

APP/Y1138/X/26/3378579 – Meadow Forge – Mr DA
TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
SECTION 195 APPEAL
Appeal Reference: APP/Y1138/X/26/3378579
LPA's Reference: 25/01406/CLU
MEADOW FORGE, CADELEIGH, TIVERTON, EX16 8RZ

LOCAL PLANNING AUTHORITY'S FINAL CLOSING SUBMISSIONS
FOLLOWING EXCHANGE

Numbers in [square brackets] relate to the LPA's bundle used during the Inquiry.
Brief comments on the Appellant's Draft Closing Submissions are at the end of these submissions

Introduction

1. These are the closing submissions on behalf of Mid Devon District Council ('the LPA') in respect of the Appellant's appeal against the refusal of application 25/01406/CLU. The Application sought a Certificate of Lawfulness in respect of an alleged mixed or composite use of the building as a blacksmith's forge and for residential purposes, contrary to Condition 2 of planning permission 09/01587/FULL, and alleged external storage contrary to Condition 5.
2. The central question is not whether there are now domestic facilities within Meadow Forge, nor whether the Appellant has at times stayed or slept there. The question is whether the Appellant has established the particular use alleged in the Application, and its continuous existence for the requisite statutory period. The LPA submits that he has not. However, if he does, then there has been concealment and he cannot rely on the statutory periods for a CLU.
3. The evidential difficulties are particularly significant because the Appellant's present case is materially inconsistent with repeated statements made by him to the LPA (and in the two PCN replies (2010 and 2022) during the period upon which he now relies. Furthermore, during the period which he relies the Property was inspected on a number of occasions, and

due to those inspections and the representations he made it was repeatedly found that there was 'no breach'. A breach was identified by Mrs Nesbitt in November 2024, and thereafter, enforcement proceedings via a Breach of Condition Notice were commenced on 28th March 2025. It should be noted that the very first time that the Appellant suggested anything other than solely business use was in a letter dated 27th May 2025 [307] when he stated that he would apply for a certificate of lawful use ('CLU'). Even after that date he reverted to denying that he was living at the Forge.

4. The LPA therefore invites the Inspector to dismiss the appeal and uphold the refusal of the CLU.
5. These closing submissions are without prejudice to the LPA's Statement of Case, Opening Submissions and Submissions in Reply to the Inspector's Note 2. All legal arguments and factual assertions in those documents are relied upon. To save repetition where such matters are adequately dealt with in those documents, they are not reiterated herein.
6. In order to assist the Inspector a Chronology is provided herein. It does not seek to include every date, but it is hoped that most if not all, of the most pertinent dates, are included.

The statutory frameworth and Gravesham

7. The Application was made pursuant to section 191 of the Town and Country Planning Act 1990 concerning an alleged failure to comply with Conditions 2 and 5 of the 2009 planning permission. The full wording of the Application, whether it conflates two legal propositions and the matter of a new chapter are matters dealt with in the LPA's other submission documents. Without prejudice to those, it is noted that in respect to this Application and the factual matters the burden rests upon the Appellant to establish the factual case upon which the certificate is sought. The issue is evidential. The planning merits of the residential use are not before the Inspector.
8. It is insufficient to establish that residential occupation existed at some point. The Appellant must establish the particular use claimed, its commencement, and its continuous existence for the relevant statutory period. This is particularly important where the evidence consists

substantially of retrospective recollection, photographs, isolated documents and statements made many years after the events in question.

9. The Appellant's case is that the building has subsequently been used as a composite or mixed blacksmithing and residential use. The LPA does not dispute the proposition that a building can, as a matter of planning law, have a mixed or composite use. The difficulty for the Appellant is evidential: he must establish that the residential element existed continuously for the requisite period in addition to the forge use.
10. The LPA accepts the importance of *Gravesham Borough LPA v Secretary of State for the Environment and O'Brien* (1984) 47 P&CR 142; [1983] JPL 307. Gravesham establishes that the distinctive characteristic of a dwellinghouse is its ability to afford those who use it the facilities required for day-to-day private domestic existence. The question is one of fact and degree.
11. The Appellant relies upon that principle and points to the kitchen, bathroom, bedroom, sitting room and other domestic facilities within Meadow Forge. The LPA submits, however, that *Gravesham* does not establish the proposition for which the Appellant seeks to use it. The existence of facilities capable of supporting day-to-day domestic existence is an important evidential factor in determining whether a building is capable of being a dwellinghouse. It is not a substitute for proving the actual use alleged over the relevant statutory period. A kitchen, bathroom, bedroom, furniture and other domestic facilities may demonstrate that part of a building is physically capable of residential occupation. They do not, without more, establish the date upon which residential use commenced, the continuity of that use, or the extent to which the building was actually used as a dwelling throughout the statutory period.
12. There are therefore two separate questions: first, what is the character and capability of the building; and secondly, was the building actually being used as part of the claimed residential use continuously throughout the relevant period? *Gravesham* assists with the first question. The second remains a question of fact to be established by the evidence.

13. The Appellant's own evidence identifies domestic facilities as having been installed progressively. The Inspector is therefore invited to distinguish between physical capability for residential occupation and proof of continuous residential use for the statutory period.
14. When the Inspector is looking at the evidence in conjunction with *Gravesham* the following is relevant:

2006		Evidence for residential facilities and use	Counter evidence
		Mrs Lewis – letter [382], Mrs Moore – letter- [388], Colin Kemble – letter [613]. – use.	Prior to PP when only forge use as sought retrospectively.
		Alleged use from 1.1.2007 – CLU Application [468]	
		Appellant suggesting already in situ 2006/2007 SD paras 3-4 [26]	
		Karim Merage stating he ‘replumbed’ the bathroom in 2009.	Also says he moved the Appellant into the Forge in 2009 and states from a different address Chapel Street) than where the Appellant says he was between being Copenhagen Farm House. [26]
2.11.09 Post PP.		Evidence before the Tribunal – the Appellant seems to suggest the responses in the 14.05.2010 PCN are due to his inability to understand planning terminology etc.	14.05.2010 PCN clearly stating that the Appellant resided at Rose Cottage and numerous other responses which state no human habitation of the Forge. [169-172]
		2010 – complaint there was residential use	11.05.11 – investigation and inspection case closed as there was no breach. [173]
		14.12.2010 – kitchen photo.	14.12.2010 – kitchen photo – could be use as part of the forge. Appellant states was used by forge workers.
		2011 – Appellant say that works for residential use in the NE corner were undertaken including bath,	No suggestion of the bedroom on the second floor. Bathing facilities

	sink and toilet on 1 st floor and laundry on the ground floor [13].	not usual in dirty working environment. 11.05.11 – see investigation. Photo's allegedly taken of office and kitchen but no evidence of living on site. [173]
	2011 – census form completed.	No proof of residential use required for this form.
	15.10.11 – driving licence addressed changed [13].	Could be administrative act only.
	11.11 electoral roll registration [34-35].	Only with a local connection usually reserved for the homeless.
	9.8.12 veg garden photo [58].	Agricultural evidence of agricultural land outside of boundary– also no evidence at site view of any such veg garden, no evidence of duration of veg patch.
	Mr Steel says that he visited from 2013 to March 2020 and <u>believed</u> the Appellant resided at the Forge [119-121].	In cross examination Mr Steel said had only been into the forge and the kitchen. The Appellant may have been sleeping outside in his various vehicles as alleged by the neighbours.
	20.1.13 – photo of alleged living room taken on this date [56].	Could be used in connection with the forge.
	11.2.2013 – alleged bathroom photo posted on his date.	Could be used in connection with the forge for washing facilities. This is likely to be how the matter was reported during the inspections. Not unusual to have such facilities in a workplace (bath more unusual than a shower but given the find and make use of materials this may explain the bath). 3.3.2013 site visit by the LPA the Appellant said that the facilities were ancillary to the forge and required as 5 people worked there. 28.3.2013 – second site view – no evidence that the Appellant was living there – the Appellant denied that he lived there.
	2017 – complaint that the Appellant was residing at the Forge.	6.9.2017 – site view – no suggestion that the Appellant was

		23.1.2017 -living room photograph allegedly posted on this date [57]	living there – this site view and a further one on 13.06.2018 related predominately to complaints about the outside area photos [334-342].
		6.3.2020 – Complaint that there was residential occupation.	This was then investigated.
		4.2000 to 9.2023 – supermarket deliveries	Maybe residential or may be business use.
15.10.21		Report to the LPA of residential use	4.11.2021 – LPA site view but possibly only outside of the Forge.
			PCN replies by the Appellant which state there is no residential use and that he resides at Stratford Avenue and has done permanently for 4 years [202-214] See also covering letter denying residential use [200-201].
		January 2022 – listed for Council Tax.	This was due to enforcement action and in 2025 he was seeking to revert to Business Rates and alleging not residing there.
12.11.24		12.11.24 – first photograph of a bedroom [243] – in evidence the Appellant gave evidence of a temporary bed in a storeroom and then office downstairs going back to the time he acquired the building but no corroborative evidence. Furthermore it was not said to be a bedroom so <i>Gravesham</i> was not engaged.	Photograph taken at a site view by the LPA on 12.11.24. No evidence given when the bedroom was constructed but clearly at the end of the project as only room on second floor and not located on later site views as either not there or concealed. Denial of residential use.
			13.8.25 – Site view - still denying residential use.

What evidential assistance can be gained from the videos

15. Chain of Change - YouTube says this was uploaded 7 years ago. The footage starts in the forge but is about climate change and how to plant a potted Christmas tree. This video is 6 mins long. This does not seem to be relevant.
16. The Road to a Simple Life - has metadata¹ which dates the file at 4.7.23 but the Appellant says it was uploaded 6 years ago. It shows the Appellant out on the land and making food. Predominately, the only interior of the property shown is the kitchen and the back door area.
17. Free house - The metadata says 27.4.25. This video is about building a house with free materials. Limited vehicles are parked outside. At the beginning of the video the property looks like nothing more than a barn. The video is about 7 minutes long and shows the progression of the main structural works and that they were in place 14 years ago. It is clearly not finished and it does not show evidence of the Appellant actually residing there at the time. It does not show any bedroom at all and there appears to be no Velux shown in the roof where the bedroom is now situated.
18. Shepherd Hut Build - the metadata says 9.12.19. It is just under 3 minutes long. If it is located at the front of the building (which seems to be the case) there do not seem to be many vehicles or other items stored there. This shows the changing nature of items at the front of the forge.

Apply Gravesham to the facts in respect of facilities

19. Applying *Gravesham* in respect of the facilities required for day-to-day private domestic existence. If the Appellant's photographs are correctly dated there was a bathroom and kitchen and lounge area in 2013 (no bedroom photographs produced). It should also be noted that there is no photographic evidence of a bedroom at the forge until November 2024 [243]. There is no reliable evidence of when the bedroom was constructed. From the site view it can be seen from the location of that bedroom that: (a) it is concealed, (b) it

¹ By a right click on the file.

would have the last room constructed as it is the only room on what is potentially a second floor. Despite numerous site views in 2013, 2017, 2018, 2020, 202, no bedroom was found. The reason for this can only be that it was either concealed or not built.

20. Furthermore, the Appellant admitted that he would sleep outside in various vehicles. The neighbours report that he slept in a variety of vehicles, yurts and the like. Although, the Appellant gave oral evidence that he had in the early years located a bed in an office and storeroom, this was long prior to the other facilities being installed, was temporary and not a fully functioning bedroom, and there was no reliable evidence of an office or storeroom on the ground floor in any event.

21. If as is likely the bedroom is a recent addition it explains why:

21.1. The bedroom was not seen during the site views;

21.2. The neighbours say he slept outside in various vehicles;

21.3. The supporters of the Appellant say he lived as the forge – because he did, although sleeping took place outside in various vehicles and *Gravesham* is not satisfied.

22. The only reliable evidence of a bedroom is the photograph taken in November 2024. The evidential burden is on the Appellant and he produces no reliable evidence of a bedroom prior to that date. No bedroom until recently is an explanation where all of the other evidence falls into place, it explains the 'no breach' site views, the evidence of the neighbours, and the evidence of the supporters. The no bedroom facilities, and thus, the sleeping in various converted vehicles outside, should respectfully result in a finding that the facilities required for day-to-day private domestic existence have only recently (November 2024) been completed when the principles in *Gravesham* are applied.

The evidence of actual occupation

23. The Appellant relies upon electoral registration (but for someone with a local connection only), driving licences, LPA Council tax records from 2022, photographs, social media, third-party representations and his own evidence. Those matters are potentially *capable* of

supporting an inference of residential occupation. The LPA does not invite the Inspector to disregard them. The question is the weight to be given to them when considered against the contemporaneous evidence, and particularly that provided directly and repeatedly by the Appellant and to the LPA. Clearly, there is a difficulty with the Appellants repeatedly represented (over the last 16 years) to the LPA that there was no residential use.

24. In 2010, in response to a PCN concerning alleged residential occupation, the Appellant stated that there was no human habitation and gave Rose Cottage as his place of residence. These were clear, unambiguous replies. Further allegations arose in 2013 and were investigated. Following a further report in 2020, the LPA served a PCN in January 2022. Please see the differing terminology used on the PCN's². The evidence records representations inconsistent with the present case that Meadow Forge was continuously used as the Appellant's home. Those statements (along with numerous other representations during site views) are important not because the LPA seeks to determine the appeal by estoppel, but because they are directly relevant to the reliability of the Appellant's retrospective account, and further, whether there has been in the alternative a deliberate deception and concealment.
25. The evidence of no bedroom and sleeping outside (and outside of this planning unit) in converted vehicles is relevant to use just as it is to the facilities.

LPA Council Tax, electoral registration and driving licences

26. The LPA accepts that electoral registration, driving licence address and LPA council tax records are relevant evidence. They are not determinative of planning use. A person's administrative address does not by itself establish the planning use of premises or prove continuous occupation as a dwellinghouse. Such records may corroborate occupation, but they do not establish the legal character or continuity of the planning use. The electoral records are of local connection only and the council tax payments only commenced in 2022

² It appeared only the use 'residence' that the Appellant alleged difficulties with. That explanation is not accepted by the LPA. Clearly the PCN replies are contrary to the case now put forward and the Appellant has tried to construct and explanation.

and even in 2025 he was seeking to dispute them seeking business rates instead which with small business rates relief would have resulted in a yearly charge of £0.

The 2024 inspection

27. The evidence of the LPA's inspection on 12 November 2024 is particularly significant. During that inspection the Appellant again stated that he did not live at the property and that there was no planning breach. Officers nevertheless observed domestic facilities and items including a kitchen, utility area, first-floor sitting room, bathroom, bedroom, furniture and clothing. This is the first time a bedroom (and such contents)) was located at the forge. The LPA therefore accepts that, by 12 November 2024, the physical evidence was consistent with residential amenities and occupation. But that inspection does not establish that the same residential use had existed continuously for the preceding ten years.
28. The Appellant's statement during the inspection that he did not live at the property is evidence which the Inspector must consider when determining the weight to be attached to his retrospective assertion that he had continuously used it as his home.

The 2025 Breach of Condition Notice

29. On 28th March 2025 the LPA served a Breach of Condition Notice in respect of Condition 2, requiring the residential use to cease and the residential facilities and items to be removed. On 13th August 2025 the LPA inspected the premises again. The evidence records that the Appellant maintained that there had been no meaningful change inside the Property while continuing to maintain that the Property was not a residence.

The Appellant's credibility and the weight to be attached to his evidence - generally

30. There is a further and fundamental issue which the Inspector should take into account when assessing the evidence: the reliability and credibility of the Appellant's own account. The LPA's submission is that the Appellant has not merely been mistaken about matters of planning law or terminology. There are material instances in which he has given answers to LPA officers which are inconsistent with the case he now advances before the Inquiry.

31. Those inconsistencies concern matters at the very heart of this appeal: whether he lived at Meadow Forge; whether the premises were being used for residential purposes; the extent and nature of the residential facilities; the duration of the alleged residential use; and the extent and duration of the alleged breaches of Conditions 2 and 5.
32. In particular, the Appellant made representations in response to PCNs which denied categorically any form of habitation, mixed use or residential use. Those were responses provided in the context of formal planning enforcement investigations. The LPA submits that the contemporaneous and/or formal representations should attract greater weight than a retrospective account prepared for the purposes of establishing planning immunity, and or alleged social media videos or photographs which show facilities that could be used in connection with a forge. Toilet and kitchen facilities were used in connection with the forge; it would not be unusual to have rest facilities and washing facilities. The problem is not confined to the written PCN responses. The Appellant also gave oral answers to LPA officers during site inspections and site views which were inconsistent with the case he now advances. Even as late as the inspection on 12th November 2024 and the inspection on 12th March 2025, when domestic facilities observed by officers, the Appellant stated that he did not live at the Property and that there was no planning breach.
33. The LPA submits that this cannot satisfactorily be explained simply by reference to a misunderstanding of planning terminology or by dyslexia. The Inspector is invited to consider the cumulative pattern of formal written denials, oral denials to officers, and the subsequent assertion of continuous residential occupation. The LPA submits that, viewed cumulatively, those matters provide a proper basis for the Inspector to conclude, if he finds that the Appellant has resided at the forge, that has been dishonest and concealed matters in material respects in his dealings with the LPA. Furthermore, not only were the responses to the PCN a criminal offence, but the Appellant has given evidence at the Inquiry that is also dishonest on affirmation.

The credibility of the Appellant and the marked-up bundle used whilst giving evidence

34. The credibility issue is compounded by the manner in which the Appellant gave his evidence to the Inquiry. Although, Counsel for the LPA was not able to see from where she was sitting, there was a LPA employee sitting directly behind the Appellant when he gave his evidence. It will be recalled that the Appellant was insistent on using his own (white bundles) when giving evidence. Although, it was insisted upon by Counsel that he followed the page numbers in the LPA's bundle, he kept reverting to the key documents (such as when taken to the PCN replies) in his own bundle. Unbeknown to Counsel for the LPA the Appellant's bundle contained 'Post-it notes' and highlighting. When raised with the Appellant's legal team the next morning the request to view the bundle was categorically refused. The response to the refusal was that the matter would be referred to the Inspector. Following this it was agreed that the bundle could be viewed, by which time the Post-it notes has been removed. The highlighting of key words on key documents were all that remained on the bundle (the smaller bundle of key documents).
35. If the Appellant has dyslexia, and if this was material to the manner in which he was to give evidence, it should have been raised with the Inspector, preferably at the CMC. It is not accepted that marking up would have been a special measure. Such measures are expected to be: additional time to locate documents, questions to be put sequentially, documents identified orally, regular breaks, documents on certain colour paper etc.
36. The Inspector is respectfully invited to take into account the circumstances in which the Appellant gave his evidence. He was asked to use the clean Inquiry bundle. He said that, because he is dyslexic, he would find it difficult to locate page numbers in that bundle and therefore wished to use his own papers. Counsel for the LPA expressly offered to arrange assistance with locating any page numbers if he required this.
37. Notwithstanding that offer, the Appellant repeatedly reverted to his own papers, without having sought or obtained permission to use them. Significantly, when directed to a particular page in the clean bundle, he was able to locate that page, and then locate the corresponding document in his own papers, which were apparently being held on his lap.

His own papers were therefore not simply being used as an alternative means of finding page numbers. He wanted to use his own documents because they were marked up.

38. The LPA does not invite the Inspector to make any finding as to whether the Appellant is dyslexic. Nor does the LPA suggest that his ability to read documents aloud or navigate documents establishes anything about dyslexia. The point is narrower: the particular difficulty which the Appellant identified was expressly offered a practical solution, yet he continued to consult a separate set of papers which were subsequently found to contain highlighting and other markings.
39. The significance of those papers became apparent when an observer, Mrs Radley sitting towards the back of the Inquiry saw that important documents in the Appellant's papers contained highlighted words and passages. Mrs Radley also saw Post-it notes attached to documents, although their contents could not be seen.
40. The following morning the LPA sought to inspect the papers which the Appellant had been using. The LPA was initially told that it could not do so. When the papers were subsequently provided, the highlighting and markings remained, but the Post-it notes which had previously been observed were no longer present. The Appellant denies that Post-it notes were used.
41. The LPA does not invite the Inspector to speculate as to what was written on the Post-it notes. There may be innocent explanations for the highlighting, the Post-it notes, and their subsequent absence. The submission is that the combination of circumstances creates an unresolved evidential irregularity which is relevant to the weight that can safely be placed upon the Appellant's evidence.
42. The highlighting has is predominately on the PNC replies which the Appellant knew would be a difficult issue. The highlight is not for technical words. It appears to show a rehearsing of this evidence.

43. The distinction between an advocate's marked-up working copy and the evidential bundle is important. In *Cape Intermediate Holdings Ltd v Dring* [2019] UKSC 38, the Supreme Court recognised that advocates and others involved in proceedings may mark or annotate their own copies of a bundle as an aide-memoire, but expressly distinguished those working copies from the evidential material before the court and provided to the witness.
44. Here, however, it was not simply an advocate who possessed a marked-up working copy. It was the witness himself who was consulting privately marked papers whilst giving oral evidence, without the LPA having had an opportunity to inspect them and without permission having been sought to use them.
45. The same underlying concern is illustrated by *Potgieter v Gee Ricci Ltd & Ors*, Case No. 3312411/2019, where the Employment Tribunal required a dyslexic witness to use a clean bundle rather than annotated papers, explaining that the Tribunal needed to hear the witness' "unassisted and unprompted evidence". Whilst not binding, that reasoning is directly relevant to the integrity of Appellant's oral evidence.
46. The Inspector is therefore invited to consider whether the Appellant's explanation that the papers were required merely because he found page numbers difficult adequately explains his conduct. The practical difficulty was expressly addressed. Nevertheless, he continued to use his own papers and was able to move between the clean bundle and the corresponding marked-up documents.
47. The subsequent disappearance of the Post-it notes does not permit an inference as to their contents. It does, however, mean that the LPA and the Inspector cannot now establish what material, if any, was attached to the documents which the Appellant was consulting whilst giving evidence. That evidential gap is particularly significant given that the LPA was initially refused access to the papers.
48. The LPA accordingly submits that the Inspector should consider the matter cumulatively rather than asking whether any individual feature, viewed in isolation, establishes

impropriety. Highlighting alone may be innocent; Post-it notes alone may be innocent; and a witness preferring his own papers may be innocent. The question is the significance of all those circumstances taken together, and the failure to address such matters openly and prior to the Appellant giving his evidence.

49. The LPA does not submit that the Appellant's evidence should be rejected merely because he used his own papers, nor that his explanation concerning dyslexia should be disbelieved. The proper question is one of weight and reliability.
50. That consideration is particularly relevant where the Appellant's oral evidence conflicts with contemporaneous documents, his previous answers to the PCNs or other independent evidence. Where such a conflict arises, the Inspector is invited to consider whether there is a sufficient evidential basis for preferring the Appellant's recollection over the contemporaneous or independent evidence.
51. The marking up may show that the Appellant has been coached or rehearsed his evidence. That is a matter for the Inspector. However, it can safely be found that the unusual and unresolved circumstances in which he used his privately marked papers are properly part of the evidential picture and materially affect the weight which can safely be attached to those parts of his evidence which are unsupported or contradicted by independent evidence.
52. The Inspector is therefore invited to distinguish carefully between what the underlying contemporaneous documents actually record, and what the Appellant now says in terms of his interpretation of it, and in light of the clear and unambiguous questions and answers set out therein. The LPA will say that the entire matter again shows the deception and dishonesty of the Appellant.
53. Where a witness has made repeated statements inconsistent with his present case on matters central to the dispute, those inconsistencies are plainly relevant to the weight to be attached to his subsequent evidence. The LPA submits that this is such a case.

54. The Appellant's evidence concerning the history of Meadow Forge is substantially dependent upon his own recollection and assertion. If the Inspector finds that the Appellant knowingly gave false or materially misleading answers to LPA officers concerning his residential occupation, that finding necessarily bears upon the reliability of his subsequent evidence concerning when residential occupation commenced, how continuously he occupied the premises, the use of the building, the installation and use of domestic facilities, the continuation of the forge, and external storage.
55. The LPA therefore submits that the Appellant's evidence should be approached with considerable caution and that the Inspector should prefer contemporaneous documentary evidence and independent evidence wherever it is available.

The Appellant's other evidence

56. It is accepted that the Appellant does have many supporters. However, much of that evidence is historical, lacking detail and is more in the form of a reference. The most detailed evidence is Mr Beech [401], and even his evidence (not tested at the Inquiry) is inconsistent in that the photographs of outside the forge (which he took) and do not confirm what he says [405-406].
57. The two witnesses relied upon for oral evidence, Mr Maraga and Mr Steel were not particularly helpful. Mr Maraga had spent a lot of time living elsewhere, did not refer to seeing the forge operational in recent years, and apparently moved the Appellant in 2009 but from Chapel Street in Tiverton whereas the Appellant states that he was moving Copenhagen Farm House and the forge at this time spending most of his time at the forge [26]. Mr Steel could not even remember accurately matters surrounding the preparation and signing of his Statutory Declaration in August 2026, and says that his visits to the forge only involved the forge area, kitchen and downstairs toilet. He had never been upstairs. Presumably, they were the best two witnesses from the multiple supporters and even they did not add much in the way of helpful evidence.
58. The emails relied upon by the Appellant were not created until 2021-2023, do not consider the entire case, and are the thoughts of a few LPA employees based on 'ifs' and 'buts' and

simply put forward a number of possibilities based on internet research at that time. The knowledge of the LPA is in fact set out in the official documents of site view outcomes, responses to PCNs and the Appellant's own letters to the LPA. All such documents are within the bundle of documents before the Inquiry.

Dishonesty and deliberate concealment

59. The credibility issue also has a direct bearing upon the LPA's case concerning deliberate concealment.
60. The leading authority is *Secretary of State for Communities and Local Government v Welwyn Hatfield Borough Council* [2011] UKSC 15. The Supreme Court recognised a public policy principle preventing a person from obtaining the benefit of statutory immunity where there has been deliberate concealment of the relevant breach calculated to prevent the local planning authority from discovering it and taking enforcement action.
61. The LPA's case is not simply that the Appellant failed to volunteer information. The evidence relied upon is that he repeatedly gave positive representations that the premises were not being used residentially (see also the LPA's Opening) . If the Inspector finds that those representations were knowingly false and were made for the purpose, or with the effect, of preventing the LPA from discovering the residential use, the LPA submits that the principles in *Welwyn Hatfield* are engaged. The LPA further relies upon the principles identified in *R (Fidler) v Secretary of State for Communities and Local Government* [2011] EWCA Civ 1159 and *Jackson v Secretary of State for Communities and Local Government* [2015] EWHC 20 (Admin), insofar as applicable to the facts found by the Inspector.
62. Although the Appellant's conduct and representations as outlined above are more than sufficient to engage *Welwyn Hatfield*. The LPA will ask the Inspector to also consider the manner in which the alleged residential element has been installed: a house within a barn, which cannot be seen from the outside, and which is not even readily apparent from anything other than a detailed internal inspection.

63. The bedroom is further concealed behind a chimney breast and curtain, and without a standard size opening. Without that room being located the rest of the rooms can easily be 'passed off' as use in conjunction with a forge.
64. The LPA submits that a person who seeks to establish statutory immunity by relying upon a period during which he positively represented to the LPA that the relevant use did not exist cannot simply disregard those representations. The same is true to any period of concealment the bedroom use was concealed until located in November 2024 (and even then the Appellant denied residential use and/or that he was living there).

Residential use before the 2009 permission

65. There is a further and independent difficulty. The Appellant's evidence is not consistent as to the commencement date of residential use. At various points his evidence places it in different years, including before and after the grant of the 2009 permission. If the Inspector accepts the Appellant's case that residential occupation was already taking place before 2 November 2009, that use was not authorised by the 2009 permission.
66. The permission was granted for the retention of the change of use from agricultural use to blacksmith's forge. It did not grant permission for residential use. Condition 2 expressly restricted the use of the permitted forge to blacksmithing and prohibited other purposes. The Appellant cannot simultaneously rely upon the grant of the 2009 permission as the event which authorised or implemented the forge use and contend that the residential component already existed before that permission. The LPA's alternative case is therefore that, if residential use pre-dated the permission, the permission was not implemented for forge use.
67. Conversely, if the Appellant says that the residential use commenced only after the permission, the relevant period has to be established from that later date. The evidence from neighbours (unwilling to come to the Inquiry for the reasons referred to by Mrs Nesbitt), but who gave Statutory Declarations is relevant. There is evidence of extended periods away from the Property, no forge activity and residing on the agricultural land and/or in various

vehicles. The LPA will say that the Appellant has failed to establish the continuous immunity which he requires³.

External storage – Condition 5

68. The second limb of the application concerns Condition 5, which provides that: “No materials, goods, products, chattels, scrap or waste materials shall be stored outside of any building, at any time.” The Appellant relies principally upon aerial imagery and his own evidence that vehicles and materials have been stored outside for many years. The LPA accepts that external storage has occurred. Clearly there have been complaints about this activity. That is not the issue.
69. The issue is whether the Appellant has established the continuous breach for the requisite statutory period. The evidence does not establish that. Complaints concerning external storage were made at different times and investigations were undertaken. Items were removed and later different items appeared or items were relocated. The evidence therefore does not establish a continuous breach by the same or substantially the same storage use throughout the requisite period.
70. The Appellant's assertion as to duration is not independent evidence proving continuous breach. The library bus is shown in the same location only from 29 May 2020 [50], it is not

³ **Mr James Wilson (shares a fence with the forge)**- Letter [360] - Case comments [371-372] see also [618-619] - refers to concealment of residential use pg619 - Sworn Declaration pg745.

Mrs Claire Wilson - Letter [360] - Comments at [623-624] - consistently stores various items outside. Says frequently not there and/or residing in various structures and vehicles on the land.

Paul Balsdon - [620-621] - lives next door for many decades - disputes reside in the barn continuously also says in yurt and vehicles - again refers to concealed living accommodation. Not heard any blacksmithing for a long time. Sworn Declaration [746].

Janet Balsdon - [622] - Cluttered with rubbish and vehicles no business activity for many years. Sworn Declaration pg744

Faye Warren - [626] - Appellant has commuted and lived in various vehicles other than the barn - there has been no sign of any business activity for years. Sworn Declaration [743].

Robert Davie [627-628]- says that he has commuted - says done in plain sight on social media.

Beatrice Hearne - [632] - they have an adjoining boundary - lived there since 2006 - not convinced viable business is being run.

Cadeleigh Parish Meeting Chair - [636] - objections were unanimous - Appellant living in vehicles - little or no business use.

Claire Flavell - Sworn Declaration [742] - Sleeps in various vehicles, leaves the property for extended periods.

shown there in 2019 [49], and that is if the Inspector accept the 3 white marks relied on in that area the same as the actual 4 skylights in the library bus as shown on the site view (3 in the main area of the library bus and 1 in the rear section).

71. A photograph showing an object on one date and another object on another date establishes the existence of storage on those dates. It does not necessarily establish an uninterrupted storage use between them. The aerial imagery shows the changing nature of the area around the forge. The LPA therefore submits that the evidence of current or recent storage cannot retrospectively establish continuity.

The evidential standard

72. The LPA accepts that the applicable evidential standard is the balance of probabilities. But the fact that the standard is the balance of probabilities does not relieve the Appellant of the need to provide coherent and sufficiently reliable evidence. Where the evidence is internally inconsistent, the Inspector must determine which parts can safely be relied upon. This is particularly important in an application for a certificate of lawfulness because the certificate crystallises a legal right based upon the historical facts established by the evidence.
73. At the CMC the Appellant was asked to produce the relevant metadata for each video and photograph which he relied upon as confirming a date. He did not do this.
74. The Appellant cannot succeed merely by demonstrating that residential use is plausible. He must demonstrate that the specific use alleged in the certificate existed continuously for the requisite period. The same applies to external storage.
75. In the present case there are substantial evidential gaps and contradictions, including inconsistent accounts of the commencement of residential use, formal statements denying residential use, the Appellant's oral statements during inspections, evidence concerning periods when the forge was not being used, evidence that the Appellant slept outside in various vehicles (which he accepted), no evidence of any fully functioning bedroom until

November 2024, changing external storage, and the absence of sufficiently reliable evidence establishing uninterrupted use throughout the relevant period.

76. The Inspector is invited to consider the evidence cumulatively rather than in isolated compartments. The domestic facilities, considered alone, support the possibility of residential occupation but not until after November 2024. Electoral registration, driving licence evidence and third-party representations may support occupation during particular periods, or may be administrative, or may be explained by living/sleeping on the agricultural land outside of the planning unit in various vehicles.
77. But against those matters must be placed the Appellant's formal written denials, his oral denials to LPA officers, the enforcement history, the absence of a consistent account of commencement, evidence suggesting periods when the forge was not being used, and the changing nature of external storage.
78. The result is not a coherent and unbroken evidential chain. It is a body of evidence from which residential occupation with sleeping outside in vehicles until recently, may be inferred, but which does not establish the continuous planning use asserted in the certificate sought.
79. The LPA returns finally to *Gravesham* because it is central to the Appellant's case. The LPA accepts that the domestic facilities identified at Meadow Forge in 2024 are capable of satisfying the physical capability aspect of the *Gravesham* test. However, the test does not mean that once a building contains a kitchen, bathroom and sleeping accommodation it follows automatically that the building has been continuously used as a dwellinghouse for the purposes of section 171B. The case requires a factual assessment of the use of the building and its use.
80. The LPA therefore invites the Inspector to adopt the following distinction: *Gravesham* establishes the characteristics which make accommodation capable of constituting a

dwellinghouse; it does not relieve an applicant for a certificate of the burden of proving the historical continuity of the alleged residential use.

81. On the facts of this case, the domestic facilities are evidence relevant to the residential-use issue, but they are not conclusive evidence of the date, extent or continuity of that use. The LPA submits that the Appellant has failed to bridge that evidential gap.
82. If he does bridge that gap, he has deliberately concealed it from the LPA and *Welwyn Hatfield* applies.

Concluding remarks

83. The Inspector is ultimately required to decide whether the LPA's refusal was well founded. It was. The Appellant has not established, on the balance of probabilities, that the particular mixed use described in the certificate existed continuously for the requisite statutory period. In particular, he has not established with sufficient reliability the commencement date of the alleged residential use, continuous residential occupation throughout the relevant period, continuous blacksmithing use as part of the claimed composite use, or continuous external storage in breach of Condition 5.
84. The Appellant's credibility is materially in issue. The LPA submits that his PCN replies and oral answers to LPA officers were dishonest in material respects and that the subsequent use of a marked-up bundle whilst giving evidence further demonstrates why his presentation of the documentary evidence should be treated with caution.
85. If the Inspector finds that the residential use was deliberately concealed, the LPA further submits that the principles in *Welwyn Hatfield* apply and prevent the Appellant from obtaining the benefit of statutory immunity which his own conduct prevented the LPA from properly investigating.
86. If residential use commenced before the grant of the 2009 permission, that use was not authorised by the permission granted for a blacksmith's forge and cannot be treated as an implementation of that permission.

87. In relation to Condition 5, the evidence demonstrates that external storage occurred at different times but does not establish the continuous breach for the requisite statutory period. The existence of current or recent storage cannot retrospectively establish continuity. The same is true of the present existence of domestic facilities.
88. The LPA therefore respectfully submits that the refusal was well founded.

Relief sought

89. The LPA respectfully invites the Inspector to conclude:

- 89.1. that the Appellant has not discharged the evidential burden of establishing the alleged continuous mixed residential and blacksmithing use for the requisite statutory period;
- 89.2. that the Appellant has not established the alleged continuous external storage use for the requisite statutory period;
- 89.3. that the domestic facilities, although relevant under *Gravesham*, do not establish the continuity of residential use claimed;
- 89.4. that the Appellant's written and oral representations to the LPA are materially inconsistent with his present case and, if found to constitute deliberate concealment, engage the principles in *Welwyn Hatfield*;
- 89.5. that, insofar as the Appellant contends that residential use commenced before the 2009 permission, that use was not authorised by the permission; and
- 89.6. accordingly, that the LPA's refusal of application 25/01406/CLU was well founded and the section 195 appeal should be dismissed.

MID DEVON DISTRICT COUNCIL

28th September 2026

LARA SPENCER

LPA'S CHRONOLOGY

7 th March 2005	05/00017/FULL - REFUSE date 7 th March 2005 Erection of 2 no. lean-to off existing silage barn for livestock/general purpose use.
13 th July 2005	05/00693/FULL - REFUSE date 13 th July 2005 Erection of 2 no. lean-to off existing silage barn for livestock/general purpose agricultural use (Re-submission).
16 th November 2005	05/02000/FULL - REFUSE date 16 th November 2005 Erection of 2 no. lean-to's off existing barn for livestock/general purpose agricultural use.
28 th November 2006	The Appellant registered as the proprietor of the land [294-298].
1 st January 2007	Other date when the Appellant alleges the breaches began. See CLU application form [468].
2007	The site known as Meadow Forge, Hillside Barn, Cadleigh, Tiverton, Devon, EX16 8RZ, first came to the LPAs attention back in 2007 when there was a breach of planning for an unauthorised change of use from agricultural building to a blacksmiths shop. No vehicles being stored outside the property were mentioned at this time. The investigating planning enforcement officers at the time were Glenn Crocker and John Clarke who are also now acting as the owners, Mr the Appellant, agent in this matter having left the council some years ago and started up an independent planning consultancy XL Planning. The breach of planning they investigated in 2007 resulted in a planning application being submitted, 09/01587/FULL, which was subsequently approved.

2008	Email dated 13 th July 2023 which refers to live and work use since this date – but if that is correct why application in 2009 for forge only?
14 th December 2009	09/01587/FULL - PERMIT date 14th December 2009 Retention of change of use from agricultural to blacksmith's forge [163-166] With planning conditions of relevance: 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 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. 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. In that case the red line was drawn tightly around the building itself. Allegedly, at the time of application 09/01587/FULL the applicant used Copenhagen Farmhouse as a correspondence address but was moving between that address and 'Meadow Forge' spending most of his time at the forge [the Appellant [26 ¶4].
2010	The Appellant says that this is when the breaches occurred, but the application form states they began on 1 st January 2007.
1 st January 2010	Aerial photographs – the Appellant seeks to rely on a series of aerial photographs of the site from 01/01/2010- 2025 (exhibit

DA4). Whilst the most recent photos appear to show some form of storage being undertaken on site (externally), the photos are not particularly clear. It is noted from 2016 and previous to that, the area around the building appears to be well covered with trees and provide little evidence of external storage uses. The statutory declarations appear to suggest there has been some use of the forecourt for storage however there is no clear evidence of timeframe for this [44-51].

2010

A report was received by the LPA stating there was a mixed use of blacksmiths forge and human habitation. This case was registered as case 10/00037/UCU, and a planning contravention notice was served upon the owner the Appellant.

11th May 2011

Mr Glenn Crocker (now representing the Appellant as part 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 as living accommodation and no further action was required. This case was closed on 17th May 2011 by Mr Crocker and the reason given was there was no breach found [173 see file note].

14th May 2010

The Appellant completed and returned a Planning Contravention Notice (PCN) relating to an alleged breach of the mixed use of the building for blacksmith workshop and human habitation. He answered that there was no human habitation of the building at that time, and that he lived at 'Rose Cottage' TA2 6QS. However, in the submitted statutory declaration it is set out that Rose Cottage was a correspondence address, and he was in fact living in the blacksmiths forge for most of the time [the Appellant [26 ¶14] Replies @ [169-172]. 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.
14 th December 2010	Figure 3 photo of the kitchen allegedly taken on this date [55].
2011	During 2011 works were undertaken including the installation of, within the NE corner of the blacksmiths forge/ building, dwellinghouse facilities that enabled him to live within the building and use that part for residential purposes. This included wash facilities, a bath, sink and toilet on the 1 st floor and a laundry area on the ground floor [the Appellant[13]].
11 th May 2011	Case notes: follow up site visit- Photo taken, office and small kitchen area in building but no evidence of living on site. No further action required.
?	He completed a census form which was sent to him at Hillside Barn [37-38].
17 th May 2011	Case closed, no breach.
15 th October 2011	His driving license shows him as resident at Hillside Barn from 15 th October 2011 [the Appellant [13]] until 12 th May 2021.
November 2011	He registered himself as resident at Hillside Barn on the Electoral Roll. He was informed he could only register as 'local area connection' as the property was not classed as residential. [the Appellant [13], Polling card [34] certificate [35]].
9 th August 2012	Figure 6 is a the veg garden allegedly posted on this date [58].
20 th January 2013	Figure 4 is the living room allegedly taken on this date [56].
11 th February 2013	Figure 1 allegedly posted on this dated showing the bathroom [53]. Figure 2 also alleged to have been posted on this date showing the landing [54].
3 rd March 2013	Site visit - the Appellant denied living in the barn and stated that the facilities were required as ancillary to the blacksmith

	use as he used to employ 5 people and had to provide toilet facilities under employment law.
28 th March 2013	Second site visit carried out. Case notes: there is no evidence of the building being converted to a house although there are elements that could be argued to fulfil part of the role. the Appellant was at pains to explain that he has to provide any potential employees with certain facilities and that what I could see amounted to those facilities. Totally denies living on site.
8 th April 2015	Case closed- no breach identified.
9 th October 2015	15/01077/PE - CLOSED date 9 th October 2015 Notification of PNCOU Class M - As at 12 th May 2015 - The agricultural use shall be use as a gallery (A1 shops use) to display the market and works made in the building next to it known as Meadow Forge - Less than 150sqm.
2017	A report was received by the LPA 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."
23 rd January 2017	Figure 5 is the living room allegedly taken on this date [57].
6 th September 2017	A site visit was carried out, the Appellant was on site and was given a period of 28 days to remove the vehicles and materials from outside the building.
4 th May 2018	A further report was received by the LPA stating that there was debris blowing about at the property. This case was booked in under case reference 18/00130/UNTIDY.

13 th June 2018	The LPA's officers visited the site and took some photographs of items still being stored outside the building. Photos [334-342].
20 th June 2018	Case reference 18/00130/UNTIDY was closed the reasons given that the majority of the items had been removed.
29 th 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 the Appellant had complied with the removal of the items as requested. Whilst it is not known from the LPAs records at that time is the Appellant complied, it is worthy of note that the case was closed, and no further reports were received to the LPA until 2020, but this report was relating to the interior of the barn and not outside the barn.
6 th March 2020	The LPA received a report that the property had been converted into a house. This case was registered as case number 20/00223/RURAL. A Council's council tax officer visited the site in October 2021 and supplied the planning enforcement officers with photographs.
April 2020	to September 2023 there are supermarket delivery information.
2021	Photo shows that the top floor is not completed – since alleged to be in 2011[180]
15 th October 2021	A report was received by the LPA that the Appellant 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.
26 th October 2021	Email relied on by the Appellant: 'I have reviewed the information available, and it appears that the owner the Appellant has been living in the premises for some time and

	probably since around 2010. There does appear to have been a material change of use of the building'. [the Appellant [17]] Email that suggests that the Appellant has been living at the Forge for sometime, however the entire email needs to be read in context and the date considered of the actual email [42].
4 th November 2021	A site visit was carried out, and pictures were taken of the outside of the barn. Photographs were taken. Whilst some items were the same as the 2018 photographs, some had been removed, and new items had been placed outside the barn. Outside site view photos [343-344].
From January 2022	He has paid residential Council Tax band A which describes Hillside Barn as a 'mixed use' property. Before registered for CT it was for only Commercial Business Rates (with small business relief it would be £0 p.a.). [doc 484]
19 th January 2022	A PCN under Section 171C of the Town and Country Planning Act 1990 (as amended) was served upon the Appellant with a covering letter. 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 [warning notice at [186]].
9 th February 2022	PCN responses [202-214] and covering letter [200-201]: No residential use - see covering letter [200] a. Home address stated as at Stratford Avenue, Exeter (stated as permanent residential address for 4 years); b. Started using Meadow Forge for blacksmith purposes since late 2006 or early 2007;

- c. States Meadow Forge has been in sole use as a blacksmith forge since he purchased it;
 - d. Not used for other purposes or uses;
 - e. Confirmed there is no residential use at various answers including 3.8, 3.9, 4.9, 5.0, 5.5, 5.6, 5.7, 6.1, 6.4, 6.7;
 - f. Vehicles at front of barn are used for blacksmith business and have been stationed at the premises for some 15 years.
- 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.

In the Appellant's statement of case [416 ¶3.5] it is said that the 2022 PCN replies were disregarded but this is not correct the decision to serve the BCN was based on other matters such as later site views (there were two in the March).

30th March 2022

A letter was sent to the Appellant asking to arrange a full site visit. This letter was not responded to.

13th July 2023

Email relied on by the Appellant: 'We have corroboratory evidence confirming use and occupation since 2008 and we are most likely out of time by the point of 2020 complaint, and which is the first time we were made aware of the issues' See however the entire email regarding if it was a live and work unit and then separate dwelling and if so when. Also issues of the fact there is not evidence if and when there was substantial completion [email [40 &]. By why is this correct given application made for PP in 2009 and that relates to only forge.

18th August 2023

Email was sent to the Appellant asking to arrange a site visit. No response was received from this email.

2023

The Council's Electoral Role records confirm that the Appellant has been registered at this address for over 10 years, but only with a "Declaration of Local Connection" to the property. He could not be registered in the normal way as it was not registered as a residential property. In 2023 the Local Land and Property Gazetteer confirmed it had been classified as residential so the Appellant's registration was switched to an ordinary elector.

12th November 2024

HN Planning Enforcement Officer at the LPA attended the barn in the company of the police. the Appellant eventually approached her at the barn doors wearing a dressing gown and slippers. There was a woman at the property but she left. It was explained to the Appellant that they there to carry out a site visit at the property and explained there was investigating older cases to bring about resolution. the Appellant was very defensive and stated he did not live at the property and that there was no breach of planning. the Appellant was advised that the quickest way to deal with matters was to carry out the visit and that the LPA could wait or return however, if entry was refused, there would be no option other than to apply to the Magistrates Court for a warrant of entry. There were still several vehicles and other items stored outside the barn. Photographs were taken. 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 [153] Photos of the site view at [216-293].

No use as a forge at this time.

28th March 2025

Breach of condition notices ('BCN') served by leaving them at the Property [Notices [299-303]].

6 th May 2025	The Appellant says this was when the yurt was first erected but he did not reside in it [19] he says he took it down on 15 th October 2025 [19].
9 th May 2025,	The Appellant attended the reception of the LPA offices in Tiverton. He spoke to reception staff as Mrs Nesbitt was not available. She emailed him on the same day. [HRN/97 email 304]].
15 th May 2025	A letter was received to the LPA offices from the Appellant. This letter was regarding a different property. It did not address the BCN that had been served, and is still asserting business only. [HRN/98, letter [305-306]]. The Appellant could have judicially reviewed the decision to serve a BCN but did not do so.
27 th May 2025	A letter was received to the LPA offices from the Appellant. This letter made mention that his vehicles had been parked outside the barn for over 10 years and he then went on to state 19 years. He did not provide any proof of this. He also stated that he had plans to submit a Certificate of Lawfulness and stated if not granted he would seek Judicial Review [HRN/99, letter [307]].
28 th May 2025	Time for compliance of condition in respect of BCN (storage of materials). An email was sent to the Appellant to remind him and of the risk of prosecution [HRN/100, email [308]].
2 nd June 2025	The Appellant disputed with the Council's Revenues why he was paying Council Tax as he stated he did not live at the Forge [162 email following the Appellant's phone call [345]].
2 nd June 2025	An email exchange took place with John Clarke (former planning enforcement officer at MDDC) who was now the agent acting on behalf of the Appellant through the company XL Planning. The email stated that he would be submitting a

	Certificate of lawful use/development on the Appellant behalf and was checking that it would be accepted.
5 th June 2025	Site visit carried out to check for compliance. Requirements of the BCN not carried out. Photographs taken of the items still in situ. The 2 Romany caravans had been removed.
28 th July 2025	Time for compliance of condition 2 in respect of BCN (residential use).
13 th August 2025	Site view the Appellant in the presence of those from the LPA informed the Building Inspector that there was no residential use. During the inspection the Building Inspector fell down a gap on the first floor and was taken to hospital by the Police (see Cond 2 Prosecution report 20-0223). Neither BCNs had been complied with (see also Cond 5 Prosecution report 20-0223). Photos [315-323] It is believed that the Appellant has taken up residence in a yurt within the field at the back of the building in question at the time of this inspection. This is subject to a separate investigation.
10 th September 2025	Alleged invoice for repair of cast iron pillars [the Appellant [18] invoice [64]].
22 nd September 2025	Mrs Nesbitt emailed the Appellant and she advised him of the offences and that a decision had been taken to move forward with prosecution [email HRN/117 email [331-332]].
10 th October 2025	Certificate of Lawful Use sought. 25/01406/CLU - PCO date Certificate of lawfulness to establish the mixed (composite) use of a building as a Blacksmith Forge and for residential purposes, including the use of 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. [Application [464-

29 th January 2026	Refusal certificate.
29 th April 2026	Statutory Declaration of Heather Woodman [593-594]
7 th May 2026	Appeal form lodged.
18 th June 2026	Questionnaire Section 195 and Section 26k Lawful Development Certificate Appeal form completed by LPA [443-446]
16 th July 2026	Appellant's Statement of Case [410-419]
16 th July 2026	LPA's Statement of Case [420-442]
August 2026	Alleged (staged) photo showing the forge in operation [the Appellant18]
1 st August 2026	Alleged recent/ongoing work [65-67].
4 th August 2026	Karim Meraga Proof of Evidence – alleged apprenticeship and working association with Dean from 2009 until 2012. [114-118].
4 th August 2026	Norman Steel Proof of Evidence [119-121]
1 st September 2026	Statement of Common Ground [1-4].

BRIEF COMMENTS ON THE APPELLANT'S CLOSING SUBMISSIONS

Appeal Ref: APP/F2415/X/23/3330809 Langton View Stables, Thorpe Langton Road, East Langton, Market Harborough LE16 7WD - Decision date: 1 st November 2024

1. In the *Langton View Stables* case the Inspector stated that:

"The Supreme Court found in *Welwyn Hatfield Borough Council v Secretary of State for Communities and Local Government* [2011] UKSC 159 (Welwyn Hatfield) that Mr Beesley's conduct was sufficient to deprive him of the immunity from enforcement action normally granted by section 171B of the 1990 Act. In that case:

- there was positive deception in the planning process;
- the deception was intended to undermine the planning process;
- the deception did undermine the planning process; and

- Mr Beesley stood to profit directly from the deception.

However, the Courts have since held that the four matters identified in *Welwyn Hatfield* are a sufficient set of factors for the principle to apply, but not necessary tests. In *Jackson v SSCLG* [2015] EWHC 20 (Admin) (Jackson) Holgate J cited *Fidler v SSCLG* [2011] EWCA Civ 115910. He noted that the *Welwyn Hatfield* principle applied, even though Mr Fidler had made no false representations during the planning process. Mr Fidler's positive deception concerned the concealment behind straw bales of a building erected without planning permission. In the circumstances, Holgate J said that the "decisions of the courts to date have been fact-sensitive and there is some uncertainty as to the overall range of circumstances in which the public policy principle may be applied."

2. The LPA endorses that approach being that the four factors are relevant but not necessary the test, positive deception does not always require false representations, and that the decisions of the courts (and inquiries) are fact sensitive.
3. The findings the Inspector made in the *Langton View Stables* is interesting to note:

"31. Whether there has been positive deception/deliberate concealment is a fact sensitive question. A spectrum of wrongdoing exists, ranging from cases where an appellant is simply unaware of the need for planning permission to at the other extreme those who carry out a deliberate, elaborate, and sustained plan to deceive the Council from first to last. In this case the appellant's conduct has been shown to be inaccurate and misleading. It is more likely than not that she knew she did not have planning permission to live in the appeal building and there was no specific attempt to bring the material change of use of the appeal building to the attention of the Council.

32. However, the evidence does not demonstrate that the change of use to a single dwellinghouse was deliberately concealed or that there was a planned course of deception designed to circumvent planning control and escape enforcement. The appellant appears to have mostly pursued deliberate inaction rather than taking sustained or actively deceptive steps. Overall, in my judgement the appellant's conduct did not amount to the degree of deception necessary to engage the principles set out in *Welwyn Hatfield*."

4. Firstly, the case of *Langton View Stables* is confined to its own facts as it is not binding and is within an area of law that is clearly fact sensitive. As noted therein there is "A spectrum of wrongdoing exists, ranging from cases where an appellant is simply unaware of the need for planning permission to at the other extreme those who carry out a deliberate, elaborate, and sustained plan to deceive the Council from first to last." As set out above in these closing submissions the repeated denials, the PCN replies, the responses to site views and

the manner in which the works have been undertaken in this case show that this case is at the end of the spectrum of a deliberate, elaborate, and sustained plan to deceive.

Lack of evidence of bedroom and Ian Beech's comments

5. In the plethora of brief supportive letters/comments there are only two that refer to a bedroom. These are Adele Perrott [385] and Ian Beech [402] neither of which were called to give evidence, and the two witnesses who did give evidence do not refer to a bedroom. However, there is an abundance of evidence that refers to the sleeping outside in vehicles. The obvious explanation for sleeping in such vehicles is that there was no bedroom. Adele Perrott only makes a fleeting remark to a bedroom not tested in the Inquiry. She says it was in 2011 but the photograph at [180] accepted to be taken in 2011 shows that the second floor was not constructed then. Ian Beech refers to a bedroom in 2012 but (a) his evidence was not tested, (b) his narrative and photographs are inconsistent⁴ [405-406], (c) he refers to a glass fronted bookcase in the bedroom, however the only photographic evidence of a bedroom in the evidence are the photographs at HRN44-50 [243-249] and there is no such glass fronted bookcase in the bedroom. The second-floor concealed bedroom which is now present was clearly due to its location above the other works a later addition, and this was why the Appellant slept outside in vehicles.

The Breach of Condition Notices and the suggestion the LPA has changed its case

6. The Inspector is directed to the Chronology. The BCN was served 28th March 2025 the Appellant could have sought Judicial Review of the decision to serve the BCN. He did not do so. The BCN was not complied with, and criminal proceedings were commenced after notification to the Appellant on 22nd September 2025. It was only a few days before the first hearing in that criminal matter that the application was made for a CLU on 10th October 2025, with all the matters he raised therein. Obviously, the CLU application had to be considered on the facts contained therein, and it was legitimate of the LPA to raise the matters in response to that and in the appeal in this Inquiry.

⁴ He refers to vehicles and the library bus parked outside but produces evidence in support which is a photograph of the library bus parked inside.

Abandonment

7. The lack of forge activity is dealt with in the Delegated Report [133-134 & 142]. The issue of abandonment and the relevant test is also set out in the LPA's opening submissions. The only evidence of recent forge activity was a self-made invoice, alleged photographs of items to work on, and an accepted staged photograph of the Appellant working in the forge in August 2026. There were no official or third party records such as tax returns, invoices from suppliers of materials, insurance documents and the like. No one else has worked at the forge for many years. Clearly, there is no forge business being undertaken at the forge. The equipment is still there but the storage of numerous and combustible items in and around the forge clearly show that the forge is not in a condition to be operational from a business perspective and this has been the case for years.

The LPA's treatment of the Appellant

8. The comments regarding a 'late' assertion of a marked up and flagged up bundle and that Counsel (and the Inspector) was able to see this during the Inquiry when the Appellant gave his evidence is totally refuted. The suggestion that Counsel could see this when the submissions contrary to this were made can only be considered as an allegation of misleading the Inquiry. That is simply not true and contrary to what occurred. Obviously, had Counsel seen the marking up and Post-it notes at the time, this would have been raised immediately.
9. If the Appellant, who was legally represented, wanted to use a marked up and flagged up bundle he should have asked permission via his legal representation to do so. If as now being alleged the bundle could have been seen by the advocates, then it was incumbent on the Appellant's advocate to raise the issue.
10. It is noteworthy that the pastel coloured tabs referred to in the cross examination of Mrs Radley did not even exist on the bundle. There was one blue divider but the other dividers were white and were numbered in black. The fact that Mr Aggett produced 3 members from his team to give evidence and the LPA only produced Mrs Radley does not mean more people produces more weight in evidence. Each witnesses needs to be considered individually for the weight to be given to their evidence. Mrs Radley is an employee of the LPA with no 'skin in the game' to use the colloquial phrase. She was not directly involved

in or affected by the situation, having no personal, financial, or reputational risk tied to the outcome. She gave very clear evidence on what she saw. The marking up of key documents and key words is now clear for all to see. To now try and suggest this matter reflects adversely on the LPA is rather a surprising submission to say the least.

Concluding remarks

11. Obviously, the LPA disputes the submissions and analysis of the evidence as set out in the Appellant's closing submissions where it is contrary to what is set out herein. However, the LPA rests its comments and respectfully suggests that on the evidence before this Inquiry the appeal should be dismissed.

29th September 2026