

APPELLANT'S FINAL SUBMISSIONS ON THE COUNCIL'S CLOSING

Meadow Forge, Hillside Barn, Cadeleigh, Tiverton

Appeal reference: APP/Y1138/X/26/3378579 under section 195, Town and Country Planning Act 1990

Sir,

1 Introduction

- 1.1 These submissions respond only to matters newly emphasised or advanced in the Council's closing submissions. They should be read with the Appellant's principal Closing Submissions exchanged on 28 September 2026 and their final submissions 29 September.

2 Newly advanced bedroom concealment case

- 2.1 The Council now submits that there was no reliable evidence of a bedroom before November 2024 and that the bedroom was concealed. This is a new assertion which was not squarely put to Mr Aggett or Mr Meraga in cross-examination. No witness gave evidence that a bedroom at Meadow Forge was deliberately hidden from the Council.
- 2.2 The submission is also inconsistent with the evidence before the Inquiry. Ian Beech described seeing an upstairs bedroom and bathroom during his visit on 20 October 2012. Adele Perrott described the bedroom before 2011. Mr Meraga described the Appellant's move into Meadow Forge, the progressive first-floor works and the later bathroom plumbing. Mr Aggett's evidence was that, although he slept in vehicles or the yurt on very limited occasions, he mostly slept inside Meadow Forge.
- 2.3 Norman Steel did not personally inspect the upstairs accommodation, but his evidence did not stop there. He recalled conversations with his son Jonathan, who had been upstairs, about how pleased Mr Aggett was with the upstairs living arrangements. Jonathan gave his own knowledge of the upstairs accommodation in his statutory declaration.
- 2.4 The Council seeks to diminish the evidence of Ian Beech and Adele Perrott because neither was called for cross-examination. That submission is difficult to reconcile with the Council's own case. A substantial part of its own evidence depends upon historic file notes recording earlier officers' conclusions and third-party statements from persons who likewise did not give evidence and were not available for cross-examination.
- 2.5 The issue is therefore weight, not whether the evidence was tested under cross examination. If absence of cross-examination reduces weight, that applies equally to much of the Council's historic material. The evidence must be assessed by its provenance, detail and consistency. Mr Beech's account is dated, supported by a contemporaneous diary and photographs, and records first-hand interior observations of the upstairs bedroom and bathroom. There is no principled basis for dismissing the Appellant's evidence while relying upon equally untested Council material.
- 2.6 More fundamentally, the Council's 'no bedroom until November 2024' case seeks to prove a negative. No witness gave evidence that there was no bedroom before 2024. The Council relies only on the date of its first bedroom photograph. Absence of an earlier Council photograph is not evidence of absence, particularly given the evidence of Mr Beech, Ms Perrott, Mr Meraga, Mr Aggett and the Steels.

- 2.7 The Council therefore seeks to elevate the date of its first bedroom photograph into the date upon which the bedroom first existed. Those are different propositions. The suggestion that the room was concealed behind a chimney breast or curtain is a submission given in closing, not evidence, and should be given little weight.
- 2.8 In any event, *Gravesham* does not impose a formal-bedroom test. The question is whether the building afforded the facilities required for day-to-day private domestic existence and was actually used residentially. The kitchen, washing facilities, bathroom, sleeping accommodation, personal possessions and settled occupation must be assessed cumulatively.

3 The Council's chronology

- 3.1 The Council's chronology is neither accurate nor neutral. It contains errors (Mr Meraga did not install the replacement bathroom in 2009, it was 2012). The chronology combines dates with advocacy, speculation and suggested conclusions.
- 3.2 It relies repeatedly upon historic file closures and 'no breach' entries, although the complete enforcement files were requested but not disclosed and the evidential basis for the closures is not before the Inquiry remaining untested. It then minimises the Council's own later records which expressly addressed occupation.
- 3.3 The 26 October 2021 email records that Mr Aggett appeared to have been living at the premises for some time, probably since around 2010, and that there appeared to have been a material change of use. The 13 July 2023 email records corroboratory evidence of use and occupation since 2008 and the view that the Council was most likely already out of time. Those documents are not merely records of suspicion. They are records of discovery by the Council.
- 3.4 The chronology also treats the movement or replacement of individual vehicles and objects as evidence that the storage use ceased. Condition 5 regulates the activity of external storage, not the permanence of one particular chattel. The Council accepts that external storage occurred and its own photographs show recurring storage. No witness identified a period when the relevant land was entirely free from stored vehicles, equipment, materials or other chattels.

4 The oral witnesses and PCN responses

- 4.1 The Council seeks to dismiss the evidence of Mr Meraga and Mr Steel because neither proved every part of the Appellant's case. That misunderstands their evidential value. Mr Meraga gives direct evidence about the emergence of the residential component and continuing forge use. Mr Steel provides evidence of continuity over the later period. Each addresses a different part of the chronology and each is supported by other independent material.
- 4.2 The 2010 and 2022 PCN responses are relevant evidence, but not conclusive. The statutory task is to determine what actually occurred on the balance of probabilities by considering all the evidence. The PCN responses must be weighed with the dated photographs, videos, independent witnesses, electoral and address records, Council Tax material and the Council's own 2021 and 2023 conclusions.

5 Marked-up bundle allegation

- 5.1 The marked-up bundle issue was fully explored at the resumed Inquiry. Mrs Radley observed coloured items projecting from the folder from the rear of the room. She could not read or inspect them and did not raise the matter during either the lunch adjournment or the afternoon break when immediate inspection was possible.
- 5.2 Against that are four witnesses whose evidence contradicted the allegation. The more probable explanation is that Mrs Radley honestly but mistakenly interpreted coloured divider tabs as post-it notes. The Council identified no written prompt, suggested answer or any instance in which Mr Aggett's evidence was influenced by such material.
- 5.3 *Cape Intermediate Holdings* and the non-binding Employment Tribunal decision in *Potgieter* establish no general rule that a witness at a planning inquiry must use an unmarked bundle. The Council's reliance on *Cape* is on a section of obiter judgement relating to court proceedings. To assist the Inspector the only paragraph dealing with this matter in that judgement is 48:

It is, however, appropriate to add a comment about trial bundles. Trial bundles are now generally required. They are compilations of copies of what are likely to be the relevant materials - the pleadings, the parties' submissions, the witness statements and exhibits, and some of the documents disclosed. They are provided for the convenience of the parties and the court. To that end, the court, the advocates and others involved in the case may flag, mark or annotate their copies of the bundle as an aide memoire. But the bundle is not the evidence or the documents in the case. There can be no question of ordering disclosure of a marked up bundle without the consent of the person holding it. A clean copy of the bundle, if still available, may in fact be the most practicable way of affording a non-party access to the material in question, but that is for the court hearing the application to decide.
[emphasis added]

It says nothing about expressly distinguishing working copies from the evidential material before the court and provided to the witness (as asserted by the Council). Indeed the emphasised passage is to the contrary: flagging and marking and annotation are acceptable before the Supreme Court.

- 5.4 The factual question is whether Mr Aggett was improperly prompted such that the evidence he gave was not his. There is no evidence that he was or that this was the case.

6 Conclusion

- 6.1 The Council's closing introduces no evidence capable of displacing the Appellant's case. By early 2013 at the latest, Meadow Forge had the facilities and settled occupation characteristic of the material mixed use. The storage activity continued for the requisite period. The Council's own records demonstrate discovery, not successful concealment, and no coherent case of abandonment has been established.
- 6.2 The statutory periods had expired before the BCNs were served. The appeal should be allowed and a certificate issued in the primary or alternative form proposed in the Appellant's principal Closing Submissions.

Michelmores LLP

29 September 2026