

APPEALS

The following appeal has been received since my last report to Committee:

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|--------------------------|---|
| CODE NO. | A/20/3261549 (1905) |
| APPLICATION NO. | P/20/359/FUL |
| APPELLANT | R DERRICK |
| SUBJECT OF APPEAL | CONVERSION OF EXISTING HOUSE IN MULTIPLE OCCUPATION (HMO) IN TO 2 TWO BED FLATS AND ONE STUDIO FLAT 147 NEW ROAD, PORTHCAWL CF36 5DD |
| PROCEDURE | WRITTENS REPS |
| DECISION LEVEL | DELEGATED OFFICER |

The application was refused for the following reason:

1. There is no space available within the curtilage of the site to provide vehicle parking facilities to meet the requirements of the Local Planning Authority and the proposal would lead to on street parking to the detriment of pedestrian and highway safety contrary to Policies SP2 and PLA 11 of the Bridgend Local Development Plan and Supplementary Planning Guidance 17: Parking Standards and advice contained in Planning Policy Wales (Edition 10 December, 2018).

The following appeal has been decided since my last report to Committee:

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|--------------------------|---|
| CODE NO. | C/20/3250570 (1889) |
| APPLICATION NO. | ENF/182/19/ACK |
| APPELLANT | MISS ELINOR HOPE ROBERTS |
| SUBJECT OF APPEAL | UNAUTHORISED USE AS A HOLIDAY LET IVY COTTAGE, COURT COLMAN CF31 4NG |
| PROCEDURE | WRITTEN REPS |
| DECISION LEVEL | DELEGATED OFFICER |
| DECISION | THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED AND THE ENFORCEMENT NOTICE IS UPHELD. |

A copy of the appeal decision is attached as **APPENDIX A**

RECOMMENDATION

That the report of the Group Manager Planning & Development Services be noted.

JONATHAN PARSONS
GROUP MANAGER PLANNING & DEVELOPMENT SERVICES

Background Papers (see application reference number)

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 27/07/20

gan **Richard E. Jenkins, BA (Hons) MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 29th October 2020

Appeal Decision

Site visit made on 27/07/20

by **Richard E. Jenkins, BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 29th October 2020

Appeal Ref: APP/F6915/C/20/3250570

Site address: Land at Ivy Cottage, Court Colman, Bridgend, CF31 4NG

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- 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 Miss Elinor Hope Roberts against an enforcement notice issued by Bridgend County Borough Council.
- The enforcement notice, reference numbered ENF/182/19/ACK was issued on 5 March 2020.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the said land from residential to a commercial letting as holiday accommodation.
- The requirements of the notice are to cease the use of the property known as Ivy Cottage, Court Colman for commercial letting as holiday accommodation.
- The period for compliance with the requirements is 3 months after the Notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(c) and (f) of the Town and Country Planning Act 1990 as amended.

Decision

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

Procedural Matter

2. Since the prescribed fees have not been paid within the specified period, there is no appeal under ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act, as amended, has lapsed. The planning merits of the matters that comprise the alleged breach are not, therefore, material to the determination of the appeal.

The Enforcement Notice

3. During the processing of the appeal, views were sought from the parties in relation to whether or not it would be necessary for the enforcement notice to be corrected under the powers outlined in Section 176(1) of the Act. Specifically, it was queried whether or not the alleged breach of planning control and associated requirements of the notice should be corrected to refer to the fact that up to 10 people were staying at the holiday let at the time the enforcement notice was issued. The Council confirmed that it would not object to such corrections being made, although the appellant raised concerns in respect of such matters. However, having considered all of the evidence in relation to this matter, I have ultimately found that such corrections are not necessary. In coming to this conclusion, I have been particularly mindful that the

exact number of occupants was not the determining factor in reaching my overall conclusions.

Reasons

The Appeal under Ground (c)

4. The appeal under ground (c) is that there has not been a breach of planning control. Specifically in this case, it is contended that there has not been a breach of planning control because the use of the Class C3 residential property as a holiday let comprises '*permitted development*' for the purposes of the Town and Country Planning (General Permitted Development) Order 1995, as amended (GPDO).
5. It is well established that the issue of whether or not the use of a single dwelling/house for commercial holiday letting amounts to a material change of use is a matter of fact and degree in each case. In particular, it depends upon the particular characteristics of the use as holiday accommodation. The proposition that the use of a single dwelling/house for holiday letting is never, or indeed always, a material change of use is therefore incorrect. The Council contends in this instance that the commercial letting of the property as holiday accommodation constitutes a material change of use. In coming to this conclusion, it states that the use of the property by up to 10 people at any one time, including those associated with wedding parties and other functions at the adjacent Court Colman Hotel, is over and above what would reasonably be considered as a Class C3 residential use.
6. I am not persuaded that the use of the property by up to 10 people at any given time is, on its own, a reason to conclude that a material change of use has occurred. Indeed, the premises only incorporates 3 no. bedrooms and I have no reason to find that a holiday let of such a scale would necessarily be unattractive to family or other groups that would, for the purposes of their stay, use the property as a single household. As a consequence of the particular characteristics of the use in this case, multiple parties have referred to the property as an '*events house*'. However, such a term remains undefined and is not referred within the enforcement notice. Nonetheless, the submitted evidence is consistent that the use of the property as a holiday let is inextricably linked to the neighbouring Court Colman Hotel. It is also generally consistent that the use causes levels of noise and general disturbance above that typically expected of a residential dwelling.
7. Vehicular access to the appeal property is available via a private lane. However, I was able to confirm at the time of my site inspection that a separate pedestrian access to the rear of the appeal property has been created from the Hotel grounds. Indeed, guests staying at the holiday let are advised to park at the hotel car park and are required to check-in at Court Colman Hotel. This is reflective of the fact that the appeal property is under the same control as the adjacent Hotel, with the appellant's own evidence describing the holiday let as '*merely an extension of that business*'. Such physical and operative linkages between the hotel and appeal property are further reinforced by the fact that a significant proportion of the occupants at the appeal property attend weddings and other functions at the Hotel. Indeed, the evidence indicates that the holiday let use is advertised directly via the Hotel website as a suitable option for wedding parties.
8. As set out above, the holiday let can accommodate up to 10 guests at any one time and it offers a hot tub and outdoor swimming pool. The evidence indicates that there is a tendency for guests at the appeal property to exploit the aforementioned physical linkages with the Hotel and there are multiple reports of the resulting functional

linkages leading to instances of anti-social behaviour at the appeal property. Indeed, a number of interested party representations indicate that the commercial letting of the property causes material harm to the living conditions of neighbouring occupiers, having particular regard to levels of noise and general disturbance that are said to be above that expected of a residential household.

9. I have fully considered the appellant's contention that '*house rules*' have been established and note the assertion that outdoor activity is restricted after 21:00 hours. However, the concerns raised in respect of levels of noise and general disturbance are generally consistent and, given that they are not disputed by any cogent evidence to the contrary, I consider that they should be attributed significant weight in the determination of the appeal. I recognise the appellant's contention that the house rules are enforced by the Hotel's night porter. However, such an arrangement simply serves to reinforce the overall finding that the holiday let is used in conjunction with the neighbouring hotel and that it does not have the characteristics of an independent residential household.
10. I have considered the other alleged breaches of planning control cited within the appellant's evidence. However, as such allegations remain largely unsubstantiated and unrelated to this appeal, I do not consider that they assist the appellant's case. I have considered all of the other matters raised, including the contention that independent legal specialists advised that planning permission was not necessary for such a use. However, I have not had sight of such advice or any certificate issued under sections 191/ 192 of the Act and, in any event, I have already set out above that the issue of whether or not the use of a single dwelling/house for commercial holiday letting amounts to a material change of use is a matter of fact and degree in each case. Indeed, it is on this basis that I have considered the appeal.
11. The characteristics of the use therefore lead me to conclude that a material change of use has occurred in this case. As that change of use does not constitute permitted development under the provisions of the GPDO, and as the use does not benefit from a grant of planning permission, it follows that there has been a breach of planning control. For this reason, and having considered all matters raised, I conclude that the appeal under ground (c) must fail.

The Appeal under Ground (f)

12. The appeal under ground (f) is that the steps required to comply with the requirements of the Notice are excessive and that lesser steps would overcome the objections. In this case, the Notice requires the commercial letting as holiday accommodation to cease.
13. The appellant has referred under such grounds to the access arrangements at Ivy Cottage that enable the property to be accessed directly from the neighbouring Court Colman Hotel. Specifically, the appellant contends that such arrangements alleviate the concerns in respect of traffic and obstruction.
14. Nevertheless, given that I have already set out above that a change of use has occurred, such arguments do little to demonstrate that the requirements of the notice are excessive. Indeed, in the absence of a planning permission to remedy the breach of planning control, the only other remedy available to the Council is the cessation of the unlawful use.
15. I therefore find that the steps required to comply with the requirements of the Notice are not excessive. Rather, I find the requirements to be both reasonable and necessary. For these reasons, I find that the appeal under ground (f) must also fail.

Overall Conclusion

16. Based on the foregoing analysis, and having considered all matters raised, I conclude that the appeal should be dismissed and the enforcement notice upheld.

Richard E. Jenkins

INSPECTOR