The appellants confirm that they would be willing to accept a condition limiting the use of the garden to 21:00 or even before, well below the recommendation in the Acoustic Survey.
37. The appellants also explain that they intend to build around the hot tub, such that access to the hot tub would become solely from within the property itself and would no longer be an external use. That is a future proposal and there can be no guarantee that this will come to fruition. I must therefore assess the impact on the living conditions at the present time, with the hot tub and access to it being external to the property.
38. The difficulty is the nature of the occupation of a short-term holiday let. The guests are there for a specific purpose, to relax, to socialise and to enjoy their holiday time. Guests typically have no ties to the local area or community. There is no real come-back if they breach the rules and, because management are not on-site at all times, any enforcement of the 'house rules' is typically after the event in any case. The damage has been done by then. It is evident that whatever measures Lady Cumbria Ltd have in place have to date been singularly ineffective in preventing the harms described by local residents.
39. For these reasons, I have no confidence that a Management Plan would be any more successful in preventing and/or mitigating the level of noise disturbance described by local residents. Consequently, whilst a Management Plan secured by a planning condition would provide the Council with an added level of control, overall I am not persuaded that the imposition of a condition requiring the submission of a Management Plan would be sufficient to make the use acceptable in planning terms.
40. As a result of the proximity of the surrounding dwellings to the garden of the appeal property, the noise disturbance described by the occupiers resulting from the use as a holiday let is harmful to their living conditions. Moreover, the gardens of the neighbouring properties are relatively small, meaning that there is no part of that outdoor amenity space that is not affected and to which the occupiers could retreat in order to escape the noise disturbance. I can therefore completely understand why the noise/music/partying associated with either use of the appeal property as a holiday let, sometimes extending into the early hours of the morning, prevents residents from enjoying their outdoor amenity space and in some instances forces them indoors.

41. Occupiers of dwellings are fully entitled to expect peace and quiet in their own private outdoor amenity space, particularly the most valuable part of that space adjoining the rear elevation of the property. It is clear that the use of the appeal property as a holiday let has deprived the occupiers of the neighbouring properties the enjoyment of that amenity space and their homes. That is not an acceptable outcome.
42. The Council's reason for issuing the notice is narrowly drawn, citing just noise and disturbance. However, it is apparent from the representations received that the impacts of the use of the appeal property are far more extensive than that. Principal amongst these effects is the parking of cars by guests at the holiday let, which from the representations received impacts not only the occupiers of properties in Coombe Crescent but also further afield.
43. Occupiers of residential properties have no right in law to park their own car(s) on public highway in front of their own house. It follows that the guests of the holiday let are technically doing nothing wrong in parking their vehicles on that public highway provided, of course, that they comply with any highway restrictions that might be in place. Nevertheless, the ability of residents to park their car(s) relatively close to where they live, and to do so without undue difficulty, is a generally accepted aspect of residential amenity. It is clear from the representations received (including from photographic evidence) that the inconsiderate parking of their vehicles by guests at the holiday let has to date caused inconvenience to local residents in terms of blocked driveways and pavements. To that extent, parking associated with the use of the appeal property as a holiday let had detracted from the amenities previously enjoyed by local residents.
44. The aforementioned planning application (Council Ref: SL/2022/1099) was also supported by a Transport Note. The Transport Note identifies three different locations which are available for parking: on street parking on School Road; Moorland Store car park (which is owned by the appellant) and one space to the north of the property. Combined, these would provide a total of seven car parking spaces available to guests at the holiday let.
45. The Council does not operate an adopted parking standard for the use of properties as holiday lets, but the parking standard set out in the Cumbria County Council's Development Design Guide (Design Guide) states that 1 space per guest bedroom plus 1 space per 3 non-resident staff is required. The use of the appeal property as a holiday let does not include non-resident staff. Consequently, the appellant considers that the provision of seven car parking spaces would meet with the requirement set out in the Design Guide.
46. However, three out of those seven spaces would be on the public highway. As a matter of principle, parking spaces on public highway cannot be included as counting towards meeting car parking standards. This is because such spaces could be used by anyone at any time, such that the use of those spaces is not in the control of the applicant/appellant. Consequently, the availability of those car parking spaces could not be guaranteed.
47. It follows that the standard required by the Design Guide would not be met in practice. I recognise that the reasons for issuing the notice do not include a reason relating to highway safety arising out of the shortfall against the parking standard set out in the Design Guide. Nevertheless, the evidence of local residents is clear and compelling: in terms of inconvenience to local

residents resulting from inconsiderate and haphazard car parking by guests of the holiday let, there is harm to their living conditions. This is a direct consequence of insufficient off-road parking spaces being provided to cater for guests of the holiday let.

48. I am fully aware the harmful impacts described by local residents can equally be a feature of the use a dwellinghouse by one household. There could be late-night parties, involving large groups of individuals, with the attendant noise disturbance. The occupiers of a dwelling could potentially own several cars, restricting the availability of car parking to other residents. The key difference is that these impacts are likely to occur more frequently with a holiday let than with use as a dwelling, consistent with the purpose of the guests being there in the first place. There is also the distinction that people staying at holiday let are likely to have a different mindset to a permanent occupier of a dwelling, leading to more late-night partying/raucous behaviour and the potential lack of consideration for neighbours.
49. I conclude that the use of the appeal property as holiday let unacceptably detracts from the living conditions of the occupiers of surrounding residential properties. The breach of planning control is therefore contrary to Policy DM1 of the South Lakeland Development Management Policies Development Plan Document (Development Plan Document)² which, amongst other things, seeks to ensure that development provides acceptable levels of amenity for existing, neighbouring and future users.

Other considerations

50. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. I have found that the breach of planning control that has occurred fails to accord with the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.
51. The appeal site is located within the development boundary of Kirkby-in-Furness, which is a local service centre, and is within walking distance of Kirkby-in-Furness railway station and bus stops. The appeal site is therefore in a relatively sustainable location, albeit the evidence indicates that most guests arrive by private car(s).
52. Policy CS7.6 of the South Lakeland Core Strategy (Core Strategy) places tourism as a central element in the economy of (what is now) Westmorland and Furness. In this context, the core strategy encourages the enhancement of the offering for tourism throughout the Borough, supporting schemes that look to broaden the range of accommodation on offer and improve the quality of tourist accommodation. This is also supported by Policy CS3.1 of the Core Strategy, which looks to promote tourism in the Ulverston and Furness area.
53. In addition to support in the development plan, Chapter 6 of the National Planning Policy Framework (Framework) outlines the Government's key

² This document forms part of the development plan for the area for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004.

objective of delivering a strong and competitive economy. Within that chapter, Paragraph 88(c) indicates that planning policies and decisions should enable sustainable rural tourism. The use of the appeal property as a holiday let benefits local services, such as shops, restaurants and bars, and provides local employment. It therefore supports the local economy and to that extent accords with the Framework.

54. The appellant provides an extract from the AirDNA website which indicates that only 5% of 9248 holiday lets in the Lake District as a whole offer accommodation with 5+ bedrooms. The appellant therefore considers that the use of this 6-bedroom property would make an important contribution to the holiday accommodation on offer in the area, adding to the existing range of holiday let accommodation that is on offer and therefore contributing further to the objectives of policies CS3.1 and CS7.6 of the Core Strategy. I recognise that this is a benefit arising out of the breach of planning control that has occurred.
55. The development plan does not contain any policies that seek to prevent the loss of dwellings or restrict holiday lets. The balance to be weighed is therefore between the policy support for tourism in the area enshrined within Policies CS3.1 and CS7.6 of the Core Strategy taking into account the relative scarcity of larger holiday let accommodation against the harmful impacts of the use of the appeal property as a holiday let (as potentially mitigated by the imposition of conditions) on the living conditions of the occupiers of surrounding residential properties.
56. In weighing that balance, I am acutely mindful that the impacts on the living conditions of the occupiers of the surrounding residential properties is on people's homes, their permanent place of residence and their place of sanctuary. Given the nature and extent of the harm to the living conditions of the occupiers of the surrounding residential properties, in my view and in the particular circumstances of this case, that harm takes precedence over the policy support for tourism and the relative scarcity of larger holiday lets.
57. I have considered whether the harms identified above could be overcome through the imposition of suitably worded conditions and make the development acceptable in planning terms. In addition to the Management Plan and limitations on the hours during which the garden could be used, the appellants also indicate that they would accept a condition requiring the installation of an acoustic fence. Whilst the imposition of conditions in those respects might mitigate some of the impacts resulting from the use of the property as holiday let, in my view the harms identified are intrinsic to breach of planning control that has occurred and could not be overcome by the imposition of conditions.

Conclusion on the appeals on ground (a) and the deemed planning applications

58. For the reasons set out above, the breach of planning control alleged in the notice is contrary to the development plan. Having weighed the factors in support of the development, I am not persuaded that there are any material considerations of sufficient weight, either taken individually or cumulatively, to indicate that determination should be made otherwise than in accordance with the development plan. I therefore conclude that planning permission ought not to be granted for the matters stated in the notice.

The appeals on ground (g)

59. The ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period for compliance specified in the notice is thirteen weeks. The appellants seek a period of compliance of six months. My task under this ground of appeal is to balance the public interest in the notice being complied with expeditiously against the private interests bound up in the development subject to the enforcement notice.
60. The appellants explain that a period of compliance of six months would allow them to resolve matters commercially, and to make arrangements for the future of the property with their existing lenders. The appellants do not expand on what they mean by “resolving the matters commercially”, but neither that nor making arrangements for the future of the property are good reasons to extend the period of compliance.
61. In any event, things have moved on since the Statement of Case was written in August 2023. The timetable for this appeal means that by the time my Decision will be issued and the thirteen weeks compliance period then begins, some fourteen months or so will have elapsed since the notice was issued in April 2023. It is likely that advanced bookings from when the Statement of Case was written will all have been honoured by the time that the period of compliance specified in the notice comes to an end and the notice takes effect.
62. Against that private interest, I must consider the public interest in the notice being complied with expeditiously. In this case, the ‘public’ interest is primarily the interests of the residents of Coombe Crescent and other surrounding properties. In an appeal on this ground, I must start from the position that the development causes whatever harm I have identified in my conclusions on ground (a). The residents of the properties that directly adjoin the appeal site have been experiencing, some might say suffering, those harms for well in excess of a calendar year now. Those harms are significant in scale and intensity. Those residents have a legitimate expectation that with the dismissal of this appeal those harms will now cease.
63. In weighing the balance between public interest and private interests, I conclude that there is no justification for extending the period of compliance. I am satisfied the period of compliance specified in the notice is a proportionate response to the breach of planning control that has occurred. Accordingly, the appeals on ground (g) fail.

Conclusion

64. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

65. It is directed that the notice is varied by:
- deleting paragraph 5(A) in its entirety and substituting there the words ‘Cease the use of the premises as a holiday let’

- deleting paragraph 5(B) in its entirety
66. Subject to the variations, appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Paul Freer
INSPECTOR