

STATEMENT OF COMMON GROUND

APPEAL REFERENCE - APP/Y1138/X/26/3378579

LPA REFERENCE- 25/01406/CLU

DATE OF PUBLIC INQUIRY- 8th to 10th September 2026

SITE ADDRESS Land at 'Meadow Forge' Cadeleigh, Tiverton, EX16 8RZ

APPELLANT Mr Dean Aggett

LOCAL PLANNING AUTHORITY Mid Devon District Council

1 Introduction

Planning permission 09/01587/FULL was granted on 14 December 2009 for the '*Retention of change of use from agricultural to blacksmith's forge*' at Meadow Forge. The Permission was granted subject to conditions including the following:

Condition 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 '

Condition 5 "No materials, goods, products, chattels, scrap or waste materials shall be stored outside of any building, at any time.

On the 9th October 2025, an application for a CLU – Certificate of Existing Use or Development, was received by Mid Devon District Council.

The application was described as follows:

"To establish the Lawful Mixed (Composite) Use of a building as a Blacksmith Forge and for residential purposes plus the use of the 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 upon Planning Permission 09/01587/FULL."

The application was recorded by the Council as follows;

"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

On 29th January 2026, the CLU was refused by Mid Devon District Council

2 The Appeal Site

The site area extends to approximately 1500sqm. Within it, there is an existing building located adjacent to the access lane with a footprint of approximately 255sqm. There is a hardstanding area between the front of the building and the access lane.

The building appears to have been known as Meadow Forge and Hillside Barn.

The address of the appeal site is Meadow Forge Cadeleigh, Tiverton, EX16 8RZ

3 The Local Area

The site is located in the countryside between Bickleigh and Cadeleigh. The access is via a shared private lane, also a public footpath, which adjoins the public highway to the east of the site.

4 Planning history of site

05/00017/FULL - REFUSE date 7th March 2005 - Erection of 2 no. lean-to off existing silage barn for livestock/general purpose use

05/00693/FULL - REFUSE date 13th July 2005 - Erection of 2 no. lean-to off existing silage barn for livestock/general purpose agricultural use (Re-submission)

05/02000/FULL - REFUSE date 16th November 2005 - Erection of 2 no. lean-to's off existing barn for livestock/general purpose agricultural use

09/01587/FULL - PERMIT date 14th December 2009 - Retention of change of use from agricultural to blacksmith's forge

25/01406/CLU - REFUSE date 29th January 2026 – the subject of this appeal

5 The Appeal

The appellant has appealed the refusal of 25/01406/CLU

6 Areas of agreement

The following are considered as common ground:

A certificate of lawfulness is provided for under section 191 of the Town and Country Planning Act 1990 (as amended). Section 191 states:

(1) If any person wishes to ascertain whether—

(a) any existing use of buildings or other land [in England] is lawful;

(b) any operations which have been carried out in, on, over or under land [in England] are lawful; or

(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission [for the development of land in England] has been granted is lawful,

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if—

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

(3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if—

(a) the time for taking enforcement action in respect of the failure has then expired; and

(b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

(3A) In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if—

(a) the time for applying for an order under section 171BA(1) (a “planning enforcement order”) in relation to the matter has not expired,

(b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or

(c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.

(4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

The time for the enforcement action by a local planning authority is set out in section 171B.

7 Areas of disagreement

Whether or not the LPA's decision to refuse to grant a CLEUD was well founded.

Whether or not the Appellant discharged the burden of proving, on the balance of probabilities, that the claimed mixed use subsisted lawfully and continuously for the requisite period.

Whether or not at the date of the application the blacksmith business use was abandoned.

Whether or not the Appellant has concealed the residential use in breach of Condition 2.

Whether or not there has been a change of use since the date of grant of the 2009 planning permission.

Whether or not the two Breach of Condition Notices were served in good time in relation to timelines set out in section 171B.

Whether or not the Appellant has provided sufficient evidence to show the lawfulness of the outside storage use at Meadow Forge in breach of condition 5.

The planning enforcement history is not agreed.

The balance of probability being the only evidential test is not agreed.

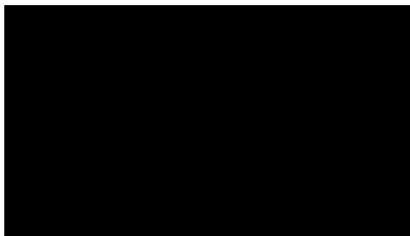
It is agreed that the Inspectors guidance on an appeal under section 195 of the Town and Country Planning Act 1990 (as amended) is 'Certificate of lawful use or development appeals: procedural guide' last updated on 20 May 2026. However, it is not agreed that this is the only guidance available to a Planning Inspector.

8 Signatures



Date: 26 August 2026

(signed on behalf of the Appellant)



..... Date: 1 September 2026

(signed by the Council)