



Charnwood Borough Council

Town and Country Planning Act 1990

Appeal Statement By

Miss S J Hallam

Planning Enforcement Officer

Unauthorised change of use from agricultural equipment store and aircraft hangar to a mixed use of agricultural equipment store, aircraft hangar and residential dwelling.

at

**Land at Fourways Farm, Narrow Lane,
Wymeswold, Leicestershire**

Local Planning Authority Ref No. E/19/0353

Planning Inspectorate Ref No. APP/X2410/C/19/3242127

This statement and associated documents can be viewed on the Planning Enforcement page of the Council's website

https://www.charnwood.gov.uk/pages/planning_enforcement or in reception at the Council Offices but this is via appointment only by calling 01509 634570

1.0 Introduction

1.1 I am employed by Charnwood Borough Council as a Senior Planning Enforcement Officer in the Development Control Department and am responsible for the investigation and resolution of suspected breaches of planning control within the Borough of Charnwood. I am a chartered member of the Royal Town Planning Institute and have a Masters in Urban and Regional Planning. I also have the Trevor Roberts Certificate of Continuing Education in Planning Enforcement and have sixteen years' experience working as a Planning Enforcement Officer.

2.0 The Unauthorised Development

2.1 This appeal relates to the unauthorised change of use from agricultural equipment store and aircraft hangar to a mixed use of agricultural equipment store, aircraft hangar and residential dwelling.

2.2 The site includes a building which is used as an aircraft hangar, with part of it being used as an agricultural equipment store and within the building is a mezzanine floor that contains a bedroom/living room and shower, with a small kitchen and toilet at ground floor level.

2.3 The Council can confirm that the building which contains the residential dwelling is not the subject of this appeal. It is unclear when the building was actually erected and there is no planning history for its erection however due to the length of time it has been present on the land the

Council is satisfied that the building has gained immunity under section 171B (1) of the Town and Country Planning Act 1990.

3.0 The Appeal Site and its Location

3.1 The appeal site is contained within approximately a 6 ha parcel of land located on the southern side of Narrow Lane, to the south-east of Wymeswold.

3.2 The site comprises a grass airstrip which the land is also used for the grazing of animals, a building that is used as an aircraft hangar and agricultural store, and within this building the dwelling is located, which is the subject of this appeal. There is also a carpark area outside of the building and a garden area with pond. Access is off Narrow Lane along a shared track.

3.3 The appeal site is shown on the plan extract attached as Appendix 1.

4. Relevant Planning History

4.1 The applications that are relevant to this appeal are;

- P/97/0916/2 - Siting of a mobile home. REFUSED
- P/17/1360/2 - Erection of temporary dwelling and siting of 2 static caravans for short term holiday let. REFUSED
- P/18/0874/2 - Certificate of lawfulness for the existing mixed use of agriculture and aviation activities (Sui Generis). GRANTED

- P/18/2040/2 - Erection of temporary dwelling and siting of 2 static caravans for short term holiday let. (Resubmission - P/17/1360/2 refers). REFUSED
- P/19/1323/2 - Proposed certificate of lawfulness for existing residential use within mixed use agriculture and aviation hangar. REFUSED

- 4.2 The residential unit within the aircraft hangar was first brought to the planning department's attention when the Certificate of Lawfulness reference P/19/1323/2 was submitted on 10 July 2019 for an existing residential use within a mixed use of agriculture and aviation hangar.
- 4.3 Within the three previous planning applications (P/17/1360/2, P/18/0874/2 and P/18/2040/2) submitted to the Council by the appellant there was no reference to the dwelling within the aviation hangar.
- 4.4 In application P/17/1360/2 for the erection of a temporary dwelling and siting of 2 static caravans a design and access statement was submitted, and within the conclusion section it reads "There are no dwellings on site or in the immediate vicinity that could fulfil the operational requirements of the airstrip'. A copy of the design and access statement is included in Appendix 2.
- 4.5 The planning officer (Helene Baker) who dealt with P/17/1360/2 undertook a site visit on 20 February 2018 to assess the proposal for the erection of temporary dwelling and siting of 2 static caravans for short term holiday lets. The officer viewed the building from outside and observed the light aircraft within the building from the large sliding

doors where the aircrafts enter and exit the building. Copies of the relevant photographs taken during this site visit are included in Appendix 3. From the photographs taken the residential dwelling is not evident.

- 4.6 This application (P/17/1360/2) was refused planning permission on 24 May 2018, with one of the reasons being that the proposal was based around the airstrip use but the Council did not have evidence the airstrip was authorised or lawful.
- 4.7 Following the refusal of P/17/1360/2 a Certificate of Lawfulness (P/18/0874/2) was submitted and granted for the existing mixed use of the land for agriculture and aviation activities, including use of the grass airstrip by resident and visiting aircraft and storage of four light aircraft and associated agricultural machinery in the existing hangar. The decision was based on the evidence submitted so no site inspections were made in relation to this application. At no point in the submission of this Certificate was a dwelling located within the hangar mentioned.
- 4.8 Following the grant of the Certificate (P/18/0874/2) a revised planning application reference P/18/2040/2 was submitted in an attempt to overcome the reasons for refusal in P/17/1360/2. In the design and access statement on page 2 there is an aerial photograph with the building detailed as being used for storage of aircraft and agricultural machinery. There is no mention of the residential dwelling. On page 6

in 'Main issues section' it states "with certification of the lawful development for a sui generis use, the applicants now consider that they are in a position to expand and grow the aviation activities on site and want to be able to offer overnight accommodation to pilots flying to the area". In addition it states that "to ensure security measures can be adhered to it is essential that a manager is in-situ at all times".

Therefore it was indicated that a dwelling for staff accommodation was vital. Throughout the statement there are numerous references for the need to be able to provide accommodation to pilots but no comments made in respect of the residential accommodation already present in the hangar. In the conclusion for the statement it reads 'There are no existing dwellings on site or in the immediate vicinity that are available to the applicants', this is a lie. A copy of the design and access statement is included in Appendix 4. This application was refused 25 February 2019

- 4.9 Following the second refusal of planning permission for residential accommodation on the site the appellant changed agents and a Certificate of Lawfulness application (P/19/1323/2) was submitted for the existing residential use within mixed use agriculture and aviation hangar.
- 4.10 Due to the comments made in the previous applications regarding the lack of residential accommodation on the site it was considered necessary to undertake a site visit to view the residential

accommodation because up to this point there was no records within the Council to indicate that there was a dwelling on the site. The site visit in connection with the Certificate of Lawfulness application (P/19/1323/2) was undertaken on 23 July 2019 and as part of this inspection the whole internal layout of the aviation hangar was viewed. On the ground floor, accessed via the pedestrian door on the north western elevation of the building there is a very small kitchen and toilet. At the time of the visit within the cupboards only dry and canned food was evident and no fresh produce such as milk or bread was observed. On walking through the kitchen into the hangar there was a steep carpeted staircase to the right hand side that leads to the mezzanine floor which provides a living/sleeping area. Within the living area there was a seated area and a bedroom area, with a shower cubicle. The ground floor of the hangar is sub-divided with one side used as an agricultural workshop and the other for the storage of light aircraft. Without going totally into the hangar and seeing the carpeted staircase the residential unit is not clearly evident. On the outside of the building there is no evidence (i.e. name or number for the residential unit or a letter box). It is acknowledged that there is a TV aerial but that this cannot be used as clear evidence to suggest that a residential unit is inside the building.

- 4.11 The evidence submitted for the Certificate of Lawfulness application (P/19/1323/2) inferred that the dwelling had been evident for a number of years and that visiting pilots to the site were aware of its existence

however little evidence was provided in the Certificate application to show the extent of the occupation and/or the continual occupation of the dwelling over said years. In addition the owners and/or their agent deliberately provided misleading statements to the Council which had the effect of covering up the unauthorised residential accommodation. Therefore the application was refused consent for the following reason;

- It is the view of the Council that the immunity time limits are dis-applied as it is satisfied, on the balance of probabilities, that there was deception on the part of the applicants as per R (on the application of Welwyn Hatfield Council) v Secretary of State for Communities and Local Government and A Beesley [2011] UKSC 15. The deception is established upon the basis of deliberately misleading statements to the Council made by and/or behalf of the applicants. These statements had the effect of covering up the unauthorised dwelling.

4.12 The Council Tax Department were only made aware of the residential unit, by the case officer, when the Certificate of Lawfulness application (P/19/1323/2) was submitted for the residential unit. The current and previous site owners have never proactively contacted the Council to advise that a residential unit is contained within the hangar building further concealing the residential use.

- 4.13 Upon the refusal of the Certificate of Lawfulness a Planning Contravention Notice was served on 25 September 2019 upon the site owners and copy of this is attached as Appendix 5.
- 4.14 The site owners provided their response to the Planning Contravention Notice on 14 October 2019 and a copy of this with the relevant statutory declarations are included in Appendix 6.
- 4.15 The response to the Planning Contravention Notice was assessed however the Council were still of the opinion that a breach of planning control was evident. From all the information gathered during this investigation a clear pattern emerged that the appellant had deliberately tried to hide the unauthorised dwelling and deceive the Council about its existence. Various documents submitted to the Council totally denying the existence of the dwelling. It was not considered that this was simply a case of failing to be forthcoming with officers, but positive steps were taken to ensure the unauthorised dwelling did not come to the attention of the Council. Externally the building had no features to suggest that a dwelling was contained within the building and at no point had any owners been forthcoming to the Council about the existence of the dwelling within the hangar. The Council therefore served an Enforcement Notice on 29 October 2019 for the following reasons;
- From the evidence that the Council holds it would appear that the land owner has tried to deceive the Council within various planning

applications submitted to the Council. The Council are therefore of the opinion that the time limits set out in 171B of the Town and Country Planning Act 1990 are dis-applied on the grounds of deception. In this instance R (on the application of Welwyn Hatfield Council) v Secretary of State for Communities and Local Government and A Beesley [2011] UKSC 15 is of relevance.

- The unauthorised development consists of the change of use of a building from an agricultural equipment store and aircraft hangar to a mixed use of agricultural equipment store, aircraft hangar and residential dwelling. The creation of a new dwelling in the countryside outside of established settlements is only acceptable in exceptional circumstances for which there is no justification. No exceptional circumstances have been identified which justify overriding planning policies relating to remote dwellings in unsustainable locations. The mixed use of the building for agricultural equipment store, aircraft hangar and residential dwelling does not comply with the National Planning Policy Framework, Policies CS1, CS10, CS11 and CS25 of the Charnwood Local Plan (2011-2018) Core Strategy and saved policies ST/12 and CT/1 of the Borough of Charnwood Local Plan which promote sustainable development and seek to protect the rural character and appearance of the Countryside.

- The dwelling introduces domestic paraphernalia, including a maintained garden area into the countryside changing the open rural character of the area. In addition the domestic nature of the maintained garden area and paraphernalia that accompanies most residential properties such as washing lines etc. do not respect or enhance the area and the residential use is contrary to policies CS2 and CS11 of the Charnwood Local Plan (2011-2018) Core Strategy and saved policies ST/12 and CT/1 of the Borough of Charnwood Local Plan.
- The Council does not consider that planning permission should be given as planning conditions could not overcome these objections.

A copy of the Enforcement Notice is attached in Appendix 7.

4.16 The Council wish to point out, to the Inspector that within the Enforcement Notice the Council refers to policy ST12 of the Borough of Charnwood Local Plan, this is a typographical error and should actually refer to policy ST2 of the Borough of Charnwood Local Plan. Policy ST12 is not in existence in the Borough of Charnwood Local Plan.

5.0 Disapplication of immunity time limits

- 5.1 Under section 171B(2) of the Town and Country Planning Act 1990 it states that where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- 5.2 In R (on the application of Welwyn Hatfield Council) v Secretary of State for Communities and Local Government and A Beesley [2011] UKSC 15, the Supreme Court stated that whether conduct would on public policy grounds disentitle a person from relying upon an apparently unqualified statutory provision had to be considered in light of the principle that a person should not benefit from his own wrong. It also had to be considered with regard to any nexus existing between the conduct and the statutory provision. In this case Mr Beesley's conduct although not identifiably criminal, consisted of positive deception in matters integral to the planning process and was directly intended to undermine the regular operation of that process. He would be profiting directly from that deception if the passing of the normal four-year enforcement period were to entitle him to resist enforcement.
- 5.3 In relation to s.171B(2) [as it then was], the four-year statutory periods had to have been conceived as periods during which a planning authority would normally be expected to discover an unlawful building

operation or use and after which the general interest in proper planning control would yield and the status quo prevail.

- 5.4 It is the Council's opinion that in this case the time limit set out in 171B(2) of the Town and Country Planning Act 1990 should be disapplied as previous owners, the appellant and their agent have made deliberate attempts to conceal and mislead the Council in respect of the unauthorised dwelling contained within the aircraft hangar.

6.0 Relevant Planning Policies

- 6.1 The Charnwood Local Plan 2011-2028 Core Strategy was adopted on 9 November 2015. Relevant policies include:

Policy CS1 Development Strategy sets out the overall strategy for development in Charnwood by directing development towards established settlements and restricting development in the countryside.

Policy CS2 High Quality Design requires new development to respect and enhance the character of the area, having regard to scale, massing etc. and protect the amenity of people living nearby or in the new development.

Policy CS10 Rural Economic Development seeks to maximise the potential of the rural economy through supporting the sustainable

growth and expansion of businesses in rural areas through well designed new buildings provided that in all cases the scale and character of the development is designed and operated so as to cause no detriment to the character and appearance of the countryside.

Policy CS11 Landscape and Countryside supports and protects the character of the countryside by requiring new development to protect landscape character, to take into account and mitigate its impact on tranquility.

Policy CS13 Biodiversity and Geodiversity supports development that protects biodiversity and those that enhance restore or re-create biodiversity. Development proposals are expected to consider and take account of the impact on biodiversity particularly with regard to (inter alia) protected species.

Policy CS25 Presumption in favour of Sustainable Development sets out the framework for achieving sustainable development which is based upon and reflects the presumption in favour of sustainable development.

Charnwood Borough Council are currently able to demonstrate a 5-year supply of deliverable housing sites. This is outlined within the Council's 'Five Year Housing Land Supply – 31st March 2020' position document, which indicates a supply of 5.52 years. The Council's

assessment of its housing land supply position takes account of the implications of the COVID-19 pandemic, and this has included input from site developers / promoters. Therefore significant weight can be given to the relevant policies contained within the Charnwood Local Plan 2011-2028 Core Strategy. A copy of the 31 March 2020 position document is attached as Appendix 8.

6.2 The relevant saved policy of the Borough of Charnwood Local Plan (adopted 12th January 2004) is as follows:-

Policy ST/2 - Limits to Development – seeks to restrict development to within the existing Limits to Development boundaries of existing settlements to ensure that development needs can be met without harm to the countryside.

Policy CT/1 - General principles for Areas of Countryside, Green Wedge and Areas of Local Separation. Development within these areas of generally open land will be strictly controlled. This is limited to small scale development and re-use and adaptation of rural buildings for uses suitable in scale and nature.

Policy CT/2 states that development which is acceptable in principle will be permitted where it (inter alia) would not harm the character and appearance of the countryside.

Policy EV/1 advocates good design in new development with reference to it respecting the character of its surroundings and safeguarding the amenities of adjoining residents.

Policy TR/18 Parking Provision in New Development notes that planning permission will not be granted for development unless off-street parking for vehicles, including cycles, and servicing arrangements are included to secure highway safety and minimise harm to visual and local amenities.

As the Local Plan pre-dates the NPPF, paragraph 213 indicates that due weight should be given to relevant policies according to their consistency with the NPPF. These policies are considered to be broadly consistent with the aims of the NPPF and, as such, should be given significant weight

6.3 Other relevant policies

The National Planning Policy Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. This is achieved through (inter alia) the application of the policies in the NPPF. It requires that decisions should apply a presumption in favour of sustainable development and therefore planning applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The NPPF requires development to achieve high quality design that respects local distinctiveness and poor design should be refused.

In respect of rural housing, the Framework requires that planning decisions should be responsive to local circumstances and support housing development that reflect local needs. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The development of isolated homes in the countryside should be avoided unless specific circumstances apply which include where there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside.

To support a prosperous rural economy, the Framework requires that planning decisions should enable (inter alia): a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; b) the development and diversification of agricultural and other land-based rural businesses; c) sustainable rural tourism and leisure developments which respect the character of the countryside.

The Framework requires that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value (in a manner commensurate with

their identified quality in the development plan) and recognising the intrinsic character and beauty of the countryside.

In considering development proposals, that safe and suitable access to the site can be achieved for all users. Development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe

With regard to enforcing planning legislation the document states that effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary and local planning authorities should act proportionately in responding to suspected breaches of planning control.

Paragraphs 7, 9, 11, 12, 47, 58, 78, 79, 83, 124, 127, 130, 170, 175 and 177 are of particular relevance.

National Planning Policy Guidance (PPG)

This was launched as a web based resource, and replaces a list of previous practice guidance documents and notes, as planning guidance for England and consolidates this guidance on various topics into one location and condenses previous guidance on various planning related issues. This also sets out relevant guidance on

aspects of design, the setting and significance of heritage assets, landscape, supporting the policy framework as set out in the NPPF.

The supplementary planning document (SPD) Leading in Design

provides guidance intended to encourage, promote and inspire a higher standard of design.

- 6.4 Copies of the policies and strategy have already been sent to the Inspectorate and were attached to the Council's appeal questionnaire.

7.0 Statement of Case - Ground (D)

7.1 The appellant argues that they never attempted or have encouraged their agent to deceive the Council in anyway. The design and access statement submitted for application P/17/1360/2 first went on to state “the applicants propose to erect a further storage building on site that will incorporate a toilet and office facilities to serve users of the air field” but never commented on the already existing facilities. In addition within the report it states “The need for a residence on site is essential to the operations and security of the planes and the high risk of unauthorised use of the airstrip” and “Most rural airstrips are already located on established farms that are served by a dwelling and are therefore less at risk of criminal activity, unfortunately this is not the case for Fourways Farm, as the applicants live several miles away and as such the site is very vulnerable, especially at night when left unattended”. Again no mention of the current accommodation on the site or that this may not be suitable for the current needs of the site and the site owners. Within the report it states “The applicants have been given notice by their land lord to leave their current tenanted residence” and that “There are no dwellings on site or in the immediate vicinity that could fulfil the operational requirements of the air strip”. A copy of the submitted design and access statement is included in Appendix 2.

7.2 In the application P/18/0874/2 for the Certificate of Lawfulness for the mixed use of the land and buildings for agriculture and aviation activities a supporting statement was submitted and within that statement it described the hangar building “as having a dual purpose use, has sufficient floor area to accommodate up to 4 aircraft within it, as well as provide storage for the agricultural machinery that is required to maintain the agricultural and aviation activities on the site” but made no mention to the residential unit within the building. In addition within this application a letter dated 23 April 2018 signed by the appellants detailed the internal use of the hangar building but again failed to mention the residential use. Both the supporting statement and letter signed by the appellants is included in Appendix 9.

7.3 With regard to the design and access statement submitted for application P/18/2040/2 this is very similar to that submitted for application P/17/1360/2 and again within this statement it states “the applicants now consider that they are in a position to expand and grow the aviation activities on site and want to be able to offer overnight accommodation to pilots flying to the area” and it states “There are no existing dwellings on site or in the immediate vicinity that are available to the applicants”. A copy of the Design and Access Statement is included in appendix 4.

- 7.4 The information provided in the design and access statements for all the applications will have been gathered from information provided by the appellants. Even if the information had been elaborated by the agent prior to submission this would have needed to have been approved by the appellants. The appellants may be lay persons however will have agreed to the content of the application submitted on their behalf. They therefore would have known prior to the submission as to whether the information was factually correct or withholding vital information in attempt to deceive the Council.
- 7.5 The Council therefore strongly believe that it would have been up to the appellant, even if their agent wrote the design and assess statement to approve it prior to submission. Therefore they clearly attempted to deceive the Council on a number of occasions through their submission of applications to the Council and for not informing the Council tax department of the residential unit.
- 7.6 The appellant contends that the Council does not challenge the submissions made in the June 2019 application for the Certificate of Lawful existing use that the residential accommodation within the roof-space of the aircraft hangar was provided during the late 1990's. Coming to the conclusion that the Enforcement Notice has only been served for the period during the course of the submission of the applications when the appellant tried to deceive the Council and not prior to this timeframe when it is contended that the residential

accommodation had been in place for 20 years prior. The Council does not agree with this assumption in any way as all land owners since the 1990's have failed to proactively come forward to the Council regarding the residential use and have deceived the Council throughout.

7.7 The Council accepts that the statutory statements submitted as part of the Certificate and this appeal hold weight in any decision however the information provided in these statements indicates the existence of the facilities (i.e. shower, restroom toilet and kitchen) but lacks evidence on its regular continual use as a dwelling.

7.8 The appellant contends that there was no attempt on their behalf to hide the presence of the residential unit and suggests that the Council's case is predicated by the inadequacy of the officers not observing the residential accommodation when site visits have been undertaken. It is acknowledged that a Planning Officer along with the Council's Senior Ecological Officer undertook a site visit on 20 February 2018 with regard to application P/17/1360/2 however this was to assess the proposal under consideration and not to look for unauthorised dwellings. If by chance they had observed any evidence of the residential unit being in the hangar then this would have been reported to the enforcement team for investigation. In addition if any of the documents submitted by the appellant had stated that a residential unit was present on the site then the officers would have requested to view

it at the time of their visit and this would certainly have been referred to the enforcement team if there was no evident planning permission for the accommodation. The Council therefore strongly disagrees with the statement made by the appellant.

7.9 The appellant in their statement suggests that as there is a garden on the site where an Ecology Report was provided that as the Council were aware of its presence then they should be aware of the residential unit. Throughout the Borough and all over the Country there are tendered gardens that are not connected to residential units. The garden could clearly have been created for the benefit of visiting pilots flying into and out of the site, and therefore the Council do not agree with this suggestion/assertion the appellant has made.

7.10 The appellant contends that the residential unit is clearly visible from inside and outside of the unit. The Council totally disagree with this statement. From the exterior of the building (Photographs are attached in Appendix 10) there are no signs, such as a letter box or address number on the exterior of the building. The entrance door is utilitarian and not residential in nature. As you go in the pedestrian door there is a toilet to the right which would not be an unusual addition to any farming operation. The room it is in is not plastered and very simple in the facilities it provides thus giving no indication that this is part of a residential unit. With regard to the kitchen area this is very limited in size and if merely walking through to the main shed it would not raise

concern in respect, to the facilities it provides. Again many agricultural operations have such limited facilities due to the long hours working the land. Any officer viewing the small kitchen area and basic toilet facilities during their site visit would not raise any concerns as this could have easily been seen as an amenity area where workers tending to the land make snacks, drinks etc. Within the main barn there is a very steep set of carpeted stairs but without going up these stairs it would not be evident that there was a residential unit present on the mezzanine floor. Therefore the Council does not agree with the appellant that the residential unit is clearly evident within the building. The main part of the residential unit being the living, bedroom and shower are all included on the mezzanine floor not visible when on the ground floor of the building.

- 7.11 The appellant states that they have had a TV licence since 2014 and therefore suggest that this shows they were not trying to deceive the Council. The Council does not support this contention as the Council do not have access to such records and in holding a TV licence does not show that the appellants did not try to deceive the Council. The appellants have only just started paying Council tax and from June 2020 Mr Yallop was placed on the electoral register as occupying the property and Ms Bexley from September 2020. Further showing that until the enforcement officer made the Council tax department aware of what facilities were available on the site the appellant had withheld such information and tried to deceive the Council. Once Council Tax

were aware of the dwelling this set off a chain reaction with the Electoral Registration team being made aware of persons occupying the property. As yet no application has been submitted to the Council for an individual address for the residential dwelling further indicating the appellant's reluctance to make the Council aware of the existence of the dwelling on the site.

7.12 The appellant states in their Statutory Declaration that they have never sought to hide the existence of the accommodation. The Council therefore find it impossible to comprehend that their planning agent, Tenacity Planning Consultants wrote such detailed statements about there being no residential accommodation on the site when in the appellants Declaration they state that they held meetings with their agent in the residential accommodation.

7.13 The Council would robustly dispute that on 29 October 2019 it was too late for the Council to take enforcement action. Therefore it remains the Council's view that a breach of planning control has occurred as described in the enforcement notice and the residential unit is not lawful.

8.0 Statement of Case - Ground (F)

- 8.1 The appellant contends that the steps within the Notice to secure compliance exceed what is necessary to remedy the breach of planning control. In taking into the account the needs of the operation of the farm, in respect of the requirements to remove the fridge and washing facilities within the kitchen the Council concedes that these could remain and the requirements of the Notice be varied however in respect of the kitchen units, microwave and cooker hob these are not essential items for the operation of a farm business and are part and parcel of the unauthorised residential use. They were installed to make the living conditions more comfortable and were not provided for the business therefore the Council would maintain that these be removed.
- 8.2 In respect of the shower facility, if the Inspector is of the opinion upon reviewing the information submitted with regard to the appellant's medical condition, this is essential to the operation of his agricultural business then the Council would accept the Notice to be varied for this to be retained. The Council have not been provided with the details of the appellants long term health conditions and therefore is limited in its comment on the matter.
- 8.3 With regard to the garden area the Council still remain of the opinion that this should not be maintained in the way a normal residential

garden is maintained. It being maintained as a manicured garden area is out of keeping with the surrounding farmland and if allowed to remain would make it difficult to monitor that paraphernalia which comes with such gardens (i.e. table's chairs garden ornaments etc.) will not creep back. The Council would not support its retention as it is not a necessity for the agricultural and aviation use of the site.

9.0 Conclusion

- 9.1 The Council considers that, given all due consideration of the facts of this case, its decision to serve an Enforcement Notice is justified, reasonable and robust and the Inspector is respectfully requested to dismiss the appeal.
- 9.2 In the event that the Inspector finds that deception has taken place which disappplies the immunity time limits, the Council contends that this is intrinsically unreasonable. In these circumstances, the Council makes an application for a full award of costs on the simple and straightforward basis that it was unreasonable for the appellant to pursue an appeal based upon dishonesty.

Appendices

1. Location plan at 1:1250 scale showing the appeal site
2. Design and Access Statement from application P/17/1360/2
3. Site visit photographs taken 20 February 2018
4. Design and Access Statement from P/18/2040/2
5. Planning Contravention Notice
6. Copy of appellant's response to the Planning Contravention Notice
7. A copy of the Enforcement Notice
8. 5 year supply 31 March 2020 position document
9. Supporting Statement and letter from appellant from application P/18/0874/2
10. Photographs of the exterior of the building