

REPORT FOR NOTING

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	8 November 2022
SUBJECT:	PLANNING APPEALS
REPORT FROM:	HEAD OF DEVELOPMENT MANAGEMENT
CONTACT OFFICER:	DAVID MARNO
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>Planning Appeals:</p> <ul style="list-style-type: none"> - Lodged - Determined <p>Enforcement Appeals</p> <ul style="list-style-type: none"> - Lodged - Determined
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to the note the report and appendices
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No
Considered by Monitoring Officer:	N/A

Wards Affected:	All listed
Scrutiny Interest:	N/A

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

2.0 CONCLUSION

That the item be noted.

List of Background Papers:-

Contact Details:-

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**Planning Appeals Lodged
between 03/10/2022 and 30/10/2022**



Application No.: 67658/FUL

Appeal lodged: 12/10/2022

Decision level: COM

Appeal Type: Written Representations

Recommended Decision: Approve with Conditions

Applicant: Westchurch Homes Limited & Wyresdale Amateur Football Club

Location: Land to west of Radcliffe Moor Road/Bury New Road, Radcliffe

Proposal: Change of use of the land for use as outdoor sports pitches including engineering operations to form 4 pitches, the construction of a clubhouse, ancillary storage structures, creation of access from Radcliffe Moor Road, parking, landscaping, drainage and associated works.

Application No.: 68817/TEL

Appeal lodged: 26/10/2022

Decision level: DEL

Appeal Type: Written Representations

Recommended Decision: Prior Approval Required

Applicant: Ck Hutchison Networks (UK) Limited

Location: Land near junction of Sycamore Road & Bury Road, Tottington, Bury, BL8 3EG

Proposal: Prior approval for proposed 5G 16m telecoms installation: H3G street pole and additional equipment cabinets.

Application No.: 68819/TEL

Appeal lodged: 26/10/2022

Decision level: DEL

Appeal Type: Written Representations

Recommended Decision: Prior Approval Required

Applicant: Ck Hutchison Networks (UK) Limited

Location: Corner of Jubilee Way & Tenters Street, Bury, BL9 0AL

Proposal: Prior approval for proposed 5G 20m telecoms installation: H3G street pole and additional equipment cabinets.

Application No.: 68821/TEL

Appeal lodged: 26/10/2022

Decision level: DEL

Appeal Type: Written Representations

Recommended Decision: Prior Approval Required

Applicant: Ck Hutchison Networks (UK) Limited

Location: Land at junction of Heywood Street & Benson Street, Bury, BL9 7EB

Proposal: Prior approval for proposed 5G 17m telecoms installation: H3G street pole and additional equipment cabinets.

Total Number of Appeals Lodged: 4

**Planning Appeals Decided
between 03/10/2022 and 30/10/2022**



Application No.: 67665/FUL

Decision level: DEL

Recommended Decision: Split Decision

Applicant: Mr Zaffer Hussein

Location: 3 Bridgefield Drive, Bury, BL9 7PE

Proposal: A: Single storey rear/side extension
B: First floor front extension

Appeal Decision: Dismissed

Date: 10/10/2022

Appeal type: Written Representations

Application No.: 68327/FUL

Decision level: DEL

Recommended Decision: Split Decision

Applicant: Mr Joseph

Location: 15 Orange Hill Road, Prestwich, Manchester, M25 1LR

Proposal: A: Front Porch and amendments to front bay window
B: Rear dormer extensions

Appeal: No further action

Date: 05/10/2022

Appeal submitted too late



Appeal Decision

Site visit made on 14 September 2022

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2022

Appeal Ref: APP/T4210/W/22/3292503

3 Bridgefield Drive, Bury BL9 7PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Zaffar Hussein against the decision of Bury Metropolitan Borough Council.
 - The application Ref 67665, dated 4 October 2021, was refused by notice dated 11 January 2022.
 - The development proposed is First floor front extension single storey rear/side extension.
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Decision

1. The appeal is dismissed insofar as it relates to the first floor front extension. The appeal is allowed insofar as it relates to the single storey rear/side extension at 3 Bridgefield Drive, Bury BL9 7PE in accordance with the terms of the application, Ref 67665, dated 4 October 2021 and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20/543/01; un-numbered proposed site plan; 21/663/02 and 21/663/03 except in respect of all aspects of 20/543/01 other than the location plan; and in respect of the first floor extension shown on un-numbered proposed site plan.
 - 3) The external surfaces of the development hereby permitted shall be constructed in materials to match the existing dwelling.

Preliminary Matters

2. The Council has attempted to issue a split decision in this case, partly allowing and partly dismissing the proposal. Although that power is given to the Secretary of State in appeals under section 79 of the Town and Country Planning Act 1990 (as amended), there is no general power for Local Planning Authorities to do so. As such, the whole of the proposal is before me and the appeal will proceed on that basis.

Main Issues

3. The main issues are the effect on:
 - the character and appearance of the surrounding area; and
 - the living conditions of neighbouring occupiers.

Reasons

Character and appearance

4. The appeal property is a large detached dwelling set in a spacious plot. The surrounding area is characterised by development of this type. There is no consistent appearance to the properties, however they are linked by the use of similar materials and design features, giving the area an attractive cohesive appearance.
5. While there is not a defined pattern to development in the area, the dwellings are generally set back from the highway. In that respect, the existing garage is prominent in the street scene as it projects clearly forward of the main dwelling, perpendicular to it and with a significant massing as a result of the height of the roof.
6. This prominence would be substantially increased by the appeal proposal, which would add a first floor and gable end. The roof would be particularly prominent as it would have a ridge height the same as that of the main dwelling and would be a long structure as it connected to the existing ridge line. This increased mass, projecting forward of the dwelling would be unduly prominent and incongruous in the street scene. This is contrary to the advice in the Alterations and Extensions to Residential Properties Supplementary Planning Document adopted 2004 and updated 2010 (SPD) which advises front extensions should not project excessively from the original front wall and should reflect the proportions of the original dwelling and more generally requires extensions to reflect the massing of the original dwelling.
7. It is acknowledged that the extension, in and of itself, is well designed in terms of how it relates to the design features of the host property. However this would not overcome the harm that would arise from its overall scale and prominence in the street scene.
8. The rear/side extension would be single storey, with a flat roof sitting at eaves height to the existing projection. While it would be visible in glimpses from the side, it would be viewed in the context of the existing built form of the appeal property and its neighbour. It would be largely screened when facing the property by the high gates which sit to the side of the property. It therefore would not be prominent in the street scene, subject to materials which could be controlled by condition.
9. In relation to this main issue, the rear/side extension would be of an acceptable size and height and have an acceptable effect on the character of the surrounding area in accordance with Bury Unitary Development Plan adopted August 1997 (UDP) Saved Policy H2/3.
10. However the first floor front extension would not be of an appropriate size and height and would not have an acceptable effect on the character of the surrounding area. This element of the appeal scheme would, therefore, not comply with UDP Saved Policy H2/3 which seeks a high standard of design for residential extensions and alterations, and the guidance contained within the SPD.

Living conditions

11. Both extensions would be adjacent to 5 Bridgefield Drive, which sits at a slightly higher level than the appeal site. No 5 has a garage at ground floor and a large glazed window to the first floor closest to the appeal site. Given the orientation of the dwellings, the extent of the windows and the gap between the properties, there would not be a material loss of light. The front garden area of No 5 is otherwise used for parking, so there would not be an adverse effect on the living conditions of the occupants arising from the front extension.
12. The rear/side extension, given its small scale, flat roof, position adjacent to the blank side elevation of No 5 and the difference in levels between the sites, would have no effect on the living conditions of No 5.
13. In relation to this main issue, the proposed extensions would have an acceptable effect on the amenity of adjacent properties in accordance with UDP Saved Policy H2/3 which requires extensions and alterations to be sympathetic to the surrounding area.

Other Matters

14. The appellant has referred to a decision taken in 2011 and suggests that there is a lack of consistency between the two decisions. I do not have details of that proposal before me, including the reason for refusal. However, despite the UDP and SPD remaining the same, this appeal is to be judged on its own merits, particularly after such a considerable passage of time. While both the UDP and SPD pre-date the National Planning Policy Framework (the Framework) in any of its iterations, the current Framework is clear in its requirement for development to be of a high quality, and the principles set out in the SPD as they relate to this appeal therefore remain valid.
15. The appellant has made reference to UDP Saved Policy EN1/2 but stated that it was a non-specific policy. The Council have not referred to that policy in either their officer report or decision notice. I have not been provided with a copy of that policy. However as neither party has put forward any arguments with regard to this policy, I have not considered it further.
16. Reference has been made by both parties to the need for a bat survey. As I have found that the aspects of the development that would affect the roof would not be acceptable, I have not considered this issue further.
17. The two parts of the development proposed are clearly severable. I have identified no adverse effects arising from the rear/side extension and consider that it would be appropriate to issue a split decision.

Conditions

18. I have imposed standard conditions with regard to time limit and approved plans to define the terms of the permission. With the exception of the layout plans, the two aspects of the development are shown on different plans and those plans which show the floor plan and elevations of the front extension do not form part of the approved plans. In the interests of good design, it is necessary to impose a condition relating to external materials.

Conclusion

19. For the reasons given above I conclude that the appeal is allowed insofar as it relates to the rear/side extension as that is in accordance with the provisions of the development plan. The appeal is dismissed insofar as it relates to the first floor front extension as it would be contrary to the development plan and there are no material considerations of sufficient weight to lead me to conclude otherwise.

J Downs

INSPECTOR

**Details of Enforcement Appeal Decisions
between 03/10/2022 and 30/10/2022**



Location: 18 Meade Hill Road, Prestwich, Manchester, M25 0DJ

Case Ref:
0261 / 21

Issue: Change of use of property to short term let accommodation

Appeal Decision: Dismissed 07/10/2022



Appeal Decision

Site visit made on 27 September 2022

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 7 October 2022

Appeal Ref: APP/T4210/C/22/3293202

18 Meade Hill Road, Prestwich, Manchester M25 0DJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Austin Mbawa against an enforcement notice issued by Bury Metropolitan Borough Council.
 - The enforcement notice was issued on 13 January 2022.
 - The breach of planning control as alleged in the notice is as follows:
Change of use of the dwelling within Use Class C3 to short term lets (Sui Generis).
 - The requirements of the notice are as follows:
Cease the use of the property on the site as short term let accommodation.
 - The period for compliance with the requirements is 30 days.
 - The appeal is proceeding on ground (a) only, as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed. See formal decision below.

Background information

2. The appeal building is a two storey semi-detached dwelling on the southern side of the road, in this predominantly residential part of Prestwich. There is a driveway to the front of sufficient size to park one vehicle, a detached garage and a rear garden. The house is bounded to the rear by the Metrolink line and is close to one of the stations providing regular tram services into Manchester Piccadilly and beyond.
3. In July 2021 the Council received a complaint that a change of use had occurred and that the dwellinghouse was being used as short term let holiday accommodation. Following a Land Registry check the appellant (the leaseholder) and the owner of the house were contacted and, after further complaints, a Planning Contravention Notice (PCN) was served on the appellant on 5 October 2021. The appellant was given an extension of time for completion of the PCN which was e-mailed to the Council on 17 December 2021. However, a paper copy was not returned to the Council.
4. Following a request from the Council, the complainants kept a log to record activities at the property so that the nature of the use could be assessed. This is set out in Appendix A to the Council's appeal statement. The Council was not satisfied with the answers in the PCN and, having liaised further with the complainants and having checked the website being used to market the property (named as 'Heat-On House'), the Council considered it expedient to serve the enforcement notice on both the appellant and the owner of the house.

5. The property is still being used solely as short-term let accommodation. It has 4 double bedrooms, a kitchen with a dishwasher and a microwave, a flat-screen TV, a seating area and 1 bathroom fitted with a shower. Off-road parking space for one car is provided to the front. It is rented out via online travel agencies, which describe the property as a holiday home being able to accommodate a maximum of 13 guests (9 adults and 4 children).

The appeal on ground (a)

6. In effect, the appeal on ground (a) seeks retrospective planning permission for a change of use of the land from dwelling house within Use Class C3 of The Town and Country Planning (Use Classes) Order 1987 (as amended), to short term let accommodation (Sui Generis use).

Main issue

7. The main issue is the effect of the short term let accommodation on the living conditions of nearby residents by reason of noise and disturbance and anti-social behaviour. There is no issue regarding the principle of the use (see below) since the Borough aims to extend the range of visitor accommodation. However, this is subject to the effect of any proposal with regard to such matters as the impacts on the character of a locality, parking and residential amenities.

Relevant Policy

8. The development plan is the Bury Unitary Development Plan BUDP and the most relevant policies are EC4/1 (Small Businesses); EC6/1 (New Business, Industrial and Commercial Development); EN7/2 (Noise Pollution); H3/1 (Assessing non-conforming uses) and RT4/3 (Visitor Accommodation). The National Planning Policy Framework (NPPF) is a major material planning consideration. In particular it states that the planning system, should support strong, vibrant and healthy communities and that decisions should play an active role in guiding development towards sustainable solutions by taking local circumstances into account, to reflect the character, needs and opportunities of each area.

9. The Council also refers to Section 17 of the *Crime and Disorder Act 1998* which imposes a duty on it to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the environment).

The gist of the case for the appellant.

10. The change of use is considered to comply with Policies EC4/1, H2/5, H3/1, EN7/2 and RT4/3 of the BUDP. It is stressed that the house provides high quality short term let accommodation for visitors to the Borough and that it also provides employment opportunities for local people. It is acknowledged that, on occasions, the change of use of the property could lead to an increase in the number of persons visiting the property compared to its use as a single dwelling (Use Class C3). However, it is indicated that it previously housed a large family and is located on a busy local residential road directly to the north of the Metrolink line.

11. The change in use is not considered to result in any materially different or unacceptable levels of additional noise, above what may be expected from a single family occupying the house. An analysis of the booking data recorded over the past seven months is considered to show that this is the case. It is also stressed that the

principle of the conversion of an existing building to provide visitor accommodation in the Borough is supported by Local Policy and that the principle of such a change is acceptable. It is also indicated that the LPA does not have any specific policy limiting the loss of residential dwelling houses to other uses.

12. It is indicated that, although available for occupation seven days a week, it remains unoccupied for the majority of the time. It is also indicated that booking records demonstrate that the property is most likely occupied during the weekend, with peak bookings taken on Friday and Saturday evenings.

13. References are made to the NPPF including the emphasis that the government places on ensuring that the planning system should help create conditions in which businesses can invest, expand and adapt the need to support economic growth and productivity, the need promotion of healthy communities; the need promotion of sustainable transport; and the need to achieve well-designed places. The above BUDP policies are also referred to and in particular RT4/3 (Visitor Accommodation) which, amongst other things states that *'extensions to existing accommodation and conversion of existing buildings to provide further bedspaces will be viewed favourably, where other development criteria are met.'*

14. Turning to the Council's contention that the short term let accommodation is deemed to conflict with the NPPF and the above policies of the BUDP, it is contended that if the property reverted to its lawful use as a single family sized residential dwelling it would be occupied on a daily basis. In contrast booking records of 'Heat-On House' which have been maintained by the appellant since its launch in July 2021 demonstrate that its combined average vacancy from July 2021 to January 2022 (inclusive) amounts to only 49%. Thus it is essentially vacant for half of the time.

15. During the same period, the mean group size extended to 5.16 people which is broadly consistent with the number of inhabitants that could reasonably be expected to reside in the property if it was occupied as a family sized dwelling.

16. It is indicated that this pattern of occupancy is unlikely to change in the future given that the majority of visitors to the property are seeking accommodation to provide a base from which to explore the cultural attractions of Greater Manchester during weekends, thus supporting the local economy. The Council's unsubstantiated assertion that the property is now subject to increased comings and goings when compared to its lawful residential use, is not accepted.

17. Neither is it accepted that the property creates disturbance as a result of increased vehicle movements by way of visitors to the property as well as from cleaning staff. It is contended that the bookings records and pattern of occupancy table indicate that there is likely to be a reduction in the number of vehicle movements that could reasonably be associated with the use of the property as a family sized dwelling. The occupancy data also shows that cleaners only need to visit the site on an average of two to three times per week.

18. Irrespective of the reduced number of vehicle movements associated with the site, it is argued that there will be no discernible noise impact in the context of the hundreds of vehicle movements which take place within the immediate streetscene on a weekly basis and that the appellant has taken all reasonable steps to ensure that visitors to 'Heat-On House' do not cause any unacceptable noise or disturbance to occupiers of neighbouring properties on Meade Hill Road.

19. Reference is made to the submitted 'House Rules' document and it is contended that this provides a clear framework by which all guests need to adhere to (or risk financial penalty). This is considered to mitigate the potential for adverse noise or anti-social behaviour and it is indicated that the rules, which are reinforced by CCTV cameras, are enforced by the appellant who essentially acts as manager for the property. In addition, bookings can only be made by those over the age of 21.

20. With regard to noise monitoring it is confirmed that the house is fitted with noise monitoring software known as 'Minut' which records any sounds within and around the property in decibels and live recordings which are linked in real time to the appellant's mobile phone by way of graphs. An example is submitted with the appellant's appeal statement.

21. In the unlikely event of there being any noise over and above the set level of 70db for 10 minutes, messages and an alarm are automatically sent to the appellant to enable action to be taken. This is an effective tool to prevent potential noise disturbance from guests such as loud music or parties and reflects the considered approach taken by the appellant to ensure that the use of the property as short term let accommodation does not result in any unacceptable impacts upon the amenity of occupiers of neighbouring properties.

22. It is stressed that further evidence of the appellant's careful approach to the management of the property is demonstrated by the overwhelmingly positive reviews which have been uploaded to the one of the booking websites. This indicates that from a total of 26 reviews, an average score of 8.5 out of 10 (classified by the website as 'Very Good') has been registered. Several of the comments refer to the appellant as being a proactive and helpful host and the 'House Rules' being enforced as appropriate.

23. It is indicated that the appellant's agent is experienced in dealing with issues relating to noise and disturbance within planning applications and appeals and that potential for adverse impacts upon neighbouring amenity usually arises from a change of use of a property to a fundamentally different use which would be potentially incompatible within an established residential area (such as a hot food takeaway).

24. This is on the basis of: fundamentally different patterns of comings and goings when compared to the surrounding area (ie at different times of the day or late into the evening where the potential for adverse noise impacts is exacerbated); a significant increase in the number of comings or goings to the property; potential for people to congregate near to the property that would result in the potential for adverse noise impacts and increased car/vehicle/delivery movements.

25. It is argued that none of the above issues apply to the scheme and therefore that the development accords with Policies EN7/2, RT4/3 and H2/5 of the Bury Unitary Development Plan and should be considered acceptable.

The gist of the case for the Council

26. The Council contends that the retention of the short-term let accommodation use would continue to be seriously detrimental to the residential amenities of the nearby residents, by reason of the noise, anti-social behaviour and disturbance. It is stressed, therefore that the use conflicts with the NPPF and Policies EC4/1 (Small Businesses); EC6/1 (New Business, Industrial and Commercial Development); EN7/2 (Noise Pollution) and H3/1 (Assessing Non-conforming Uses). Given the provisions of

Policy RT4/3, the Council accepts that the principle of development is acceptable in general terms But that clearly the impacts on amenity need to be considered.

27. The Council stresses that, in normal circumstances, the use of a Class C3 dwelling would be expected to be occupied by a family (given that it is a three bed semi-detached dwelling) or group of up to 6 people. However, in this case the proposed use of the property would allow for occupation by up to 13 individuals (as advertised) which is more than double the number of occupants one may reasonably expect to be residing at the property.

28. The figures relating to the booking record are referred to and that the average vacancy rate of the appeal site amounts to 49% and that the mean group size is 5.16 people. The Council also notes that the house rules require respectful behaviour; that there is noise monitoring equipment and external CCTV. It is also acknowledged that, the property might be subject to fewer comings and goings than may be the case than with a permanently occupied dwelling.

29. However, it is stressed that the impact noted in the reasons for issuing the Enforcement Notice refers to noise, anti-social behaviour and disturbance. Reference is again made to the 'booking record' which demonstrates that groups of between 7 and 10 people regularly occupy the premises (largely at weekends).

30. The Council refers to the two formal '*Notice of Anti-Social Behaviour Formal Warnings*' issued on 03/12/2021 and 09/02/2022, which were issued in response to multiple complaints of anti-social behaviour by guests at the property (set out Appendix B to the Council's appeal statement). It is indicated that these occurrences of anti-social behaviour tend to correlate with weekend parties of larger groups, although not exclusively so.

31. The Council stresses that the reported anti-social behaviour includes '*loud swearing and screaming, banging, playing of loud music, verbal abuse and threatening language (towards neighbours), altercations on the street, sexual liaisons in the garden, drug and alcohol misuse*'. It is indicated that the Police have had to be called to attend various incidents.

32. The Council acknowledges that occupation of the property by a family or group of up to six people living together does not guarantee that such behaviour would not occur. However, the Council indicates that it is clear that there has been a high incidence of anti-social behaviour related to the unsupervised occupation of the property by groups and parties of adults using the property on short term lets.

33. It is argued that the transient nature and frequency of the short term occupiers tends to mean that they have little connection to the area and hence are less inclined to respect the surrounding area and its existing residents. It is suggested therefore that such visitors have fewer concerns or realisation of causing noise and disturbance. It is accepted that the house rules, noise monitoring and CCTV, can encourage considerate behaviour.

34. However it is argued that these cannot provide assurances that short term visitors will not engage in anti-social behaviour. The repeated reports and complaints are considered to be firm evidence that the attempted controls are insufficient to prevent some visitors for behaving anti-socially. Although guest reviews have been submitted it is indicated that these merely provide satisfaction reports from visitors and do not in themselves provide evidence of careful management.

35. Given the unacceptable and harmful impacts demonstrated on neighbouring amenity of the unauthorised use, the proposal is contrary to the above stated UDP policies and the NPPF. No planning conditions are considered capable of overcoming the unacceptable harmful impacts identified.

My assessment

36. I agree with the Council and the appellant that the principle of the proposed change of use is acceptable and that certain local plan and NPPF policies could support such a use in this part of the Borough. However, the policies in favour of such a use need to be considered and balanced against other policies which seek to safeguard residential amenity and to ensure that the developments proposed are sustainable in terms of all economic, social and environmental factors.

37. The complaints made in the first instance to the Council are substantial and have continued since the enforcement notice was issued. Furthermore, the log kept by the complainants at the Council's request confirms, in my view, that the activities of some visitors has caused significant undue noise and disturbance for the residents. There is also considerable evidence from neighbours and interested persons, some of whom outline the history of the appellant's use of the property, from when he first took over the lease of the property.

38. The courts have held that whether or not a change of use has occurred must depend on the particular circumstances of each case and as a matter of fact and degree. The basic test is to compare the lawful use of the land or property with the use being carried out and to assess whether the use alters the character of usage of the property to such an extent that a material change has taken place.

39. There is no appeal on ground (c); that a contravention has taken place. However, on behalf of the appellant it is contended that, with regard to the comings and goings, noise and disturbance and the general pattern of usage of the property there is no material difference to its use as a dwellinghouse in Class C3. I disagree with this contention. In my view the use as a short term holiday let property is fundamentally and materially different to its use as a family house, or even a small House in Multiple Occupation (HMO) in Class C4.

40. Whilst accepting that bookings records indicate an occupancy level overall of around 49%, when in use as a holiday let, the evidence indicates that the main comings and goings are over the weekend periods and that, as well as some visitors arriving by car, so too do the cleaning staff. On average the records indicate that occupancy levels at the weekend are between 7 and 10 people. However, there is the potential to accommodate 13 people and the main reason for the issue of the enforcement notice relates to noise, anti-social behaviour and disturbance.

41. Two formal '*Notice of Anti-Social Behaviour Formal Warnings*' were issued in response to multiple complaints of the guests' behaviour at the property and these occurrences of anti-social behaviour tend to correlate with weekend parties of larger groups, although, as indicated by the Council, not exclusively so. I acknowledge that in some communities there are certain families who also behave anti-socially. However, in my view, the potential for disturbance by up to 13 people (or different groups of up to that number) regularly congregating inside and outside of the property for celebrations or parties mainly at weekends, is substantially greater than any use by a family group.

42. I accept that the appellant has put in place various mitigation measures including the 'Minut' programme and that there is also a set of 'House Rules' in place. However, it is clear from the complaints of neighbours (both before and after the issuing of the enforcement notice) that these have not been working in relation to all visitors. The anti-social behaviour has continued and the living conditions of the people who live close by have been severely disrupted. In my view the 'House Rules' cannot possibly be expected to be followed by 100% of visitors, 100% of the times of occupancy. I consider that it is too optimistic of the appellant to expect, that when on holiday and/or having some form of celebration, visitors will behave perfectly and with full consideration for the nearby residents in this part of Prestwich.

43. Whilst accepting that not all visitors will, or have behaved, in an anti-social manner, unfortunately the recorded '*loud swearing and screaming, banging, playing of loud music, verbal abuse and threatening language (towards neighbours), altercations on the street, sexual liaisons in the garden, drug and alcohol misuse*' of some visitors has caused undue and unacceptable disturbance for neighbouring residents. The log kept by complainants as well as their individual submissions all clearly outline the unacceptable activities (some seemingly illegal) of some guests.

44. The need for the police to be involved at various times reinforces my view that the use of the property as a short term holiday let property has caused major material planning concerns and that the character of usage as such (no matter how low the overall occupation) has been significantly different to use as a dwellinghouse for a normal family.

45. Based on the evidence before me and as a matter of fact and degree, I consider that there has been an unacceptable change of use from a single dwellinghouse to a Sui Generis use as a property being let for short term holiday let accommodation. It follows that I agree with the Council that the use is contrary to the BUDP policies referred to above, as well as to the basic policies set out in the NPPF.

46. On this latter point I consider that a continued use of the property for short term lets would be socially and environmentally unacceptable. The NPPF seeks to ensure that developments are sustainable and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

47. There is clear evidence that the short term holiday let use of the dwelling has had severe anti-social consequences. There has also been clear environmental harm caused due to the levels and frequency of noise and disturbance caused by visitors. I consider that the use has clearly undermined the quality of life for neighbouring residents and that there have been clear conflicts caused within this residential community. I do not consider that the current measures in place to control or monitor the behaviour of some guests can mitigate against the reported activities. Nor do I consider that any further mitigation measures could improve the situation and the harmful effects on the living conditions of neighbours.

48. In summary I do not consider that planning permission ought to be granted for the continued use of the property as short term let holiday accommodation. It follows that the appeal must fail on ground (a).

Other Matters

49. In reaching my conclusions I have taken into account all of the other matters raised on behalf of the appellant, by the Council and by others. These include the initial submissions, all of the statements and appendices, all of the complainants and interested persons' submissions, the photographic evidence and any final submissions.

50. However, none of these carries sufficient weight to alter my conclusion that planning permission should not be granted for this use and nor is any other factor of such significance so as to change my decision.

Formal Decision

51. The appeal is dismissed and the enforcement notice is upheld. The application deemed to have been made under section 177(5) is refused.

Anthony J Wharton

Inspector