Holmes & Hills

Appellant's Final Comments

Section 78 of the Town and Country Planning Act 1990

Appeal Site:	30 Edies Lane, Leavenheath, Suffolk CO6 4PA
Appellants:	Mr Adam Willis and Mrs Yasemin Willis
Local Planning Authority:	Babergh District Council
LPA Reference:	EN/25/00533
Appeal Reference(s):	APP/D3505/C/25/3376611 and 3376612

Reference MJH/289495.0001

WORKING IN PARTNERSHIP

1. Introduction

1.1. This statement is made on behalf of the Appellants, Mr Adam Willis and Mrs Yasemin Willis, in response to the matters raised in the Statement of Case submitted by the Council in respect of the above appeal.

1.2. The comments contained in this statement are supplemental to the matters raised in Appellants' Grounds of Appeal. If a matter raised in the Council's Statement of Case is not commented upon in this statement, this is not to be taken as an acceptance of such matter. The Appellants continue to maintain and rely on their position as set out in the Grounds of Appeal.

1.3. This statement adopts the definitions contained in the Appellants' Grounds of Appeal, unless stated otherwise.

1.4. A reference to "the Act" is to the Town and Country Planning Act 1990 (as amended).

1.5. A reference to a paragraph number is, unless otherwise stated, a reference to the same paragraph number of the Council's Statement of Case dated January 2026.

2. The Council's Request to Amend the Enforcement Notice

2.1. The Council, by email of 4 February 2026 at approximately 17:40pm request to make two changes to the Enforcement Notice, summarised as follows:

2.1.1. Amend the alleged unauthorised material change of use from "*use of the land for residential purposes"* to "*use of the land to a mixed use as woodland and residential"* ("the First Change");

2.1.2. Amend the plan to the Enforcement Notice so to exclude two parcels of land to the rear of the neighbouring properties, "Kinnegar" and "Brylynn" ("the Second Change").

2.2. The Council do not have the power to amend the Enforcement Notice once it has been issued and served – instead the only remedy in their control is to either withdraw the Enforcement Notice and issue a new one, or leave the Enforcement Notice intact and issue an additional enforcement notice concerning the now alleged mixed use (which n.b. the Appellants would certainly appeal under ground (b)).

2.3. Accordingly, the Council now invite the Inspector to use his power under s176(1) of the Act.

<u>The First Change</u>

2.4. The First Change is a fundamental one – rather than alleging a sole/primary use of land, the Council now assert a mixed use has occurred. This is entirely different to the breach as first alleged by the Council/set out in the Enforcement Notice. Prejudice to the Appellants will arise in that the First Change will concern an issue materially different to that first pleaded by the Appellants. They will have to provide evidence as to why a mixed use has not occurred rather than their current position which is that a part of the land subject to the Enforcement Notice is lawfully used as garden etc (i.e. the part ground (d) appeal) with the balance as a woodland in respect of which there is no breach of planning control.

2.5. Also, as set out below, the use of "residential" – and the Council's case thereon – is confusing and unhelpful. The breach as properly understood is a reference to use as a garden/land ancillary to the Appellants' dwelling. The First Change does not properly encompass those matters as to which the Appellants understand are in issue.

2.6. Further, there is simply no evidence of a mixed use. There were and are two areas used differently, with different physical characteristics and a clear line where one use ends and the other starts. The Woodland is woodland with the balance of the land used as garden/ancillary to the dwelling. And it is not clear how, in a practical/"real world" sense a mixed use of woodland and residential can occur.

2.7. Moreover, it is not clear whether the Council have thought through what may happen if the Appeal is allowed and there then becomes an enlarged planning unit which the occupants of 30 Edies Lane can put to a mixed use of woodland and residential. Or a use which may have a greater impact than that currently (i.e. residential use further south than is happening now/has happened as a matter of fact).

2.8. The Appellants therefore resist the First Change. They say the First Change is simply wrong, and should not be allowed.

2.9. The Appellants say that, as an alternative, the plan to the Enforcement Notice can be further amended so to exclude the Woodland. In so doing, in the event that the Appeal is allowed any land to the rear will not and cannot benefit from a "mixed use" but will remain as woodland (as current). Clearly, any departure from a woodland use would – subject to its materiality – be unauthorised and still liable to enforcement action. Note further below in respect of the Appellants' position regarding the "hidden" ground (b) appeal also.

2.10. However, in the event that the Inspector allows the First Change, the Appellants request that they be afforded a short but reasonable amount of time to further amend their Statement of Case and any proofs of evidence (insofar as confirmation comes after service of proofs of evidence) in consequence of the First Change.

2.11. Clearly, the Appellants reserve their position as to costs in circumstances whereby the First Change is permitted.

<u>The Second Change</u>

2.12. The Appellants neither occupy, control, possess nor own the land now proposed to be removed by the Second Change. If the Enforcement Notice was upheld without variation, the Appellants could not comply with the Enforcement Notice without the Second Change. There would also be prejudice to the owners of "Kinnegar" and "Brylynn" whose properties would be bound by the Enforcement Notice but in respect of which they have not been served and so not appealed.

2.13. Whilst there has been a defect in service – such that a "ground (e)" appeal could have been pursued – the Appellants note, for them, the effect of s175(5) of the Act [i.e. precludes them from claiming that the Enforcement Notice was not served on them, as Appellants]. The Appellants further note the apparent absence of substantial prejudice to those persons not so served [i.e. the owners of "Kinnegar" and "Brylynn"] as that/their land is proposed to be removed from proceedings.

2.14. The Appellants therefore do not resist the Second Change.

2.15. The Appellants would however note the apparent inconsistency, and unfairness, of the Council not taking action in respect of the unauthorised use of land to the rear of "Kinnegar" and "Brylynn", especially in circumstances whereby such post-dates the use of the land which is the subject of this appeal.

2.16. Accordingly, the Appellants request that the Council confirm that it will be opening an enforcement investigation in respect of the land to the rear of "Kinnegar" and "Brylynn" and either confirm that it is likewise taking action against the use of that land or, otherwise, confirm the reason why no such action will be taken by it.

2.17. The Appellants reserve their right to make reference to the current use of land to the rear of "Kinnegar" and "Brylynn" – proposed/agreed to be removed by way of the Second Change - in support of their case at Appeal.

3. The Council's Statement of Case – Inquiry Matters

3.1. The Appellants' final comments are framed in response to the Council's Statement of Case dated January 2026.

3.2. In the event that the Enforcement Notice is amended then the Appellants would reserve their right to amend or clarify any statement contained herein.

3.3. Thus, subject to the above (amendment of the Enforcement Notice), by way of an overarching comments at paragraph 2.1 of the Council's statement of case the Council note that *"the site is edged in red on the plan accompanying the Enforcement Notice and the dwellinghouse and its associated curtilage is edged in blue"*. The Appellants contend that the residential curtilage extends beyond that land edged in blue.

The Ground (d) Appeal

3.4. At paragraph 7.1 the Council refer to both the operational development and the alleged change of use in the EN in relation to the ground (d) appeal. As above, the Council now seek the First Change and the Second Change.

3.5. As to paragraphs 7.2 and 7.3, it is agreed that the relevant provision is s171B(3) of the Act 1990 (pre changes brought in by the Levelling-Up and Regeneration Act 2023). Namely, the "ten-year rule" applies – with the Appellants having made their case at paragraphs 34 to 38 inclusive of their Appeal Statement (revised 22 January 2026).

3.6. For the avoidance of doubt, and as noted at paragraph 34 of the Appellants' Appeal Statement (revised 22 January 2026), the Appellants' ground (d) appeal does not relate to the operational development but instead relates (solely) to the use as garden/amenity land. Therefore paragraphs 7.4 to 7.7 (inclusive) are not of material relevance to this appeal.

3.7. The Council's contentions at 7.9, 7.10 and 7.11 are not understood. The alleged breach (whether changed or not) concerns "residential" in some guise. As above, the alleged breach would more properly be understood as use of land as (additional) garden/ancillary residential land.

3.8. At paragraph 7.9 the Council contend that *"it is logical and reasonable to conclude that land, in of itself, cannot have a residential use – it requires a building or some other structure for the use to be 'residential' "*. The Council then states at paragraph 7.10 that "*residential use of land can only occur through the occupation of a building, situated on the land, for an actual or ancillary residential purpose*". Before then stating, at paragraph 7.11, that *"the unauthorised material change of use of the land edged in red on the plan accompanying the Notice occurred on the date the unauthorised development of the outbuildings commenced"*.

3.9. The Appellants ask: which is it?

3.10. In this case, the facts confirm that the outbuilding has not been completed (to the point that at present it may only be considered a structure, not a building) and thus there has been no occupation of a (completed) building.

3.11. The Council's case therefore is muddled as to whether a breach (i.e. "residential use") has occurred, or not yet. In the case of the latter, the Council does not have power to issue a pre-emptive enforcement notice (per section 172(1)(a) of the Act, and the case of *R. v Rochester upon Medway City Council Ex p. Hobday [1989] 2 P.L.R. 38*).

3.12. It is also unclear why the Council say land has to have a building on it to be in "residential use". Land can be part of a planning unit and/or curtilage in residential use notwithstanding the absence of a building or any other structure on that specific area of land in question. Such is typically the case with residential gardens of course.

3.13. The Appellants accept that there is no definition of "residential" in the Act, the Town and Country Planning (General Permitted Development)(England) Order 2015 nor indeed the NPPF. That said:

3.13.1. The NPPF does use the term "residential" to include reference to residential gardens and residential caravans.

3.13.2. The Housing Act 2004 defines "residential property" as meaning "*premises in England and Wales consisting of a single dwelling-house, including any ancillary land"*; and

3.13.3. The Finance Act 2003 confirms that "residential property" means *"(a) a building that is used or suitable for use as a dwelling… and (b) land that is or forms part of the garden or grounds of a building within paragraph (a) (including any building or structure on such land)"*

3.14. Therefore, it is clear that land can be considered as "residential" notwithstanding the absence of any building upon it.

3.15. Lastly, the Appellants accept that the extent (and lawful use) of the planning unit may not necessarily align with the extent of the curtilage. However, these two areas/concepts typically will and do align – which the Appellants say is the case here for reasons previously advanced.

The Ground (c) Appeal

3.16. As to paragraphs 6.1 to 6.5 (inclusive) the Appellants agree that there is no planning permission that has been issued by the Council. Instead, they rely upon planning permission having been granted pursuant to section 58(1)(a) of the Act (i.e. not via the powers afforded to the Council by section 62 of the Act).

3.17. It is agreed that the extent of the curtilage is a, if not the, key issue in this case. The Appellants would note that the Council's appendices 4a and 4b show the garden to the Appellants' property but also the three neighbouring premises to the east as being further north than it is currently and has been for many years (i.e. well over a decade).

3.18. At paragraph 6.8 it is not agreed that the aerial images (appendix 4c refers) show what the Council contend that they do, to the contrary:

3.18.1. The 2000 aerial image clearly shows areas of tightly mowed grass which extend past the boundary/red lines shown in appendices 4a and 4b. These areas include that upon which the outbuilding/structure is placed.

3.18.2. The 2005 aerial image shows "bright green" (i.e. tightly moved/manicured) grass to the north of the Woodland and certainly in the area where the outbuilding/structure has been sited.

3.18.3. The 2007 aerial images indicate more vegetation upon the Woodland, and potentially "northward creep" of it, but the tightly moved/manicured grass which the Appellants say is part of the garden is, again, clearly visible.

3.18.4. The 2009, 2012, 2013, 2015 and 2017 images show much the same as the 2007 aerial image (with further growth of vegetation in the Woodland); and

3.18.5. In each of the 2019, 2020, 2021 and 2022 images cut grass/open land/garden is visible in the area where the outbuilding/structure has been sited.

3.19. As to paragraphs 6.10 and 6.11 the Appellants will say that there is every need to consider whether or not the outbuilding will, or may, be within the criterion prescribed under the Class E permitted development right. In this case, the structure is more than 2 metres from the boundary to the property, and the height limitations for a Class E permitted development (out)building are referable in turn. The Appellants have already produced evidence to demonstrate that the applicable Class E limitations would be met/fulfilled.

3.20. Accordingly, if satisfied that the land is within the curtilage, the Appellants say their appeal on ground (c) should be allowed – noting that any deviations from the Class E limitations and conditions would render the whole structure liable to enforcement action for reason of not being a form of permitted development.

The "Hidden" Ground (b) Appeal

3.21. As above, the Appellants have pleaded a ground (c) and (d) appeal in part, both of which have the effect of confirming that there has been no material change of use of the Woodland.

3.22. In this respect, and in the event that the Enforcement Notice is not amended to remove the Woodland (as requested by the Appellants), then the Appellants would wish to continue with their "hidden" ground (b) appeal. However, if the plan to the Enforcement Notice is so amended then the Appellants say that their "hidden" ground (b) appeal will fall away (i.e. effectively have succeeded but be no longer relevant to this appeal).

3.23. As to the Appellants' case on ground (b) it is simply this: when the Appellants purchased the property it came with land to include a garden with the Woodland beyond. The Appellants understood the garden as including the land up to the border/junction of the Woodland. This land being grassed with trees and dense overgrowth beyond. The prevailing sale particulars provide evidence of a defined, maintained, domestic garden area existing at the time of sale, distinct from the Woodland beyond. The Appellants have further been provided with details of previous gardeners at the property, dating back to 2016, whom they have asked to clarify where grass was cut – this information is awaited.

3.24. The Appellants will provide their own witness evidence along with other third parties, notably Mr and Mrs Hore, in support of their case that they have not extended the garden/curtilage beyond that which was in place at their time of purchase. All the Appellants have done is "tidied up" both areas to add amenity and utility to the garden but also secure the longevity of trees in the Woodland. This Woodland was at the "end of the garden" – namely past an area of grass which the Appellants understood as being part of the garden.

3.25. As to paragraphs 5.6 and 5.7 the pre-application proposals indicated where the garden ended, and the woodland begun. There was also a proposal for an outbuilding further south than that structure which is the subject of this appeal – this proposed outbuilding being next to the label *"managed wooded area".* Note also that in the pre-application response report (appendix 2c) the Council makes reference to the proposed building being in a "*heavily wooded area*" with the advice centred upon the impact of the (then) proposed outbuilding on this area and the protection of trees. Further, the same report refers to the "*red line plan submitted appears to encompass a significantly large area of woodland south of the property which is not garden land*", before going on to note that any development in that area (i.e. of its own individual/unique character as separate to the garden) would *"require a change of use of the land, which is unlikely to be granted"*.

In light of the above, the report (Appendix c) supports the analysis (and the Appellants say fact of the matter) that there was and is a clear distinction between garden/curtilage and the Woodland.

3.26. The works undertaken by the Appellants, as noted by the Council's Officer at Appendices 6a and 6b, includes clearing some of the Woodland. The Woodland was beyond a row of white flags (which remain in situ) past which the Appellants do not allow their dogs to pass. The Woodland was in poor condition.

3.27. Since removing shrubs and young trees, the Appellants have rolled and seeded land to grass; seeding taking place in or around November 2025. This newly seeded land is and will be apparent upon site inspection. The Appellants call this area the Woodland and say that this is not part of the garden/curtilage but rather land beyond that which is simply in their ownership and control.

4. The Council's Statement of Case – Hearing Matters

The Ground (a) Appeal

4.1. At paragraph 5.4 the Council assert that there is an "in principle objection". Reference is made to the Joint Local Plan and policy SP03.

4.2. This approach is contrary to that taken by the Council elsewhere. Appended to these Final Comments is an email chain spanning the period 10th to 23rd December 2025. In an email of 10th December 2025 from one of the Council's Planning officers, it is stated: "*As there is no outbuildings policy in the local plan we do assess each application on its own merits, even though the JLP lacks a specific outbuildings policy. I will assess the application on its own merits and will make my decision from the submitted documents*".

4.3. In the same email chain, the Appellants' planning agent points out that "*conflict with policy on its own is not sufficient reason to refuse development. It is an established principle of planning law that there must be some harm arising from the development to withhold consent*" and "*I am aware of other examples where outbuildings in the countryside have been approved under the Joint Local Plan. DC/24/03764 is an example of a huge domestic outbuilding being approved in the countyside [sic] and DC/24/05100 is an interesting example where the outbulding [sic] was considered acceptable under the extension policy LP03 due to its proximity to the house... Also of relevance is allowed Appeal APP/D3505/W/25/3369692*".

4.4. The Appellants will produce copies of these other developments with their/their witnesses' proofs of evidence.

4.5. As to paragraphs 5.6 and 5.7 the pre-application proposals indicated where the garden ended, and the woodland begun. There was also a proposal for an outbuilding further south than that structure which is the subject of this appeal – this proposed outbuilding being next to the label *"managed wooded area".* See also comments above ("hidden ground (b) appeal") – namely that the report (Appendix c) supports the analysis (and the Appellants say fact of the matter) that there was and is a clear distinction between garden/curtilage and the Woodland.

4.6. At paragraph 5.13 there is reference to appendix 6c. The information within that appendix 6c is notable for a number of reasons:

4.6.1. There are a raft of photographs which show the extent of cut/manicured grass existing at the time the Appellants purchased the property (i.e. in existence before any tree clearance works and the like). The Appellants refer to the images on pages 23 – 25, 33, 35, 37, 40 – 51 as evidence of this. This is the extent of the garden/curtilage as reasonably understood.

4.6.2. There is the statement "*In the garden and woodland to the rear of no.30 there has been a substantial amount of land / growth clearance*" – effectively that trees have been removed from both the garden and the Woodland (which the Appellants admit). Or two distinct areas – i.e. one as a garden, the other as Woodland.

4.6.3. There is reference to a "*historic outbuilding of unknown origin*" which "*is being used currently for the storage of wood / materials*" – which is visible in a few photographs

but notably those on pages 45 and 50 of that document. At section 4 of a "Property Information Form" – copy attached - the then vendor confirmed that this outbuilding/barn was erected and that planning permission was not required for its erection/construction. This lends support to the analysis that planning permission was not required for this outbuilding/barn because either it was a Class E outbuilding within the curtilage to the dwelling, or, an agricultural building permitted by Class A, Part 6 of the Town and Country Planning General Development Order 1988 (the Woodland being more than 0.4ha/1 acre in area).

4.6.4. There was reference to not approaching the Appellants (as landowners) due to "*security features*" and "*[the Planning Officer's] experience previously with the owners*".

4.6.5. There is evidence of trespass by the Planning office(s), shown underlined in the following text: "*Where the footpath met the termination of the woodland area, Abi & I proceeded into an adjoining farmer's field which borders the rear of the woodland / land of no.30 and through pre-exisiting [sic] gaps in the trees / bushes we were able to enter the land. We proceeded into the woodland to the area near to the previously noted plant machinery where the outbuilding, land / tree clearance etc and the rear of no.30 were visible. We did not approach close to the dwelling, outbuilding nor did we enter into what we believed to be established curtilage or main garden of the property*". It is not proper for the Council/its Officers to behave in such a way.

4.7. As to paragraph 5.14 the Council assert that the positioning of the outbuilding/structure is "*arguably, the most harmful in planning terms*". This is not accepted, the current position maintains a visual gap/break through to the Woodland from Edies Lane and also "sits behind" the extended rear gardens to the neighbouring properties, each of which have established boundary treatments and planting which ameliorates any visual impact from the outbuilding/structure.

4.8. Moreover, if accepted as being sited on garden/residential amenity land, the proposed outbuilding would not be an alien or incongruous feature. Rather one that would be expected in locations of this type.

4.9. Finally, the Appellants note that there are other local examples of outbuildings to the rear of neighbouring gardens on land which is outside of the settlement boundary as illustrated by the plan appended to these final comments (plan appended to the end of this letter). There is therefore a degree of local precedent for such.

4.10. The Appellants will rely upon the comments and representations of their planning agent, Mr P Cobbold, in further support of their ground (a) appeal.

4.11. The LPA alleges that the development would have an adverse impact on the amenities of neighbouring properties but has not explained what that impact would be. This is unhelpful if not dissatisfactory.

4.12. The Appellants contend that the scale and form of the buildings and their distance from adjoining dwellings are such that there would be no (or at least no material) impact in terms of loss of light or loss of outlook. It is acknowledged that the building could be seen from neighbouring properties, however, just because something is visible doesn't mean it is

harmful and, the limited visual impact could be mitigated by boundary landscaping which could be secured by a planning condition. It is also the case that biodiversity enhancement could be secured by a planning condition to secure compliance with JLP policy LP16.

4.13. The LPA's other concerns are somewhat ambiguous stating "*there may be an adverse impact on the important community view from Kingland Lane*" and "*there may be adverse effect on the value of sensitive features including woodland*" (emphasis shown underlined). To the contrary, the shed and outbuilding/structure do not, and will not, have any adverse impact on any important views; they are located in a discrete position. The Appellants are doubtful that the land/appeal site can be seen from Kingland Land. Furthermore, and as above, historic aerial photographs confirm these structures/buildings are located in an area that has never been woodland – or at least has not been woodland since the year 2000.

4.14. The Appellants therefore repeat their request that their ground (a) appeal be allowed.

5. Third Party Comments

Bullock

5.1. Taking points as they are made the Appellants comment as follows:

5.1.1. The proposed outbuilding will not be used for business purposes. The Appellants have their own business premises and have no wish to introduce a commercial use of/onto their land. The Appeal site is part of their home - the Appellants wish to keep it that way.

5.1.2. The access road is not the subject of enforcement action and there is no evidence of commercial/business use - nor will there be (see above). The comments here are pure speculation.

5.1.3. There is no evidence as to unacceptable noise being generated by any residential use of the new track. Nor is there any evidence of an actual or potential material change in traffic to/from the site/land.

5.1.4. Again, there is no, nor will there be, any business/commercial use.

5.1.5. There is no evidence of increased traffic generated by the Appellants' proposals.

5.1.6. With respect, the comments are (again) based on speculation and not the subject matter of this appeal. They fall to be disregarded.

Smith

5.2. The Appellants repeat comments immediately above insofar as relevant. However, the Appellants did say that the outbuilding was intended to be a "home office" – i.e. ancillary to the domestic use, enjoyment and amenity of the host dwelling. It appears that "hares have been set running" in the Smiths' minds following them focussing upon the word "office" without recognising the limitation of such being a "home office". The Appellants cannot be responsible for speculation on the Smiths' part.

Tomkins

5.3. Again, taking points as they are made the Appellants comment as follows:

5.3.1. The Appellants do not agree that the proposal is contrary to the Joint Local Plan and/or Neighbourhood Plan. The Appellants repeat comments above.

5.3.2. The Appellants disagree that the curtilage is where the Tompkins say it is – again, see above.

5.3.3. As a matter of fact and law, it is not correct that legal title delineates the curtilage to the Appellants' dwelling/home.

5.3.4. The Appellants do not consider that there is, or will be, a material and/or an unacceptable visual impact form the outbuilding/structure (once completed). In any event, landscaping has been provided and will be retained which will mitigate any adverse impact.

5.3.5. There is no evidence of a loss of sunlight to the Tompkins' rear garden.

5.3.6. As above, there is no business/commercial use – nor will there be. It is notable that the enforcement notice does not allege such (nor can it given the absence of any evidence to support such an allegation).

Rix

5.4. Taking points as they are made the Appellants comment as follows:

5.4.1. The land on which the shed and outbuilding/structure stands is immediately adjacent to existing boundary treatments and has been manicured/maintained as garden for many years, if not decades.

5.4.2. Any criticism that the Appellants have not properly engaged with the development control regime is not accepted. To the contrary the evidence shows pre-application advice was sought (and that proposal abandoned/not pursued) and that the Appellants have engaged with the Council's planning and planning enforcement officers.

5.4.3. As above, concerns associated with a potential business and/or commercial use are speculation and without basis. They fall to be disregarded.

Clerk to Leavenheath Parish Council

5.5. The Appellants repeat all relevant comments above. Insofar as there is a complaint as to the material used this is not fully understood.

5.6. Firstly, the shed is of typical construction and material. Secondly, the outbuilding/structure is not completed and therefore its design and finishes have not been finalised.

5.7. Notwithstanding the above, the Appellants note reference to the villages design aspirations and would also comment that they would not wish for a poor form of building/design to

potentially "blight" their home. However, the Appellants comment that, firstly, issues of materials and design can, if the ground (a) appeal succeeds, be secured by appropriate conditions but, secondly, in the event that the ground (c) appeal succeeds (such likely following ground (d) being upheld also), then the outbuilding will be a form of permitted development for which there is no statutory control/limitation as to the outbuilding's materials, design or appearance.

6. Other

6.1. It has been confirmed that Mrs Hore does wish to give a proof of evidence but has expressed concerns as to being cross-examined on the matter and having feelings of anxiety/nervousness about this. It has been reported to the Appellants that Mrs Hore does have a heart condition. Therefore, at present it is not clear whether Mrs Hore considers herself able to give live evidence before the Inquiry.

6.2. As above, the Appellants wish to reserve a position in costs. They take issue with the First Change, apparent act(s) of trespass but also a confused and changing position as to the alleged unauthorised change of use. The Appellants say it is clear what land is garden land and what is not (i.e. Woodland) with the issues constrained in turn.

6.3. Insofar as the Council has not yet done so, the Appellants would invite the Council to propose reasonable conditions in the event that their ground (a) appeal is allowed.

6.4. For the avoidance of doubt the Appellants have no intention of using the proposed outbuilding/structure as anything other than a home office/an ancillary use to their home. A planning condition limiting "use" could be applied.

6.5. Lastly, whilst not strictly relevant, the sale particulars indicated that the then vendor intended to place a 25-year covenant preventing future residential or commercial development of the land. The Appellants say that this indicates that the land was being treated as amenity/residential enjoyment land rather than actual or potential development land at the time of marketing. Further, the Appellant purchased the dwelling with its current extent of garden, with Woodland beyond, as their family home – this is how they intend it to remain.

7. Conclusion

7.1. The Council's proposed First Change is fundamentally flawed, would materially prejudice the Appellants, and should not be permitted. Asan alternative, the Woodland should be removed from the Enforcement Notice to reflect the factual position.

7.2. The Second Change is not opposed, but highlights inconsistencies in the Council's enforcement approach and raises legitimate concerns as to fairness and proportionality.

7.3. The Council's case on "residential use" is confused and contradictory, undermining the allegation of an unauthorised material change of use having occurred and, if so, where.

7.4. Historic aerial photography, pre-application advice, and third-party witness evidence all confirm a clear and long-standing distinction between the garden and the Woodland, consistent with the Appellants' position throughout. The evidence overwhelmingly supports the Appellants' ground (d), ground (c) and "hidden ground (b)" appeals, demonstrating

long-established use of the relevant land as garden/amenity space and compliance with Class E permitted development criteria.

7.5. Speculative allegations of commercial use by third parties are unfounded, not supported by any evidence, and should be disregarded.

7.6. The alleged harm relied upon by the Council in resistance of the Appellants' Ground (a) appeal is unparticularised and unsupported by evidence, with no (specifically) demonstrable adverse impact on neighbours, important views or woodland features.

7.7. For all the above reasons, the Appellants maintain that the appeal should be allowed.

Holmes & Hills

Holmes & Hills LLP
Solicitors for the Appellant
Dated: 12 February 2026

Plan Referred to at Paragraph 4.9 above: