



Appeal Decision

Inquiry held on 23 June 2026 and 25 June 2026 (virtual session)

Site visit made on 23 June 2026

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2026

Appeal Ref: APP/X1925/C/26/3378008

First and second floor and part of the ground floor of The George at Baldock, 2 Hitchin Street, Baldock, Hertfordshire SG7 6AE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Hamid Sabahipour against an enforcement notice issued by North Hertfordshire District Council.
 - The notice was issued on 15 January 2026.
 - The breach of planning control as alleged in the notice is the material change of use of the land to self-contained residential flats.
 - The requirements of the notice are:
 - (i) Cease the use of the land as self-contained residential flats.
 - (ii) Remove all kitchenettes – kitchen units, kitchen sink, kitchen wall tiles, cooking hob, microwave oven, fridge, and cooking extractor unit.
 - (iii) Disconnect the electricity and water utility services that facilitate the kitchenette and cap over to prevent reconnection.
 - (iv) Remove from the land all debris, items, building materials resulting from compliance with steps (ii) and (iii).
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 (as amended).
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Decision

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

Application for costs

2. An application for costs was made by Mr Hamid Sabahipour against North Hertfordshire District Council. This application is the subject of a separate decision.

Procedural Matters

3. A Case Management Conference (CMC) was held online on 15 May 2026 with representatives of the appellant and the Council. The CMC was held to discuss the arrangements for the Inquiry and not the merits of the appeal.
4. The inquiry commenced on 23 June 2026 and was programmed to sit for one day. However, an additional sitting day was required to hear closing submissions. This was held virtually on 25 June 2026. All oral witness evidence to the inquiry was given by sworn affirmation.

Ground (d)

5. For the appeal on ground (d) to succeed it has to be shown that at the time the notice was issued it was too late to take enforcement action. The burden of proof is

on the appellant, and the relevant test is on the balance of probability. If the local planning authority has no evidence itself to contradict or otherwise make the appellant's version of events less than probable, an appeal on ground (d) can succeed, provided the appellant's evidence alone is sufficiently precise and unambiguous.

6. It is not disputed that the development attacked by the enforcement notice commenced prior to 25 April 2024, before the legislative changes to time limits came into effect. As the notice was issued on 15 January 2026, in order to succeed on this ground, the appellant has to show that the material change of use to self-contained residential flats began on or before 15 January 2022 and then continued for at least four years thereafter so as to be immune from enforcement action through the passage of time.
7. In summary, the appellant accepts that the self-contained residential flats on the ground floor are not immune from enforcement action and no appeal is made in respect of them. However, it is the appellant's position that the material change of use to self-contained residential flats on the first and second floors commenced in 2021 and have continued to be used for that purpose without significant interruption since.
8. Both the appellant Hamid Sabahipour (HS) and his daughter Nazlee Sabahipour (NS) confirmed in their oral evidence and respective Statutory Declarations (SD) dated 16 February 2026 that all rooms were fitted with kitchenettes between 18 February 2021 and 12 November 2021. Furthermore, both HS and NS stated that the first of the flats were occupied as self-contained accommodation in February 2021, with the last of the flats being occupied in that manner by November 2021. This was said to be in response to a change in business need following the covid pandemic and the existence of budget hotels nearby, resulting in there being demand for longer stays and for guests to be more self-sufficient.
9. Various documentary evidence has also been provided to support this position including:
 - Invoices for the purchase of the kitchenettes
 - Bank statements
 - Assured Shorthold Tenancy Agreements (AST)
 - Spreadsheet showing occupancy of the various rooms
10. The Council has pointed out what are considered to be discrepancies and missing pieces of information from the documentary evidence provided, which the Council argues casts doubt on the credibility and reliability of the evidence. In particular, the Council argue that the invoices for the kitchenettes do not prove when or where they were actually fitted, the bank statements show rent payments to Templars Property Management Ltd which may not relate to The George at Baldock, and some of the AST's are un-signed or do not specify the room number they relate to.
11. Furthermore, the Council point to the absence of various other documents and evidence including a letter or SD from any current or previous occupier of the flats, the non-payment of Council Tax or Business Rates, missing rent payments for certain months, and missing ASTs for rooms 1, 16, 17, and 20.

12. Put simply, the Council does not put forward any evidence that contradicts the appellant's version of events. Instead, the Council's case is that the evidence put forward in support of the appeal is not sufficiently precise and unambiguous to demonstrate, on the balance of probability, that the alleged material change of use had begun on or before 15 January 2022 and then continued for at least four years thereafter.
13. When assessing each piece of evidence individually and in isolation I accept that the Council raise some valid points. For example, the existence of an AST does not, of itself, mean that the flat was occupied. An AST also does not necessarily mean that the tenant actually took up occupation of the property, or that the term stated on the AST correlates with the actual date the tenant moved out. Similarly, the payment of rent does not mean that the tenant occupied the relevant flat for the entire period concerned, and the kitchenette invoices do not themselves detail exactly when they were fitted at the appeal property.
14. However, the evidence presented must be taken in the round. Whilst the invoices do not state the date that the kitchenettes were fitted, the Council commenced an initial investigation into a potential breach of planning control concerning the use of the premises as self-contained flats in March 2022. In response to this, a letter dated 1 April 2022, and an email dated 4 April 2022¹ from the appellant and his planning agent stated that the rooms had "small" or "mini" kitchenettes at that time.
15. In addition, the appellant has provided an occupancy spreadsheet and, notwithstanding some gaps, an array of tenancy agreements for individual rooms dating back as far as mid-2021. There are also multiple bank statements dating from 2021 which show payments being made by persons that match those named on tenancy agreements. These are all indicative of the rooms being fitted with a kitchenette and being occupied from 2021.
16. Given that the evidence dates from as far back as 2021, I do not find it unusual or surprising that there are some missing documents or what I consider to be minor gaps in the evidence. The Council also does not dispute that the appellant owns a nearby hotel called Templars, and therefore I find it entirely plausible that rent could be paid into a business account of that name.
17. The lack of any Council Tax being paid during this period does not lead me to come to an alternative view, particularly seeing business rates were paid until June 2024. HS explained in his evidence how the Valuation Office had taken the entire building out of rating and not just the ground floor, following works commencing to sub-divide the ground floor as permitted under a planning permission² granted in the same month.
18. The relevant test of the evidence is not the criminal standard of "beyond reasonable doubt" but is instead "on the balance of probability". In other words, the test is whether it is more likely than not. Although the Council have highlighted areas of doubt in terms of whether all documentary evidence is present or complete, when considering the totality of the appellant's evidence, I am satisfied that it is sufficiently precise and unambiguous to conclude, on the balance of probability, that the material change of use to self-contained residential flats began on or before 15 January 2022 and then continued for at least four years thereafter.

¹ Core Document CD4 – NHC2

² Council Ref: 24/00181/FP

19. In any event, it is the Council's case that the existence of the self-contained residential flats was deliberately concealed, such that the normal immunity period test should not apply. The leading case on deliberate concealment is *Welwyn Hatfield*³. Where there has been deliberate concealment, a person will be precluded from relying on the time limits set out in s171B of the Town and Country Planning Act 1990 as amended ("the 1990 Act") to gain immunity from enforcement action.
20. Although these are not necessary tests in what is a highly fact sensitive question, the Supreme Court identified four features that would be sufficient to demonstrate deliberate concealment. These are:
 - i) Positive deception in matters integral to the planning process;
 - ii) That deception was directly intended to undermine the planning process;
 - iii) It did undermine that process; and
 - iv) The wrong-doer would profit directly from the deception if the normal limitation period were to enable him to resist enforcement.
21. Following *Welwyn Hatfield*, the Localism Act 2011 introduced section 171BA to 171BC into the 1990 Act, allowing Council's to apply for a Planning Enforcement Order (PEO) in cases of deliberate concealment. Despite the allegations of deliberate concealment, the Council has not sought a PEO in this case. However, *Jackson*⁴ confirmed that even without a PEO, Council's can still invoke the *Welwyn Hatfield* principles.
22. In *Jackson* it was further held that situations falling within section 171B may involve a spectrum of wrongdoing. It was noted that at one end of the spectrum, there may be cases where the landowner is unaware of the need for planning permission and thus no deception is involved. Mr Justice Holgate then noted that the four features identified in the *Welwyn Hatfield* case were at the other end of the spectrum and plainly sufficient to take that case outside the scope of section 171B. It was also held that there is no "exceptionality" or "egregious" test to be applied when determining whether there has been deliberate concealment.
23. The dispute centres on various written statements, acts, omissions, and answers by the appellant since the initial enforcement investigation in 2022 which the Council contend deliberately concealed the use of the appeal premises. This includes emails, responses to two Planning Contravention Notices (PCN) in 2025, the failure to reveal the existence of tenancy agreements, and the failure to allow Council Officers access to all rooms at the property.
24. On the contrary the appellant argues that there has been no deliberate concealment, as the appellant has been open about the activities taking place at The George, has afforded the Council access to the property, and has always responded promptly to all requests for information including via email or PCN.
25. As a starting point it is clear that HS has a full understanding and knowledge of what a hotel is given that he has worked in the hospitality sector for over 40 years including operating hotels. In cross examination HS agreed that a working definition

³ *Welwyn Hatfield v SSCLG V Beesley* [2011] UKSC 15

⁴ *Jackson v SSCLG* [2015] EWHC 20 Admin

for a hotel is paid short term lodging, and that occupants are normally travellers on short term nightly stays who have a home elsewhere. Furthermore, HS said that it was “*fair*” to say that you would not normally refer to people staying at a hotel as tenants paying rent and that long term tenancies, such as a six-month tenancy, are something usually associated with dwellings.

26. HS also agreed that hotels and dwellings may share many of the same characteristics, such as cooking facilities and a bed. However, when asked whether a hotel and dwelling were interchangeable HS stated that he was “*not qualified*” to confirm either way. Indeed, HS stated on several occasions that he was “*not qualified*” to determine whether the use amounted to that of a hotel or self-contained flats, and that he replied on his planning agent and indeed the Council to make that judgement.
27. However, in order to make an accurate judgment the Council would need to be fully aware of all relevant facts. As already outlined above, it is true that the appellant has been forthcoming from as early as April 2022 in informing the Council that the rooms had been fitted with kitchenettes. Given the likely en-suite nature of hotel rooms, the addition of cooking facilities in each individual room would potentially make them capable of being independent self-contained residential units.
28. Nevertheless, the presence of kitchenettes alone may not result in a material change of use to self-contained residential flats. What is key to that determination is the nature of the occupation of those rooms, in particular who occupies the rooms, the length of an occupants stay, what form of agreement exists between the occupant and the owner, and whether occupants are effectively residing there as their sole or primary residence.
29. With that in mind, in addition to each room having the benefit of the necessary day to day amenities (cooking, toilet, shower, bed etc) the Council would need to ascertain how the rooms were being used. During the original 2022 investigation by the Council the appellants planning agent Mr Gran stated in an email dated 4 April 2022 that “*The rooms are not self-contained dwellings as there is no clothes washing facility and they are not rented on a self-contained basis*” and “*the pandemic has meant a significant down turn in demand for the hotel for brief stays, with now a focus on week long stays for business customers primarily*”.
30. In a letter dated 1 April 2022 which was attached to the aforementioned email, the appellant HS stated, “*Following the demand from the previous corporate clientele, mini kitchenettes were installed in each room to offer Hotel Apartments*”, and “*The operation of the rooms is very similar to before as all rooms are fully inclusive of bills, rates and internet, as any hotel would be*”. In terms of how long guests stayed at The George, HS stated “*The Hotel Apartment rooms are generally occupied by single business people who have working patterns of Monday – Friday. The guests generally stay for around one month, although some have requested to extend this stay*”.
31. To my mind, both the email and letter paint a picture that the premises was occupied primarily for week-long stays for business customers, with potentially up to around one month stays in some cases and was generally operated akin to a hotel. In the case of Mr Gran, he went one step further by expressly stating the rooms were not self-contained dwellings. From the information before me, the Council appear to have concluded their investigation largely based on the above

- with there being little evidence of what could reasonably be described as a thorough investigation being carried out by the Council at that time.
32. However, with the benefit of the occupancy spreadsheet and tenancy agreements now before the inquiry it is evident that this is the first example of what I consider to be false or misleading information being provided to the Council. Far from occupants generally occupying rooms for one-week or one-month long stays, the occupancy spreadsheet and tenancy agreements show that by the date of the email (4 April 2022) no fewer than nine occupants had been staying at The George for two months or longer. This included occupants who by that point had been staying at The George for one year, nine months, eight months, six months, and five months respectively.
 33. Moving on in time, we then turn to the Council's second enforcement investigation⁵ into the matter, which resulted in a first PCN being issued on 24 January 2025. The appellant HS responded to the PCN on 20 March 2025 with many of his responses again referring to a hotel or hotel apartment use. HS set out consistently during his oral evidence that he was not qualified to make a planning judgment as to whether the use of the property remained as a hotel or had become self-contained flats. Even if that were to be the case, I find his answers to questions d) and f) on the January 2025 PCN hard to comprehend.
 34. Question d) asked *"Has any part of the first and second floors been sublet? If yes, please provide information confirming the tenant name/s and a copy of any tenancy agreement"*. HS responded "No". Question f) asked *"Are the terms of occupation subject to any tenancy or licence agreements?"*. HS responded *"Yes, the terms of occupation are set out in a check-in form along with terms and conditions between the business and each guest"*.
 35. These questions are straightforward and do not require planning expertise to answer them adequately. Both seek to establish whether there were any tenancy agreements. Tenancy agreements had been in existence since 2021 and therefore the only true and correct answer to these questions was "yes" with copies of the tenancy agreements being provided. The failure to reveal the existence of the many tenancy agreements, some of which had been in existence for nearly four years by that point in time, can only be a deliberate and intentional choice. This failure is also compounded by the reference to a *"check-in form"* which, in my view, seeks to indicate a hotel use and lead the Council away from the existence of tenancy agreements and long-term occupancy.
 36. Question g) on the January 2025 PCN went one step further still and requested the names of current occupiers of the rooms, and to provide the dates and duration of their stay. HS responded by saying *"Due to data protection and privacy regulations as well as our duty of care to our guests, we are unable to provide the personal details of individual occupiers"*. Notwithstanding the fact the appellant later provided this information in December 2025, there is no reason why the dates and duration of each occupants stay could not have been provided even if their names had been withheld.
 37. What we now know from the occupancy spreadsheet and tenancy agreements is that at the time of the appellant's PCN response in March 2025, the majority of occupants had been in residence for several months and in some cases years. This

⁵ Council Ref: 24/00108/1ENF

included three occupants who had been present since 2021, two since 2022, one since 2023, and several since various points in 2024.

38. In addition to the above, although Council Officers visited the appeal premises on four occasions in 2025, access was only permitted to a small number of rooms on a pre-arranged basis. Photographs taken during these visits do not indicate any permanent or long-term residential use, and in particular the photographs taken on 8 May 2025⁶ of Room 8 show a vacant room with no personal effects evident. Indeed, I concur with the Council's view that Room 8 had the appearance of an empty hotel room.
39. Tellingly, when Council Officers attempted to attend the property without warning and to approach individual occupants directly, the appellant's son contacted the Council via email⁷ requesting that all planning matters stay between the Council and operators of The George. It was further requested by the appellant's son *"Please ensure there is no further direct engagement or attempted engagement with guests during this process. If there is a need to communicate anything to our guests, we will do so ourselves"*. Notwithstanding that the Council was perfectly entitled to make efforts to contact any occupiers as part of their investigations, it is another example of the Council being prevented from ascertaining who was occupying the rooms, as well as the nature and length of that occupation.
40. I find that the above actions were taken to conceal the use of the appeal premises as self-contained residential flats, and that those actions were deliberate and went well beyond keeping a low profile. I am not persuaded that the aforementioned response to the PCN in March 2025, as well as earlier correspondence in 2022, was not an attempt to conceal the fact that persons were occupying the premises as their sole or main residence. As already set out these were the subject of tenancy agreements and many had resided at the property for several months or years.
41. From the information before me I am also not persuaded that the use of the premises as self-contained residential flats would have been obvious to the Council simply by visiting. Officers were only allowed pre-arranged access to certain rooms which were either vacant or had an appearance not dissimilar to a hotel room. There is nothing in the evidence to suggest that Council Officers were specifically informed about the nature of the continuing and long-term residential occupation of the rooms. Furthermore, had the appellant confirmed the presence of tenancy agreements and the length of occupation of each occupier at the property when asked, it would, in my view, have dramatically increased the likelihood of enforcement action being taken at that time.
42. Additionally, the appellant has extensive knowledge of the hospitality sector, and in particular hotels, and does not dispute that hotels are usually occupied by travellers on short term nightly stays who are not subject to long term tenancy agreements. I also consider that the appellant, who has been professionally advised throughout, would have been aware of the need for planning permission to change the use of the hotel to self-contained residential accommodation.
43. This is demonstrated by the appellant obtaining planning permission to change the use of the Templars Hotel, which he also owns, to residential accommodation.

⁶ Core Document CD4 – NH33

⁷ Core Document CD4 – NHC9

Although it was subsequently withdrawn, HS also applied for planning permission to change the use of the ground floor restaurant at The George to two residential flats. Furthermore, during the course of the 2024 planning application for the change of use of part of the ground floor of The George to include four hotel rooms, the appellant's planning agent, Mr Gran, expressly stated to the Council's Planning Committee that the rooms would not be for residential use and they were additional rooms to the existing hotel.

44. When all the above is considered in the round, I am in no doubt that there has been positive deception. The fact that evidence regarding the use of the premises as self-contained flats, such as tenancy agreements and the duration of stays, started to be revealed to the Council in December 2025 (shortly after the appellant's claimed four-year immunity period would have been achieved) in response to a second PCN, does not alter my position. The same can also be said for the appellant's offer⁸ (via his planning agent) to submit a planning application to regularise the use of The George in December 2025.
45. In conclusion, I find that there was positive deception in matters integral to the planning process. It seems to me that the false and misleading responses to the January 2025 PCN, along with other statements and actions, were directly intended to undermine the planning process and avoid enforcement action. Those actions did undermine the process, with the use subsequently going un-detected for several years, with occupants living in what the available evidence indicates are rooms that fail to meet nationally described space standards. There can also be no doubt that the appellant has profited directly from the deception, given the rental income raised via the letting of residential flats over a number of years.
46. Because of this positive deception, the appellant cannot rely on the provisions of section 171B(2) of the 1990 Act. The *Welwyn Hatfield* and *Jackson* judgments indicate that such conduct takes the case outside the scope of the section 171B(2) time limit, in the interests of public policy. Accordingly, the ground (d) appeal fails.

Conclusion

47. For the reasons given above, I conclude that the appeal fails. I have therefore upheld the enforcement notice.

David Jones

INSPECTOR

⁸ Core Document CD3.13

APPEARANCES

FOR THE APPELLANT:

Simon Bell

Counsel, Cornerstone Barristers

He called:

Hamid Sabahipour

Appellant

Nazlee Sabahipour

Appellant's daughter and Operations Manager at The George at Baldock

FOR THE LOCAL PLANNING AUTHORITY:

Asitha Ranatunga

Counsel, Cornerstone Barristers

He called:

Simon Curling

Planning Compliance Officer, North Hertfordshire District Council

Christella Menson

Conservation & Planning Enforcement Team Leader, North Hertfordshire District Council

INTERESTED PARTIES:

Cllr Alistair Willoughby

Local Ward Councillor

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Opening submissions on behalf of North Hertfordshire District Council
2. Opening submissions on behalf of the appellant
3. Closing submissions on behalf of North Hertfordshire District Council
4. Closing submissions on behalf of the appellant