

Senior Enforcement Officer Heather Nesbitt Proof of Evidence

Meadow Forge, Hillside Barn, Cadeleigh, Tiverton, Devon EX16 8RZ

Town and Country Planning Act 1990 (as amended)

Meadow Forge, Hillside Barn, Cadeleigh, Tiverton, Devon EX16 8RZ

Author: Heather Nesbitt

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PLANNING INSPECTORATE REFERENCE:

APP/Y1138/X/26/3378579

Mid Devon District Council Reference:

25/01406/CLU

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1. Introduction

- 1.1 I am a Senior Enforcement Officer at Mid Devon District Council.
- 1.2 I have worked in planning enforcement as a consultant and Senior Enforcement Officer for the public sector across the UK. I have over nineteen years' experience working within the public sector and I have extensive experience of enforcement issues arising from breaches of planning control in both urban and rural settings.
- 1.3 I am aware that my duty is to the Inquiry, irrespective of by whom I am instructed. The evidence which I have prepared and provided for this appeal, PINS reference: APP/Y1138/X/26/3378579, in this Proof of Evidence is true and I confirm that the opinions expressed are my true and professional opinions. I have visited the appeal site from the onset of my investigation into the alleged breach with my first visit being 12th November 2024 and my last visit being on the 13th August 2025 to carry out a compliance check for two BCN's that were served. These BCN's relate directly to the CLU submitted and this appeal.

Certificate of Lawfulness (25/01406/CLU)

- 1.4 This proof of evidence relates to the appeal by Dean Aggett Mohan against the refusal of a Certificate of Lawfulness, 25/01406/CLU, by Mid Devon District Council on the 29th January 2026. This relates to the appellants submission that the Land known as Meadow Forge had been used as a mixed use of a blacksmiths forge and for residential purposes, including the use of the Land outside of the building for the storage of materials, goods, products, chattels, scrap, vehicles and waste materials contrary to Conditions 2 and 5 imposed on Planning Permission 09/01587/FULL and the mixed use described above has been continuous in excess of 10 years.

The LPA refused the CLU, 25/01406/CLU on the following grounds:

'In the opinion of the Local Planning Authority, the submitted evidence base is not considered to be sufficiently clear and unambiguous to demonstrate, on the balance of probability, that the alleged use of the building for a mixed use comprising a Blacksmith Forge and for residential purposes and the external storage of materials, goods, products chattels, scrap, vehicles and waste materials contrary to conditions 2 and 5 of planning permission 09/01587/FULL has continued for a period in excess of 10 years'.

This matter was dealt with by the Principal Planner for the area in which Meadow Forge sits, I was not the determining officer for this matter. However, given there was enforcement matters relating directly to CLU submission, I was consulted on the

submission providing evidence from the enforcement case files to the determining officer.

2. Appeal Site and Surroundings

- 2.1 The appeal site is located in the countryside between the villages of Bickleigh and Cadeleigh. The site area extends to approximately 1500sqm. Within it, there is an existing building located roughly centrally with a footprint of approximately 255sqm. There is a hardstanding area between the front of the building and the access lane. The access is via a shared private lane, also a public footpath, which adjoins the public highway to the east of the site. The building appears to have been known as Meadow Forge and Hillside Barn.

3. Planning history for appeal site

- 3.1 The application which is the subject of this appeal was refused on the 29th January 2026 under delegated powers with the reason for refusing to issue a certificate being that listed within Appendices A of this proof.
- 3.2 There has been various previous planning applications, enquiries and relevant enforcement history for this site as set out within the case officer report and listed both in the Statement of Case and Statement of Common Ground.
- 3.3 The approved planning permission 09/01587/FULL is pivotal to this appeal and conditions 2 and 5 being the two main conditions which were subject to the Certificate of Lawfulness. The 2009 planning permission was approved for the change of use from an agricultural building to a blacksmith's forge on the 14th December 2009. The conditions imposed as part of that approval and subject to the CLU were

Condition 2

'The blacksmith's forge hereby permitted shall be used only as a blacksmith's forge, and for no other purpose (including any purpose in Classes 3 B1 or B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended)), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: In the interest of the amenity of the area or and to restrict the traffic generation from the approved use to that which is acceptable on the local highway network'.

Condition 5

'No materials, goods, products, chattels, scrap or waste materials shall be store outside of any building, at any time.

Reason: To safeguard the character and amenities of the area'.

3.4 For a Certificate of lawfulness application to be successful, the appellant needs to be able to demonstrate through factual evidence that on the balance of probability the use or uses have been carried out continuously for 10 (ten) years. If that is proven, then a certificate of existing lawful use is issued by the LPA. In this matter, the evidence submitted by the appellant was not considered to be sufficiently clear and was ambiguous. It also was contradictory to the council's own evidence on its investigation files and that of evidence given by the appellant during those investigations on numerous occasions.

4. CLU APPLICATION AND LPA DETERMINATION

4.1 The appellant submitted a CLU to establish the mixed (composite) use of a building, Meadow Forge, as a blacksmiths forge and for residential purposes. This included the use of the land outside the building for the storage of materials, goods, products, chattels, scrap, vehicles and waste materials contrary to Conditions 2 and 5 imposed on the approved planning permission 09/01587/FULL.

4.2 Certificates of Lawful Use or Development are treated differently than planning applications. They are not assessed against planning policy but on the weight of evidence the applicant produces in accordance with Section 191 of the Town and Country Planning Act 1990 (as amended).

4.3 The burden of proof lies with the applicant. As such, the CLU subject, to this appeal, the same burden of proof was applied. It was incumbent upon the appellant to provide clear, concise, unambiguous and provable evidence to support the CLU application. It was also incumbent upon the LPA to check if they held any counter evidence. The Planning practice Guidance states;

"In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicants version of events less than probable, there is no good reason to refuse the application, provided the applicants evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."

5. RELEVANT LEGISLATION AND SUPREME COURT RULINGS

5.0 Section 191 of the Town and Country Planning Act 1990 (as amended) is quite clear in relation to Enforcement matters as follows;

"(2) For the purposes of this Act uses and operations are lawful at any time if-
(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

(3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if-

(a) the time for taking enforcement action in respect of the failure has then expired; and

(b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

3A In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if-

(a) the time for applying for an order under section 171BA(1)(a “planning enforcement order”) in relation to the matter has not expired,

(b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or

(c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.

5.1 Section 171B of the Town and Country Planning Act 1990 (as amended) deals with the relevant time limits for immunity against such breaches. Whilst Section 171B(2)(a) of the Act stipulates that where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling no enforcement action may be taken after the end of the period of ten (10) years beginning on the date of the breach.

5.2 Section 171B(3) of the same act states ***“In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.”***

5.3 There are several rulings surrounding the matter of concealment. In this matter the appellant as part of the planning enforcement investigation insisted he did not reside in the building. The leading authority is a well-known Supreme Court Ruling, *Secretary of State for Communities and Local Government v Welwyn Hatfield Borough Council* [2011] UKSC 15, used by planning enforcement officers during such investigations. In this matter the Supreme Court held that a person cannot rely on statutory immunity where the breach of planning control has been deliberately concealed from the planning authority.

5.4 In this matter the Court emphasised:

- The planning system depends upon honest engagement with the LPA.
- A person should not be permitted to profit from his or her own wrong.
- Where there has been positive deception or deliberate concealment, public policy may prevent reliance on the ordinary limitation periods in section 171B of the 1990 Act.

5.5 These principles have also been applied in subsequent cases concerning concealed breaches of planning control, including *R (Fidler) v Secretary of State for Communities* [2011] EWCA Civ 1159 and *Local Government in Jackson v Secretary of State for Communities and Local Government* [2015] EWHC 20 (Admin)¹.

5.6 In *Jackson v Secretary of State for Communities and Local Government* [2015] EWHC 20 (Admin)², the appellant suggested that sections 171BA to 171BC of the Town and Country Planning Act 1990 (as amended) replaced the ruling of the Supreme Court in *Secretary of State for Communities and Local Government v Welwyn Hatfield Borough Council* [2011]. The Secretary of State argued against the appellant stating that those sections merely widened the powers available to the authorities.

5.7 The Judge in the Jackson case favoured the arguments from the Secretary of State that sections 171BA to 171BC merely widened the powers available to authorities. He said that "61...*The language used by Parliament (including the decision to insert sections 171BA to 171BC alongside section 171B), is not sufficient to indicate an intention to alter the scope of section 171B as interpreted in Welwyn. In particular, I cannot detect any intention to enlarge the scope of section 171B and then to make that provision subject to the PEO code, so that concealment could only be dealt with under that code..*" and "68...*I conclude that the Welwyn principle has not been replaced...*".

¹ In *Jackson v Secretary of State for Communities and Local Government*, the High Court ruled that the "Welwyn principle" of planning law remains valid. It held that statutory changes (Planning Enforcement Orders) did not replace the rule preventing landowners from claiming time-immunity if they deliberately conceal unlawful developments.

² In *Jackson v Secretary of State for Communities and Local Government*, the High Court ruled that the "Welwyn principle" of planning law remains valid. It held that statutory changes (Planning Enforcement Orders) did not replace the rule preventing landowners from claiming time-immunity if they deliberately conceal unlawful developments.

6. ENFORCEMENT MATTERS (CONDITION 2)

- 6.1. The site known as Meadow Forge, Hillside Barn, Cadeleigh, Tiverton, Devon EX16 8RZ, first came to the Council's attention back in 2007 when there was a breach of planning control for an unauthorised change of use from agricultural building to blacksmiths shop. The investigating planning enforcement officers at the time were Glenn Crocker and John Clarke who are now also acting as agents for the appellant for his CLU and this appeal and subsequent Public Inquiry. Both Mr Crocker and Mr Clarke left Mid Devon District Council some years ago and formed XL Planning, the agents the appellant is using. The breach of planning control they investigated in 2007 resulted in a planning application being submitted, 09/01587/FULL, which was subsequently approved for a change of use from an agricultural building to a blacksmiths forge. I produce a copy of the decision notice for planning permission 09/01587/FULL as exhibit **HRN/01** together with the plans that accompanied the decision as exhibit **HRN/02 and HRN/03**.
- 6.2 In 2010, a further report was received by the council's planning enforcement team stating there was a mixed use that being a blacksmiths forge and human habitation. This case was registered as case 10/00037/UCU and a Planning Contravention notice was served upon the appellant. The appellant returned the PCN signed on the 14 May 2010 stating on the Planning Contravention Notice that he resided at an address known as Rose Cottage and that he had resided there for six (6) months. He also stated that the building was only used as a blacksmiths forge. I produce a copy of this completed PCN as exhibit **HRN/04**.
- 6.3 On 11 May 2011, former planning enforcement officer Mr Crocker, now of XL planning, put a note on the investigation file stating that he had carried out a site visit and there was no evidence of the forge being used as living accommodation and no further action was required. I produce a copy of this file note as exhibit **HRN/05**. This case was then closed on 17 May 2011 by Mr Crocker and the reason given was "no breach found". I produce a screen shot of the council's system showing the case closure and reason as exhibit **HRN/06**.
- 6.4 On 3 March 2013, the council received a further report which was logged as case 13/00042/UCU. This report was that there was a mixed use of the building of blacksmiths forge and human habitation. The property was visited by former planning

enforcement officers John Clarke (appellants agent) and Reg Willings. The notes on the councils' investigation file state that the appellant had informed the officers he was not residing at the property and only provided welfare space for employees. This case was closed on 8 April 2015 and the reason given was no breach found. I produce a copy of the closure note, from the councils' systems, as exhibit **HRN/07**.

- 6.5 On 6 March 2020, the council received a report that the property had been converted into a house. This case was registered as case number 20/00223/RURAL. A councils council tax officer visited the site in October 2021 and supplied the planning enforcement officers with photographs. I produce these photographs as exhibits **HRN/08 to HRN/11**. The officer also took a photograph of the first-floor area being constructed and not yet complete. I produce this photograph as exhibit **HRN/12**.
- 6.6 On 19 January 2022, a Planning Contravention Notice, under Section 171C of the Town and Country Planning Act 1990 (as amended), was served upon Dean Aggett. Penalties for offences connected with not complying with the requirements of a PCN, are set out in Section 171D of the Town and County Planning Act 1990 (as amended). Not replying can incur (following prosecution) fines of up to £1,000.00; and knowingly or recklessly providing misinformation when replying to a PCN can incur (following prosecution) a fine of up to £5,000.00. I produce a copy of the PCN and cover letter served as exhibits **HRN/13 and HRN/14**.
- 6.7 On 9 February 2022, Dean Aggett returned the completed Planning Contravention Notice together with a cover letter. I produce the cover letter and completed PCN from Dean Aggett as exhibit **HRN/15**.
- 6.8 In the opening paragraph of Dean Aggett's letter he states that ***"Primarily, there is no residential use of the building, the shepherds hut or the land"***. He went on to further state at the end of paragraph one of his letter the following ***"I believe that my use of my land and building for my work is in compliance with the planning permissions, both those granted specifically or by other legislation, and that the allegations are false"***.
- 6.9 In response to question 3.8 of the Planning Contravention Notice which state, ***"If the barn has and is currently used for 'residential use', then please provide the precise date you first used this barn for residential purposes"*** Dean Aggett stated ***"There is no residential use"***.
- 6.10 In response to question 3.9 of the Planning Contravention Notice which states, ***"Explain how you started to convert the barn into residential use"*** Dean Aggett stated ***"There is no residential use"***.

- 6.11 In response to question 4.0 of the Planning Contravention Notice which states, *"Please list all the facilities which have been installed and are now in place within the barn, which is solely connected and used for residential use, kitchen, bathroom, bedroom(s) (how many), toilet, cooker, furniture (describe what type), windows, carpet(s), curtains/blinds, heating system"* Dean Aggett stated, ***"The answer to all is none"***.
- 6.12 In response to question 4.0 of the Planning Contravention Notice which states, *"Have you installed window(s) within the barn? If the answer is 'YES' then please state how many and on what elevations and levels"* Dean Aggett stated, ***"There have always been windows in the workshop, on two elevations providing working light. Two new windows have been installed to the design room and workshop at first floor level"***.
- 6.13 In response to question 4.5 of the Planning Contravention Notice which states, *"Have you extended the barn, to provide additional accommodation?"*, Dean Aggett states, ***"No"***.
- 6.14 In response to question 4.7 of the Planning Contravention Notice which states, *"Please explain what other parts of the barn, (internally and externally) you have and, are currently converting into residential use"*. Dean Aggett states, ***"None"***.
- 6.15 In response to question 4.9 of the Planning Contravention Notice which states, *"Please give the precise date on how long this barn has been used for residential purposes"* Dean Aggett stated, ***"It has not been used for residential purposes"***.
- 6.16 In response to question 5.5 of the Planning Contravention Notice which states, *"How many levels/floors are there within the residential use of the barn?"* Dean Aggett stated, ***"There is no residential use of the barn"***.
- 6.17 In response to question 5.6 of the Planning Contravention Notice which states, *"Is the conversion of the barn into 'residential use' completed?"* Dean Aggett stated, ***"There is no residential use of the barn"***.
- 6.18 Dean Aggett continued to state there was no residential use of the barn in his responses to questions 5.7, 5.8, 6.1, 6.4 and 6.7. It is clear from Dean Aggett's responses and covering letter he understood what was being asked of him and his responses and correspondence were clear and precise.
- 6.19 No further contact was made with Dean Aggett until the 18 August 2023 when an email was sent to him by former enforcement officer Matthew Barks requesting a site visit. There is no record of a response to this request. I produce the letter as exhibit HRN/16.

- 6.20 On 12 November 2024 I attended the barn in the company of the police and the planning enforcement assistant Stella Radley. A man, who I now know to be Dean Aggett eventually approached me at the barn doors wearing a dressing gown and slippers. I could also see a woman at the property but do not know her name and she left. I explained to Dean Aggett that I was there to carry out a site visit at the property and explained I was investigating older cases to bring about resolution. Dean Aggett was very defensive and stated he did not live at the property and that there was no breach of planning. I advised Dean Aggett that the quickest way to deal with matters was to carry out the visit and that I was happy to wait or return however, if entry was refused, I would have no option than to apply to the Magistrates Court for a warrant of entry.
- 6.21 Dean Aggett stated I had to give 24 hours' notice in planning law which led me to believe he had a good grasp on the legislation. I explained that I would only be required to give 24hrs notice if I was entering a residential premises and he had already advised me that this was not one. I spoke with Dean Aggett for around 20 minutes, and he eventually stated he would let me in to look around the forge after he had gotten changed.
- 6.22 Upon entering the forge, I could see there was lots of storage and the property seemed to not being used as a forge as such. As I made my way through to the rear of the barn, I could see loose bricks built up into a makeshift wall with a domestic internal window and what appeared to be some makeshift first floor addition in a mock Tudor design. I produce photographs of this as exhibits **HRN/17 to HRN/21**. Beyond this I could see what would have been the forge area which did not look like it had been used for some time. I produce a photograph of this area as exhibit **HRN/22**.
- 6.23 Dean Aggett showed me through a door into a kitchen area which had a cooker, fridge, dining table and other items associated with a domestic kitchen. This area was also in a state of disarray and Dean Aggett again advised it was a breakout area for any staff who may be working at the forge. Beyond the kitchen was a utility room and a set of stairs leading to the first-floor area. I produce photographs of this area as exhibits **HRN/23 to HRN/32**.
- 6.24 I climbed the stairs which were rickety to the first floor. Once on the first floor I entered a room that was a sitting room with an open fire, a dining table, sofa and other items you would expect to see in a residential sitting room. I produce photographs of this area as exhibits **HRN/33 to HRN/40**. There was also a fully functioning residential bathroom on the first floor which included a sink, bath and toilet. I produce photographs of this area as exhibits **HRN/41 to HRN/43**.

- 6.25 I moved into another room and found that there was a bedroom. Within that room was a bed, clothes, chest of drawers and other items associated with a residential bedroom. I produce photographs of that room as exhibits **HRN/44 to HRN/51**.
- 6.26 In other rooms I saw an office and a workshop which Dean Aggett described as his drawing room for plans. There were several items scattered everywhere which made moving around quite difficult. Most of these items were not associated with what I would perceive as a blacksmiths forge including a motorbike. I produce photographs of these areas as exhibits **HRN/52 to HRN/76**. There was also an area at first floor level that Dean Aggett said to be careful of as there was a drop straight down a staircase and many items stored. Among these were several items associated with residential. These included bicycles, residential doors and windows, cat litter boxes, kettles. I could not go beyond a certain point to see how far back this storage went as it was far too dangerous to do so, and the lighting was poor. I produce photographs of this area as exhibits **HRN/77 to HRN/93**.
- 6.27 Outside the barn I continued to have a conversation with Dean Aggett. I advised him there was a breach of condition relating to the change of use of part of the barn to residential. Dean Aggett continued to state that the use was not permanent and that he lived elsewhere. I advised Dean Aggett of his planning options and that he should seek expert planning advice on the matter. Dean Aggett stated he would not be changing anything as he felt he was not in breach of the planning permission of 2009.
- 6.28 On 27 March 2025, a land registry search was carried out showing that Dean Aggett was still the owner of the barn. I produce a copy of the register as exhibit **HRN/94**.
- 6.29 On 28 March 2025, a Breach of Condition Notice was hand delivered to the barn and placed in the letter box. The notice was in relation to Condition 2 of the planning permission 09/01587/FULL which states, *"The blacksmith's forge hereby permitted shall be used only as a blacksmith's forge, and for no other purpose (including any purpose in Classes B1 and B8 of the schedule to The Town and Country Planning (use classes) Order 1987 (as amended)), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification."* The BCN required several things to be carried out to comply with the notice and that the notice should be complied by no later than 3 months from the date it was served. This meant the BCN should have been complied by the 28th June 2025.

6.10 The requirements of the BCN are as follows;

1. *Cease the unauthorised use of the first floor of the blacksmith's forge for residential purposes and;*
 - a. *Permanently remove the kitchen on the ground floor including the domestic kitchen cupboards, sink, cooker, and all white electrical goods and all domestic appliances connected to the kitchen used for residential purposes any other residential items associated with the use or that with residential use in general and any gas piping, electrical installations to facilitate a kitchen area or residential use, and;*
 - b. *Permanently remove the laundry area including but not limited to washing machine, tumble dryer, sink, worktops and;*
 - c. *Permanently remove the residential items from the bedroom including but not limited to the bed, chests of drawers, wardrobes, clothing, and;*
 - d. *Permanently remove the bathroom from the first floor including but not limited to the bath, shower attachments, toilet, sink pipe works and any other residential items associated with such use and;*
 - e. *Permanently remove from the lounge area the sofa, dining table and chairs, cabinets lounge area, all domestic furniture and paraphernalia including domestic facilities used for residential purposes, this includes the removal of the fireplace and fire and;*
 - f. *Permanently remove the office area including the desks, chairs, motorbike and any other residential items and;*
 - g. *Permanently remove all residential items from the first floor including but not limited to bikes, kettles, cat litter boxes, residential doors and any other items associated with residential use and;*
 - h. *Permanently remove all central heating and all piping connected to it and;*
 - i. *Dig up and remove from the land any such services gas, water sewage connections and soakaway systems together with associated cabling, piping and ducting connected to the residential use and;*
 - j. *Revert the use of the building to its lawful use as blacksmith's forge and return the internal layout to accord with the approved drawings under the planning permission and approved drawings and;*
 - k. *Permanently remove all resultant material from the works above from site.*

- 6.11 Dean Aggett was present when the BCN was served. I produce a copy of the BCN together with the BCN plan as exhibits **HRN/95 and HRN/96**. No Judicial review was received for the BCN served.
- 6.12 On 9 May 2025, Dean Aggett attended the reception of the Council offices in Tiverton. He spoke to reception staff as I was not available. I emailed Dean Aggett on the same day. I attach a copy of that email as exhibit **HRN/97**.
- 6.13 On 15th May, a letter was received to the Council offices from Dean Aggett. This letter was regarding a different property. It did not address the BCN that had been served. I produce this letter as exhibit **HRN/98**.
- 6.14 On 26 May 2025, a letter was received to the Council offices from Dean Aggett. This letter made mention a separate notice that has been served upon Dean Aggett and not part of this case. It did make mention that Dean Aggett had plans to submit a Certificate of Lawfulness and stated if not granted he would seek Judicial Review. I produce this letter as exhibit **HRN/99**. On 28 May 2025, I emailed Dean Aggett reference his letter. Whilst the majority of the content of my email relates to a separate notice it does remind Dean Aggett of the risk of prosecution of not complying with the notices served. I produce this email as exhibit **HRN/100**.
- 6.15 On 2 June 2025, and email exchange took place with John Clarke (former planning enforcement officer at MDDC) who was now the agent acting on behalf of Dean Aggett through the company XL Planning. The email stated that he would be submitting a Certificate of lawful use/development on Dean Aggetts behalf and he was checking that it would be accepted. I produce a copy of this email as exhibit **HRN/101**.
- 6.16 On 2 June 2025, I responded to John Clarke of XL Planning and advised that the evidence the Council had on file was in direct conflict with what a CLUED would seek to say. I also advise that if such a CLUED were submitted it would be scrutinised and could possibly raise a potential of further offence. I also advised that Dean Aggett should be engaging a solicitor at this stage. I produce this email as exhibit **HRN/102**.
- 6.17 On 5 June 2025 an email was received from John Clarke of XL Planning who was acting on behalf of Dean Aggett. The email sought to seek clarification that the CLUED to be submitted was not being re-determined. He also sought to the reasons why Dean Aggett required a solicitor. I produce this email as exhibit **HRN/103**.
- 6.18 On 10 June 2025, I responded to John Clarkes email and advised that the BCN's were served after a thorough investigation. I also advised that as matters would be proceeding to court that Dean Aggett should seek legal advice. I also advised Dean

Aggett could of course represent himself at court. I produce this email as exhibit HRN/104.

- 6.19 On 13 August 2025, a site visit was carried out in the company of police, Stewart Fraser from building control and Stella Radley planning enforcement assistant. Dean Aggett was on site and filmed officers throughout the duration of the site visit. Dean Aggett informed me that there was no change inside the property. I pointed out the offence of failing to comply with Breach of Condition Notice and cautioned him. Dean Aggett's response to the caution was ***"Not answering"***.
- 6.20 Dean Aggett then stated, ***"I will remind you of one communication last had with you"***. I asked Dean Aggett what that communication was, and he responded, ***"It was the email you last had. You obviously didn't read it and they are not valid."*** I pointed out to Dean Aggett that he had not sought to Judicial review the notices. Dean Aggett said, ***"I will if it carries on along with the others."*** I then asked Dean Aggett if there was anything you like to add reference the two notice. Dean Aggett said, ***"This is going to go a long way now. I tried to see reason here. After 10 years the use becomes lawful. The council know full well."*** Dean Aggett then spoke to the building control inspector and said, ***"It is not a residence."***
- 6.21 Dean Aggett kept stating we had to give him 24 hrs notice under section 196 of the Town and Country Planning Act 1990 to inspect a residence. I pointed out to Dean Aggett, he had just stated it was not a residence. Dean Aggett stated he would not let us in. I offered to return to the property on 18 August 2025, but Dean Aggett refused this. Dean Aggett continued to state that the Breach of condition notices were not valid. After a lengthy conversation, Dean Aggett eventually gave us permission to inspect the property.
- 6.22 During the site visit it was clear that what Dean Aggett had stated was true and that there had been no compliance with the Breach of condition Notice served. It was also clear that there had been no attempt to comply with the notice. I produce photographs as exhibits HRN/105 to HRN/113. There are no photographs of the bedroom or sitting room due to an incident described below. However, nothing had changed at the premises at all which was also confirmed by Dean Aggett under caution.
- 6.23 During the site visit an incident occurred where the building control inspector fell through a hole in the floor from first floor level causing himself serious injury and requiring the police to take him to hospital. I remained on site with Dean Aggett and he said, ***"Well that is it now, I will be evicted."*** I informed Dean Aggett that I did not have the power of eviction. Dean Aggett then followed me and Officer Radley outside

and continued filming. He asked me what my opinion was and I advised him that I was not going to enter into a conversation with him as he was under caution. Dean Aggett advised he had several questions to ask me and I advised him to email me them. I then left the site.

- 6.24 On 22 August 2025, I emailed Dean Aggett asking if he had the questions he wanted to raise with me. I did advise him that any ongoing questions and answers may form part of the ongoing decision to prosecute. I also reminded Dean Aggett of the caution. I produce this email as exhibit **HRN/114**.
- 6.25 On 2 September 2025, Dean Aggett emailed me to advise his partner was ill. He asked for a little time to get the questions to me as he needed to run them past his planning consultant. I produce the email as exhibit **HRN/115**. To date no questions have been received. On 18 September 2025, a report was submitted to the head of development management for authorisation to move forward to prosecution on this matter. The report was signed off on the 19 September 2025. I produce a copy of this report as exhibit **HRN/116**. On 22 September 2025 I emailed Dean Aggett. I advised him of the offences and that a decision had been taken to move forward with prosecution. I produce this email as exhibit **HRN/117**.

7. ENFORCEMENT MATTERS (CONDITION 5)

- 7.1 In 2017 a report was received by the Council stating there was a breach of condition 5 of the approved planning application 09/01587/FULL. This case was registered as case 17/000184/BRE. Condition 5 of the approved planning application stated that *"No materials, goods, products, chattels, scrap or waste materials shall be stored outside of the building at any time."*
- 7.2 On 6 September 2017 a site visit was carried out, Dean Aggett was on site and was given a period of 28 days to remove the vehicles and materials from outside the building. On 4 May 2018, a further report was received by the Council stating that there was debris blowing about at the property. This case was booked in under case reference 18/00130/UNTIDY. On 13 June 2018, officers visited the site and took some photographs of items still being stored outside the building. I produce these photographs as exhibits **HRN/118 to HRN/126**.

- 7.2 On 20 June 2018, this case was closed the reasons given that the majority of the items had been removed. The 2017 case remained open at this point.
- 7.3 On 29 January 2019 the 2017 case was also closed with no further reports having been received and the investigation officer took the view that the breach had resolved, and Dean Aggett had complied with the removal of the items as requested. Whilst it is not known from the Councils records at that time if Dean Aggett complied, it is worthy of note that the case was closed, and no further reports were received to the Council until 2020, but this report was relating to the interior of the barn and not outside the barn.
- 7.4 On 15 October 2021, a report was received by the Council that Dean Aggett was in breach of condition 5 of the planning permission 09/01587/FULL in that items were being stored again outside the barn. This report was added to the already existing 2020 file. On 4 November 2021, a site visit was carried out, and pictures were taken of the outside of the barn. I produce these photographs as exhibits **HRN/127 and HRN/128**. Whilst some items were the same as the 2018 photographs, some had been removed, and new items had been placed outside the barn.
- 7.5 On 19 January 2022, a planning contravention notice under Section 171C of the Town and Country Planning Act 1990 (as amended) was served upon Dean Aggett. Penalties for offences connected with not complying with the requirements of a PCN, are set out in Section 171D of the Town and Country Planning Act 1990 (as amended). Not replying can incur (following prosecution) fines of up to £1,000.00; and knowingly or recklessly providing misinformation when replying to a PCN can incur (following prosecution) a fine of up to £5,000.00. I produce a copy of the PCN and cover letter served as exhibits **HRN/13 and HRN/14**.
- 7.6 On 9 February 2022, Dean Aggett returned the completed Planning Contravention Notice together with a cover letter. I produce the cover letter and completed PCN from Dean Aggett as exhibit **HRN/15**.
- 7.7 In Dean Aggett's letter he states, *"I believe that my use of my land and building for my work is in compliance with the planning permissions, both those granted specifically or by other legislation, and that the allegations are false"*.
- 7.8 In response to question 7.5 of the planning contravention notice which states, *"In regards to the vehicles stationed at the front of the barn. Please can you explain why*

*these vehicles have stationed for such a long period of time?” Dean Aggett stated **“The vehicles are used for my business as a blacksmith and such vehicles have been stationed at my forge workshop premises as long as the business has been in operation; some 15 years”.***

7.9 In response to question 7.6 of the planning contravention notice which states, *“What is your intention regards to these vehicles? i.e. use”* Dean Aggett stated ***“Their continued use is intended for my business. I am not a delivery company with daily movements of all vehicles; each has a specific job within the company and are used for those specific uses. Please see additional information in covering letter regards lockdown with no shows or events anywhere in the UK for the last 20 months. Building sites have also been affected, and clients have been resistant to visiting workers”.*** At question 7.7, it was asked when the last movements of the vehicles were. Dean Aggett did not fully respond with timings to this question. It should be noted that at no time during this investigation has Dean Aggett provided any evidence of the vehicles being stored continuously outside the building in excess of 10 years with the first report being 2017.

7.10 On 12 November 2024 I attended the barn in the company of the police and the planning enforcement assistant Stella Radley. A man, who I now know to be Dean Aggett eventually approached me at the barn doors wearing a dressing gown and slippers. I could also see a woman at the property but do not know her name and she left. I explained to Dean Aggett that I was there to carry out a site visit at the property and explained I was investigating older cases to bring about resolution. Dean Aggett was very defensive and stated he did not live at the property and that there was no breach of planning. I advised Dean Aggett that the quickest way to deal with matters was to carry out the visit and that I was happy to wait or return however, if entry was refused, I would have no option that to apply to the Magistrates Court for a warrant of entry. I could see that there were still several vehicles and other items stored outside the barn. Again, some of the vehicles were the same as back in 2018 but new items had been placed and other items removed. This was still within the 10-year period for a breach of condition.

7.11 Outside the barn I continued to have a conversation with dean Aggett. I advised him there was a breach of condition 5 of planning permission 09/01587/FULL relating to the storage of items outside of the barn. Dean Aggett stated the vehicles had been there for several years. I asked Dean Aggett if he had proof of this like photographs and he did not respond. I advised dean Aggett of his planning options and that he should seek expert planning advice on the matter. Dean Aggett stated he would not be changing anything as he felt he was not in breach of the planning permission of 2009.

7.12 On 28 March 2025, a Breach of Condition Notice was hand delivered to the barn and placed in the letter box. The notice was in relation to Condition 5 of the planning permission 09/01587/FULL which states, *“No materials, goods, products, chattels, scrap or waste materials shall be stored outside of the building at any time.”* The BCN required several things to be carried out to comply with the notice and that the notice should be complied by no later than 2 months from the date it was served. This meant the BCN should have been complied by the 28th May 2025.

8. Summary and Conclusions

8.1 The evidence that the appellant produced was limited and when the enforcement history is considered it was and remains the LPA's opinion that the relevant period of ten years has not been met. It is the appellants own submissions on Planning Contravention Notices that he himself has stated, knowing there was a penalty for falsifying information, that the appeal site was not being used for residential purposes. Not just once did the appellant state this in writing but twice. He has also stated it verbally.

8.2 It should be noted that the appellant waited over a year to submit a CLU and had the opportunity even before a Breach of Condition Notice was served. Even when the BCN was served the appellant still did not Judicial Review the BCN's but waited some 6 and a half months before submitting a CLU and when that CLU was refused, he waited a further 5 months to bring this appeal merely one week before the prosecution date.

8.3 Even after the BCN was served upon the appellant, he contacted the council's revenues and council tax departments in June 2025 enquiring why he was being charged council tax stating he did not live at the property. He received a response which I produce as exhibit HRN/129.

8.4 In conclusion, my evidence is based on fact and a thorough investigation into the appeal site and its history. I was asked to assist with this history as part of the CLU during the appeal. I agree with the case officer's decision to refuse the CLU based on the lack of evidence on the part of the appellant, his continuous assertion that he did not reside or store things outside his barn and his written evidence to the council by way of Planning Contravention Notices and letters as hi-lighted above.