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## Appeal Decision

Site visit made on 7 July 2026

**by David Jones BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 18 September 2026**

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**Appeal Ref: APP/D3125/C/24/3358009**

**Stable building at Chalford Paddocks, Oxford Road, Old Chalford, Chipping Norton OX7 5QR**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
  - The appeal is made by Mr James George against an enforcement notice issued by West Oxfordshire District Council.
  - The notice was issued on 29 November 2024.
  - The breach of planning control as alleged in the notice is the construction of stables and a material change of use of part of the stable building to a single dwelling house with associated hardstanding.
  - The requirements of the notice are:
    - i. Permanently cease the use of any part of the stable building as a dwelling;
    - ii. Reinstate the converted part of the stable building to its former use as a building designed for keeping horses by removing from it: all internal partition walls and doors; all bathroom and kitchen fixtures and fittings (including but not limited to sinks, shower tray, showering and washing facilities, toilet, oven, hob, cupboards and work surfaces); all windows; and all carpets, floor rugs and furniture;
    - iii. Remove the oil tank and hard standing shown on the area hatched green on the plan; and
    - iv. Remove from the land edged red all equipment, rubbish and other items deriving from carrying out steps (i) to (iii).
  - The period for compliance with the requirements is: 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2)(d), and (g) of the Town and Country Planning Act 1990 (as amended).
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### Decision

1. It is directed that the enforcement notice is corrected by:

- Substituting the plan attached to the notice with the amended plan annexed to this decision.
- In section 3 of the notice the deletion of the alleged breach of planning control in its entirety and replacement with “The material change of use of the land to residential”.
- In section 5 of the notice the deletion of step i. in its entirety and replacement with “i. Cease the residential use of the land”
- In section 5 ii of the notice the deletion of the words “Reinstate the converted part of the stable building to its former use as a building designed for keeping horses by removing from it” and replacement with the word “Remove”
- In section 5 of the notice the deletion of step iii in its entirety.
- In section 5 iv of the notice the deletion of “iv” and replacement with “iii”, and the deletion of (iii) and replacement with (ii).

2. It is directed that the enforcement notice is varied by:
  - In section 5 of the notice the deletion of the words “3 months” and replacement with the words “6 months”.
3. Subject to the above corrections and variation, the appeal is dismissed and the enforcement notice is upheld.

#### **Ground (d)**

4. 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 that the appellant's evidence alone is sufficiently precise and unambiguous.
5. It is not disputed that the development attacked by the enforcement notice commenced and was substantially completed prior to 25 April 2024, before the legislative changes to time limits came into effect. There is disagreement between the parties though as to whether the relevant time limit is four or ten years.
6. The time limit will be determined by which section of the 1990 Act is applicable. Section 171B(1) of the 1990 Act relates to the carrying out of building operations, section 171B(2) relates to the change of use of any building to a dwellinghouse, with section 171B(3) relating to any other breach of planning control. In respect of section 171B(1) the period is four years beginning with the date on which the operations were substantially completed, section 171B(2) is four years beginning with the date of the breach, and section 171B(3) is ten years beginning with the date of the breach.
7. The alleged breach of planning control alleges the construction of stables and a material change of use of part of that stable building to a single dwelling house. It is therefore key to establish whether the building was initially constructed as stables before a subsequent material change of use to a dwelling, or whether it was constructed as stables and a dwelling from the outset.
8. The appellant states that the construction of the building commenced in June 2014 and was completed by the end of October 2014. This is supported by a Statutory Declaration (SD) from the appellant James George (JG) dated 28 March 2025, and a SD dated 27 March 2025 from Jose Hamilton Silva (JHS) who carried out first and second fix electrical work at the appeal property in August and October 2014. The SDs are supported by an electrical completion certificate (dated 10 October 2014), invoices and receipts for double glazed window units (26 August 2014), insulation and plaster board (28 August 2014), domestic plumbing and electrical fittings (7 July 2014 - 7 October 2014), and a used oil tank (12 July 2014). An aerial photo dated 2014-2015 showing the appeal building in situ has also been provided.
9. The Council do not appear to dispute that the building was constructed and substantially completed by the end of October 2014. From the evidence before me I see no reason to disagree and conclude, on the balance of probabilities, that the appeal building was substantially completed by that date.

10. The aforementioned SDs of JG and JHS also set out that the dwelling was fitted out and constructed as part of the building from the outset. This differs from the appellant's evidence provided in support of an earlier application to the Council for a Lawful Development Certificate, which set out that the building was constructed as stables in 2014 before part of it was converted into a dwelling during the summer of 2015.
11. However, on the evidence now before me I am satisfied that the dwelling was fitted out and constructed as part of the building from the outset. There was therefore no subsequent material change of use of part of the stable building to a dwelling. Whilst I acknowledge that some of the invoices/receipts produced as evidence as part of this appeal do not include a delivery address, nor in isolation do they demonstrate that the items purchased were used at the appeal site, they do corroborate the SDs of JG and JHS which are sufficiently precise and unambiguous in setting out that the dwelling was constructed as part of the original construction of the building from the outset in 2014. The Council has also produced no evidence itself to contradict or otherwise make this version of events less than probable.
12. Thus, in its own right, the appeal building, which was substantially completed in 2014, is immune from enforcement action under section 171B(1) of the 1990 Act. The same can also be said for the oil tank referred to in the requirements which I conclude, on the balance of probability, formed part of the building operations carried out in 2014 to construct the building.
13. From the evidence before me, including observations on my site visit, the construction of the dwelling is causative of the material change of use of the land to a residential use, and is not merely ancillary or secondary. There is no evidence or indication that the land subject of the notice was being used for residential purposes, and that the residential use has been solely brought about through the construction of the dwelling which is contained within the building. That being the case, it is the operational development that has brought about the material change of use.
14. In the case of *Caldwell*<sup>1</sup> it was held that an enforcement notice which alleges a material change of use cannot require the removal of building operations that were carried out in their own right or to bring about the material change of use, including where the construction of a dwelling is fundamental to or causative of a material change of use to residential use. Given that the enforcement notice does not require the demolition of the dwelling or appeal building, no conflict with *Caldwell* arises here.
15. In the case of *Welwyn Hatfield*<sup>2</sup>, Lord Mance held that section 171B(2) was not apt to encompass the use of a newly built dwellinghouse. As the building, which includes any part of a building as per section 336(1) of the 1990 Act, was constructed unlawfully and its first use was that of a dwelling house, there has been no change of use to that building. Consequently, section 171B(2) does not apply in this case.
16. It therefore follows from *Welwyn Hatfield* that where the construction of a building is immune from enforcement action after four years, the ten-year rule under section 171B(3) applies to the use of that building as a dwelling house if it took place from

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<sup>1</sup> *Caldwell & Timberstore Ltd v SSLUHC & Buckinghamshire Council* [2024] EWCA Civ 467

<sup>2</sup> *Welwyn Hatfield BC v SSCLG & Beesley* [2011] UKSC 15

the outset. It can therefore be the case that, as previously held in *Mid Suffolk*<sup>3</sup>, a building may become immune from enforcement action under s171B(1) but its use remains liable to enforcement action.

17. I shall now turn to the use of part of the building as a dwelling. As the enforcement notice was issued on 29 November 2024, the appellant needs to demonstrate that the residential use began on or before 29 November 2014 and then continued without significant interruption for at least ten years thereafter.
18. The evidence provided in support of the appellant's case amounts to various SDs from persons who either resided in the appeal property themselves or had relatives who resided there. The chronological order of occupation of the dwelling as set out by the SDs is as follows:
  - SD of JHS. Between 25 October 2014 and 24 May 2015 JHS returned to the property on three occasions, staying two nights on each occasion. JHS also stayed at the property on 10 and 11 October 2014.
  - SD of JG. Sets out that various family members stayed at the property "from time to time" between October 2014 and 1 November 2015.
  - SD of Abigail Houghton (AH). Moved into the property in November 2015 and lived there until October 2017.
  - SD of Lee Watts. Lived at the property from November 2017 until May 2019.
  - SD of JG. States that his mother lived at the dwelling between 19 May 2019 and 6 October 2019.
  - SD of Michael Maddams. His late father, Gerald Maddams, lived at the property from October 2019 until March 2021.
  - SD of Jeanette Mann. Moved into the property in March 2021 and was still residing at the property at the date of the SD (26 October 2023).
19. In view of the above, the appellant contends that the residential use has existed since October 2014 and therefore the ten-year immunity period has been met. I disagree.
20. JHS states that he resided at the property on three occasions for two nights each to do additional work at the property. This work was to remove the existing fitted kitchen and refit with a new kitchen, remove the electric shower and re-plumb the bath and shower, tile the floors and fit new skirting boards. It is evident therefore that the purpose for his visit to the property on those occasions was for work. JHS also sets out in his SD that he also stayed at the property on 10 and 11 October 2014, although the reason for those stays is not disclosed.
21. That amounts to a total of eight days staying at the property during the eight months between October 2014 and May 2015. Although it is not expressly stated in the SD, the only reasonable conclusion to draw from the information provided is that JHS primary living accommodation was elsewhere during that period. In any event, I do not consider that a total of eight days over such a period of time can in any way be considered continuous occupation.

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<sup>3</sup> *Mid Suffolk DC v FSS & Lebbon* [2006] JPL 859

22. I acknowledge that the appellant JG states that various family members also stayed at the property “from time to time” up until 1 November 2015 when AH began her occupation. However, there is no detail in terms of which family members stayed there, for how long, for what purposes, and on what dates. To my mind “from time to time” cannot be taken to mean “regularly” or “frequently” to the extent that it could be considered a continuous occupation and use of the property. Accordingly, the evidence indicates that there would have been periods of significant interruption to any residential use prior to 1 November 2015.
23. The Council appear to question the reliability of some of the SD’s and also point out that no further evidence, such as tenancy agreements, Council Tax bills, bank statements, or utility bills, have been provided to demonstrate a continuous residential occupation of the building. Evidence regarding the appellant’s mothers stay at the property is also scarce, particularly given the SD refers to self-isolation from COVID 19 which did not occur in the UK until the following year.
24. Nevertheless, even if the appellant’s evidence is taken at its highest, continuous residential use cannot be demonstrated until 1 November 2015 at the earliest. This falls short of the ten-year period required to gain immunity from enforcement action under section 171B(3) of the 1990 Act. The ground (d) appeal therefore fails in this regard.
25. The alleged breach of planning control also includes the laying of a hardstanding area to the east of the appeal building. The Council initially concluded that the hardstanding area was likely laid around the same time that the appeal building was erected (i.e. during 2014). However, the appellant has produced aerial photographs said to be from 30 September 2011 which show the hardstanding area in situ. The images clearly pre-date the summer of 2014 given that the small stable building, which existed prior to the construction of the building subject of this appeal, is in situ. The Council has produced no evidence itself to contradict this version of events.
26. It is clear therefore that the hardstanding area was in situ prior to the current building and any residential use of that land. Given that the hardstanding area pre-dates the current building and any residential use of that building, the Council cannot rely on the principles laid down in *Murfitt*<sup>4</sup> where works which are ancillary or secondary to, or associated with, the alleged material change of use can be removed. Consequently, the hardstanding area has been substantially complete for more than four years prior to the issue of the notice and is immune from enforcement action under section 171B(1) of the 1990 Act.
27. Finally, the Council has alleged that the development has been deliberately concealed by the appellant. The Council point to the apparent limited use of the stables, the dwelling not being registered for Council tax, not having its own postal address, and that the dwelling and oil tank could not be seen from the nearby Public Right of Way (PRoW).
28. The leading case on deliberate concealment is *Welwyn Hatfield*. Where there has been deliberate concealment, a person will be precluded from relying on the time limits set out in section 171B of the 1990 Act. Whether there has been positive deception and deliberate concealment is a fact sensitive question. A spectrum of wrongdoing exists, ranging from cases where an appellant is simply unaware of the

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<sup>4</sup> *Murfitt v SSE & East Cambridgeshire DC* [1980] JPL 598

need for planning permission to at the other extreme those who carry out a deliberate, elaborate, and sustained plan to deceive the Council.

29. In this case, whilst the dwelling or residential use of the building may not have been immediately noticeable from the PRoW, the physical building itself would have been. Similarly, it is likely that the hardstanding area and oil tank would have been visible. Any perceived limited use of the stables within the building takes the Council's point nowhere. Put simply, there is no evidence to indicate that any actions were taken by the appellant to deliberately conceal the appeal building or hardstanding area.
30. The failure to pay Council tax on the dwelling or register it for a postal address is similarly not deliberately concealing the breach. Whilst this could be considered as potentially deliberate inaction or "keeping a low profile", it does not amount to positive deception. Overall, the appellant's conduct falls well short of amounting to the degree of deception necessary to engage the principles set out in *Welwyn Hatfield*.
31. To summarise, the appeal on ground (d) succeeds on all matters save for the residential use of part of the appeal building. I will therefore correct the notice to delete reference to any operational development. Given my finding that the building was erected as stables and a dwelling from the outset, I shall also replace "the material change of use of part of the stable building to a single dwelling house" with "the material change of use of the land to residential". The part of the building where the residential use exists is, on the evidence before me, a separate planning unit. As a result, I shall amend the red line plan so that it only relates to the part of the land that is subject to the residential use.

### **Ground (g)**

32. An appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The period for compliance given is three months.
33. Given my findings in relation to ground (d) above, the only remaining requirements of the notice are to cease the residential use of the land and remove those items and works which associated with the residential use. The appellant contends that as compliance will result in the occupant having to relinquish their place of residence and consequently find alternative accommodation, a compliance period of twelve months would be more reasonable. At the time of my site visit it appeared that the appellant himself was living in the appeal building.
34. My task in relation to this ground of appeal is to balance the public interest in securing expeditious compliance with the notice against the private interests of the appellant. The loss of the appellant or another persons' home would be an infringement of their rights under the Human Rights Act 1998 (HRA) and would amount to interference and would engage the respect of private and family life, home and correspondence as set out in Article 8 of the HRA. This is a qualified right, whereby interference must be justified if in the public interest, applying the principle of proportionality.
35. I recognise that there is a need in securing expeditious compliance with the notice so that any harm arising from the breach of planning control is overcome. However, in my view a period of three months to cease the residential use of the land and remove the associated internal fixtures and fittings seems to be unduly short to

allow the appellant, or any other occupant, reasonable opportunity to find alternative accommodation. Furthermore, the removal of the fixtures and fittings such as the kitchen and bathroom cannot realistically be removed until the residential use ceases. In weighing the balance, I consider that a period for compliance of six months would be a more reasonable and proportionate time to both cease the use of the land and carry out all other works.

36. The appeal on ground (g) therefore succeeds to this limited extent, and I will vary the enforcement notice by changing the compliance period to six months.

### **Conclusion**

37. For the reasons given above, I conclude that the appeal succeeds only partially on ground (d) and on ground (g). I have therefore upheld the enforcement notice with corrections and a variation.

*David Jones*

INSPECTOR

## Amended Plan

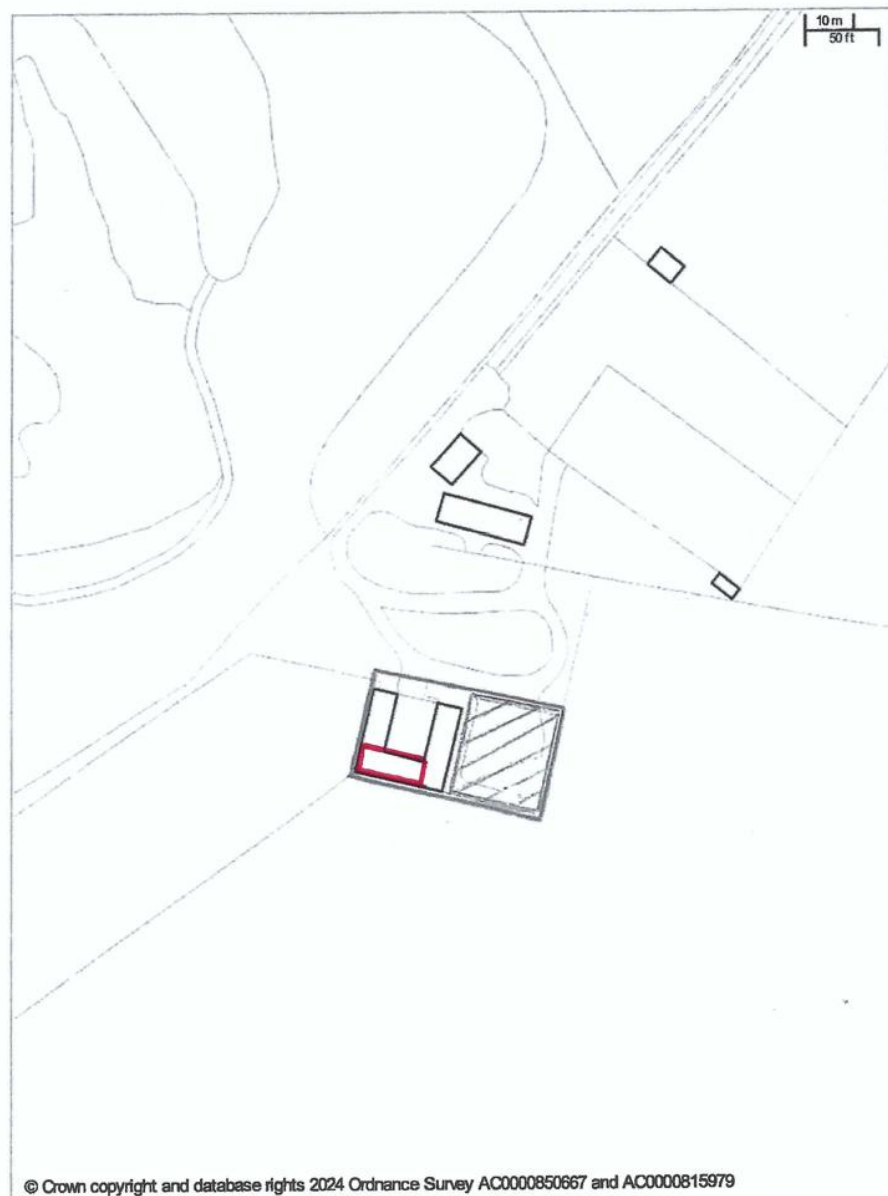
This is the plan referred to in my decision dated:

**By David Jones BSc (Hons) MPlan MRTPI**

**Land at: Stable building at Chalford Paddocks, Oxford Road, Old Chalford,  
Chipping Norton OX7 5QR**

**Reference: APP/D3125/C/24/3358009**

Scale: Not to scale



Scale: 1:1000  
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