



Charnwood Borough Council

Town and Country Planning Act 1990

Final Comments By

Miss S J Hallam

Senior 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 Final Comments

- 1.1 This final comments statement should be read in conjunction with the appeal statement submitted by the Council.

- 1.2 In the appellants final comments statement they refer to four additional documents, which are as follows;
 1. Council tax bill for 2019/2020
 2. Copy of a TV licence
 3. Copies of photographs showing works in progress
 4. Copy of an email from Charnwood Borough Council

- 1.3 As explained in the Council's appeal statement, when the Certificate of Lawfulness application (P/19/1323/2) was submitted for the residential unit on the site the Council Tax Department were made aware of the residential unit by the Council's Enforcement Officer and through their own processes placed the property into the relevant taxation band for a dwelling of its size. The Council Tax function is dealt with by a private company known as Capita on behalf of the Council and their requirements as to whether a property falls within a certain Council tax band is a totally separate entity to that of whether a property requires planning permission. By registering the residential unit for Council Tax purposes in no way means that the Council accepts that the unit is lawful in planning terms. The Council still maintains that the residential unit is unauthorised as it does not benefit from planning permission.

- 1.4 The Council is of the opinion that in providing a copy of a TV licence at the site in no way proves the residential use on the site. The TV licence could have, very easily been purchased for the commercial activities on the site. In holding a TV licence does not show that there is a lawful residential use on the site or that the appellants did not try to deceive the Council in respect of the residential unit. The Council do not have access to TV licence records and therefore the Council disputes the appellant's contention that having a TV licence shows that the appellants did not try to deceive the Council.
- 1.5 The photographs provided by the appellant show when the internal works were carried out to complete the staircase, install the roof lights and internal works to the mezzanine floor in the aircraft hangar. The Council do not dispute when these works took place. The photographs however do not provide any evidence as to the residential use or that the residential use was not concealed by the past or current owners of the site. The Council considers that these photographs are not proof of any use for residential purposes.
- 1.6 The Council accept that in not providing the appellant copies of the photographs taken during the planning officer's site visit may be seen as being unhelpful to this appeal. Therefore in Appendix 1 the photographs are attached. The officer's observations and matters that were discussed with the applicant are embodied in the officer's report which has always been available online; on the Council's website however a copy is included in Appendix 2 for ease of reference.

1.7 The Council maintains the opinion that the appellants and their agents positively and deliberately made attempts to conceal and mislead the Council in respect of the unauthorised residential unit contained within the aircraft hangar. The appellants may state that their agent submitted documents that they cannot be held liable for however, ordinarily when any agent submits applications on their client's behalf such statements are approved by their clients before submission. It is unattractive for the appellant now to disavow what was said on his behalf by his planning agent. As a matter of law, the agent acts on behalf of the appellant. The insinuation that the consultant in some way "went rogue" is intrinsically improbable and is bereft of supporting evidence. In this case the appellants in their application for the Certificate of Lawful use for the mixed use of the land and buildings for agriculture and aviation activities submitted a supporting letter dated 23 April 2018, which is signed by them and states "The land is used for both the grazing/husbandry of livestock and as an airstrip. The building also has a dual purpose and used for the storage of and repairs to agricultural machinery, as well as a hangar to store aircraft". At no time do they attempt to make any reference to the residential unit making it very clear that they were deliberately trying to conceal the residential unit in this document. A copy of this letter is attached in Appendix 9 of the Council's appeal statement.

- 1.8 The Council has attached in Appendix 1 the photographs taken by the planning officer on 20 February 2018. These photographs clearly show that the residential unit was not clearly evident, in any way shape or form to the officer at that time. The Council maintain that the officer undertook their site visit with the intention of considering the proposal before them and not to snoop around looking for unauthorised dwellings. If however the officer had noted anything that would have made them suspicious or concerned then the enforcement team would have been immediately informed. The appellant who showed the case officer around the site made no attempt to alert them to the existence of the residential unit on the site and in the Council's opinion further attempting to conceal its existence from them. In my view, the site visit in February 2018 supports rather than undermines the allegation of deception.
- 1.9 The Council maintain the fact that this is a clear case of deception and concealment by the appellants and therefore the time limits set out in 171B of the Town and Country Planning Act 1990 should be dis-applied.