HEWITSONS
HOLIDAY LETS

A recent Court of Appeal decision has held that the use of a property for holiday letting may be materially different in character from use as a dwelling house. In some circumstances, holiday lettings will constitute a commercial use for which planning permission will be required. This could have far reaching consequences for anyone who is considering temporarily letting a property and is worth bearing in mind as the holiday season approaches.

The judgment of the Court of Appeal in Moore v Secretary of State for Communities and Local Government was handed down in September last year. The Court held that whether the use of a dwellinghouse for commercial letting as holiday accommodation amounts to a material change of use will be a question of fact and degree in each case, and the answer will depend on the particular characteristics of the use as holiday accommodation.

The Moore case involved a nine bedroom dwelling let for short term holiday lets against which the local planning authority had served an enforcement notice for an unauthorised change of use to "commercial leisure accommodation". The Inspector on the appeal accepted that there had not necessarily been a material change of use simply because the dwelling was occupied for short periods, or because as many as 20 people could occupy it. However, he upheld the enforcement notice on the basis that those who stayed at the property did not do so as "single households". The groups who occupied the property did not arrive as pre-formed groups but instead came together as a result of their shared interests (yoga, cycling etc.). There was insufficient evidence that the property was occupied by family or household groups on a sufficiently frequent basis. Having considered the differences between the property's current use and its use by a family or single household, the inspector considered there were a number of distinct differences, including the pattern of arrivals and departures with associated traffic movements, the likely frequency of party type activities and the potential lack of consideration for neighbours with the current use.

Accordingly the Inspector concluded that, as a matter of fact and degree, the characteristics of the letting were a material change of use from the permitted use as a dwelling house.

The Court of Appeal upheld the Inspector's decision, saying that he was not merely entitled to reach this conclusion but that it was clearly, on the facts of the case, the correct conclusion. It was felt that, as a matter of common sense, the particular holiday lettings use in the Moore case was very far removed from the permitted use as a dwelling-house and a material change of use had occurred.

Those who let, or intend to let, property for holiday accommodation should first consider the implications of this case. Ideally, a property should only be let to families or those who constitute a pre-formed household group so that there will be no

material change of use where the property was previously used as a family home. If the use is of a type that crosses the line, so that it no longer classes as use as a single dwelling, then not only will this be a breach of planning control unless planning permission is obtained but, perhaps more seriously, it will also prevent the use of the property reverting to a normal residential use. If permission is sought to return a house in open countryside to residential use, the local planning authority may see it as an opportunity to impose new restrictions on the dwelling, possibly even an agricultural occupancy condition. Many old farm dwellings will not have planning permission at all and so will be free of restrictions of any kind, so the imposition of restrictions could have a real impact on the value and saleability of the property.

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