



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case reference : **CAM/38UB/HPV/2024/0600**

Property : **The Barn Point to Point Farm
Mollington Road Banbury Oxon OX17
1QE**

Applicant : **David Jeffries**

Representative : **Mr Duncan Craig, Counsel**

Respondent : **Cherwell District Council**

Representative : **Mr Emyr Jones, Counsel**

Type of application : **Appeal against a prohibition order**

Tribunal members : **First-tier Tribunal Judge K Neave
Mr Roland Thomas MRICS**

Venue : **9-11 Northbar Street, Banbury,
Oxfordshire, United Kingdom, OX16
0TB**

Date of decision : **27 October 2025**

DECISION

Decisions of the tribunal

The tribunal makes the following determinations:

- (1) The best course of action is to serve a prohibition order preventing the use of the barn dwelling for residential purposes.
- (2) The prohibition order dated 2 October 2024 preventing the use of the barn dwelling for residential purposes is varied in the following manner:
 - (a) To add to schedule 2 of the prohibition order the additional works described in paragraphs 7 and 8 of the revised schedule 2 handed to the tribunal by the parties at the outset of the hearing, a copy of which is enclosed with this determination.
 - (b) To suspend the operation of the prohibition order until:
 - i. if either the lawful use appeal or the appeal against the enforcement notices in respect of the Appellant's use of the barn dwelling for residential purposes is refused, 28 days after the refusal.
 - ii. if both the lawful use appeal and the appeal against the enforcement notices in respect of the Appellant's use of the barn dwelling for residential purposes are allowed, six months after the date of the determination of the last of the appeals.

The application

1. By an application received by the Tribunal on 1 November 2024, the Appellant appeals the prohibition order dated 2 October 2024 made by the Respondent under sections 20 and 21 of the Housing Act 2004 ("the 2004 Act") in respect of the property known as the barn dwelling at Point to Point Farm, Mollington, Banbury, OX17 1QE.

Parties and background

2. The background to this appeal is set out in the following bundles, which the representatives confirmed contained the relevant documents:

- (1) The Appellant's 101-page hearing bundle.
 - (2) The Respondent's 151-page hearing bundle.
 - (3) The Respondent's brief reply of 3 pages.
3. The Appellant is the freehold owner of Point to Point Farm. The property that is the subject of the prohibition order is a modest part of an agricultural barn located on the farm. Before it was converted into residential use, the barn was used as a tack room with a farm office and storage space above. What appears from the outside to be an agricultural barn now houses a two storey internally constructed residential dwelling with three bedrooms and a living room on the upper floor and a kitchen/diner and cloakroom on the ground floor. The tribunal inspected the dwelling before the hearing commenced and will refer to it herein as the "barn dwelling".
 4. In 2019, the Appellant's daughter, Heidi Jeffries, and her three children found themselves having to leave their family home due to a relationship breakdown. The Appellant suggested that Ms Jeffries and her children move into the barn dwelling and they did so.
 5. On 19 September 2024, the Respondent's David Barnicoat visited Point to Point Farm and identified a number of hazards within the barn dwelling, including those relating to fire safety. On 2 October 2024, Mr Barnicoat served on the Appellant the prohibition order that is now subject to this appeal. The order prohibits use of the dwelling for residential purposes. As this appeal has been brought, the prohibition order is not currently operative and Ms Jeffries continues to occupy the barn dwelling with her children.

The hearing

6. Following an inspection of the barn dwelling which was attended by the parties, the hearing commenced in Banbury. The Appellant was represented by Mr Craig and the Respondent was represented by Mr Jones. We heard oral evidence for the Respondent from Mr Barnicoat, an Environmental Health Manager and from Mr North, a Housing Grants and Standards Manager. They confirmed the content of their witness statements, both dated 15 May 2025, and were cross-examined by Mr Craig. We also heard oral evidence from the Appellant and from Ms Jeffries. Though neither had prepared a formal witness statement, with the agreement of Mr Jones both gave oral evidence in chief and were cross-examined.
7. There was insufficient time to hear submissions from either party before the conclusion of the hearing and accordingly both parties agreed to and

did file helpful sequential written submissions, for which we are grateful and which we have considered in detail.

The issues

8. The issues between the parties had been narrowed considerably by the time the hearing commenced and were narrowed still further in their respective closing submissions. The Appellant accepted at the outset of the hearing that hazards existed at the property and that some form of enforcement action was appropriate. He asserts that an improvement notice was the most appropriate form of enforcement action.
9. The Respondent agreed that the hazards that justified the service of a prohibition order were those relating to fire safety. The Respondent also accepts that the revised “schedule 2” to the prohibition order submitted by the parties at the outset of the hearing contains a list of works that, if carried out, would remedy the hazards. The Appellant confirmed that he is willing to carry out these works.
10. No issues are raised about the Respondent’s compliance with the relevant requirements for the content and service of the prohibition order set out in sections 20, 22 and 27 and schedule 2 of the 2004 Act, nor its compliance with the other statutory requirements relating to prohibition orders.
11. Accordingly, the sole issue in dispute is whether or not the best course of action in relation to the hazards identified by the Respondent was to make a prohibition order or whether the Respondent should instead have served an improvement notice under section 11 of the 2004 Act requiring the Appellant to carry out the works that the Respondent agrees will remedy the hazards.
12. Having heard the evidence and submissions from the parties and considered all of the documents provided, the tribunal makes determinations on the various issues as follows.

Legal framework

13. The relevant legal framework is contained in Part 1 of the 2004 Act.
14. By section 5 of the 2004 Act, where category 1 hazards exist on any residential premises, the local authority must take the appropriate enforcement action in relation to the hazard. Appropriate enforcement action means one of the list of actions set out in section 5(2) of the 2004 Act. The list includes the service of an improvement notice under section 11 of the 2004 Act requiring remedial action to be taken and also the service of a prohibition order under section 20 of the 2004 Act imposing prohibitions on the use of the premises.

15. If two or more courses of action are available to the local authority, they must take the course of action which they consider to be the most appropriate of those available to them.
16. By section 9 of the 2004 Act, in deciding what action to take, the local authority must have regard to any guidance given by the appropriate national authority.
17. By section 20(6) of the 2004 Act, the operation of a prohibition order may be suspended in accordance with section 23 of the 2004 Act.
18. By section 25 of the 2004 Act, the local authority must revoke a prohibition order if at any time it is satisfied that the hazard in respect of which the order was made does not exist on the residential premises specified in the order.
19. Paragraph 7 of schedule 2 of the 2004 Act grants a statutory right of appeal against a prohibition order. By paragraph 8 of schedule 2, such an appeal may be made on the ground that the service of an improvement notice (or another form of enforcement action) is the best course of action in relation to the hazard.
20. By paragraph 11 of schedule 2 of the 2004 Act, the appeal is to be by way of a re-hearing but may be determined having regard to matters of which the local authority were unaware. The tribunal may by order confirm, quash or vary the prohibition order. By paragraph 12 of schedule 2 of the 2004 Act, the tribunal must have regard to the guidance given to the local authority under section 9 of the 2004 Act.
21. The guidance referred to in section 9 of the 2004 Act is the Housing Health and Safety Rating System, Enforcement Guidance of February 2006.

Findings

22. Much of the factual background to this appeal is not in dispute. Having heard the evidence for both parties, we make the following findings.
23. Point to Point Farm is a working farm. The Appellant lives on the farm in a house that he constructed himself. The barn in which the dwelling is located is adjacent to the house and also to a parking/courtyard area to the front. Before it was converted, the barn was used as a tack room with a downstairs cloakroom and a farm office above.
24. The barn dwelling is occupied by Ms Jeffries and her three children. There was no challenge to Ms Jeffries' evidence, and we accept, that her children are all of school age and that her two older children are studying

for their GCSEs and A Levels. The younger child attends the local primary school. The older two children go to school in Warwick.

25. Ms Jeffries said, and we find, that her relationship with the father of her children broke down in 2019 and she had to leave her family home. She approached her own local authority for assistance with finding accommodation but they could not assist her. She did not have enough money to pay for a deposit or rent in advance in the private rented sector. The Appellant suggested to Ms Jeffries that she move into the barn and carried out works to convert it into a habitable dwelling. This work cost the Appellant around £10,000.
26. We have no doubt that the barn dwelling is a comfortable and convenient home for Ms Jeffries and that she and her children are happy living there. They enjoy being on the farm and close to the Appellant. Ms Jeffries confirmed in her oral evidence that she now does not work on the farm.
27. Though Ms Jeffries asserted that she would have to move into a caravan if the prohibition order were to be upheld, she agreed that she has not attempted to find alternative accommodation, either through the Respondent's housing services or in the private rented sector since moving into the barn dwelling. Ms Jeffries accepted in her oral evidence that she could apply to the Respondent for housing assistance if she could not live in the barn dwelling. Though we accept that this would be difficult as it would potentially (though not necessarily) involve disruption to her children's education at an important time, as well as a certain amount of inconvenience because she may be unable to choose where she was housed and may have to travel further to work and to see the Appellant, we do not accept that Ms Jeffries' only option would be to move into a caravan with her children if the prohibition order were upheld.
28. On 17 September 2024, the Respondent's Mr Barnicoat inspected the barn dwelling together with officers from Oxfordshire Fire and Rescue Service ("OFRS"). On the same day, OFRS served a prohibition notice on the Appellant preventing the use of the barn as sleeping accommodation. The notice raised the issues of the lack of a suitable fire alarm and detection system and a protected escape route from the upper floor.
29. On 19 September 2024, Mr Barnicoat carried out a further inspection and identified the following hazards:
 - (1) Damp and mould growth – category 2.
 - (2) Excess cold – category 1.
 - (3) Excess heat – category 1.

- (4) Crowding and space – category 2.
 - (5) Lighting – category 2.
 - (6) Fire - category 1.
30. Mr Barnicoat agreed in the course of his oral evidence that the hazards that led him to conclude that a prohibition order was the only appropriate course of action related to the risk of fire in the barn dwelling. He agreed that the other hazards identified were of less concern to him.
31. On 2 October 2024 the Respondent issued the prohibition order that is the subject of this appeal. Mr Barnicoat’s unchallenged and straightforward evidence, which was supported by an email dated 25 September 2024 sent to him by Alan McFadyen, a senior fire safety inspector and which evidence we accept, was that before issuing the prohibition order he discussed the fire safety issues at the barn dwelling with OFRS who raised various concerns about the wooden framed building, the lack of fire doors, and the lack of information about the fire resisting capabilities of the materials used to convert the barn into residential use. Mr McFadyen agreed in his email that the residential part of the barn was a matter for Mr Barnicoat to deal with in his role as Environmental Health Officer, but asked him to take into account his recommendation that there should be a prohibition on sleeping in the property.
32. After OFRS served the prohibition notice, the Appellant carried out various fire safety works to the barn. The works included the installation of a fire alarm system linked to the Appellant’s home, a means of escape via the first floor balcony, and emergency lighting. He also carried out other works to address the other hazards identified by the Respondent, including the installation of electric heaters.
33. On 13 November 2024, OFRS revoked the prohibition notice as it was satisfied that the Appellant had reduced the immediate serious risk to people, however it made it clear in its covering letter that the revocation of the notice did not mean that the premises were safe in case of fire and highlighted that less immediate safety matters may remain. OFRS also informed the Appellant in its letter of 13 November 2024 that the dwelling within the barn was being dealt with separately by the Respondent and that matters of concern should be directed to the appropriate housing officer.
34. Mr Barnicoat agreed that OFRS have had no further involvement with the barn dwelling since the notice was revoked, but confirmed, and we accept his clear and straightforward evidence, that this is because the responsibility for dealing with the hazards in the residential part of the

barn is a matter for Mr Barnicoat in fulfilling his duties under the 2004 Act.

35. Notwithstanding the revocation of the OFRS notice, and the works that had been taken by the Appellant described above, Mr Barnicoat was not satisfied that the steps taken had adequately addressed the hazards he had identified. He remained of this view at the hearing. In particular, he told the tribunal of his concerns about the lack of internal doors in the barn dwelling, the lack of a suitable fire escape (notwithstanding the measures already taken by the Appellant) and the lack of clear information about the fire resisting properties of the materials that have been used to construct the barn dwelling. For this reason, the Respondent has not agreed to revoke the prohibition order.
36. As to the materials used to construct the barn dwelling, it was clear from our inspection that the timber joists and partitions in the dwelling are exposed, as is the wooden flooring above the ceiling on the ground floor. There were no internal doors save for the doors to the bathrooms. This issue was explored in detail in the course of Mr Barnicoat's oral evidence. He said that he would expect the timber elements of the structure to be protected by a fire-resistant plasterboard and skim in order to slow the spread of flames should a fire occur. He had not been provided with any information about the fire-resistant properties of the timber that had been used to convert the barn dwelling and it was not obvious, from his own assessment, that the timber was adequately fire-resistant. In light of the potential harm that might result from a fire, he said that he had taken a precautionary approach and had assumed that the timber did not have sufficient fire-resistant properties.
37. In his oral evidence, the Appellant said that he had carried out the works to convert the barn into a dwelling with the help of a carpenter friend. When asked about the materials he used he said that he had purchased "18mm low grade fire risk floor boarding" from a local builder's merchants in Banbury and that this was the same material as he had used in the construction of his own home. Though he asserted that he would have given his accountant invoices relating to his purchase of this product, he had not produced the invoices to the Respondent or the tribunal. He could not be sure what "low grade" meant but thought, as a lay person, that it meant that the material was a low fire risk. He did not otherwise know about its fire-resisting properties nor had he asked a professional person for advice about this. Ms Jeffries agreed that she did not know very many details about the materials used in the conversion of the barn dwelling, though she said that she was aware that they were fire-resistant.
38. Having considered the evidence of all of the witnesses, and notwithstanding Mr Craig's submission that there is no evidence that the materials used in the construction of the barn dwelling *are* combustible materials, we are not satisfied that the Appellant has established that the

timber and other materials used by him to convert the barn into residential accommodation are adequately fire-resistant, at least not without the protection of plasterboard and skim, which was not present. We found the evidence of both the Appellant and Ms Jeffries on this point to be extremely vague. The Appellant has not produced the invoices for the product that he purchased nor any specification relating to its fire-resistant properties, though these are in our judgment documents that he would reasonably have been able to obtain from his accountant and from the supplier of the materials. Though both the Appellant and Ms Jeffries asserted that the Appellant constructed the barn dwelling using the same materials as he had used to construct his own home on the farm, this does not in our judgment take the matter much further as there is no evidence about the properties of those materials and, as Ms Jeffries agreed, there was at the time no requirement for the construction of the Appellant's home to have been signed off by the local authority's building control team and nor did the project require planning permission. Further, as Ms Jeffries accepted in cross-examination, there are a number of differences between the two dwellings that give rise to different fire risks – for example, the Appellant's house is a single storey dwelling, and apart from the open plan kitchen/diner, there are internal doors to the rooms in the Appellant's home. In the circumstances, we consider that Mr Barnicoat's precautionary approach is the correct one and that it is most likely that the exposed timber in the property is not adequately protected by fire-resistant material or is itself fire-resistant. The risk arising from the exposed timber is in our judgment likely to be further exacerbated by the lack of internal doors in the barn dwelling and its position as a dwelling built inside another structure.

39. We are satisfied, having considered Mr Barnicoat's evidence, that he has properly considered the impact of the works that have been carried out by the Appellant already (i.e. the installation of the fire alarm system and emergency lighting etc.) but that he properly remains of the view that there remain matters of serious concern in relation to the safety of the property in the case of a fire that are as yet unresolved. There was no challenge to Mr Barnicoat's revised hazard assessment in relation to fire which was carried out after the works referred to above were completed and which still concludes that a category 1 hazard is present in the barn dwelling. We accept Mr Barnicoat's unchallenged assessment of the continuing fire hazard within the barn dwelling notwithstanding the works that have been carried out.
40. As set out above, at the outset of the hearing the parties submitted a revised "schedule 2" to the prohibition order which contained a list of works that would remedy the hazards identified by the Respondent, and which the Appellant is willing to carry out. It was not suggested to Mr Barnicoat in the course of cross-examination that any of these works would be unreasonable or unnecessary, and we find that the revised schedule 2 contains a reasonable set of works which will if completed remedy the hazards identified by Mr Barnicoat.

41. As regards the feasibility of carrying out those works, the Appellant accepts that there are planning issues relating to the barn dwelling. On 25 November 2024 the Appellant applied for a certificate of lawful use in relation to the use of the barn as a dwelling. The resolution of the lawful use application/appeal has been delayed and at the date of the hearing the parties did not know whether the Appellant's application had been successful. Further, the Appellant is involved in an outstanding appeal of a planning enforcement notice in respect of the use of the barn. The tribunal was told that the lawful use inquiry was to be heard on 21 October 2025 and the appeal of the enforcement notice is to be dealt with on 20 January 2026.
42. The Appellant is awaiting the outcome of these applications/appeals before completing the works that the Respondent says should be carried out to resolve the fire safety issues. We accept that Mr Barnicoat advised the Appellant to wait before completing the works. Both parties agree that this is pragmatic – there is little point carrying out further work at the barn dwelling if the result of the application/appeal is that it cannot be occupied as a dwelling under the applicable planning regimes.
43. Further, the parties agree and we find that planning permission will be required in order to carry out some of the works that the Respondent proposes, in particular in respect of the work to create an opening in the rear of the barn in order to install a fire escape.

Analysis

44. In asserting that the service of an improvement notice would have been the most appropriate course of action, Mr Craig made three central points in his written closing submissions. First, he asserts that the service of a prohibition order was not proportionate given the wishes of the Appellant and Ms Jeffries and their rights to respect for their home and family life. Secondly, he says that the revocation of the prohibition notice issued by OFRS and the fact that OFRS has had no further involvement with the barn is indicative that the Respondent's prohibition order is disproportionate. He asserts that OFRS must have been satisfied that the risk to the occupiers of the barn dwelling was not sufficiently serious once the Appellant had installed the fire alarm and emergency lighting and the notice was accordingly revoked. Thirdly, he says that the risk to the occupiers of the barn dwelling is reasonable and does not justify the imposition of a prohibition order.
45. We do not agree that the revocation of the OFRS prohibition notice nor their lack of involvement with the barn since 2024 is indicative that the fire risk in the barn dwelling does not justify the service of a prohibition order as Mr Craig asserts. Though we take into account the expertise that OFRS undoubtedly holds in relation to fire safety, the key point in our judgment is that OFRS is not the responsible authority in respect of the dwelling house – that is a matter for the Respondent. That this is a view

that is shared by OFRS is clear from the email dated 25 September 2024 from OFRS to which we have referred above and also from OFRS's revocation of the prohibition notice in which OFRS stated that the barn dwelling would be dealt with separately by the Respondent.

46. Nothing in the evidence in our judgment suggests that OFRS is satisfied with the fire safety matters at the property – indeed, OFRS's letter of 13 November 2024, referred to above, states that though the immediate risk from fire is reduced as a result of the works carried out by the Appellant, the premises are not necessarily safe in case of fire. The issues raised in Mr McFadyen's email of 24 September 2024 relating to the construction and integrity of the dwelling and the lack of fire doors were not addressed by the Appellant before the prohibition notice was revoked and indeed remain unaddressed.
47. We have carefully considered whether the service of an improvement notice would have been the most appropriate course of action in light of Mr Craig's submissions. Though we take into account the fact that the dwelling provides a home for Ms Jeffries and her children, we are not satisfied that the risk to the occupants of the property from fire is reasonable or acceptable as he suggests. We have accepted Mr Barnicoat's unchallenged evidence that a category 1 hazard relating to fire still exists in the dwelling. We are also not satisfied, for the reasons set out above, that Ms Jeffries and her children would not be able to access alternative accommodation if the prohibition order were to be upheld.
48. Further, we have considered the guidance issued under section 9 of the 2004 Act, as we are expressly required to do. Mr Craig did not rely on any part of the guidance in his submissions, but as Mr Jones pointed out for the Respondent, the guidance states that a prohibition order may be made where remedial action is considered unreasonable or impractical. In this case, though all the parties agree that the works set out in the revised "schedule 2" to the prohibition order can and should be carried out, the practical position is that it is not currently reasonable or realistic to do so. There remains an unresolved planning issue about whether the property can be occupied at all in the longer term, and much of the work, including the important step of installing a new fire escape, cannot lawfully be completed without the Appellant obtaining further planning permission once the outstanding applications and appeals have been resolved. These are factors which in our judgment lean against the service of an improvement notice being the most appropriate course of action.
49. We also take into account the point that Mr Jones raises about the Respondent's ability to follow up any enforcement action that it takes. As Mr Jones points out, and we accept, the local authority could not sensibly or reasonably use public funds to carry out works that it may specify in an improvement notice in the event of any default in compliance with an

improvement notice because it is as yet unclear whether the dwelling can ever be lawfully occupied from a planning perspective and additional planning permission is required before important elements of the work can be commenced. We also accept that these matters may form the basis of a “reasonable excuse” defence in respect of any failure to comply with an improvement notice. There is in our judgment a real risk that any improvement notice served by the Respondent would not be amenable to further enforcement action (whether by way of prosecution or the imposition of a financial penalty, or otherwise), rendering the notice practically toothless. This is a further factor that in our judgment leans against the service of an improvement notice being the most appropriate course of action.

50. None of these issues arise if a prohibition order is served. The position in that case is in our judgment much more straightforward – the order will operate to protect the occupants of the barn dwelling from the category 1 hazard relating to fire and will continue to do so if the relevant planning appeals and permissions are not resolved in the Appellant’s favour. However, if the planning matters are successfully resolved, the Appellant can carry out the works in the revised schedule 2 and the prohibition order will be revoked.
51. For all these reasons, we are not satisfied that the service of an improvement notice was the most appropriate course of action. We agree for the reasons we have set out above that the best course of action was to serve a prohibition order, as the Respondent did.
52. That said, given that i) the outstanding planning applications/appeals are likely to be resolved one way or another within the next three months; ii) the family have now been in occupation of the barn dwelling for over five years, including the one year in which this appeal has been progressing through the tribunal, and iii) the significant upheaval that we acknowledge will be caused if Ms Jeffries and her children are required to move out of the dwelling only to move back in again if the appeals are successful and the agreed works are carried out, in our judgment the reasonable and proportionate resolution of this appeal is to vary the prohibition order by suspending its operation pending the outcome of the outstanding planning appeals. In our judgment, taking into account the time that will be required to obtain planning permission for the external works required in the revised “schedule 2”, a reasonable period of time to complete the works if the applications/appeals are successful is six months.
53. We accordingly make the following determinations:
 - (1) The best course of action is to serve a prohibition order preventing the use of the barn dwelling for residential purposes.

- (2) The prohibition order dated 2 October 2024 is varied in the following manner:
- (a) To add to schedule 2 of the order the additional works described in paragraphs 7 and 8 of the revised schedule 2 handed to the tribunal by the parties at the outset of the hearing and enclosed with this decision.
 - (b) To suspend the operation of the prohibition order until:
 - (i) if either the lawful use appeal or the appeal against the enforcement notices in respect of the Appellant's use of the barn dwelling for residential purposes is refused, 28 days after the refusal.
 - (ii) if both the lawful use appeal and the appeal against the enforcement notices in respect of the Appellant's use of the barn dwelling for residential purposes are allowed, six months after the date of the determination of the last of the appeals.

Name: First-tier Tribunal Judge
Neave

Date: 27 October 2025

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such

reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).