



Appellant's final comments on the LPA's statement of case and the comments made by third parties

Public Inquiry on 8th – 9th and 10th September 2026 at 10:00am

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Hartnoll Hotel, Tiverton, EX16 7RA.

Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) Section 195 Appeal

Appeal ref: APP/Y1138/X/26/3378579

Appeal pursuant to section 195 Town and Country Planning Act 1990 (as amended) to the Secretary of State for Communities and Local Government against the Refusal of Mid Devon District Council (MDDC) to Grant a Certificate of Lawful Use (LDC)

Appellant - Mr Dean AGGETT

LPA ref – 25/01406/CLU

This report has been prepared for the Appellant by XL Planning in conjunction with Michelmores Solicitors with all reasonable skill, care and diligence.

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1. Introduction

1.1 In accordance with the Start Date letter dated 4 June 2026 the Appellant has the following comments on the LPA's Statement of Case (dated 16 July 2026) and on the Third Party representations (as received under cover the PINS letter dated 17 July 2026).

2. Response to the LPA's Statement of case

2.1 The Appellant maintains that the evidence of the Appellant's more than ten year residential use of Meadow Forge together with the authorised blacksmith's use is more than sufficient to conclude that on the balance of probabilities the residential use in addition to the blacksmithing use in contravention of Condition 2 was lawful prior to the issue of the Condition 2 BCN.

2.2 The Appellant maintains that the blacksmithing use was commenced prior to the retrospective Permission and is ongoing and the Appellant's evidence confirms that. The site inspection will confirm the blacksmithing use of a substantive part of the ground floor of Meadow Forge and refute the suggestion that blacksmithing use has somehow been abandoned. The CLU Application was submitted in the face of the BCNs to confirm that lawfulness of a breach of Condition 2 (a mixed residential use and blacksmithing use) and Condition 5 (external storage).

2.3 Reliance on assertions by third parties who have no knowledge of blacksmithing and who have no regular access to the inside of Meadow Forge together with the absence of credible witness evidence of the sufficiency of the physical condition of Meadow Forge amounts to insufficient evidence to allow the conclusion that the blacksmithing use has been abandoned in the face of the Appellant's confirmation that he continues to practice blacksmithing at Meadow Forge and has never indicated that this was not the case.

2.4 The Appellant's evidence will show the ongoing blacksmithing use of Meadow Forge. The Appellant notes that Condition 2 BCN requires at 5.1.j the Appellant " 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 Permission and approved drawings" which is inconsistent with the argument that the Appellant has abandoned the Permission.

2.5 If the Council's position as stated at 2.4 and 2.5 is shown to be the case and the Permission was never implemented then it expired unimplemented and Conditions 2 and 5, against which the BCNs were submitted are of no effect. The Appellant does not intend to pursue this line of argument but will do if the Council so chooses.

2.6 In the alternative the Council asserts that to the extent that the residential use of Meadow Forge by the Appellant prior to the date of grant of the permission means that there has been no material change of use to a mixed residential and blacksmithing use. The CLU Application was not dependent

on proving a residential (or storage use) prior to the grant of the Permission. The Council's argument does not survive the grant of the Permission which created a new chapter in the planning unit's planning history approving a blacksmith use only rendering the residential use unlawful (*Cynon Valley BC v Secretary of State for Wales* [1986] 6 WLUK 287 applying) so that the subsequent resumption of the Appellant's residential use amounted is the material change of use.

2.7 The Appellant's evidence will show that the Council and the public at large have been aware of the Appellant's residential use and occupation of Meadow Forge such that the Council's assertion of deliberate concealment cannot reasonably be supported. The Appellant's evidence of the absence of concealment includes: site visits by the Council, submissions to be registered with Electoral Roll, receipt of correspondence and payment of Council Tax, using the address (Meadow Forge) in relation to Driving Licence applications. The Appellant has not adopted living practices to reduce the visibility of his residential use to the public, rather he has taken steps to make his residential use public, including performing works of a domestic nature to the building. This evidence is not evidence of a person practicing to conceal. Nor is the number of the third party witnesses attending Meadow Forge as friends and customers of the Appellant who acknowledge the Appellant's blacksmithing, residential and storage uses.

2.8 The Appellant, in sworn evidence, has explained his responses to the PCNs such that they are not evidence of his residing elsewhere other than

Meadow Forge. The Appellant's responses in the PCNs to not amount to the kind of deliberate, elaborate concealment found in *Welwyn*.

2.9 The Council relies on their planning files, files which they have repeatedly declined to share with the Appellant. Where the Appellant has extracts of those files and chooses to rely on those extracts the Council calls the veracity of those extracts in question. The Appellant has made subject access requests and Freedom of Information/Environmental Information Regulation requests to obtain access to these documents. The Council's response was to rely on exemptions. The Council still has the opportunity to disclose these files in full. Whilst those files are not disclosed the Appellant will maintain that the weight given the Council's evidence that draws on these files should be given less weight.

2.10 The Appellant has provided sworn evidence from the occupier of Stratford Avenue, Exeter corroborating the Appellant's position that this address was used for correspondence.

2.11 The Council's own file contains evidence that Appellant's residential use of Meadow Forge over at least a decade. Repeated reports and several site visits have been made.

2.12 The Appellant maintains there has been no concealment so the disapplication of the 171B time limits according to *Welwyn Hatfield Council v Secretary of State for Communities and Local Government* [2011] UKSC 15, does not apply.

2.13 For the *Welwyn* principles on concealment to apply there needs to be positive and deliberately misleading false statements which successfully prevented discovery. Considered against the Appellant's evidence of the absence of concealment over more than ten years it cannot be reasonably said that the Council was prevented from discovering the residential (and storage) uses particularly when it repeatedly inspected Meadow Forge giving ample opportunity to check. Through those inspections by the Council and through the Appellant's repeated engagement with the Council regarding his residential use, any deception the Council feels was perpetrated by the Appellant did not in and of itself undermine the planning process. The Appellant's evidence shows that his residential use was physically manifest and was not deliberately concealed. Any diligent inspecting officer ought to have been able to identify the residential use (and storage use) as a breach of planning control. In reacting to planning enforcement (PCNs and officer visits) it cannot be said that the Appellant was engaged in a deliberate, elaborate, and sustained plan to deceive the Council from first to last. The *Welwyn* principle is not engaged.

2.14 The Appellant will refer to 1 November 2014 appeal decision APP/F2415/X/23/3330809 which describes an analysis of concealment that is appropriate in this Appeal.

2.15 The absence of concealment was presumably the Council's position until now as (notwithstanding the principle established in *Jackson v Secretary of State for Communities and Local Government* [2015] EWCA Civ

1246). This is consistence with the absence of a section 171BA planning enforcement order (which is supplementary statutory law to the principle on concealment set out in *Welwyn*) despite the Council having had the opportunity to have done so when serving the BCNs had they held the view that there was concealment at that time. Most recently it was not relied upon by the Council in the determination of the CLU Application.

2.16 Regarding the storage use at Meadow Forge, in breach of Condition 5, the Council refer to photographs taken on 13 June 2018 and seven days later that case was closed because 'the majority of items had been removed'. No mention of an inspection was made during those seven days. Presumably the Council will provide those photographs in evidence (presented in the Witness Statement by Heather Nesbitt for the 24 June 2026 summons hearing at Exeter Law Courts). If they do not then Appellant reserves the right to request Ms Nesbit's permission exhibit them to the Appeal proceedings as they show extensive levels of storage including some items that are still stored outside of Meadow Forge. In the absence of photographic evidence of what would amount to a significant clean up it is difficult to understand how the description of '*de minimus*' storage can be supported.

2.17 The Council is relying on 'case closed' as being evidence of compliance. The Appellant considers it is as likely the cases were closed because the officers at that time considered the breaches had become lawful through the passage of time.

2.18 The Council considers that the Google Earth images do not reliably show items stored outside Meadow Forge. Taken together with the Council's own 'ground truth' photographs of the items and materials stored outside Meadow Forge the Appellant asserts that, on the balance of probabilities, the Google Earth images are proof of an ongoing storage use.

3. Comments on Third Party Representations

3.1 We received representations on the Appeal from 21 separate people.

3.2 a) 19 of the representations were in support of the Appellant of which 15 had never made representations during the CLU Application, such that 27 people have made the effort to submit representations to support the Appellant over the Application and Appeal.

b) Two (James and Claire Wilson) objected. There were no objectors at the CLU Appeal who had not objected to the CLU Application.

Third Party Objections

3.3 The shared objections from the Wilsons were made in addition to their representations made objecting to the CLU Application which included a sworn statutory declaration from both Claire Wilson and James Wilson. Their shared position, based on their knowledge of the use of Meadow Forge since August 2020, is that the Appellant slept in a yurt located on the Meadow Forge property or on vehicles parked outside Meadow Forge.

3.4 The Wilsons knowledge of the use of Meadow Forge is limited to the period starting from August 2020. Their 18 November 2025 sworn statutory declaration submitted in response to the CLU Application confirms their knowledge of the Appellant's residential use of Meadow Forge. The Appellant will show there is ample and persuasive evidence of the Appellant's residential use of Meadow Forge. Save for these representations there is no evidence of any long term use of vehicles, huts or yurts for sleeping purposes, whereas there is evidence of the overwhelmingly preferable residential facilities inside Meadow Forge which the Appellant will show have been used for residential purposes for more than 10 years prior to the service of the Condition 2 BCN.

3.5 The Wilsons' sworn evidence confirms the Appellant's position as to the ongoing storage use in the area outside Meadow Forge in breach of Condition 5 of the Permission.

3.6 The Wilsons describe matters of rights of way and the structural integrity of the Meadow Forge building. These matters are irrelevant to the Appeal.

Third Party Support

3.7 The Appellant welcomes the comments and representations supporting the Appeal. Together and individually their first-hand knowledge of the Appellant's use of Meadow Forge evidence creates a coherent continuity chain from 2009 onwards in support of the Appeal and corroborates the

Appellant's evidence of there being a more than 10 year breach of Conditions 2 and 5 commencing prior to the service of the BCNs. Their evidence describes over time of both the residential facilities at Meadow Forge and the Appellant's residential use and (with photos) the Appellant's outside storage use, together with the Appellant's ongoing blacksmithing use of Meadow Forge.

4. Conclusion.

4.1. The Appellant continues to consider that the Appeal should be allowed on proper consideration of the evidence and law.