



Appeal Decision

Inquiry held on 14-16, 21-22, 28 and 30 July 2026

Site visits made on 13, 16 and 29 July 2026

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2026

Appeal Ref: APP/M3645/C/26/3378115

Land at Whyteleafe House, 439-445 Godstone Road, Whyteleafe CR3 0BL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Vilmex Limited against an enforcement notice issued by Tandridge District Council.
 - The notice was issued on 4 February 2026.
 - The breach of planning control as alleged in the notice is: 'Without planning permission, the erection of a building comprising 167 flats including associated car parking, landscaping, communal, office, storage and leisure facilities.'
 - The requirements of the notice are: 1) Demolish the building in its entirety. 2) Remove from the Land to a licensed waste management facility resultant debris.
 - The period for compliance with the requirements is 18 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) and (g) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Applications for costs

2. Applications for costs were made by both main parties against each other. They form the subject of separate decisions.

Procedural Matters

3. The Inquiry was closed in writing on 21 August 2026, following receipt of both parties' final comments on their costs applications.
4. A deadline of 27 August 2026 was agreed for the submission of a legal agreement relating to the appeal on ground (a). A legal agreement was not received within that deadline.
5. It was brought to my attention that NatWest Bank was not served with a copy of the notice, despite having an interest in the land. The main parties agreed that NatWest Bank had not been caused substantial prejudice by not being served, and that it was fully aware of the notice and the appeal. I am satisfied that NatWest Bank would not be caused any substantial prejudice by the appeal being determined.
6. Evidence in respect of the appeal on ground (d) was given on affirmation and was subject to cross-examination. All other oral evidence was heard through roundtable discussions or formal presentation. There are serious implications under the

Perjury Act 1911 where false evidence is provided in a statutory declaration or under sworn affirmation, and these were explained to the witnesses. I therefore assign substantial weight to the sworn oral evidence and the statutory declarations where they are sufficiently precise and unambiguous and are not contradicted by other reliable evidence.

Background

7. Planning permission was granted in August 2011¹ for development described as '*Demolition of existing buildings. Erection of 4/5 storey building comprising 167 flats with basement parking, roof gardens and landscaping*'. An application to vary condition 11 of that planning permission under section 73 of the Act was approved in November 2021². For ease of reference, I shall refer to the development approved by both of these planning permissions as 'the Approved Development'.
8. There is no dispute that the erection of a building comprising 167 flats including associated car parking, landscaping, communal, office, storage and leisure facilities (the Development) has taken place. It is also not in dispute that the Development is materially different to the Approved Development and does not benefit from any planning permission.

The appeal on ground (d)

9. For the appeal to succeed on ground (d), the appellant needs to show that, at the date when the notice was issued, no enforcement action could be taken in respect of the Development. With regard to section 171B(1) of the Act³, no enforcement action could be taken if it was substantially complete on or before 4 February 2022 (the relevant date), at least 4 years before the notice was issued. This may not be the case where there has been deliberate concealment of a breach of planning control, which I shall address below.
10. There is no dispute that the Development was substantially complete prior to 25 April 2024. The issues in dispute are whether the Development was substantially complete by the relevant date and whether there has been deliberate concealment.
11. In the appeal on ground (d) the onus is on the appellant to make out their case to the standard of the balance of probabilities, and their evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict the appellant's version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted⁴.

The Development

12. Works commenced on the Development in 2014 after a former office building was demolished, trenches were dug and drainpipes were installed. The main construction phase of the Development ran between 2020 and 2022. On the evidence provided to the Inquiry, it is more likely than not that the following points are true:

¹ The Council's ref: TA/2008/423

² The Council's ref: TA/2020/1010

³ and transitional provisions within The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024

⁴ *Gabbitts v SSE & Newham LBC* [1985] JPL 630

- By October 2020 the water provider had been paid to provide the Development's water connections and water meter installations for the flats had been booked.
- By April 2021 Meter Point Access information for the electricity supplies to each flat had been received and the installation of electricity meters began.
- By June 2021 all external walls and the roof to the block of 167 flats were complete.
- By July 2021 the internal passenger lifts were installed and commissioned.
- In October 2021 photographs of the first furnished flats were taken for marketing purposes and marketing signage was installed at the site.
- On 7 October 2021 site office cabins were removed from the site.
- Repair works were carried out to a culvert running under the site and 536 cubic metres (m³) of underground surface water drainage storage tanks were installed within the site in 2021.
- By 1 January 2022 carpentry and bathrooms to all 167 flats were complete.
- By 13 January 2022 air testing for Building Regulations purposes had been completed for 99 of the flats. Such testing could not have been carried out unless those flats were in their final complete state internally, with bathrooms, kitchens and electrical and water supplies in place.
- By 27 January 2022 kitchens were fitted to all 167 flats.
- By 28 January 2022 the refuse arrangements were in place, save for bins.
- By 4 February 2022 the lettings office space was built, enclosed and available with electrical fittings, flooring, and welfare facilities in place, and was viewed by the fit-out team of Hamptons International (the current occupier) in February 2022.
- By 4 February 2022 24 out of the current 191 bicycle spaces were in place.
- By 4 February 2022 kerb edgings were in place to demarcate the landscaping and communal amenity areas, with the communal amenity area finished in gravel.
- By 4 February 2022 16 out of the current 24 projecting balconies were in place, absent their glazed balustrades, and all Juliet balcony balustrades were in place, absent glass panels.
- Between 10 and 24 February 2022 air testing for the remaining 68 flats was completed.
- The block of flats was first occupied on 27 May 2022.
- The 3 external staircases between the footway on Well Farm Road and the upper-ground floor level of the block of flats were installed after 4 February 2022.

- The landscaping was planted after 4 February 2022.
- The car park markings were painted after 4 February 2022.
- A ventilation louvre to the south-western corridor at fifth floor level was installed in May 2022.
- Security fencing surrounded the site until some point after 28 April 2022.
- Completion certificates in respect of each flat were issued by an Approved Inspector for Building Regulations purposes on 30 August 2022.

Whether the Development was substantially complete on the relevant date

13. There is no statutory definition of substantial completion. The approach to identify when development may be substantially complete is set out in *Sage v SSETR & Maidstone BC* [2003] UKHL 22, where the House of Lords found that a holistic approach should be taken, having regard to the totality of the operations which the developer originally contemplated and intended to carry out. In this particular case, the Development as it currently exists, as described in the notice, is how the appellant originally contemplated and intended it to be carried out and completed. The evidence shows that the Development was not complete by 4 February 2022, but this does not mean it was not substantially complete on that relevant date.
14. On account of the significantly different fenestration layout alone, the Development deviated from the design of the Approved Development at an early stage, and as I have set out above, the Development is materially different to the Approved Development. It would therefore be wrong to compare what was in place on 4 February 2022 to the Approved Development for the purposes of identifying whether the Development was substantially complete at that time. I have considered whether the totality of the Development, as it exists today and as described in the notice, was substantially complete on the relevant date.
15. In *Sage* the dwellinghouse which was found not to be substantially complete was unfit for habitation. The date on which a development is first occupied and used as intended is a good indication of when it may have been completed or very close to completion, but substantial completion could occur much earlier or later. Alternatively, a development could be watertight and capable of being occupied, but it may not be substantially complete. In this case, the question of when the Development was substantially complete does not therefore rely on when the block of flats was watertight and/or occupied, although they are relevant considerations.
16. The Council has highlighted specific elements of the Development which are said to show it was not substantially complete on the relevant date. I have summarised these below, along with other relevant points raised.

Ventilation louvre

17. The ventilation louvre mentioned above is part of the fire safety measures incorporated into the design of the building. Its purpose is to allow smoke to disperse from corridors which form part of an escape route if there is a fire. It was not installed until May 2022. This was because the manufacturer had initially sent an incorrectly sized louvre which did not fit the opening, so an ill-fitting window had been installed in its place by the relevant date as a temporary arrangement. Once a

louvre of the correct size had been delivered, it replaced the temporary window shortly before the block of flats was first occupied.

18. I accept that a waking watch fire safety system could have been adopted to allow the safe occupation of the building while the temporary window was in place. However, I also note the appellant was against that approach due to the additional cost.

Car and bicycle parking

19. According to the appellant, the parking area at lower-ground floor level had been tarmacked and was capable of use by the relevant date, although it remained to have white paint applied to mark numbered spaces. Invoices show extensive binder and surface courses of tarmacking were laid to the car park in December 2021, while the aerial photograph dated March 2022 is largely unclear. The May and July 2022 aerial photographs, however, show more clearly that further tarmacking to the vehicular entrance and the north-eastern end of the site was likely carried out after May 2022.
20. Mr O'Brien explained that the parking area was accessible from two points on Well Farm Road on the relevant date, and I can see this was the case in the Council's photograph dated 28 April 2022, almost 3 months later. Vehicles can be seen within the parking area in the March and May 2022 aerial photographs, so while I find it likely that areas of the access and car park were awaiting at least a surface layer of tarmac on the relevant date, it is unlikely that this prevented those areas from being used for access or parking.
21. The Council has placed importance on the March 2022 aerial photograph, claiming it shows the external area between the wings of the block of flats as a building site and not formally laid out as a car park, with vehicles or plant and piles of materials present. However, that photograph is of very poor quality. I accept that it shows items within the parking area which are not vehicles, but it also shows other items which Mr Thurlow accepted in oral evidence were vehicles. Considered alongside the tarmacking invoices and the oral evidence, it is more likely than not that much of the finished parking surfaces existed within the site on the relevant date, but without any markings, and other areas were finished later. I find on the evidence that vehicles were being parked in some of the parking areas on the relevant date.
22. A small proportion of the final total of bicycle parking spaces had been installed by the relevant date. These comprised metal hoops fixed to the ground within and around edges of the undercroft.

External stairs and security fencing

23. There are 3 sets of external stairs on the Well Farm Road elevation of the building. The central set leads to a reception area where a concierge is based, with access to the central lift/stair core and upper-ground floor corridors. The other external stairs provide evacuation routes from fire escapes at upper-ground floor level.
24. At present, residents can access the block of flats directly from Well Farm Road via the central stair/lift core at lower-ground floor level where letterboxes are located, and from the car park via the east and west stair/lift cores. Residents do not therefore rely on the central set of external stairs. The evidence shows, as a matter of fact and degree, that was the case on the relevant date, and that the stair/lift

cores were accessible on the relevant date and available to be used, including as emergency escapes. The external sets of stairs were not therefore necessary for the Development to function on the relevant date, although they now have roles in how the completed development operates based on current evacuation procedures.

25. The Council's photograph dated 28 April 2022 shows a security hoarding and Heras fencing surrounding the site at that time. In this photograph the Heras fencing is partway down Well Farm Road, where an access point can be seen. The very nature of Heras fencing is that it can be easily moved if it is intended to allow access. This is consistent with Mr O'Brien's oral evidence that pedestrians would have been able to enter the site on the relevant date by openings on Well Farm Road which previously served the demolished office building. Therefore, on balance, the evidence shows it is more likely than not that pedestrians could have accessed the Development from Well Farm Road on the relevant date without being unduly hindered by the security fencing in place at that time.

Balconies

26. All balconies remained unfinished on the relevant date. Of the 24 projecting balconies which currently exist, 16 had been installed, but they awaited their glazed balustrades. All of the Juliet balconies were in place, absent their glazing. None of the balconies could therefore be safely accessed or used on the relevant date, but this would not have prevented occupation of any of the flats, not least because the appellant, as landlord, could have kept the glazed doors to balconies locked shut.

Landscaping and amenity areas

27. Mr O'Brien stated under oath and in his statutory declarations that kerb edgings had been finished demarcating the landscaping and amenity areas and that the amenity area was finished in gravel and capable of being used for its intended purpose on the relevant date. He stated that geomembranes, drainage layers and topsoil had been laid to landscaping areas, which awaited planting. As a matter of fact and degree, there is very little to convince me otherwise, including the various photographs. The amenity area was later finished with paving and skirted with planting, but the evidence shows it is more likely than not that a similar form of communal amenity space as that which currently exists was in place on the relevant date, absent benches.

Other matters raised

28. All 167 flats had finished bathrooms, kitchens, carpentry, electrics, plumbing, and water and electricity supplies on the relevant date, but 68 of the flats had not been air tested. It is, however, more likely than not that the outstanding air testing had been booked sometime prior to 4 February 2022, and that all flats were internally complete by that point, considering that air testing was carried out between 10 and 24 February 2022.
29. Completion certificates for Building Regulations purposes in respect of the flats were not issued until 30 August 2022. This does not mean those flats were not capable of being occupied or issued with completion certificates earlier, although the lack of air testing to 68 of the flats on the relevant date confirms completion certificates could not have been issued by then.

30. It is relevant that Mr O'Brien answered '*no*' to the question '*has the development been completed?*' on an application form dated 23 March 2022⁵. He also answered '*yes*' to that question and provided the date 30 August 2022 when asked to state when the development was completed on a subsequent application form⁶. A planning agent later provided the date 1 August 2022 in response to that question on another application form⁷ on behalf of the appellant.
31. The Council was entitled to rely on the information provided in those application forms, where declarations confirming the accuracy of the information had been signed, but there is a difference between completion and substantial completion. I do not therefore find it inconsistent that the forms were completed as they were, with substantial completion possibly occurring by the relevant date. In the context of a major development comprising numerous components, it would not be unusual for different, or even inaccurate, completion dates to be provided in these forms. Those completing the forms may have reasonably reached different conclusions as to what constituted completion for the particular purposes of those applications.
32. For example, Mr O'Brien would not have known the significance of the development being substantially complete or not on 4 February 2022 prior to the notice being issued, and his answers in the application forms would not be surprising even if the Development was substantially complete prior to that date. He also explained during cross-examination that he would not have wanted council tax bills to be issued, perhaps by indicating that the Development was complete, before any of the flats were actually occupied. I therefore find the answers provided in those application forms to be of limited assistance to the question of when the Development was substantially complete (rather than complete), and I assign them limited weight against the appellant's case.
33. Site visit notes by a Senior Health and Safety Advisor at Faithful+Gould dated 18 November 2021 refer to works taking place at that time which included the ongoing installation of the external wall insulation system, the breaking up and removal of remaining ground slabs, phase 2 internal first and second fix mechanical and electrical, carpentry, tiling, plastering, painting, and general labouring works. It mentions that the project had been notified to the Health and Safety Executive (HSE) and that the F10 was displayed on site and had recently been updated to run until 26 September 2022. The Council claims that the ongoing works described in that document and the updating of the F10 form in November 2021 to refer to an expected completion date in September 2022 are hard to reconcile with the Development being substantially complete 11 weeks later.
34. Construction Design Management (CDM) regulations require the HSE to be notified by the submission of an F10 form for a scheme such as this, which needs to identify an expected completion date. Mr O'Brien claimed it is important not to underestimate the completion date on an F10 form, as it is time-consuming to keep applying for this to be updated and there is no need to notify the HSE when a project is complete or substantially complete. Completing a development before the expected completion date stated in an F10 would comply with the CDM regulations, whereas exceeding that date would not.

⁵ Application ref: TA/2008/423/cond5

⁶ Application ref: TA/2024/125

⁷ Application ref: TA/2025/434

35. In light of the works which were complete before the relevant date and those which were ongoing after, the extent of works described as progressing in November 2021 is not unexpected. They align with the other evidence, such as invoices relating to the laying of tarmac (following the breaking up of ground slabs) and valuation certificates relating to the completion of carpentry, bathrooms and kitchens in December 2021 and January 2022. Tiling, plastering and painting are works ordinarily undertaken towards the end of a building project. The site visit note dated 18 November 2021 does not therefore indicate that a substantial completion date of 4 February 2022 would have been unrealistic, when considered alongside all the other evidence. The inclusion of an updated expected completion date of 26 September 2022 in the F10 form as late as November 2021 for HSE purposes does not lead me to doubt the Development could or would have been substantially complete, in the context of section 171B of the Act, on the relevant date either.

Whether watertight and capable of occupation

36. Mr Thurlow confirmed in oral evidence that he did not dispute that the building was watertight on 27 January 2022. Although the ventilation louvre referred to above was not in place on the relevant date and an ill-fitting temporary window was in its place, the evidence shows, on the balance of probabilities, that the block of flats was watertight at that time.
37. The evidence also shows that it is more likely than not that all 167 flats were finished internally and accessible to potential residents, and that the Development was capable of being occupied and used for its intended purpose as a block of 167 flats with associated car parking, landscaping, communal, office, storage and leisure facilities on the relevant date.
38. There would have been differences between how people would have had to access the building, different fire safety measures and evacuation procedures, unplanted landscaping areas, a gravel rather than paved amenity space, unmarked and reduced car and bicycle parking facilities, and locked glazed doors acting as fixed-shut windows to flats with balconies. There were no completion certificates in place for Building Regulations purposes and air testing had not been carried out to 68 of the flats. However, the Development was capable of being used for its intended purpose as described in the notice on 4 February 2022.

Conclusion on substantial completion

39. Although access to the building from stairs and lifts at lower-ground floor level was always intended to be an option for residents, the appellant had contemplated and intended the Development to be complete with the 3 external staircases between the upper-ground floor level and Well Farm Road. The external stairs, car park markings, various planting, paved surface to the communal amenity space, the louvre mentioned above, and the projecting and Juliet balconies with glazed balustrades all form part of the completed Development as contemplated and intended by the appellant. It was also contemplated and intended that air testing would have been completed to all flats, which would benefit from completion certificates and be occupied as residential lettings and registered for council tax when complete. Moreover, the security fencing which surrounded the site on the relevant date was part of the necessary temporary construction infrastructure and was not contemplated or intended to form part of the completed Development.

40. I have found that a block of 167 flats had been constructed to such a degree that it was watertight at least six months before the relevant date and that all of those flats were capable of being occupied by the relevant date. It could not have been occupied and used in precisely the same manner as originally contemplated and intended, but it is not unusual for developments to be used in a different manner than originally envisaged while also being substantially complete.
41. By the relevant date, a block of 167 flats had been erected, with kitchens, bathrooms, heating, plastering and mastic completed to all flats. Three operational lifts had also been installed between lower-ground and fourth/fifth floors and 536m³ of underground surface water drainage storage tanks had been installed. The works involved in completing these aspects of the Development were extensive and substantial when considered alongside the Development as a whole, in its completed state, as was originally contemplated and intended.
42. Individually and cumulatively, the outstanding aspects of the Development which had not been carried out by 4 February 2022 were minor components of the Development taken as a whole. They were not significant or integral to the overall character, design or function of the Development and their absence on the relevant date would not have prevented the Development from being watertight, occupied or used for its intended purpose. In my judgment, the works required to complete those aspects of the Development were not significant. The Development would not have been capable of operating in precisely the same manner as originally contemplated and intended, but it could have commenced use as a functioning block of 167 flats including associated car parking, landscaping, communal, office, storage and leisure facilities.
43. I have not taken the watertightness of the block of flats or its capability of occupation as determinative of whether the Development was substantially complete on the relevant date. However, these are important factors within the holistic assessment of the totality of the operations comprised in the Development. Considering all of the evidence and arguments put forward, I find it is more likely than not, as a matter of fact and degree, that the Development was substantially complete on 4 February 2022, having regard to the totality of the operations which were originally contemplated and intended to be carried out.

Whether there has been deliberate concealment

44. If there has been deliberate concealment of the breach the appellant may not be able to benefit from the provisions at section 171B(1) of the Act. It is claimed that the conduct of the appellant amounted to positive deception to delay formal enforcement action. Specifically, it is claimed the appellant did not notify the Council of all deviations from the Approved Development, including in a Planning Contravention Notice (PCN) response, and in applications to discharge and vary conditions relating to the Approved Development when that development had not been carried out.
45. The leading case law in this regard is *Welwyn Hatfield BC v SSCLG & Beesley* [2011] UKSC 15, where it was held that positive deception in matters integral to the planning process, which was directly intended to and did undermine the regular operation of that process, and from which the developer would profit directly, will prevent the developer from benefiting from the immunity to enforcement action set out at section 171B of the Act. Deliberate concealment does not need to be in a

physical sense, and I have had regard to the other case law referred to⁸. Depending on the facts, deliberate concealment may also arise from omissions and documentary submissions, but the relevant question in this case is whether the appellant's conduct falls within the *Welwyn* principle, rather than whether the statutory test for a planning enforcement order would have been met.

46. A PCN was issued in March 2025 which explained that by that point the Council was aware that there were significant differences between what had been approved and what had been built in respect of height, shape, the podium and roof garden, appearance, layout and landscaping. Mr O'Brien responded to the PCN on behalf of the appellant, claiming that planning permission reference TA/2008/423 had been implemented and that there had been '*minor change to fenestration details*', '*omission of some balconies*', '*layout changes to ground floor car park*', and '*omission of podium*', while he also noted that conditions 2, 4, 6, 14 and 16 of the planning permission had not been complied with.
47. The Council was not bound to accept Mr O'Brien's claims in the PCN, and it should have carried out its own assessment of the evidence on receipt of the PCN response. The description of the alleged breach in the PCN shows the Council correctly identified at that time that the Approved Development had not been carried out, and the appellant's answers were guided by the specific questions put forward by the Council. The answers given were sufficient to confirm that the alleged breach stated in the PCN had taken place.
48. Moreover, the answers provided in the PCN response paint a very clear picture that what had been built could not simply be regularised through the approval of any discharge or variation of conditions applications, and that Mr O'Brien's claim that a previous planning permission had been implemented was flawed. The absence of an admission that the surface water drainage scheme installed was different to that previously approved therefore became less relevant, as it had been admitted that the podium was not going to be installed, and that formed part of the approved surface water drainage scheme.
49. A letter from the Council dated 30 July 2014 states that on the basis of photographs showing the digging of trenches and the installation of drain pipes at the site, it appeared that works had begun on the development approved by planning permission reference TA/2008/423 before it had expired. This provides some context for Mr O'Brien's understanding when submitting applications and responding to the PCN.
50. By April 2025 the appellant had appointed a professional planning agent who submitted an application to vary condition 2 of planning permission TA/2008/423 on the basis that the Approved Development had been carried out. Considering the Council's photographs from April 2022 show a building with materially different fenestration layout, elevation projections, height and finishing materials and colours, it should have been obvious to everyone by April 2025 that what had been built could not simply be regularised through a variation of condition application. The fact that the application remained undetermined for some 7 months before it was withdrawn, alongside the other evidence, does not suggest to me that the appellant intended to deceive the Council or undermine the enforcement process.

⁸ *Jackson v SSCLG* [2015] EWHC 20 (Admin); *Bonsall v SSCLG* [2015] EWCA Civ 1246; and *McCaffrey v Dartmoor NPA* [2023] EWHC 600 (Admin)

51. Moreover, by this stage, the Council had inspected the Development at least twice: on 28 April 2022 and 26 September 2024. The inspection in September 2024 was in response to a complaint received by the Council in January 2024, which set out *'in some detail'* how the Development did not accord with the Approved Development. The Council had also correctly identified the alleged breach in the PCN in March 2025, and having received the PCN response, it would have been in a strong position to explain to the appellant why an application to vary any conditions would not remedy the breach. Therefore, I do not find that the submission of the application to vary condition 2 in April 2025 was intended to deceive the Council or undermine the enforcement process, and that application should not have delayed the Council progressing to consider the expediency of taking formal enforcement action.
52. The applications to vary and discharge conditions proceeded on the basis that planning permission TA/2008/423 had been or was being implemented. That premise was incorrect. The appellant is part of an experienced development group with access to professional advisers, and Mr O'Brien has expertise in overseeing major development projects. Nevertheless, for the reasons given above, having regard to the way in which the applications were presented and the evidence about the appellant's understanding, I am not satisfied on the balance of probabilities that those applications were made with the intention of deceiving the Council or undermining the regular operation of planning processes. Nor am I satisfied that the PCN response was made with those intentions, even if the appellant knew they were carrying out the Development in breach of planning control from the outset.
53. For the above reasons, with regard to the relevant case law, I do not find that the appellant engaged in positive deception in matters integral to the planning process, which was directly intended to and did undermine the regular operation of that process. It follows that there has been no deliberate concealment of the breach, the Development had been substantially complete for at least 4 years by the date the notice was issued, and the appellant is entitled to rely on the provisions of section 171B(1) of the Act. As a matter of fact and degree, no enforcement action could therefore be taken in respect of the Development on the date the notice was issued.
54. The appeal on ground (d) therefore succeeds.

Conclusion

55. For the reasons given above, I conclude that the appeal should succeed on ground (d). The enforcement notice will be quashed. In these circumstances, the appeal on grounds (a), (f) and (g) and the application for planning permission deemed to have been made under section 177(5) of the Act do not fall to be considered.

L Douglas

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Christopher Katkowski CBE King's Counsel

assisted by Alan Evans Counsel

instructed by Savills (UK) Limited

He called:

Jack O'Brien ARICS MTPI	Managing Director, Comer Homes Group UK
Richard Coleman Dip Arch (Cant) ARB RIBA RIAI IHBC	Director, Savills (UK) Limited
Matthew Craske BA (Hons)	Director, Daylight Sunlight Consulting Ltd
Dafydd Rees BSc (Hons) MSc MRTPI MCIHT	Director, SLR Consulting Ltd
Daniel Watson BSc (Hons) MSc (Hons) MCIWEM C.WEM CSci	Technical Director, SLR Consulting Ltd
Neil Rowley BA (Hons) MA MRTPI	Director, Savills (UK) Limited
Samruti Patel BA (Hons) MA (Hons) MRTPI	Director, Savills (UK) Limited
Anna-Mariya Angelinova	Senior Associate, Winston Taylor International LLP

FOR THE LOCAL PLANNING AUTHORITY:

Mark O'Brien O'Reilly Counsel

instructed by Lidia Harrison, Director of Law and Governance, Tandridge District Council

He called:

Clifford Thurlow BA (Hons) Dip TP MRTPI	Planning Advisor to Tandridge District Council
Neil Deely BA (Hons) Dip Arch RIBA	Co-Founder and Partner, Metropolitan Workshop
Toby Rogan-Lyons DipSurvPract	Director, Rogan-Lyons Ltd

David Lewis MSc MCIHT

Associate Director, Velocity
Transport Planning Ltd

Femi Nwanze

Deputy Development Management
Officer, Tandridge District Council

INTERESTED PARTIES:

John Lambert	Local resident
Deano Cline	District Councillor for Whyteleafe
Kelly Smith	Local resident
Samuel Udoh	Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

List of Appearances on behalf of the appellant
List of Appearances on behalf of the Council
Opening Statement on behalf of the appellant
Opening Statement on behalf of the Council
Signed Statement of Common Ground dated 14 July 2026
Statement from Camila Emidio, local resident
Statement from Tracy Perkins, local resident
Daylight and Sunlight topic specific Statement of Common Ground dated 13 July 2026
List of suggested conditions with comments dated 21 July 2026
CIL Compliance Statement with comments dated 24 July 2026