

Town and Country Planning Act 1990 (as amended) Section 195
Certificate of Lawful Use Appeal

Public Inquiry on 8 September 2026 at 10:00am

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Hartnoll Hotel, Tiverton, EX16 7RA.

Proof of Evidence - FULL

Mr Dean AGGETT

Appeal by; Mr Dean AGGETT

‘Meadow Forge’, Cadeleigh, Tiverton, EX16 8RZ

APP/Y1138/X/26/3378579

Appeal to the Secretary of State for Communities and Local Government against the Refusal of Certificate of Lawful Use application issued by Mid Devon District Council (MDDC) (The Local Planning Authority). Certificate of Lawful Use Application reference 25/01406/CLU Dated 29th January 2026.

1. Introduction

1.1. My name is Mr Dean AGGETT.

1.2. Through my planning agents, XL Planning, I submitted an application (reference 25/01406/CLU) for the Certificate of Lawfulness under Section 191 Town & Country Planning Act 1990 (as amended) which was refused by the local planning authority Mid Devon District Council on 29th January 2026.

1.3. That refusal is the subject of this appeal.

1.4. The certificate of lawfulness application as submitted was "*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.*" This was the description of the application in the application.

1.5. The LPA validated and registered the application with the following description:
"*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.*"

2. Certificate of Lawful Use Refusal

2.1. The refusal decision 25/01406/CLU was issued and dated 29th January 2026.

The Council's reason for refusal was that the evidence submitted was not considered to be sufficiently clear and unambiguous to demonstrate on the balance of probabilities that the alleged use of the building for a mixed use comprising a Blacksmith Forge and for residential purposes and external

storage of materials, goods, products, chattels, scrap, vehicles and waste materials contrary to conditions 2 and 5 of planning permission 09/01587/FULL has continued for a period in excess of 10 years.

2.2. I consider that the Council's decision was not well founded. I believe that the evidence submitted with the CLU application did show on the balance of probabilities that my residential use and my storage use had been ongoing in breaches of condition 2 and 5 respectively for a period of more than 10 years prior to the date of the two breach of condition notices.

3. My Statutory declaration

3.1. I stand by my sworn statutory declaration appended to this proof (Appendix 1).

3.2. In that declaration I explained that I purchased the Meadow Forge (then known as Hillside Barn) and its surrounding land in 2006. I have personal knowledge of the use of Meadow Forge ever since.

3.3. I described two matters: first, the use of the forge building as a mixed or composite use comprising both a blacksmith's forge and residential occupation; and secondly, the use of the adjoining land for the storage of vehicles, materials, scrap and other items.

3.4. To facilitate my residential use of Meadow Forge over time I constructed (on my own and occasionally together with friends) various rooms within the building: a kitchen, a bathroom, an office, a bedroom.

3.5. In relation to the use of the building, I explained that Mid Devon District Council had been aware of my occupation and use of the site for many years through planning applications, enforcement investigations, Planning Contravention Notices and other dealings.

- 3.6. I stated that, following the grant of planning permission ref. 09/01587/FULL in December 2009, I installed further residential facilities within the building and thereafter occupied the building whilst continuing to operate my blacksmithing business from it.
- 3.7. I referred to evidence including electoral roll registration, driving licence records, council tax records and correspondence with the Council which, in my view, demonstrated long-term occupation of the building.
- 3.8. My Statutory Declaration describes how during 2011 I installed facilities and services in Meadow Forge that are normally considered to be required for a residential use. I have continued to improve these facilities over time.
- 3.9. In November 2011 I registered myself as resident at Hillside Barn (Meadow Forge) on the Electoral Roll.
- 3.10. I have two (2) Driving Licences that show me as resident at Hillside Barn from 15th October 2011.
- 3.11. In my Statutory Declaration I also explained that some answers I had given in Planning Contravention Notices could be misunderstood if read without context. I stated that I had often used alternative correspondence addresses because Meadow Forge was not recognised as a residential address and that I regarded my occupation of the premises as part of a mixed or composite use rather than a separate residential use. I explained that my understanding of planning terminology and procedures was limited and that my answers reflected my understanding at that time.
- 3.12. I referred to documents which I considered supported my account, including evidence of electoral roll registration from 2011 onwards, my driving licence showing the address "Hillside Barn", council tax records and emails

from Mid Devon District Council referring to occupation of the property over a number of years.

3.13. In relation to the use of land around Meadow Forge, I stated that vehicles, materials, goods, scrap metal and other items had been stored on the land continuously for many years. I referred to my Planning Contravention Notice responses and to a series of dated Google Earth images which, in my view, showed ongoing outdoor storage on the site over an extended period.

3.14. I was served with two breach of condition notices on 28 March 2025 relating to conditions 2 and 5 of planning permission ref. 09/01587/FULL. My evidence was that the manner in which both the building and the external land had been used had remained substantially unchanged for many years prior to the service of those notices.

3.15. The overall position set out in my statutory declaration was that the building had been used continuously as both a blacksmith's forge and dwelling for more than 10 years prior to the service of the two breach of condition notices, and that the land in front of Meadow Forge had been used continuously for storage purposes, again for over 10 years prior to the date of the breach of condition notice.

3.16. Since the grant of the 2009 Permission I have continuously used the land outside Meadow Forge for storage and have not stopped doing so.

4. Additional photo and video evidence

4.1. Although it is my view that the evidence submitted with the CLU application was sufficient for the certificate to be approved, I am submitting with this proof the following additional evidence of the breaches of conditions 2 and 5 to address any residual uncertainty as to the lawfulness.

4.2. I have posted many photos and videos on social media over the years. At Appendix 2 I exhibit a selection of these photos.

4.2.1. Figure 1 is a photo of my bathroom at Meadow Forge posted on 11 February 2013. My toilet, sink and bath are visible.

4.2.2. Figure 2 is a photo of the landing with pictures on the wall and my washing drying. It was also posted on 11 February 2013.

4.2.3. Figure 3 is a photo of my kitchen as it was on 14 December 2010. It shows my sink, cooker, wall mounted shelves, and my chairs and tables.

4.2.4. Figure 4 is a little more recent. It is a photo of my living room. It was posted on 20 January 2013. It shows my books, stove, guitars, lamps, and tables and chairs.

4.2.5. Figure 5 is more recent still. It is a photo of my living room and was posted on 23 January 2017. It shows my bookcase, chair, table and lamp.

4.2.6. Figure 6 is a photo of the Meadow Forge vegetable garden as was posted on 9 August 2012. I have grown vegetables and raised chickens and livestock at Meadow Forge for years.

4.3. I have my own YouTube channel called 'Devon Blacksmith'. I have posted videos of my blacksmithing and living at Meadow Forge for many years. At Appendix 3 I exhibit the following videos as examples of my residential use of Meadow Forge and the storage outside Meadow Forge.

4.3.1. Video 1: CHAIN OF CHANGE episode four sustainable technology, building a resilient future. The web address of this video is: <https://www.youtube.com/watch?v=CZt077wE-Tg> – showing the living room and kitchen at Meadow Forge uploaded seven years ago.

4.3.2. Video 2: THE ROAD TO A SIMPLE LIFE a day at a time, Regenerative living. The web address of this video is: <https://www.youtube.com/watch?v=i2dKYuLwXJ4> – showing the kitchen at Meadow Forge uploaded six years ago and the Appellant's use of the kitchen.

4.3.3. Video 3: FREE HOUSE how I built my home for free. The web address of this video is: <https://www.youtube.com/watch?v=rFGBHzlarO4> – showing the fitting out the blacksmith and residential facilities at Meadow Forge and storage use of the land outside Meadow Forge uploaded 14 years ago

4.3.4. Video 4: SHEPHERDS HUT BUILD. The web address of this video is: https://www.youtube.com/watch?v=vl_v-LGyWFQ – showing the storage use of the land outside Meadow Forge uploaded 14 years ago

5. Third party evidence

5.1. When submitting the appeal I presented the sworn statutory declaration from Heather WOODMAN dated 29 April 2026. I have never lived at 36 Stratford Avenue, Exeter and Heather who has knowledge of that property confirms that. Heather also confirms her knowledge of my residential use of Meadow Forge.

5.2. I have seen the third party representations. They overwhelmingly support my basic position: that I have for more than ten years lived at Meadow Forge in breach of condition 2 and that for more than ten years materials have been stored outside Meadow Forge in breach of condition 5 of the 2009 blacksmith permission.

5.3. I do not believe that the few third party whose representations are not supportive of my appeal for the breach of condition 2 have had the ability to

properly understand my residential use. I refute their assertions that I may have been residing in either vehicles on the yard or in the yurt. As my evidence has shown, Meadow Forge affords me all the domestic necessities whereas the yurt and vehicles do not. It makes no sense to me to think a person would forego those necessities when they were and are readily available.

6. The Council's planning file

6.1. In both their refusal of my CLU application and for this appeal the Council relies on their planning file for Meadow Forge yet they will not share that file with me. I do not consider that to be fair.

6.2. As set out in my Statutory Declaration I have repeatedly requested the Council share their planning file with me. They have not.

6.3. I have made subject access requests. These have been declined.

6.4. I have made freedom of information and environmental information regulation requested. The Council has relied on exemptions to withhold disclosure.

6.5. I believe that their refusal to share the information in their planning file prejudices my appeal.

6.6. Where I have had limited access to the file there are documents that show that the Council's own officers have supported the factual basis for my appeal.

6.6.1. There is an e-mail dated 26th October 2021 subject 20/00223/RURAL that states *'I have reviewed the information available, and it appears that the owner Mr Aggett has been living in the premises for some time and probably since around 2010. There does appear to have been a material change of use of the building'*.

6.6.2. There is an e-mail dated 13th July 2023 MDDC Case Number MDQC – 587384 which states *'We have corroboratory evidence confirming use and*

occupation since 2008 and we are most likely out of time by the point of 2020 complaint, and which is the first time we were made aware of the issues'.

6.7. It is apparent from MDDC's own records that they have been aware of my mixed use of Meadow Forge for many years and at least more than 10 years prior to the service of their 2 x Breach of Condition Notices both dated 28th March 2025 (20/0223/RURAL).

7. Ongoing blacksmithing at Meadow Forge

7.1. I am very proud to have been running a blacksmithing business at Meadow Forge since before the retrospective 2009 Permission. I have historically employed staff and trained apprentices in the art of blacksmithing.

7.2. My blacksmithing has never stopped and my business remains active. It is not as busy as it once was but it is still active and I continue to use Meadow Forge as a blacksmith's forge.

7.3. The site inspection will readily show the tools and machines and the forge necessary for my blacksmithing.

7.4. Appended to my proof at Appendix 4 are:

7.4.1. An invoice raised on 10 September 2025 for the repair of cast iron pillars.

7.4.2. Photo 1 of my current works on a chisel.

7.4.3. Photo 2 of a stained glass panel frame I am currently commissioned to work on.

7.4.4. Photo 3 showing the work I am currently commissioned on to repair an axle and springs for a horse cart.

7.4.5. Photo 4 showing the forge in operation in August 2026. It is still very capable of being the heart of my blacksmithing.

7.5. I have not abandoned blacksmithing at Meadow Forge.

8. Use of the yurt at Meadow Forge

8.1. I am aware that some people are of the view that I have been living in the yurt

I erected at the top righthand corner of my land at Meadow Forge.

8.2. The yurt was located over the hill and between the trees around the pond and

the hill top it is a lovely spot and one I often take a break at when working in the fields. Most of my land is very steep so places I can put even this tiny 12 foot yurt up are limited.

8.3. I bought it second-hand and unassembled in May 2025. I put it up within a few

days to check it was complete and functional on the date it was first put up was 6th May 2025. I exhibit a photo of the yurt (Appendix 5 Photo 1).

8.4. It contained a seat and a stool (Appendix 5 Photo 2).

8.5. It has no water or cooking facilities and no toilet, and it has one battery powered light.

8.6. I had stayed in the yurt for the odd night, camping out for fun, but would have

first eaten my evening meal in my kitchen at Meadow Forge and after returning to have breakfast at my home.

8.7. I have had day visits to the yurt to shelter from the sun when I was working

cutting hay or cutting brambles and forage for the goats. I would have checked it for leaks in the rain and that it stayed put in windy conditions.

8.8. I took the yurt down on 15th October 2025 once I was satisfied it functioned in

all types of weather. It was therefore set up for one summer season and for a period of less than 6 months and I haven't put it up since.

8.9. I used my yurt for recreational purposes. I have not used the yurt for living in.

I live in my home within Meadow Forge.

9. My interaction with Mid Devon District Council

Chronology of interactions with Mid Devon District Council 2011 to 2026

9.1. I append at Appendix 6 to this proof a chronology of the various interactions I can recall having had with the Council from 2011 to 2026. This is not a comprehensive list.

9.2. The chronology shows that over that period I have engaged in open correspondence with the Council concerning my residential use of Meadow Forge.

Electoral Roll

9.3. I have appended to my proof a letter from the Council dated 14 April 2011 and a Certificate of Electoral Registration dated 23 November 2011 (Appendix 7 Letter 1 and Letter 2). That confirms that in the Council's view Meadow Forge was not 'an approved residential address'. Despite me living at Meadow Forge this document is my reason for not giving Meadow Forge as my residential address in the second PCN.

9.4. I exhibit at Appendix 7 (Declaration 3) my declaration dated 24 August 2012. I have given a declaration of this nature each year to the Council. The word 'homeless' is crossed out because I had a home at Meadow Forge. I also gave Meadow Forge as the address of the place I live which the Declaration accepts in section 3.

Valuation Office Listing

9.5. I exhibit at Appendix 8 an extract from the Valuation Office's records for Meadow Forge. The extract shows that the Valuation Office had accepted that, with effect from 1 January 2022, Meadow Forge was a mixed use property.

This I consider recognises the acceptance of both the blacksmithing and residential uses.

9.6. I believe that this Valuation Office change was instigated by the Council following my response to the 2022 PCN. Although they set the effective date as 1 January 2022 they accepted that there was evidence of Meadow Forge having been used for a mixed use back to at least 2013 based on the clear evidence it was my sole or main residence.

Council tax

9.7. I have tried to regularise the Council Tax at Meadow Forge to recognise my mixed commercial and residential use. On 25 April 2025 the Council, in a response to my SAR, sent me the document at Appendix 8 titled Council Tax Registration Form. It is dated 25 October 2021. It confirms the Council's recognition of the mixed use with an effective date of 1 February 2013. It also notes under the heading 'Planning Ref' "None – ENFORCEMENT AWARE".

Planning and planning enforcement activities between 2013 to 2025

9.8. In 2013 the MDDC planning enforcement officer visited Meadow Forge. No action was taken. This was the last time any enforcement officer entered Meadow Forge until the 2025 visit.

9.9. In 2015 I had a visit from the Council's planning officer (not enforcement). That officer noted the kitchen and bathroom which they described to me as being a "*domestic storage area*".

9.10. In 2020, 2021, and 2022 I had visits from the Council's enforcement officers. They viewed the outside of Meadow Forge and did not enter. I believe COVID was the reason for there being no internal inspection. I was told that I

could apply for a certificate of lawfulness as I had been living here and had used outside to store things. At that time I said I did not wish to change anything and I was told I didn't have to submit the application.

9.11. In 2022 the PCN was issued.

9.12. The Council took enforcement action in 2025. The Council was aware of my long-term residential use of Meadow Forge alongside my blacksmithing and storage use so had plenty of opportunities to take enforcement action prior to this had they so wished.

9.13. I do not consider that my residential use of Meadow Forge was undertaken in a clandestine fashion. The evidence in my proof confirms that I was open with Council as to by residing at Meadow Forge. My social media channels have for over a decade alerted the world to my residential use of Meadow Forge. I've welcomed friends and customers to Meadow Forge and they witnessed my residential occupation. Members of the public could walk past Meadow Forge. Neighbours attest to my residing at Meadow Forge.

Mid Devon District Council Planning Enforcement

9.14. I exhibit at Appendix 9 a copy of the Mid Devon District Council Planning Enforcement Policy 2024. Section 3 of this Enforcement Policy describes the balance between "... *the rights of the individuals to use or alter their property against the need to safeguard the character and quality of towns/villages the countryside, amenity of people and an area, and to uphold the planning policies of the district*" and goes on to confirm that "*The planning enforcement system generally gives the benefit of the doubt to anyone undertaking the unauthorised development, ...*".

9.15. The policy goes on to prioritise for investigation purposes different breaches of planning control indicating that the Council will apply fewer resources to lesser breaches. In section 7 the policy identifies that some investigations of breaches in planning control may result in no action being taken for reasons of either the breach having been rendered lawful for planning purposes or being minor with no planning harm. Accordingly, I think that it is quite possible that the Council's lack of historic planning enforcement action arose because the Council's enforcement officer on being aware of my breaches of conditions 2 and 5 concluded that they did not warrant enforcement either for reasons of historic lawfulness or because they did not warrant enforcement action.

10. Conclusion

10.1. I believe the evidence I presented with the CLU Application on its own shows that on the balance of probabilities conditions 2 and 5 of the 2009 permission have been continuously breached from at least 2011. When the additional evidence I am presenting here together with the third party evidence are taken into consideration I cannot believe that there is any doubt as to the breaches, their continuous nature and their duration.

And I believe that the contents of the proof of evidence are true to the best of my knowledge and belief.

Signed: _____

Name: _____

Dated: _____

enforcement either for reasons of historic lawfulness or because they did not warrant enforcement action.

10. Conclusion

10.1. I believe the evidence I presented with the CLU Application on its own shows that on the balance of probabilities conditions 2 and 5 of the 2009 permission have been continuously breached from at least 2011. When the additional evidence I am presenting here together with the third party evidence are taken into consideration I cannot believe that there is any doubt as to the breaches, their continuous nature and their duration.

And I believe that the contents of the proof of evidence are true to the best of my knowledge and belief.

Signed:

Name: D. AGGETT

Dated: 11/8/26

Appendix 1

Sworn Statutory Declaration dated 9 October 2025 submitted with the Certificate of Lawfulness Application

IN THE MATTER OF 'Meadow Forge' Cadeleigh, EX16 8RZ

I Dean AGGETT. Of 'Meadow Forge' Cadeligh, EX16 8RZ. Do **Solemnly and sincerely declare** as follows:

1. I make this declaration in relation to the submission of a Section 191 Certificate of Lawful Use application that I will make to Mid Devon District Council (MDDC) regarding the mixed (composite) use, of a building, as a Blacksmiths Forge and dwelling house, and the use of associated external land for storage in breach of conditions 2 and 5 imposed upon MDDC planning permission 09/01587/FULL. The site is known as, and located at 'Meadow Forge' Cadeleigh, EX16 8RZ.
2. For the purposes of this declaration, and for the avoidance of doubt, the building and associated external land referred to within this declaration, and the subject of the Certificate of Lawful Use application, has been identified by me and outlined in red on a Site Location Plan (SLP) and a set of full plans which I produce as **Exhibit DA1**.
3. I am the registered owner of land and buildings located on the site (Exhibit DA1) which is now known as 'Meadow Forge' EX16 8RZ. I acquired the land and building in 2006. As a result of the above I can provide detailed information and evidence regarding my continued and uninterrupted use of the site, from 2006 until the date of this declaration.
4. Mid Devon District Council (MDDC) have been aware of my use of the building and land since 2007 when they wrote to me regarding an alleged change of use. The MDDC reference was ENF/07/00052/UCU. As a result on 14th December 2009, I obtained planning permission from Mid Devon District Council (MDDC) for the '*Retention of change of use from agricultural to blacksmiths forge*' that planning permission received the reference 09/01587/FULL. This planning permission was granted in retrospect and condition 1 imposed upon that permission states that '*the date of commencement of this proposal is to be taken as 2nd November 2009*' which is the date the application was submitted, NOT when it was approved. The plans I submitted in support of this application show empty spaces on both the ground and first floor. When I applied for planning permission 09/01587/FULL, I used the correspondence address of 'Copenhagen Farmhouse' but I was in fact moving between that address and 'Meadow Forge' spending most of my time at the forge.
5. This my declaration will refer to two (2) issues.
 - a) My use of the approved blacksmiths forge building as a mixed (composite) use as a blacksmiths forge and dwelling house. In breach of condition 2 p.p. 09/01587/FULL.
 - b) My use of the associated external land for the storage of materials goods scrap and waste materials and chattels in breach of condition 5 p.p. 09/01587/FULL.
6. Issue (a).

After planning permission 09/01587/FULL was granted on 14th December 2009. On 14th May 2010 I completed and returned a Planning Contravention Notice (PCN) in relation to the allegation that there was a breach of planning legislation relating to the

mixed use of Blacksmiths workshop and for human habitation. The MDDC enforcement investigation reference was 10/00037/UCU.

I did answer that there was no human habitation of the building at that time, and that I lived at 'Rose Cottage' TA2 6QS. However, 'Rose Cottage' was a correspondence address, and I was in fact living within the blacksmiths forge building for most of the time. From the documents that I have obtained from MDDC it would seem that they closed the case (10/00037/UCU) on 11th May 2011. MDDC did not follow up on any enforcement action after I returned the completed PCN.

During 2011 various works and activities occurred to include. The installation of, within the northeastern corner of the blacksmiths/forge building, dwelling house facilities that allowed me to live within the building and use that part of it for residential purposes (human habitation). Which included wash facilities, a bath, sink and toilet were plumbed in on the 1st floor and a laundry area was installed on the ground floor.

I completed a Census form which was sent to me at Hillside Barn.

In November 2011 I registered myself as resident at Hillside Barn on the Electoral Roll. I was informed that I could only register as a '*local area connection*' as the property was not classed as residential. I accepted this explanation because I did not understand the regulations. As far as I know I am still on the electoral roll. MDDC Electoral Roll ref – FE-157/1. I was able to vote in relation to the MDDC Elections on 5th May 2011 as a result.

My 2 x Driving Licences show me as resident at Hillside Barn from 15th October 2011 and until 12th May 2021 in relation to my HGV licence which needs to be renewed every 4 years. I have not renewed my HGV licence, but my main driving licence continues to relate to my address as 'Hillside Barn' and has done since 2011.

The Valuation Office Agency (VOA) attended and surveyed in 2011 to re-evaluate the property and survey the building.

I assumed that MDDC had decided that they would take no further action regarding the allegation of my residential use (human habitation) of Hillside Barn as I heard nothing from MDDC until I was served with another Planning Contravention Notice (PCN) in early 2022 which I completed and returned dated 8th February 2022. The MDDC enforcement reference was ENF/20/00223/RURAL which was a new reference because of what I assume was a new complaint as the previous MDDC enquiries had the Enforcement reference of 10/00037/UCU. As can be seen these investigations and the service of the more recent PCN are 12 years apart.

I completed the PCN but did not hear from MDDC until November 2024.

From January 2022 I have paid MDDC residential Council Tax under the reference – 168RZHIL0000 Council Tax Band A. The Council Tax describes Hillside Barn as a 'mixed use' property. I assumed that the mixed-use description included residential given that I was paying residential Council Tax.

As mentioned above I completed and returned a Planning Contravention Notice (PCN) and signed it dated 8th February 2022. This PCN had the MDDC Enforcement Reference ENF/20/00223/RURAL. I found this PCN very confusing and complicated so I feel I should explain my answers more fully.

My understanding of planning regulations at the time of each PCN was that having de minimis use such as running a business from home or having an office in a spare room for an employment in a job use would be equivalent to using a workplace facility after or during a working day such as washing, eating, or resting would not be a change of use and with there being no clarification of these uses being available

from the council such as the term 'human habitation' despite requests for such clarification being made. This with my limited understanding of the planning guidance and was my best guess at what was required. I held this belief rightly or wrongly until the issuing of a council tax bill that made it clear to me that the council were now of a different opinion to the one, they gave me previously, and from that time on I now believe that my use would indeed constitute a use as the council claimed. As such that use going back to at least 2013 and possibly earlier. I can confirm I had in fact used my property this way from day one and registered my use as such from 2011 even though at that time the council refused to see it as a change of use and would only register me as a locale area connection and not residential even though I clearly gave them all the information as to how my building and land was used by myself at that time.

I will only address the answers given that I feel could be misunderstood.

A.1.2 – My reply relates to my correspondence address not my residence.

A 1.6 – Owned since 2006 as identified on Land Registry

A 3.2 – See my answer to 1.2.

A 3.3 – I had given residential addresses that I have had permission to receive personal correspondence as my address (Meadow Forge) was not a residential address according to MDDC. A residential address was required to complete the PCN.

3.5 – This answer is correct, but I would now add that I occupied the barn in 2006/7 after I had purchased the site. Then retrospective planning permission was granted ref – 09/01587/FULL and I used a correspondence address to make that application.

3.6 – I did not consider that my residential use was a change of use but considered that it was a 'mixed use' (composite use) of residential and blacksmiths forge.

3.7 – See my previous answer to 3.6.

3.8 – See 3.6

3.9 – See 3.8

4.0 – I put none as I thought the use was a 'mixed use' (composite)

4.1 – I put No but in fact there was and still is electricity to the 'mixed use'

4.2 to 4.5 as on the PCN

4.7 – See 3.6

4.8 – I did not understand this question so answered 'No works started'

4.9 – See 3.6

5.0 – See 3.6

5.1 – I felt this question was not relevant to the alleged breach referred to within the PCN

5.5 – See 3.6

5.6 – See 3.6

5.7 – See 3.6

5.8 – See 3.6 I considered that the uses were mixed uses of a blacksmiths forge and residential. (composite)

5.9 – This answer I considered as correct as the use was as a mixed use of work and residential for example a live work planning unit. Composite use.

6.0 – Correct

6.1 – See answers 3.6 and 5.8 and no planning application was invited. MDDC continued to state the use was NOT residential until I was served with the PCN (Enf/20/00223/RURAL) which I completed, and to repeat the uses I considered were acceptable mixed uses. In addition, I considered at that time I had gained an

immunity against enforcement action as any unauthorised use had taken place continually over ten (10) years from 2006/7 until and beyond 2007/8. It was also evident that there had been 10 years' worth of use between 2011 when I registered with MDDC on their electoral roll (FE-157/1) with the address of 'Hillside Barn' on 5th May 2011 and 2021 well before I was served with the PCN.

6.4 – See answers 3.6 – 5.8 and 6.1.

6.5 - To further explain I have paid Business Rates since 2007 and residential Council Tax since 2022.

6.6 - I have paid Business Rates since 2006/7 but when I answered the PCN no Council Tax was being paid. The Residential Council Tax that I now pay was 'back dated' to BEFORE the PCN date.

6.7 - See answers 3.6 – 5.8 and 6.1

6.8 - I put N/A here because I the answer to 6.7 was NO

6.9 - This question was not relevant to the allegation of change of use or Breach of Conditions

7.0 – See 6.9

7.1 – See 6.9

7.2 – See 6.9

7.3 – See 6.9

7.4 – Was irrelevant

7.5 – This answer provides details of 15 years of use to station the vehicles on the land. However, this answer has been ignored as I have been served with a Breach of condition Notice in relation to that use. I believed that the use had become immune after 10 years.

7.6 – This answer is accurate and correct

7.7 – See answer 7.5 plus this answer gives further information in relation to the use of the land in question.

7.8 – Correct and accurate answer.

7.9 to 8.2 are all correct and accurate as answered.

As a result of the above I consider that I have used the approved Blacksmiths Forge building continually for both residential purposes and as a working forge in what I would describe as a composite use for well more than ten (10) years and certainly from 2011 until the date of this declaration.

I produce a bundle of evidence in support of this declaration consisting of, but not exclusively.

A MDDC letter dated 23rd November 2011 stating I am on the Register of Electors 2011.

Driving Licence x 2 with address of 'Hillside Barn' from 15th October 2011 until the current date.

MDDC Council Tax Reference. Electoral Roll evidence from April 2011 and November 2011. Bundle **Exhibit DA2**.

A bundle of MDDC e-mails to include - An MDDC e-mail dated 21st October 2021 ref – 117394 stating that there is enough evidence to *'list as residential from February 2013.'*

Another MDDC e-mail dated 26th October 2021 subject 20/00223/RURAL that states *'I have reviewed the information available, and it appears that the owner Mr Aggett has been living in the premises for some time and probably since around 2010. There does appear to have been a material change of use of the building'*

An MDDC e-mail dated 13th July 2023 MDDC Case Number MDQC – 587384 which states *'We have corroboratory evidence confirming use and occupation since 2008 and we are most likely out of time by the point of 2020 complaint, and which is the first time we were made aware of the issues'*

Bundle Exhibit DA3

It is apparent from MDDC own records that they have been aware of my mixed use of 'Meadow forge' for many years (more than 10) *'prior'* to the service of their 2 x Breach of Condition Notices both dated 28th March 2025. (20/0223/RURAL).

I consider that I have not attempted to conceal or hide my mixed (composite) use based upon my disclosure to the Electoral Roll registration and Driving Licence Authority.

7. Issue (b)

The use of associated external land to store materials, goods, scrap metal and waste materials in Breach of Condition 5 imposed upon planning permission 09/01587/FULL. I would contend that when I applied for the retention of the change of use from an agricultural building to a blacksmiths forge in November 2009 (09/01587/FULL) that application related only to the building in question and not the outside land. But understand that conditions can be imposed upon land that I own and that was identified as such when I made the planning application.

It is clear from my PCN replies that outside storage of vehicles and chattels has taken place continually for more than ten (10) years and the aerial images from Google Earth show a period of outside storage from 1st January 2010 up until 1st March 2025 with various dates in between. I produce a compilation of dated Google Earth Images **Exhibit DA4**

As a result of the above I consider that the breach of condition 5 on planning permission 09/01587/FULL has been breached for more than ten (10) years and as a result that breach is now immune from enforcement action.

8. On 28th March 2025 I was served with two (2) x Breach of Condition Notices (BCN) that related to perceived breaches of Conditions 2 and 5 imposed upon Planning Permission 09/01587/FULL granted on 14th December 2009. Both BCN's had the enforcement investigation reference of 20/0223/RURAL. I would imagine that, given the enforcement investigation reference, that those investigations have been ongoing since 2020 and that it has taken MDDC five (5) years to consider the service of the 2 x BCN's.

9. I consider that because of the information and evidence provided within this declaration that any alleged breach of planning conditions had achieved immunity 'before' the service of the 2 x BCN's, and as a result those uses, and breach of conditions had become lawful after 10 years of continual breach. As a result, the service of those notices was not proportionate. I also consider that the service of a BCN does not stop the immunity clock in relation to breaches of planning legislation as a BCN is not considered as an enforcement notice in relation to planning legislation.
10. I am a Blacksmith and have little knowledge of the particular use of planning words and phrases, given that they don't seem to always align with the common understanding most of us non planning public have. I have answered the questions to the PCNs x2 with the best guesses at what was required. This I have done as an ordinary man on the street, this being so, I have always claimed I have used my property exactly the same way since I first bought it 19 years ago, and that my understanding now is that due to the passage of time my use has gained the immunity granted by such legislation as exists regardless of how I phrase or describe that use to be, it has become a completely lawful use and has been so for a long time.
11. I believe from the above information and evidence referred to in this sworn statement, that it is clear that the building known as 'Hillside Barn' (Meadow Forge) has been in continuous composite use as a forge and dwelling house/residential (B2 and C3 Use Classes) and that the areas outside of the approved forge have been used for the storage and stationing of materials/vehicles and chattels for well over ten (10) years. As a result, that change of use and any breach of planning conditions imposed upon planning permission 09/01587/FULL is now immune from planning enforcement action by the Local Planning Authority (LPA) and a Certificate of Lawful Use can be granted to that effect.

I make this declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835 declared at 38 High Street, Cullompton on before.

Signed

Dated

(Your name)

Dean Aggett

9th October 2025

Signed

Dated

(Solicitor)

Michael
McKeehan
Solicitor at

9th October 2025

Dunn & Baker Solicitors
Chudleigh House
38 High Street
Cullompton
EX15 1AE

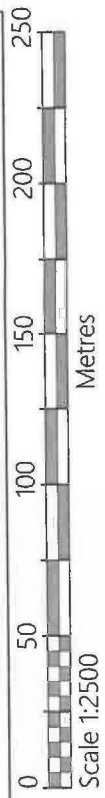
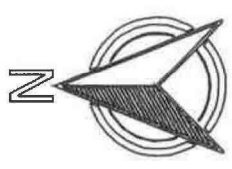
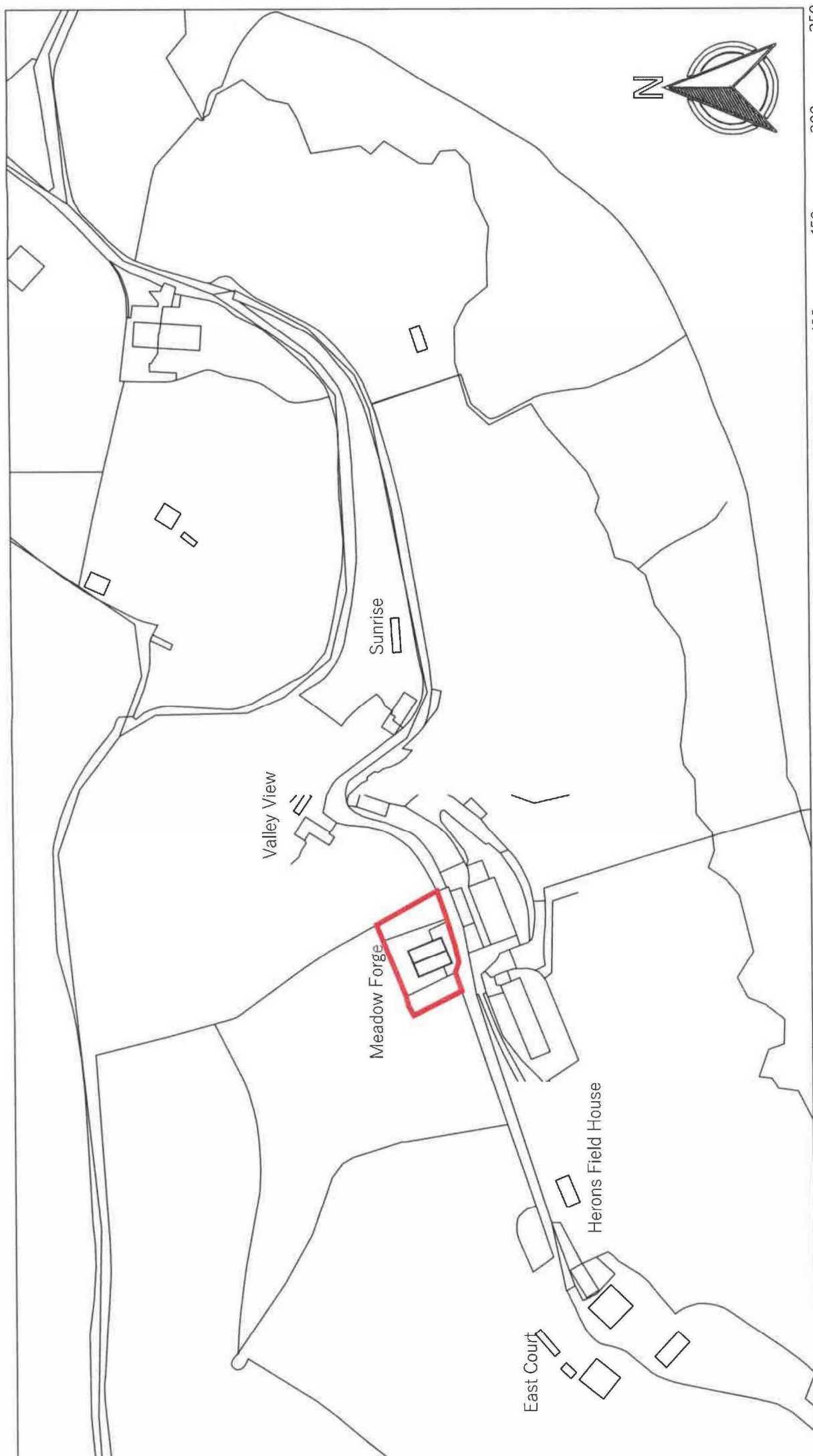


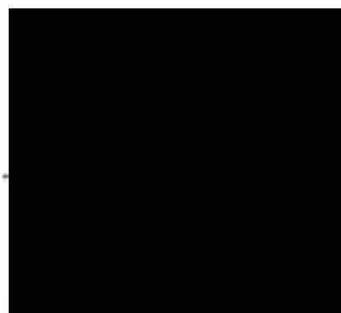
Exhibit DA2

Bundle

MDDC letter dated 23/11/2011 reference Register of Electors

Copies of Driving Licence x 2 with address of Hillside Barn

MDDC Electoral Roll evidence April 2011



9/10/25

Poll card**Voting on Thursday 5 May 2011**

**Referendum on the voting system for UK
Parliamentary elections**

Election to Mid Devon District Council (Ref)

Your details:

Dean Aggett
Hillside Barn
Cadeleigh
Tiverton
Devon
EX16 8RZ

Voting Information

Council Ward	Cadbury
Polling Day	Thursday 5 May 2011
Polling Hours	7:00 am to 10:00 pm
Your polling station will be	Parish Hall Cadeleigh EX16 8HW

You cannot be issued with a ballot paper after 10:00 pm, even if you are at the polling station before then.

You do not need to take this card with you to vote.

If undelivered, return to: Mid Devon District Council (Ref),
Phoenix House, Phoenix Lane, Tiverton, Devon, EX16
6PP

Please turn over >

Electoral Services
Phoenix House
Phoenix Lane
Tiverton
EX16 6PP

Mr Dean Aggett
Hillside Barn
Cadeleigh
Tiverton
Devon

Ask for: Jackie Stoneman

Tel: 01884 255255

Date: 23 November, 2011

To whom it may concern:

CERTIFICATE OF ELECTORAL REGISTRATION

Dear Sir/Madam

**Re: Mr Dean Aggett: Declaration of Local Connection - Hillside Barn, Cadeleigh,
Tiverton, Devon, EX16 8RZ**

This is to confirm that Mr Dean Aggett is on the Register of Electors 2011 at the above address by Declaration of Local Connection. This declaration is due to the fact that the property is not an approved residential address. The electoral roll number is FE-157/1 on this register.

Yours faithfully



Jackie Stoneman
Electoral Services Manager

Mr Dean Aggett
Hillside Barn
Cadeleigh
Tiverton
Devon
EX16 8RZ

Please ask for: James Stevens

Telephone: [REDACTED]

Date: 14 April, 2011

Dear Sir/Madam

Notice of Addition
Representation of the Peoples Act

I am writing to inform you that, provided there are no objections to your application to be included on the Register of Electors at Hillside Barn, Cadeleigh, Tiverton, Devon, EX16 8RZ within the next 5 working days, you will be added to the **May** register.

If you require any further information or assistance with this matter, please do not hesitate to contact me.

Yours faithfully,

[REDACTED]

pp. Kevin Finan
Electoral Registration Officer



Household Questionnaire

England



Office for
National Statistics



THE OCCUPIER
HILLSIDE BARN
CADELEIGH
TIVERTON
EX16 8RZ

Exhibit DA2

20351204 / 5442



87124302

0150 2553 7468 7156

Return to:
FREEPOST 2011 Census,
Processing Centre, UK

A message to everyone - act now

Everyone should be included in the census - all people, households and overnight visitors.

It is used to help plan and fund services for your community - services like transport, education and health.

Please complete your census questionnaire on **27 March 2011**, or as soon as possible afterwards. You can fill it in online or on paper.

Taking part in the census is very important and it's also compulsory. You could face a fine if you don't participate or if you supply false information.

Your personal information is protected by law. Census information is kept confidential for 100 years.

So help tomorrow take shape and be part of the 2011 Census.

Jil Matheson
National Statistician

Where can you get help?



www.census.gov.uk



Census helpline 0300 0201 101



Text Relay 18001 0300 0201 160

Help is available in large print and Braille

Complete online



www.census.gov.uk

Your personal internet access code is:



OR fill in this paper questionnaire and post it back using the pre-paid envelope supplied.

If your address is incorrect or missing, enter your correct address here:

Postcode

Declaration

This questionnaire has been completed to the best of my knowledge and belief.

Date

16/3/2011

Telephone number

We may contact you if we need to collect missing information.

If you have lost your envelope, please return to:
FREEPOST 2011 Census, Processing Centre, UK

H1



101001



The Householder
Hillside Barn
Cadeleigh
EX16 8RZ



40400/01007/1/345130

If you need help, go to
www.census.gov.uk
or phone us free on
0800 141 2021

Reference number:

Dear Householder

Our records show that you have not submitted your census. You must complete and submit it as soon as possible. If you've submitted it in the last week, thank you and please ignore this letter.

You must complete the census by law or you could be taken to court and fined up to £1,000.

How to complete your census now

1 Go to www.census.gov.uk and select "Start census".



2 If you've started your census online in the last week, enter the household access code you already used to continue and submit.

Or to start a new form, enter this new access code:

3 Answer the questions and submit when complete.



 Your answers are protected by law and will be kept confidential.

i Help is available for everyone to complete the census. Visit www.census.gov.uk or call 0800 141 2021 to find out more, or to request a paper form. A member of our Office for National Statistics (ONS) team may visit you if you've yet to complete the census.

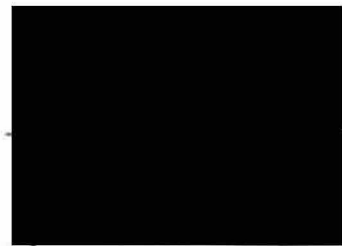
Thank you

Professor Sir Ian Diamond – National Statistician

Exhibit DA3

Bundle

MDDC e-mails dated - 21/10/2021- 26/10/2021 – 13/7/2023



9/10/25

From: [REDACTED] <[REDACTED]@middevon.gov.uk>

Sent: 13 July 2023 13:31

To: [REDACTED] <[REDACTED]@middevon.gov.uk>; [REDACTED] <[REDACTED]@middevon.gov.uk>

Subject: RE: Case Number: MDQC-587384 - PROTECT

Hi, [REDACTED]

The 'in time' aspect is, perhaps axiomatically, the crucial point, although not its simplest sense. Briefly, the history suggests that the initial occupation might not have been a fully formed residential unit necessary to trigger the four year rule. We know subsequent works have been undertaken internally to the building over the years [they were kind enough to post them on Facebook] to convert an area of the building to what could be considered a more formalised arrangement but it was still unclear as to whether this was certainly a dwelling in the four year sense or simply an unauthorised mixed use.

The latter point was picked up previously by legal [a solicitor no longer working here] who was suggesting that it might be a ten year breach on the basis it was a live/work unit – authorised use of building is a blacksmiths workshop and the occupier remains engaged in this activity – although that view didn't appear to gain particular favour. We served a PCN in the early part of 2022 to which the owner responded that they weren't living there and provided an alternative address which appear to be contradicted by a credit report that was obtained. [REDACTED] attempted to get onto site/into the building following the returned PCN but I don't think that was ever successful.

All of which means.

- (a) If it has been and remains a 'live/work' unit in the planning sense then as we have corroboratory evidence confirming use and occupation since 2008 we were most likely out of time by the point of 2020 complaint, and which is the first time we were made aware of the issues.
- (b) If it did start out as 'live/work' unit and then subsequently a fully formed residential unit was created inside the building that would trigger the start of a new immunity clock for four years. We know that the Facebook photographs of the more substantial works [external windows, for example] are dated to the latter part of 2021, but we also know that there was a bathroom, landing, living area provided in circa 2013 (information provided by VO and Council Tax) with mention of a kitchen having been provided earlier than that. I suspect it's this aspect on which the matter will ultimately turn as it's clear from the evidence that the owner has been doing work internally to the building and providing facilities, most likely from day one, over a number of years, but we haven't previously taken a view on if we think it is a dwelling and, if so, when it was substantially completed. Those most recent external works to provide windows in November 2021 are, in my view, clearly associated with the residential use so there may be an argument to say that, in this context,

substantial completion did not occur until that point. Conversely, if that argument is not accepted, I suspect we would have a difficulty in demonstrating that part of the building was not being residentially occupied given all the evidence which points to just that scenario and for a considerable period of time.

- (c) Finally, if there is an unlawful dwelling in the building, would we indeed grant planning permission on a linked basis to the business activity as it is clearly associated with it?

Sorry for the length of reply.

[REDACTED]

[REDACTED] | Planning Enforcement Officer | Mid Devon District Council | Phoenix House | Phoenix Lane | Tiverton | EX16 6PP

Switchboard: 01884 255255 | E-mail: [REDACTED]@middevon.gov.uk | Website: www.middevon.gov.uk

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Do you really need to print this? Please stay Green and leave it on the screen!

I would normally just ask the VO to backdate this as far as possible but looking at his "off grid" lifestyle would we just be creating a debt that would never be recovered?

Elections have confirmed that he did try to register on the electoral roll on 20 July 2018.

Please could you let me know your thoughts on backdating this and I will arrange to notify the VO.

Thanks

■

■ | Revenues Retention Officer | Mid Devon District Council | Phoenix House | Phoenix Lane | Tiverton | EX16 6PP
Direct Dial: 01884 ■ | Switchboard: 01884 255255 | Email: ■@middevon.gov.uk | Website: www.middevon.gov.uk

Access your Council Tax account online 24/7 @ www.middevon.gov.uk/mycounciltaxaccount

Access your Business Rates account online 24/7 @ www.middevon.gov.uk/mybusinessratesaccount

Access your Housing Benefit and Council Tax reduction online 24/7 @ www.middevon.gov.uk/myhousingbenefitaccount



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[Follow us on Twitter](#)

From: ■
Sent: 20 October 2021 15:28
To: ■@middevon.gov.uk>
Subject: Hillside Barn, Cadeleigh, Tiverton, Devon, EX16 8RZ

Hi ■

I've done some digging on this and his Facebook page is a treasure trove of evidence (see attached photos) ... it even includes a Youtube video.

It would appear that he moved a portacabin into the barn over 10 years ago and has slowly (and crudely) been converting part of the barn into living accommodation ever since.

It is clear that he has been occupying the site throughout so I will be contacting ■ for advice on potential Council Tax

[141 Dean Aggett | Facebook](#)

[141 Facebook](#)

[Living Off Grid - Tiny House Builder & Blacksmith - YouTube](#)

Thanks

■

■ | Revenues Retention Officer | Mid Devon District Council | Phoenix House | Phoenix Lane | Tiverton | EX16 6PP
Direct Dial: 01884 ■ | Switchboard: 01884 255255 | Email: ■@middevon.gov.uk | Website: www.middevon.gov.uk

Access your Council Tax account online 24/7 @ www.middevon.gov.uk/mycounciltaxaccount

Access your Business Rates account online 24/7 @ www.middevon.gov.uk/mybusinessratesaccount

Access your Housing Benefit and Council Tax reduction online 24/7 @ www.middevon.gov.uk/myhousingbenefitaccount



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[Follow us on Twitter](#)

From: ■@middevon.gov.uk>
Sent: 19 October 2021 15:02
To: ■@middevon.gov.uk>
Subject: Today

Hi ■

Looks like it's too late for site visits now, having had a meeting with ■ this morning, he has asked if you could do a drive by ONLY on Hillside Barn, Cadeleigh, Tiverton, EX16 8RZ.

Enforcement Team

From: [REDACTED]
Sent: 25 November 2021 09:53
To: Enforcement Team
Subject: FW: 20/00223/RURAL Fire /Health Risk at property
Categories: P2, Update Actions & Upload to DMS

From: [REDACTED]@middevon.gov.uk>
Sent: 25 November 2021 09:16
To: [REDACTED]@middevon.gov.uk>
Subject: FW: 20/00223/RURAL Fire /Health Risk at property

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Access your Council Tax account online 24/7 @ www.middevon.gov.uk/mycounciltaxaccount
Access your Business Rates account online 24/7 @ www.middevon.gov.uk/mybusinessratesaccount
Access your Housing Benefit and Council tax reduction online 24/7 @ www.middevon.gov.uk/myhousingbenefitaccount

From: [REDACTED]@nmdbuildingcontrol.co.uk>
Sent: 26 October 2021 19:35
To: Enforcement Team <enf@middevon.gov.uk>; [REDACTED]@middevon.gov.uk>; [REDACTED]@middevon.gov.uk>
Subject: RE: 20/00223/RURAL Fire /Health Risk at property

Our Ref: 21/00042/UW
Meadow Forge Hillside Barn Cadeleigh Tiverton Devon EX16 8RZ

Thank you for making us aware of the situation at this property. I have set up a contravention file and attached a warning flag regarding the owner.

I have reviewed the information available and it appears that the owner Mr Aggett has been living in the premises for some time and probably since around 2010. There does appear to have been a material change of use of the building and the probability of the work carried out complying with the Building Regulations would appear exceptionally low. However, in order for Building Control to take any action we would need to provide evidence beyond reasonable doubt that the work resulting in a contravention of the Building Regulations was carried out in the last 2 years or within 6 months of the Local Authority being aware. Given the circumstances of this case the likelihood of successful enforcement action through the Building Act 1984 is therefore extremely low.

I would suggest that any action by the Local Authority should be led by the Planning Enforcement Team as their enforcement powers are more suited to this situation. Hence at this stage we do not intend to

Please let me know if you have any questions regarding this response.

From: [REDACTED]
Sent: 21 October 2021 11:39
To: [REDACTED] <[\[REDACTED\]@midswon.gov.uk](mailto:[REDACTED]@midswon.gov.uk)>
Subject: FW: Hillside Barn, Cadeleigh, Tiverton, Devon, EX16 8RZ

Exhibit D13

Hi [REDACTED]

Re: 117394

I was after some advice on this one which has been instigated by an enforcement enquiry below.

The owner of this business is living "off grid" and has been adapting part of this barn into residential accommodation over a period of several years. His Facebook photos and posts clearly show he is living here and Dean has asked me to register it with the VO (see attached e-mail).

The only thing I need to confirm is from when do we list it?.....

He has a Facebook photo album called Hillside Barn, forge and land (link below) and I have attached various photos taken from it. It would appear that he started working on this circa 2010 but if you read the inspector notes on the NDR account it would appear that Di and the VO visited circa 2011 and confirmed the building wasn't occupied (I think he was living in a wagon/caravan on the site).

The photos below showing bathroom, landing, living room area were all added in February 2013 and the kitchen was earlier than this.

I think we have enough evidence to list the residential accommodation from February 2013.....would you agree?

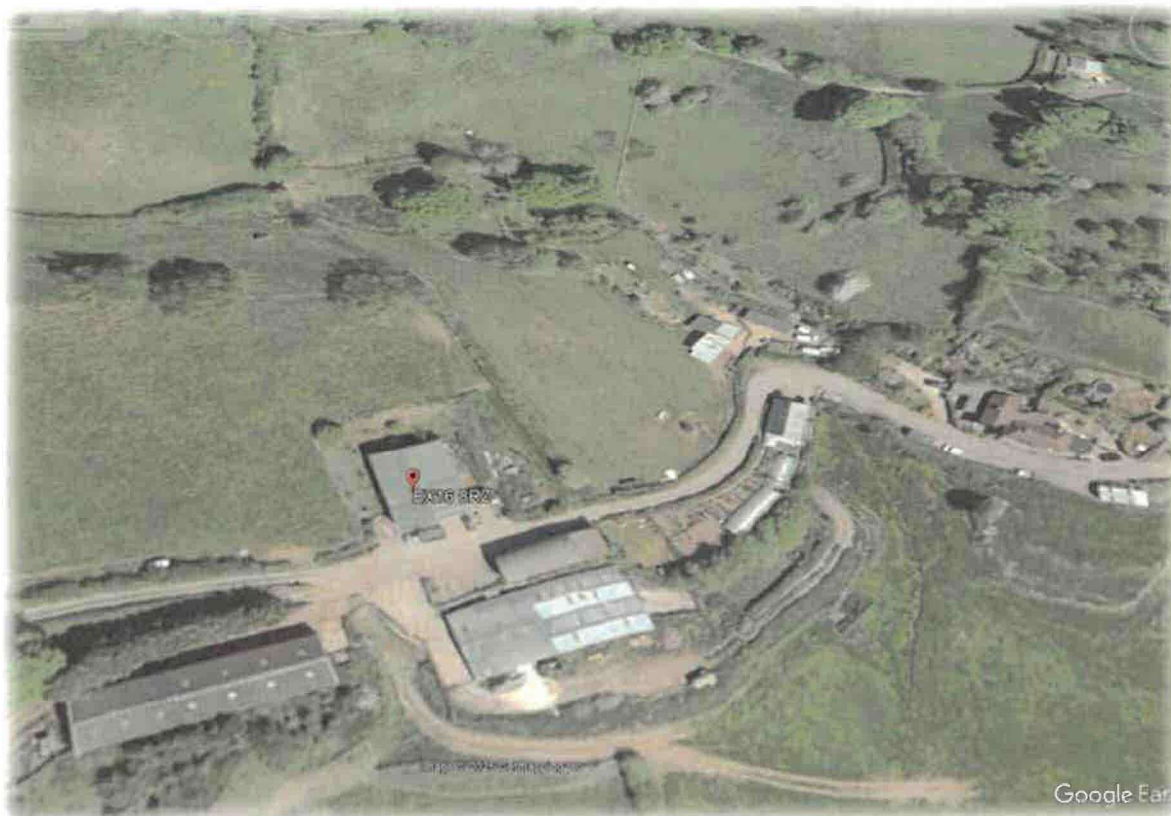
Thanks

[REDACTED]

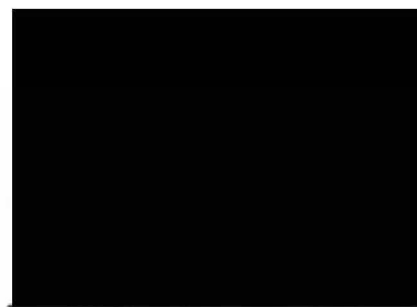
[\[1\] Facebook](#)

Google Earth dated Chronology land surrounding 'Meadow forge' EX16
8RZ

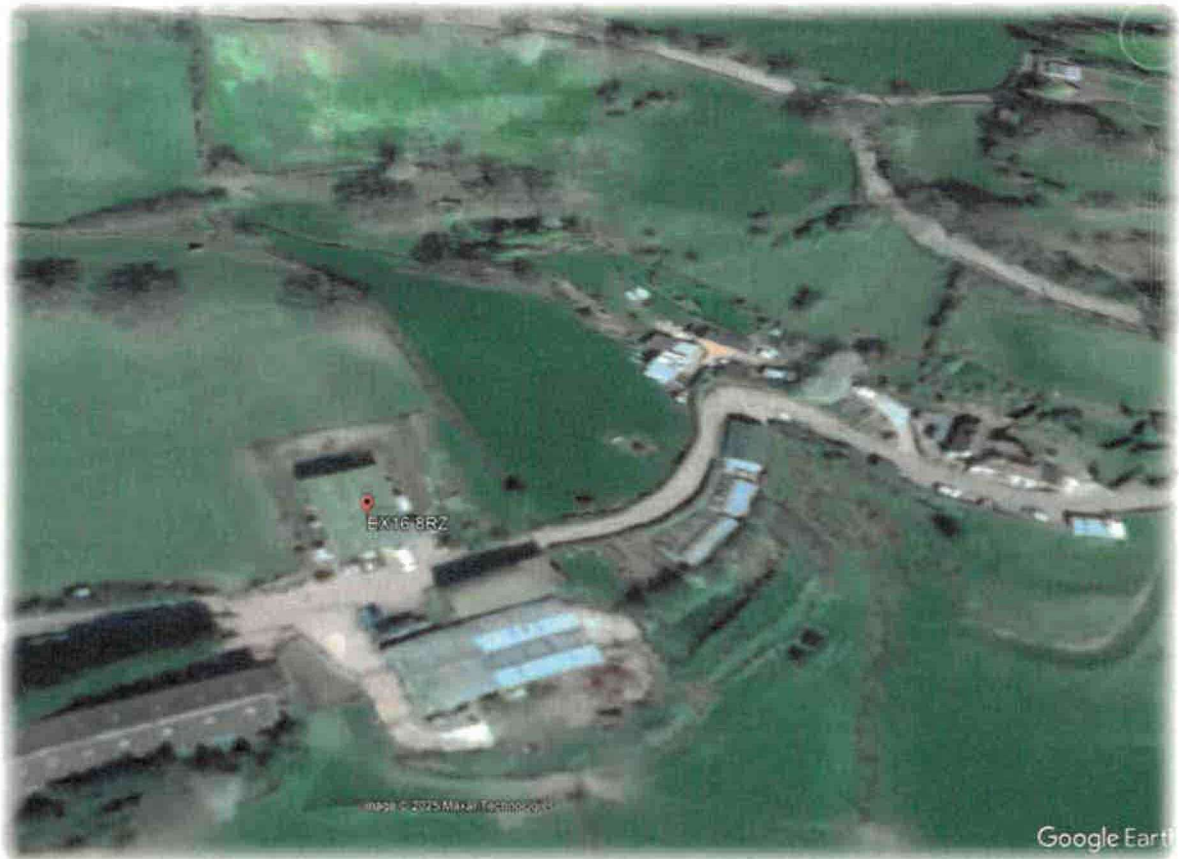
Exhibit DA4



Dated - 1/1/2010



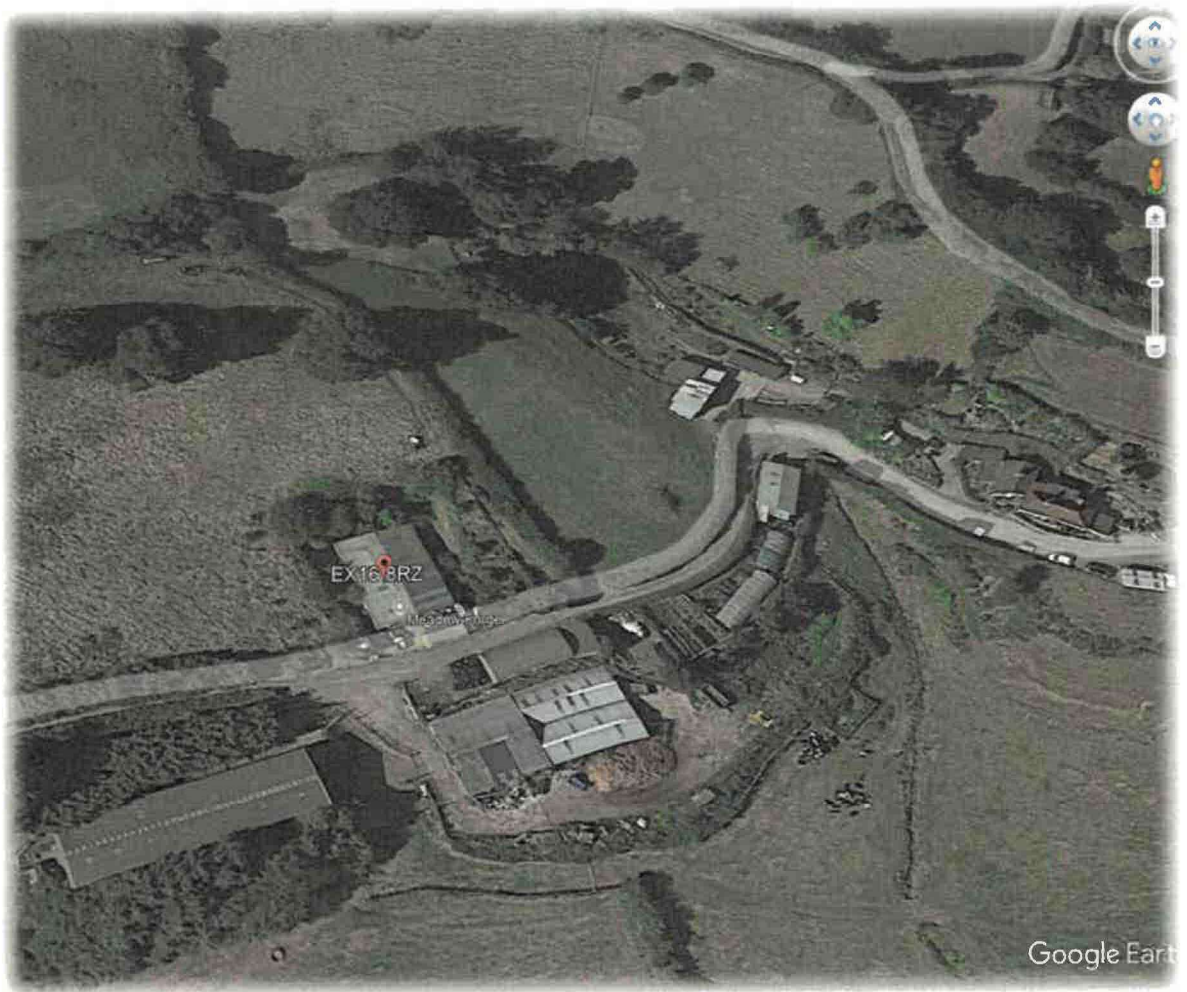
9/10/25



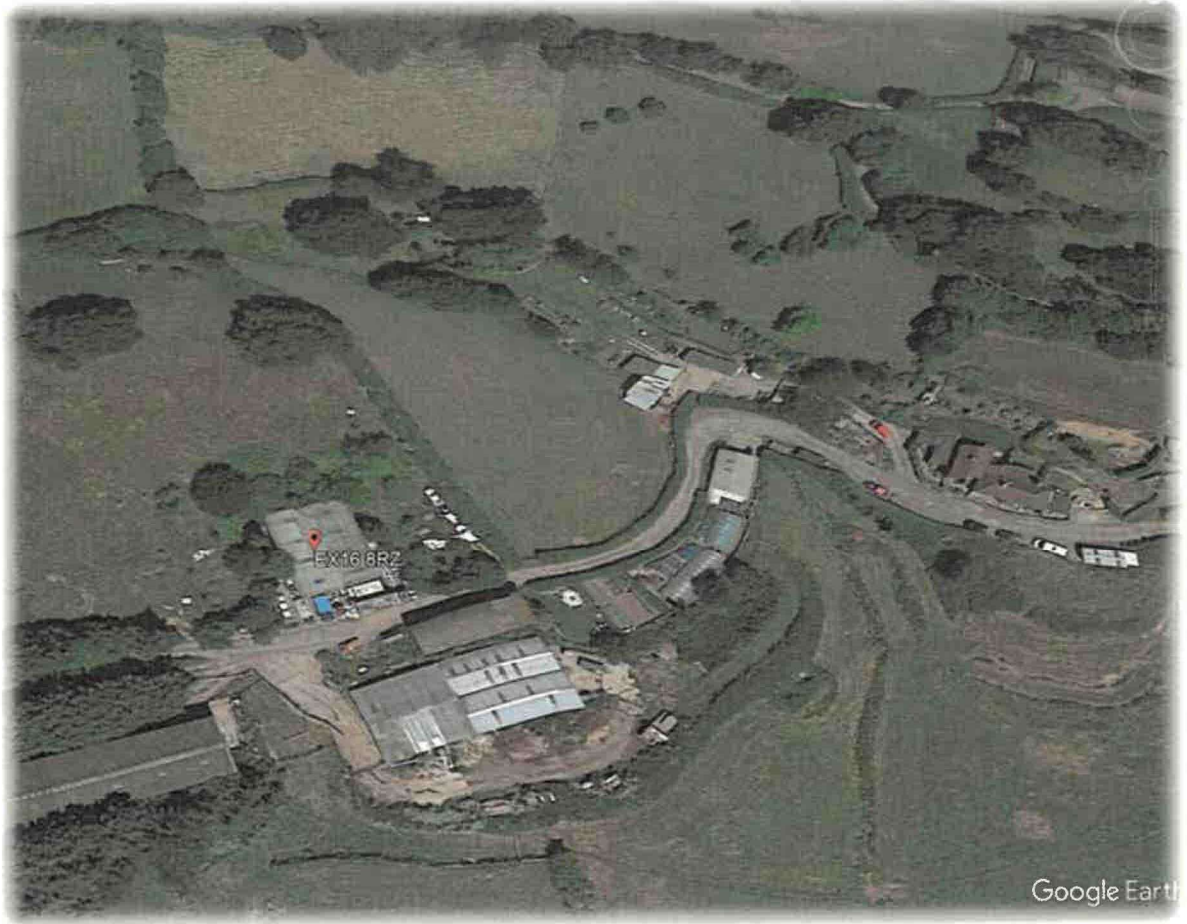
Dated – 8/4/2011



Dated – 22/4/2015



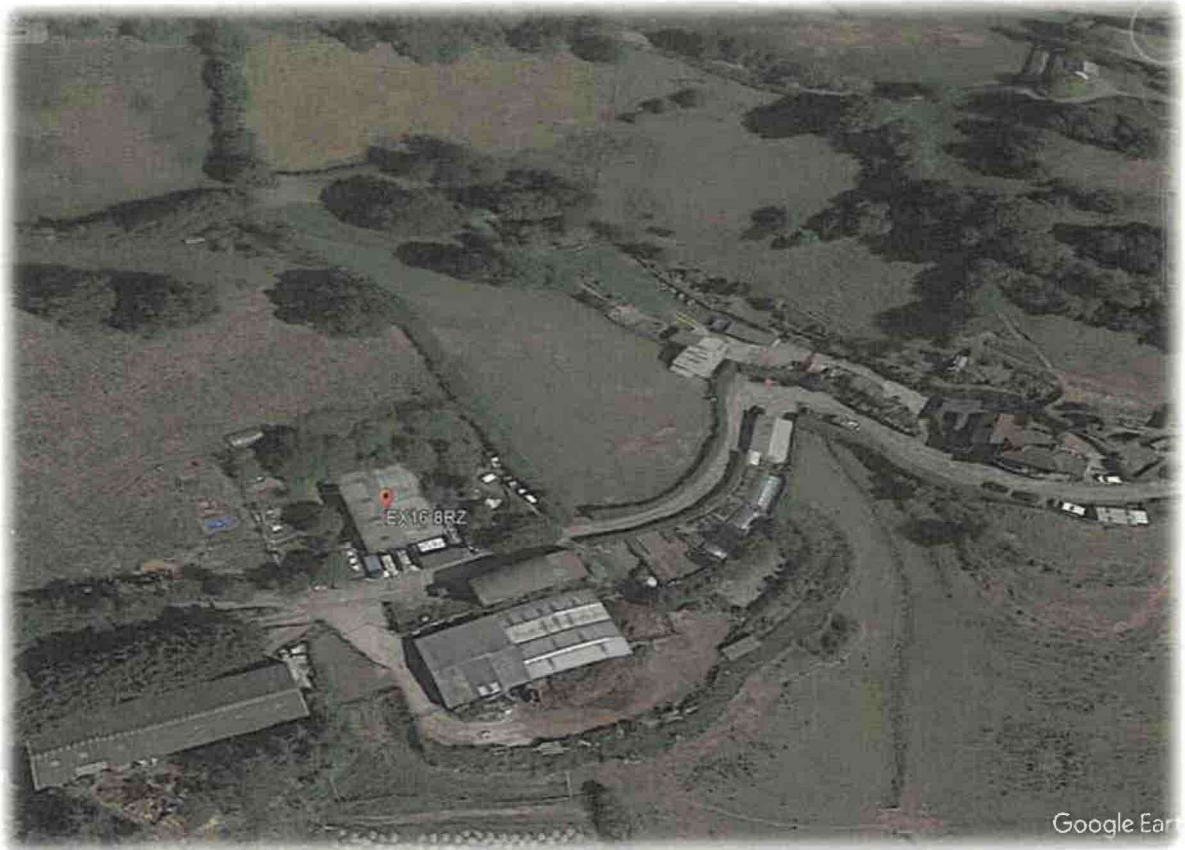
Dated – 15/8/2016



Dated - 22/6/2018



Dated - 18/9/2019



Dated – 29/5/2020



Dated - 22/6/2022



Dated - 1/3/2025

Appendix 2 - Additional photographs of Meadow Forge

Additional photographs supplementing those submitted with my statutory declaration.

These photographs are from my social media channel. I no longer have access to the original photographs so I have no metadata for these photos, however the screen shot images do show the date that they were posted on my social media account.

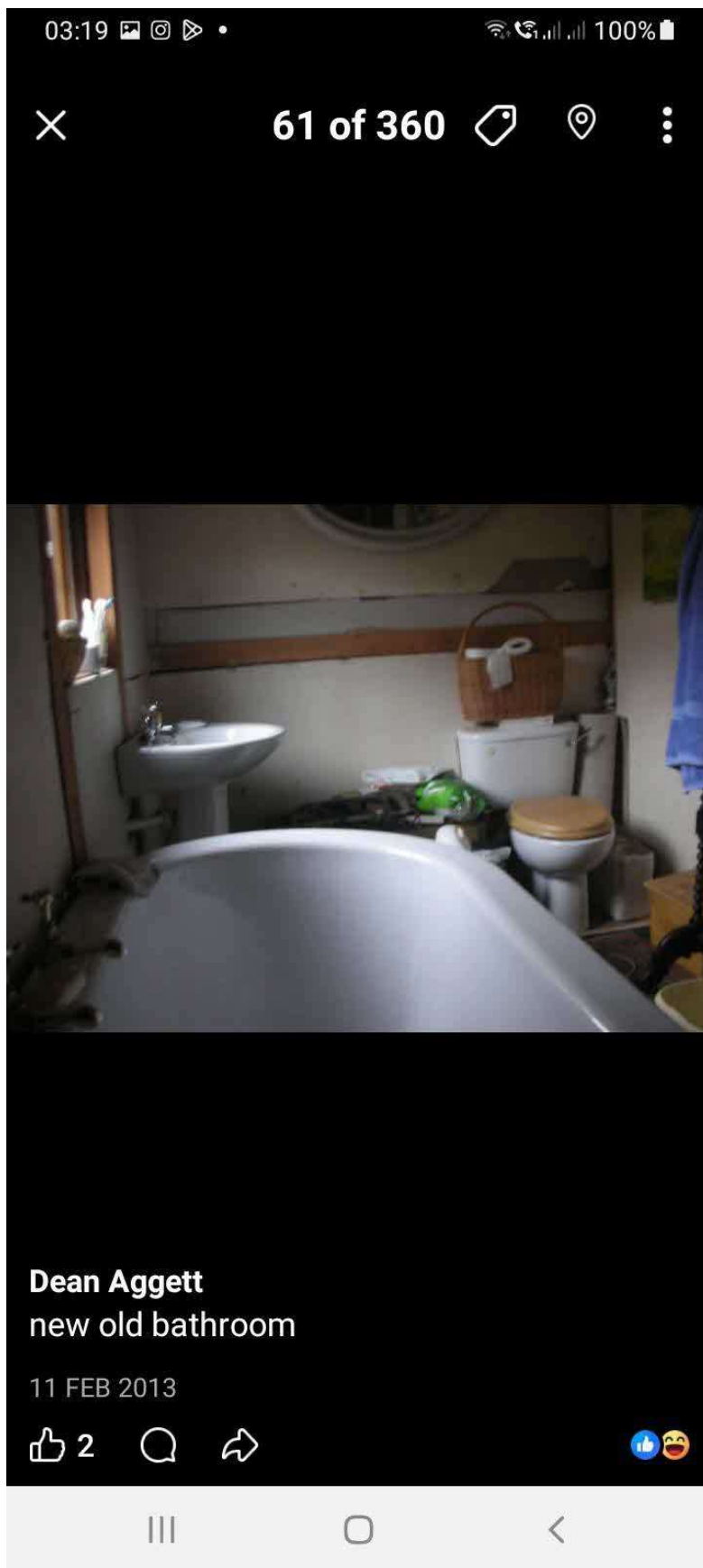


FIGURE 1. PHOTO OF THE MEADOW FORGE BATHROOM 11 FEBRUARY 2013

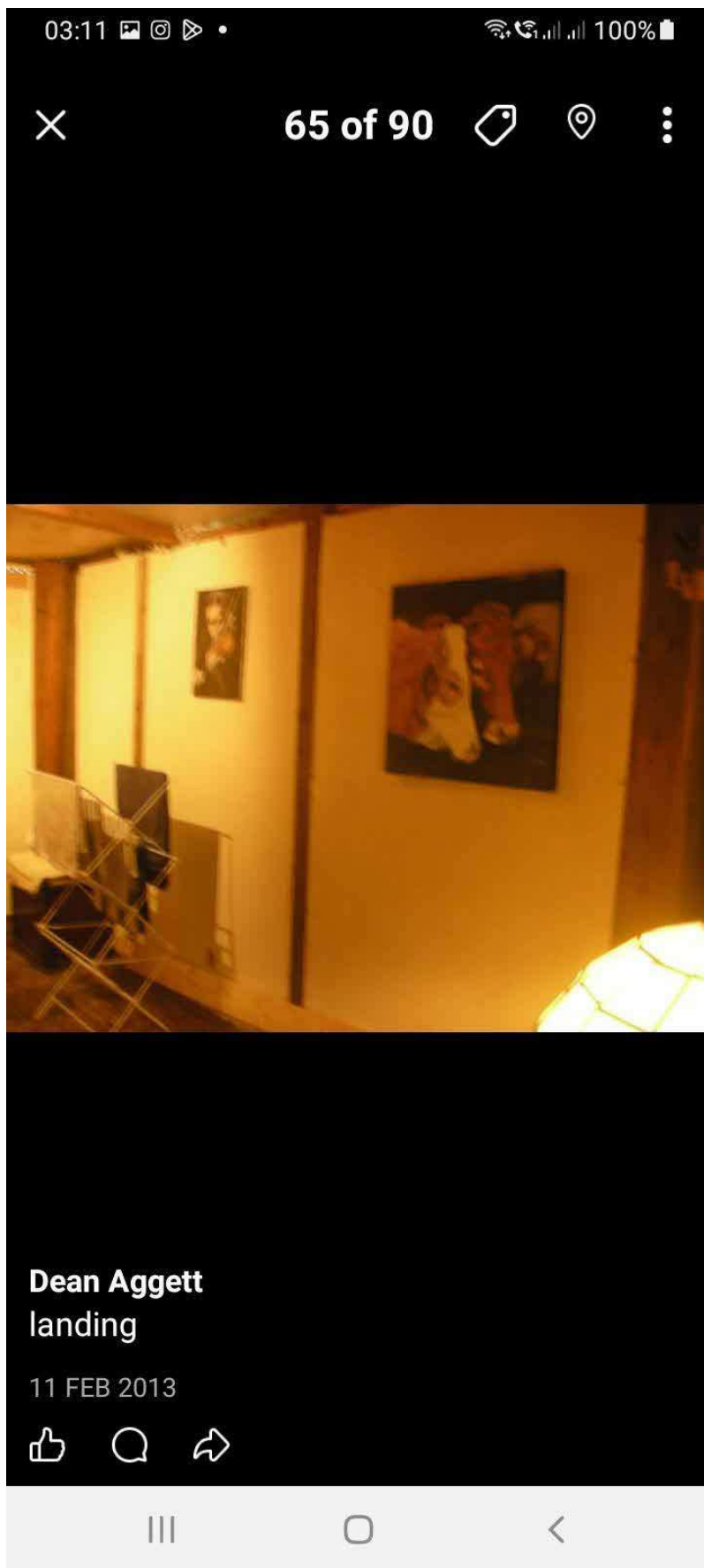


FIGURE 2 PHOTO OF THE MEADOW FORGE LANDING 11 FEBRUARY 2013

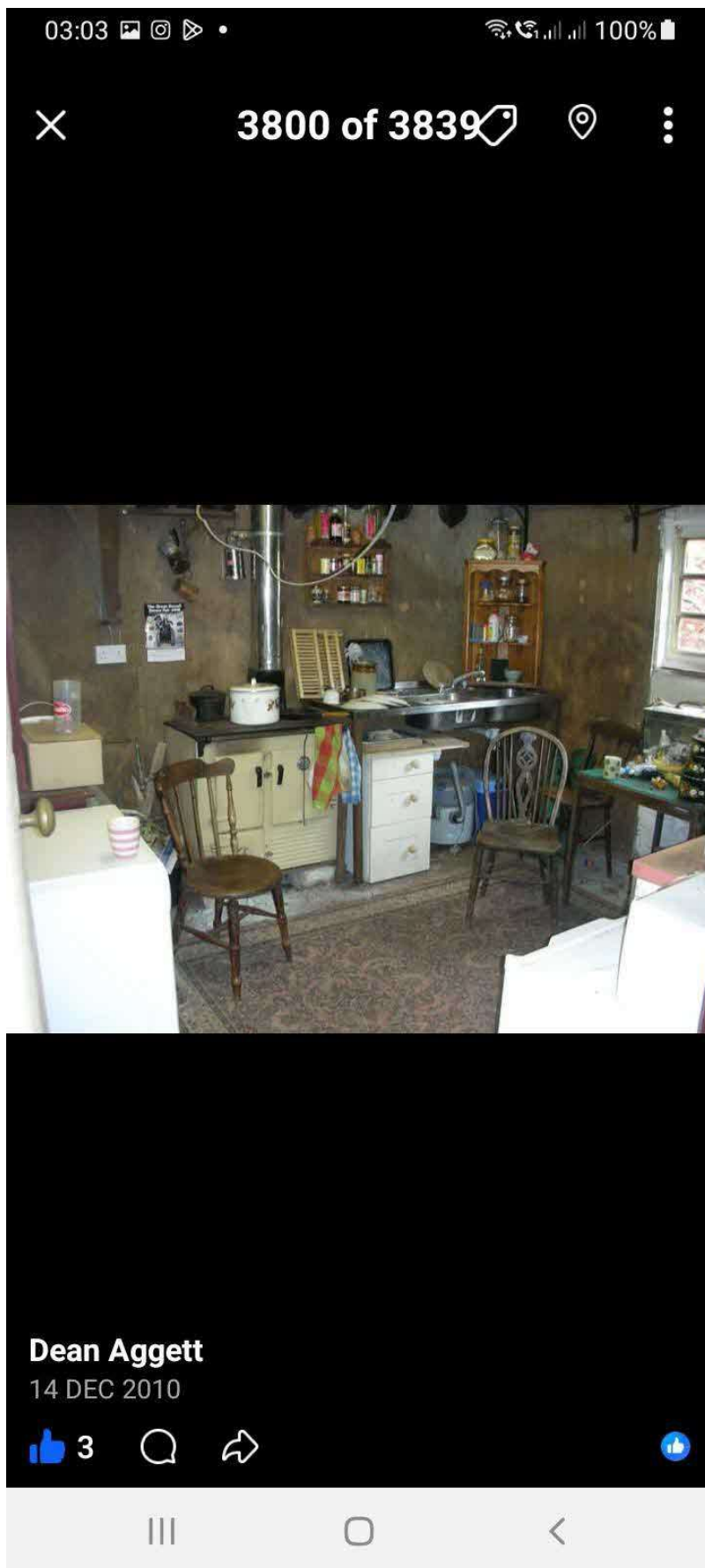


FIGURE 3 PHOTO OF THE MEADOW FORGE KITCHEN 14 DECEMBER 2010

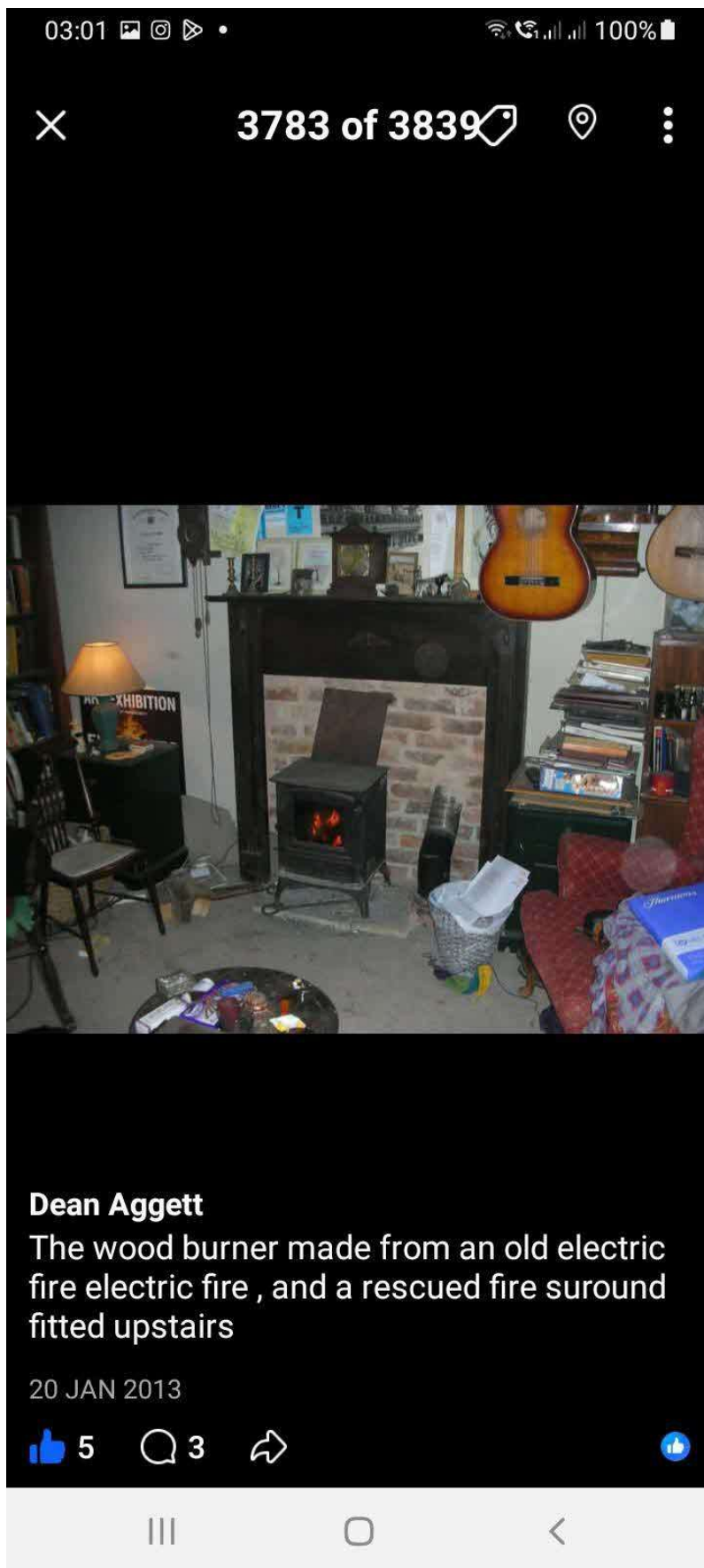


FIGURE 4. PHOTOS OF THE MEADOW FORGE LIVING ROOM 20 JANUARY 2013



FIGURE 5. PHOTOS OF THE MEADOW FORGE LIVING ROOM 23 JANUARY 2017

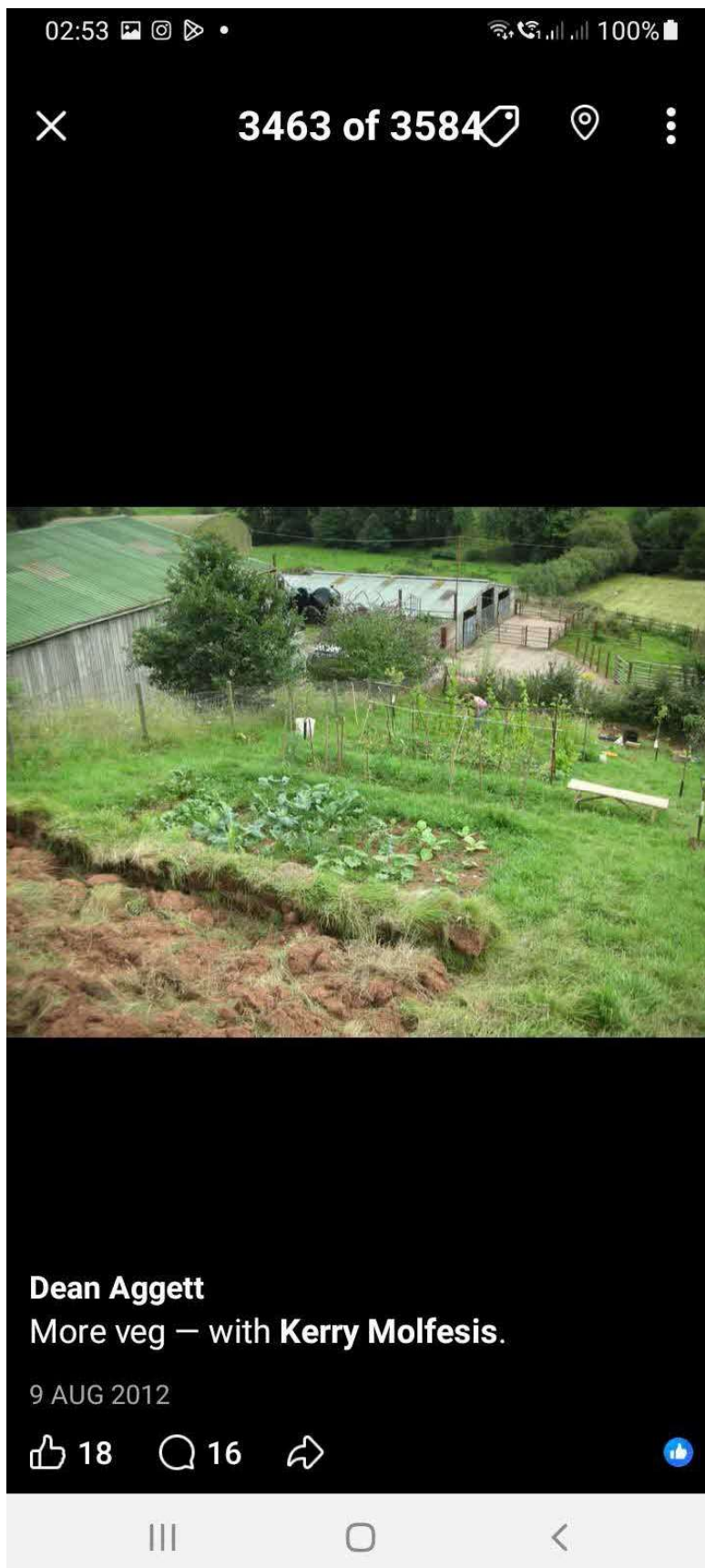
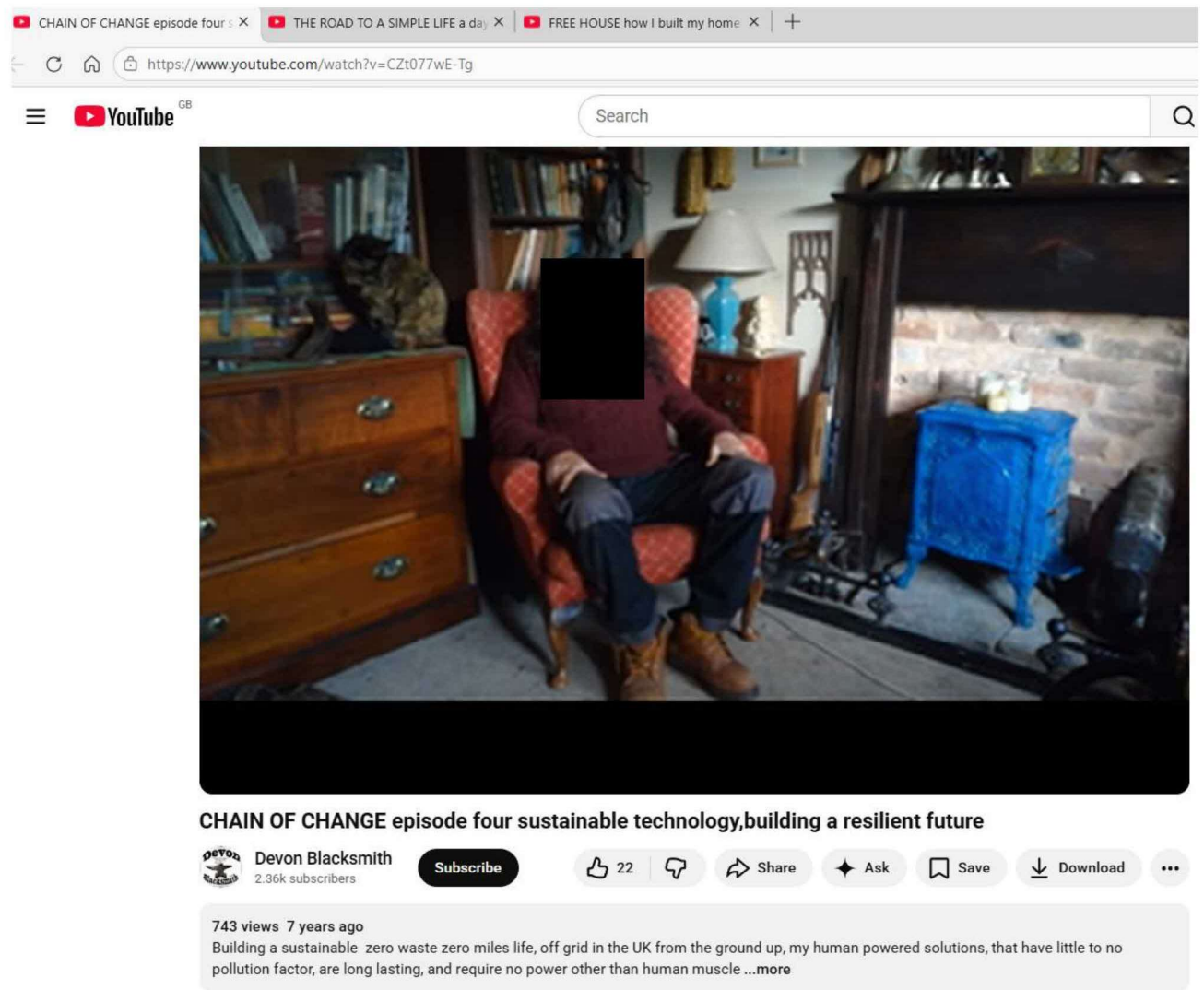


FIGURE 6. PHOTO OF THE MEADOW FORGE VEGETABLE GARDEN AT MEADOW FORGE 9 AUGUST 2012

Appendix 3 – video evidence

The following video evidence is from my YouTube channel. It shows my use of Meadow Forge as a home and my use of the outside of Meadow Forge for storage.

Below is a screenshot from my YouTube channel for each video. The screenshot was taken in 2026. The screen shows, among other things, how many years ago the video was first posted.



Video 1: Chain of Change, posted 7 years ago

CHAIN OF CHANGE episode four X THE ROAD TO A SIMPLE LIFE a day X FREE HOUSE how I built my home X

https://www.youtube.com/watch?v=i2dKYulwXJ4

YouTube GB Search



22:52 / 25:12

THE ROAD TO A SIMPLE LIFE a day at a time, Regenerative living

 **Devon Blacksmith**
2.36k subscribers [Subscribe](#)

👍 27 🗨️ 🔄 Share 📌 Save ⬇️ Download ⋮

1.2k views 6 years ago

The road to a simple life is a complex one, I hope to show some of the trials and tribulation of my effort to achieving regenerative living ,by creating as self sufficient, more resilient lifestyle as I can, reducing my reliance on mass produced products, money, and chemicals or plastics self sustainable living uk ...more

Video 2: The Road to a Simple Life, posted 6 years ago

CHAIN OF CHANGE episode four s X THE ROAD TO A SIMPLE LIFE a da X FREE HOUSE how I built my home X +

https://www.youtube.com/watch?v=rFGBHzlarO4

YouTube GB Search

THE HOUSE OF RUBBISH

FREE HOUSE how I built my home for free

 **Devon Blacksmith**
2.36k subscribers [Subscribe](#)

 44  [Share](#) [Save](#) [Download](#) [More](#)

8.4k views 14 years ago
ECO OFF GRID up cycling built using junk that no one wanted pallet building cob, sustainable building using natural and reclaimed materials
[...more](#)

Video 3: Free house, posted 14 years ago

CHAIN OF CHANGE episode four · X THE ROAD TO A SIMPLE LIFE a day · X FREE HOUSE how I built my home · X SHEPHERDS HUT BUILD. - YouTube · X

https://www.youtube.com/watch?v=vl_v-LGyWFQ

YouTube GB Search



SHEPHERDS HUT BUILD.

 **Devon Blacksmith**
2.36k subscribers [Subscribe](#)

345 Dislike Share Save Download ...

68k views 14 years ago
The building of the shepherds hut mobile forge,
We live and work from this hut when at the shows, we are off grid and dont use any gas or electric, and we cook on a DK rocket stove. ...more

Video 4: Shepherd's hut build, posted 14 years ago.

Appendix 4 – Blacksmithing at Meadow Forge

Evidence of ongoing blacksmithing at Meadow Forge: invoices and photos of current work in progress



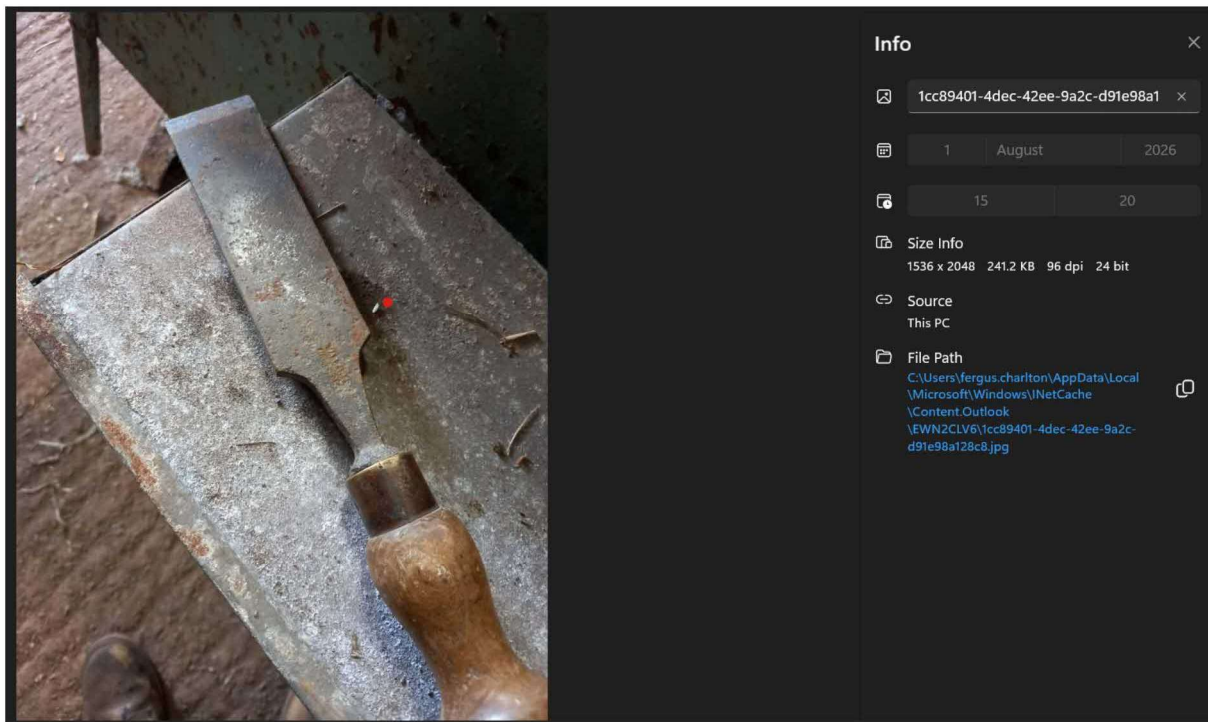


Photo 1: showing a chisel I am making for a carpenter who wants to make wooden seat bases taken 1 August 2026

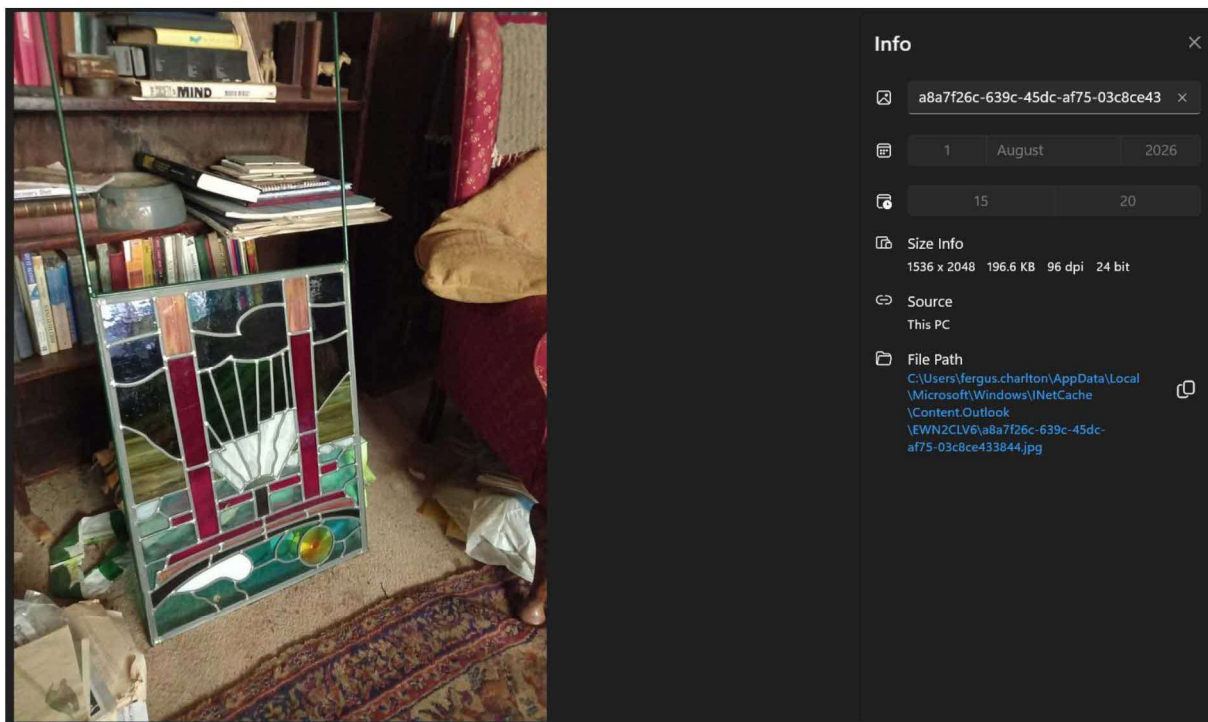


Photo 2: a stained glass panel to have a new display frame made and fitted taken 1 August 2026

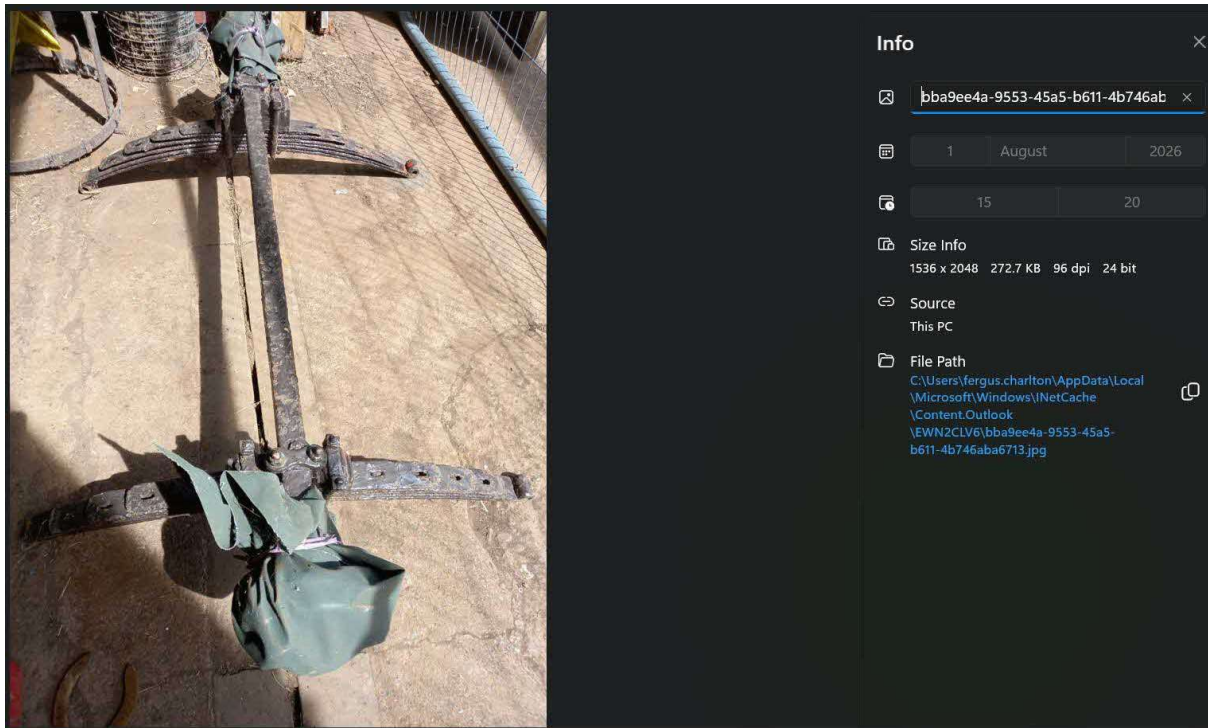


Photo 3: an axle and springs from a horse drawn cart for complete refurbishment taken 1 August 2026

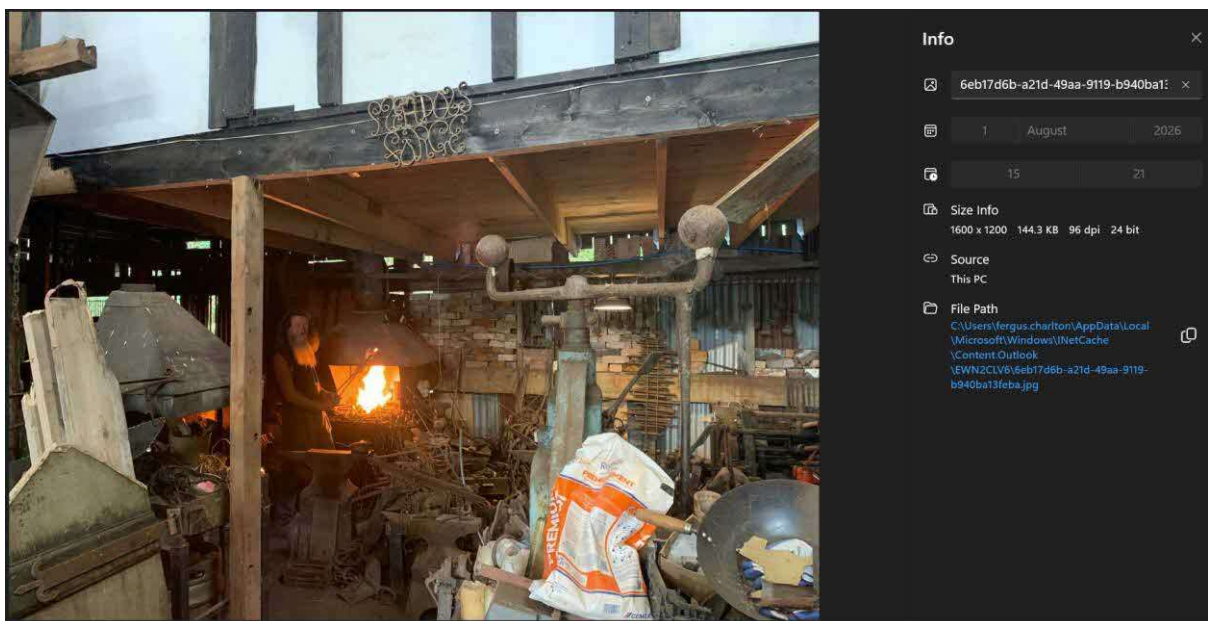


Photo 4: The forge in operation taken on 1 August 2026

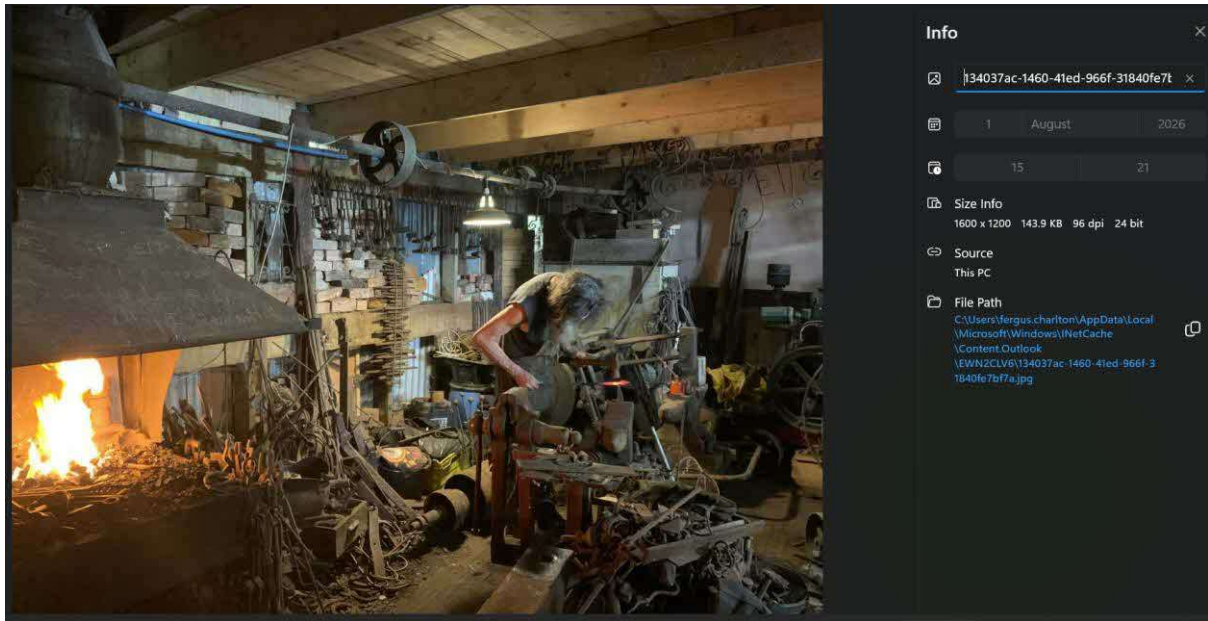


Photo 5: The forge in operation and the Appellant performing blacksmithing activities taken on 1 August 2026

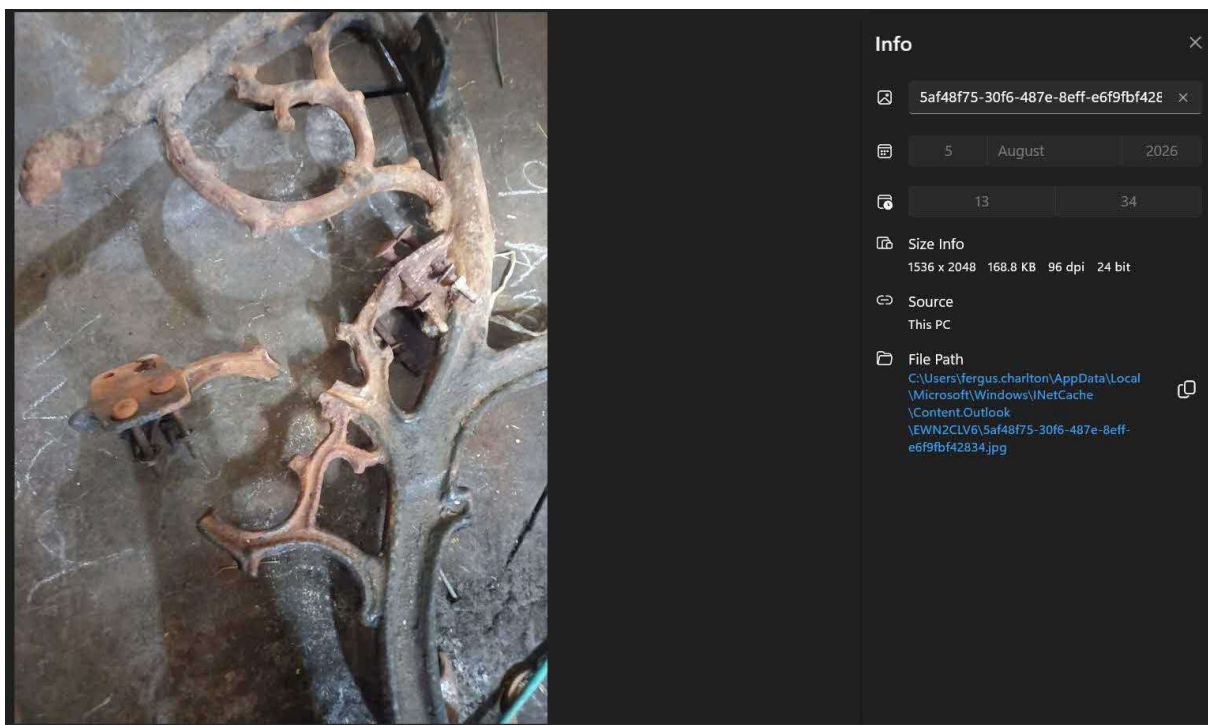


Photo 6: An ongoing cast iron repair to a Victorian seat for Jane Scofield taken on 5 August 2026

Appendix 5 – the yurt

Photos of the yurt at Meadow Forge



Photo 1: The yurt on the date it was first put up (6th May 2025) with a photo taken at 14.36



Photo 2: Inside the yurt on the date it was first put up (6th May 2025)

Appendix 6 – interaction with MDDC

Chronology of my interaction with Mid Devon District Council

This is a sample of my interactions with the Council since 2011

Date	Nature of interaction
2011	Census form sent to my home at Hillside Barn. Filled in and returned.
14/4/2011	Letter sent to me at Hillside Barn containing a confirmation certificate of my being on the electoral roll, from James Stevens pp Kevin Finan.
5/5/2011	Polling card to me at Hillside Barn.
13/9/2011	Sent the Council a household voter registration form, with my name at Hillside Barn.
23/11/2011	Council sent me a certificate of electoral registration, with my name and my address as Hillside Barn.
24/8/2012	Electoral roll form returned to council with my details.
2/5/2013	Poll card with my name addressed to Hillside Barn
28/10/2013	Reg Willing (MDDC enforcement officer) visited me at Hillside Barn. He mentioned my electoral registration and noted the washing machine while standing looking at my personal possessions including a pile of washing. I mentioned making charcoal.
7/5/2014	Poll card to me at Hillside Barn.
22/5/2014	Poll card to me at Hillside Barn.
11/7/2014	Letter re electoral registration.
20/11/2014	Letter from Mirian re electoral registration, filled in and handed in to MDDC.
12/12/2014	Poll card to me at Hillside Barn.
2015	There was an inspection of Hillside Barn by the Council in 2015. The Council noted the storage area I call the garage. I recall the officer remarked it was storage and noted the kitchen and bathroom also being present.
6/5/2016	Poll card to me at Hillside Barn.
23/6/2016	Poll card to me at Hillside Barn.
4/5/2017	Poll card to me at Hillside Barn.
8/6/2017	Poll card to me at Hillside Barn.
2020 to 2022	There were 3 visits by an enforcement officer called Sarah (I do not recall her surname) in 2020 to 2022. One was solo, two were accompanied by an ex-army chap that liked my collection of vehicles. On the 2021 or 2022 visit one officer, the ex-military looking chap, hid behind the door and only made himself known after taking down notes of the conversation between the woman called Sarah and myself. These notes will, if complete, show I have said that whatever they call any of my uses it has remained the same for a very long time. I am sure I said I do stay in the building in that conversation.

Date	Nature of interaction
2021	Census form returned by me.
8/7/2021	Letter for registration, returned 8/7/21.
30/9/2022	Letter about registration, I sent text 11/10/22.
2022	Council tax bill received at Hillside Barn
13/2/2023	Letter re registration at Hillside Barn
27/2/2023	Letter to register.
17/4/2023	Letter to register.
4/5/2023	Poll card received at Hillside Barn
4/9/2023	Letter asking if my registration is was correct at Hillside Barn.
2023	Council tax bill received at Hillside Barn
2/5/2024	Poll card to me at Hillside Barn.
4/7/2024	Poll card to me at Hillside Barn.
2/9/2024	Letter asking if my registration was correct.
2024	Council tax bill received at Hillside Barn
1/5/2025	Poll card to me at Hillside Barn.
29/8/2025	Letter asking if my registration was correct.
2025	Council tax bill received at Hillside Barn
2026	Council tax bill received at Hillside Barn

Appendix 7 – Electoral Roll

Correspondence and interaction with Mid Devon District Council relating to Electoral Roll

Mr Dean Aggett
Hillside Barn
Cadeleigh
Tiverton
Devon
EX16 8RZ

Please ask for: James Stevens
Telephone: 01884 234214
Date: 14 April, 2011

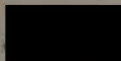
Dear Sir/Madam

Notice of Addition
Representation of the Peoples Act

I am writing to inform you that, provided there are no objections to your application to be included on the Register of Electors at Hillside Barn, Cadeleigh, Tiverton, Devon, EX16 8RZ within the next 5 working days, you will be added to the **May** register.

If you require any further information or assistance with this matter, please do not hesitate to contact me.

Yours faithfully



pp Kevin Finan
Electoral Registration Officer

Kevin Finan, Electoral Registration Officer, Mid Devon District Council,
Phoenix House, Phoenix Lane, Tiverton, Devon, EX16 6PP

Letter 1: Correspondence from MDDC dated 14 April 2011 regarding registering Meadow Forge as the Appellant's residence

Electoral Services
Phoenix House
Phoenix Lane
Tiverton
EX16 6PP

Mr Dean Aggett
Hillside Barn
Cadeleigh
Tiverton
Devon

Ask for: Jackie Stoneman

Tel: 01884 255255

Date: 23 November, 2011

To whom it may concern:

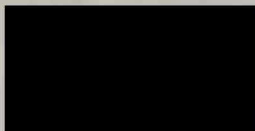
CERTIFICATE OF ELECTORAL REGISTRATION

Dear Sir/Madam

Re: Mr Dean Aggett: Declaration of Local Connection - Hillside Barn, Cadeleigh, Tiverton, Devon, EX16 8RZ

This is to confirm that Mr Dean Aggett is on the Register of Electors 2011 at the above address by Declaration of Local Connection. This declaration is due to the fact that the property is not an approved residential address. The electoral roll number is FE-157/1 on this register.

Yours faithfully



Jackie Stoneman
Electoral Services Manager

Letter 2: Correspondence from MDDC dated 23 November 2011 regarding registering Meadow Forge as the Appellant's residence

Declaration of local connection - Homeless

Only one person for each form. Please read the notes carefully before filling in this form. Please write in **BLACK INK** and **BLOCK CAPITALS**. If you need help filling in this form please phone 01884 255255 or contact Phoenix House, Phoenix Lane, Tiverton, Devon, EX16 6PP

1 About you

First name(s) (in full)
Dean
Surname
Aggett
*Daytime telephone
*E-mail address

*You do not have to give either but it may help to contact you if there are any questions. Reminders to renew your registration may be e-mailed to ensure receipt.

☐ Tick here if you are over 70 years old

If you are under 18, please give your date of birth:

Day Month Year

2 Where were you registered previously?

The name of your old local Council, if known

☐ Tick this box if you do not want your name to be included on the **Edited Register**. This is available for general sale and can be used for any purpose. The edited register can be bought by any person, company or organisation and can be used for commercial activities such as marketing.

The Full Register lists the name and address of everyone who is registered to vote. The council holds a copy. Anyone can look at it, but it is a criminal offence to supply or use copies for purposes other than those set down in law. The main use of the full register is to show who can vote in elections and referendums. Credit reference agencies can use it, but only to check your name and address if you are applying for credit and for other purposes specified in law. It can also be used for law enforcement.

3 Where do you live now?

Give the address of the place at or near which you spend a substantial part of your time.

Hillside Barn
Cadeleigh
Tiverton
Devon

☐ I will collect correspondence from the Electoral Services office
OR
Please send all correspondence to the following address

☒ Tick this box to receive information on voting by post

4 Your declaration

As far as I know, the details on this form are true and accurate. You can be fined for making a false statement on this form.

I am a British, Irish, Commonwealth or other European Union citizen

Please state nationality
ENGLISH

I am aged 18 or over

Signature - sign within the box below

Date 24-8-12



For office use only:

Polling District FE


2001017F9F2

This form sent to me 3mths later than date of Renewal.

Declaration 3: Electoral roll form from MDDC completed by the Appellant on 24 August 2012 showing Meadow Forge (Hillside Barn) as the Appellant's residence

Appendix 8

Extract from the Valuation Office Listing for Meadow Forge showing mixed use property status for 1 January 2022

07:11

VoLTE

100%

Property in...

ax.service.gov.uk

Property information for

**HILLSIDE BARN,
CADELEIGH, TIVERTON,
EX16 8RZ**

Local Authority

[Mid Devon](#)

Local authority reference number

Council Tax band

A

Improvement indicator

No

With effect from

1 January 2022

Mixed-use property

Yes

Court code

None



Mr D Aggett
Copenhagen Farmhouse Cottage
Silverton
Exeter
EX5 4BS

Information Management
Phoenix House
Phoenix Lane
Tiverton
Devon
EX16 6PP
www.middevon.gov.uk

Your Ref:
Our Ref: SAR169

Contact: Information Management
Telephone 01884 255255
:
Email: dpo@middevon.gov.uk

Date 29 April 2025

Dear Mr Aggett

Subject: SAR 169 Formal Response

I write in response to your request for personal information received on 1 April 2025. Your request has been dealt with as a Subject Access Request under the Data Protection Act 2018.

Enclosed with this letter are copies of personal data you are entitled to receive in connection with planning, non-domestic rates and council tax.

We have done our best to respond fully to your request and hope that you have found our approach helpful.

You will see that when providing copies of personal data, we have sometimes gone beyond what is required in that not all of the information provided, strictly speaking, constitutes your personal data.

However, where we have good reason to do so we have omitted or redacted information on the basis of the following exemptions:

- protection of rights of third parties
- legal professional privilege

Processing of your personal information

At the time of collecting or obtaining your personal information we must inform you why we need to process your personal information, including for example, how we

propose to use it, who we intend to share it with and the safeguards we have put in place. If we receive information about you from someone else, we will usually tell you before we use or share your personal information unless we are aware you already have this information or, the law says this is not necessary, such as where this would be prejudicial to ongoing law enforcement/criminal investigations.

We meet these obligations in various ways depending on how you come into contact with us, including directing you to our privacy notices viewable on our web site.

We must provide the same information whenever we respond to a direct request from you.

In respect of this request, we have attached the relevant privacy notice for the service in question which is also viewable on our web site at [Privacy notice - MIDDEVON.GOV.UK](#) and [Privacy notices - MIDDEVON.GOV.UK](#)

We will store the data in line with the Retention Schedule that can be found here: [Retention Schedule for Mid Devon District Council - MIDDEVON.GOV.UK](#)

Your rights in connection with personal data

You may be interested to know of certain rights that you have in connection with your personal data.

We have published a Guide to Exercising Your Rights which is available on our web site at <https://www.middevon.gov.uk/media/345531/exercising-your-rights-leaflet.pub>

This Guide provides:

- a summary of your rights
 - what these are, and
 - when and how these apply
- how you can exercise these rights
 - what we need from you; and
 - what you can expect from us

The Information Commissioner who is the data protection supervisory authority in the UK publishes information about all of your rights and this can be viewed at [For the public | ICO](#)

Complaints

We have attached MDDC's SAR guide to show the extent of the search carried out by MDDC. This is to show MDDC's commitment to transparency in line with the ICO data principles.

If you believe there may be something which has not been provided to you, please provide more specific information about what you believe you have not received so that we can look into this further for you. Please remember to quote the reference number provided above in any future communications.

If you are dissatisfied with the service that you have received in relation to your request and wish to make a complaint or request a review of our decision, you should write to The Data Protection Officer, Mid Devon District Council, Phoenix House, Phoenix Lane, Tiverton, EX16 6PP. Alternatively you can email dpo@middevon.gov.uk.

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner for a decision. Generally the ICO cannot make a decision unless you have exhausted the complaints procedure provided by the Authority.

You can write to the Information Commissioner at:

**The Information Commissioners Office,
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire,
SK9 5AF.**

Alternatively you can email casework@ico.gsi.gov.uk.

You also have the right to a judicial remedy by bringing a complaint before a national court.

Please do not hesitate to contact us if you have any questions about the contents of this letter.

Yours sincerely

Data Protection Officer

Enc

Document included in the Council's 25 Apr 2025 response to my SAR.

COUNCIL TAX REGISTRATION FORM

New Property	HILLSIDE BARN CADELEIGH TIVERTON DEVON EX16 8RZ
---------------------	---

Effective Date	01/02/2013
Reference No	
UPRN	REQUESTED
Parish	CADELEIGH

Owner/Occupier	Mr Dean Aggett
PCLC100 Wef	N/A

Planning Ref	NONE – ENFORCEMENT AWARE
Conditions	NONE

Notes	See enclosed e-mails. This is a business premises which appears to have been partly converted/occupied as residential for a number of years. 117394 may need to be split.
--------------	---

Inspector	
Date	25/10/2021

Appendix 9

Mid Devon District Council Planning Enforcement Policy 2024



**Mid Devon District Council Planning Enforcement Policy
2024**

Contact details

Mid Devon District Council Website – ([Residents - MIDDEVON.GOV.UK](https://www.middevon.gov.uk))

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1. INTRODUCTION

The basis for the planning system is to protect amenity, whether it is the quality of the environment in general, or the quality of life of people living close to the development. For this reason Parliament has granted powers to Local Planning Authorities to ensure that action can be taken against unauthorised development or a breach of planning control which is causing harm to the amenity of the area as long as it is proportionate and expedient to do so.

Unauthorised development is generally:

- development that does not have planning permission;
- development that has permission but is not being carried out in accordance with the conditions of the permission.

Alleged breaches of planning control can be emotive issues and controversial by their very nature

The National Planning Policy Framework (NPPF) states the following, recommending that local planning authorities publish a local enforcement plan:

“Effective enforcement is important to maintain 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. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.”

This Local Enforcement Plan sets out Mid Devon District Council's priorities for investigation, explains what will be investigated and it outlines the Council's general discretionary powers with regard to planning enforcement. This document sets out the policy and procedures that the Council will adopt when investigating and, where applicable, remedying breaches of planning control.

This document sits below, and should be read in conjunction with, the Council's Regulatory Enforcement and Protection Policy which sets out the general principles the Council will follow in relation to investigations, enforcements and prosecutions as part of its regulatory functions. Further advice and guidance is also available within the National Planning Practice Guidance published by the Government.

Mid Devon District Council recognise that unauthorised development can have adverse consequences and, if unchecked, can undermine confidence in the planning system. The Council is, therefore, committed to the effective enforcement of planning control. It should be noted that any formal action taken should be proportionate and expedient in each case. Enforcement action is not a means of punishment but a way to regularise breaches of planning control when appropriate.

Planning enforcement investigations can be a complex and involved process with varying timescales. Equally, enforcement legislation is complex and formal action can only be taken in circumstances where it is legislated to do so. The aim of this strategy is to ensure the Planning Enforcement Service:

- Has a decision making process that is open, transparent and is seen to be fair and balanced;
- Seeks to work with the owner as far as possible to regularise the breach without the need for formal action;
- Provides an excellent service to those who live and work in and visit Mid Devon;
- Is accessible to all users, keeping all interested parties updated;
- Takes action, where appropriate, that is timely, proportionate and reasonable;

Achieves and maintains effective and efficient enforcement of planning control.

2. SERVICE AIMS

The Council's Service Aims with regard to Planning Enforcement are:

- To operate in accordance with the procedures outlined in this Plan and the overarching Regulatory Enforcement Policy published by the Council;
- To remedy harm caused by breaches of planning control in the interests of protecting and enhancing the built and natural environment of Mid Devon and the amenity of its residents and visitors;
- To strike a balance between protecting public safety, amenity and other important interests and enabling acceptable development to take place, even though it may initially have been unauthorised;
- To ensure that the policies and the credibility of the Council and the planning system is not undermined;
- To carry out all enforcement duties openly, fairly, helpfully, proportionately and consistently and to consider each case on its own facts and merits;
- To maintain the confidentiality of complainants unless they are asked to collect and submit evidence to help secure a prosecution in which case their identity and evidence will subsequently be made public;
- To investigate all reasonable complaints where complainant details are provided;
- Complaints will be prioritised according to their urgency and potential harm;
- Enforcement action will be taken where it is expedient to remedy harmful consequences and when it is in the wider public interest;

Ensure that any formal action is proportionate to the breach.

District Council's Corporate Objectives – Corporate Plan 2024 - 2028

The District Council has identified the following as its corporate aims;

- Planning, Environment & Sustainability – To be a leader and pioneer of best practice so new innovation and thinking is at the heart of the services we deliver and informs our planning policies.
- Community, People & Equalities – Involving and engaging with our communities, ensuring everyone is treated with equality and respect, and protecting our most vulnerable.
- Homes – Delivering new affordable and social homes annually, improving and maintaining the existing stock to the highest standards.
- Economy & Assets – Growing the district economy and increasing returns from our assets.
- Service Delivery & Continuous Improvement – Providing high quality and efficient services to support and improve the lives of people in Mid Devon.

Some types of development may present conflicts between these objectives and where this is the case a balance has to be achieved. It is the planning system as a whole which seeks to achieve a fair balance. The enforcement system is an important stage assisting with that process.

3. PLANNING ENFORCEMENT AND WHAT IS A BREACH OF CONTROL

Enforcement of planning law is complicated. This is because central government attempts to balance the rights of individuals to use or alter their property against the need to safeguard the character and quality of towns/villages the countryside, amenity of people and an area, and to uphold the planning policies of the district.

The planning enforcement system generally gives the benefit of the doubt to anyone undertaking the unauthorised development, and Council's are expected to give those responsible for undertaking unauthorised development an opportunity to correct matters before taking formal action.

If the Council's actions are considered too onerous or legally incorrect, it can be awarded costs against it and/or have its decisions overturned at appeal or by the courts. Maladministration can also be found against the Council by the Local Government Ombudsman if the Council fails to take effective enforcement action when it was plainly necessary, or takes action when it shouldn't. Such a decision can also lead to the payment of compensation by the Council to a complainant.

The Council's power to take enforcement action comes from Parliament under the Town and Country Planning Act 1990, the Planning (Listed Building and Conservation Areas) Act 1990, the Planning and Compensation Act 1992, Town and Country Planning (Control of Advertisements) Regulations 2007, Anti-Social Behaviour Act 2007 and the Localism Act 2011. There are also powers in relation to the Community Infrastructure Levy under the Community Infrastructure Levy Regulations 2010 (as amended).

For a breach of planning control to have occurred, it must first be established that development requiring planning permission has taken place. Development is a legal term and generally means building works and/or some changes of use. Building works can include the construction of a building, excavations, extension, although small-scale

extensions to houses may not need planning permission. Changes of use can include a change from a shop or office to a dwelling, although some changes of use do not require planning permission.

Not all development requires planning permission and the main sources of guidance on this are:

- The Town and Country Planning (General Permitted Development) Order (as amended);
- The Town and Country Planning (Use Classes) Order (as amended); and
- The Town and Country Planning (Control of Advertisements) Regulations (as amended).

These documents, which can be viewed on the Government's website, detail instances where permission is not required. For example, certain structures do not need permission because of their size, height or location etc. This is called 'permitted development' and specific guidelines are given in the General Permitted Development Order (the GPDO). The Use Classes Order places most types of use into classes (e.g. retail, business, etc.) and, in general, permission is required to change from one class to another. The Control of Advertisements Regulations set out what forms of advertising do not require consent, known as "Deemed Consent" and what does, known as "Express Consent". Further information on this is also available at www.planningportal.co.uk

4. WHAT HAPPENS WHEN YOU REPORT A BREACH OF PLANNING CONTROL

Most investigations into breaches of planning control result from reports from the public, Councillor's, Parish Councils and Council departments including County Council but the Council will act pro-actively where a significant breach of planning control is apparent even if no report has been received. All investigations will follow the same general procedure as set out below. Reports can be made on-line, via the website, 'report a breach'.

The Planning Enforcement service will not normally take the lead in investigating possible breaches of planning control that occur on Council-owned land or on highway land. The appropriate Council service or the Highway Authority (Devon County Council) will have stronger powers to remedy such breaches.

When the report is received:

- When the breach report is received, it will be acknowledged within 7 working days and the person/s reporting provided with a case reference number.
- Due to the nature of investigations and keeping in line with GDPR (General Data Protection Regulation 2018) we are unable to update or discuss with person/s reporting a breach until the investigation reaches a conclusion or information is in the public domain.
- The identity of the person/s reporting the breach will be kept confidential, unless they are asked to collect and submit evidence to help secure a prosecution in which case their identity and evidence will subsequently be made public.
- Anonymous reports will not normally be investigated unless they allege serious breaches of planning control.

5. INVESTIGATION PRIORITIES

Reports will be initially prioritised upon receipt however, a case may be reprioritised during the investigation process. Reports will be categorized as follows:

High Priority – Requiring Immediate Investigation

- Development resulting in concerns for public health and safety which are controllable through planning legislation.
- Works of demolition, significant alteration or extension causing substantial harm to, or total loss of, a heritage asset.
- Works to protected trees or trees in a conservation area and important hedgerow's, where there is a likelihood of substantial harm.
- Demolition of important unlisted buildings/heritage assets in conservation areas.
- Development that may adversely affect or destroy a site of nature conservation value.
- Development that has a significant impact on the natural environment.
- Significant unauthorised building works/structures.
- Uses of land or buildings or activities that cause significant disruption by reason of noise, smell, fumes or other forms of nuisance.
- Development that will result in irreversible harm should it continue.
- Where immunity from enforcement action due to the passage of time will come into effect shortly.

Medium Priority – Investigation to commence as soon as practicable depending on the High priority Case Load

- Operational and building works not covered under high priority above.
- Changes of use resulting in harm to residential amenity or the immediate environment.
- Non-compliance with conditions/planning obligations resulting in harm to residential amenity or where there is less likelihood of substantial harm to significant trees and hedgerows.
- New build and other works within conservation areas not covered under high priority above.
- Untidy land – depending on severity
- Other works causing less than substantial, or no harm to the significance of a heritage asset.
-

Low Priority - will not be investigated while other urgent cases are under investigations

- Other changes of use.
- Other minor building works and structures e.g. garden sheds, walls, fences etc.
- Non-Compliance with other conditions.
- Advertisements.
- Satellite dishes.

6. WHAT HAPPENS DURING THE INVESTIGATION PROCESS

Initial action

The investigation will be carried out by a Planning Enforcement Officer, a Planning Officer or Tree Officer, as considered appropriate with regards to the type of breach alleged. A Planning Officer will have greater knowledge of the site and breach if it relates to a planning permission not built in accordance with plans or where a planning condition has not been complied with. A Tree Officer will have a greater knowledge of Tree Preservation Orders and hedgerow removals. In the case of Listed Buildings and Conservation Area investigations, the Planning Enforcement officer will work closely with the Listed Building and Conservation Planning officers.

Following receipt of a report, the matter will be screened to see if a breach of planning control may have occurred. This will be a desktop investigation to check, for example, planning history, other records and relevant legislation. If it is established at this stage that there is no breach the person/s reporting will be advised and no further action will be taken. Where appropriate, information will be passed to other departments or organisations for investigation e.g. Building Control, Devon County Council, and Environment Agency, Police, Fire Service etc.

Site Visit

If the initial screening indicates that there may be a breach, a site visit will be made. If the land and/or building(s) are occupied the enforcement officer may make an appointment with the owner/occupier. This is not always possible or advisable as it may alert them and enable them to temporarily remove or disguise the subject matter of the reported breach. In some cases 24 hours' notice may be legally required to enter certain properties.

In rare circumstances where access has been refused or likely to be refused, the Council may have to apply to the Courts for a Warrant of Entry.

At the site visit the officer will identify themselves and explain the reason for the visit. Proof of authorisation to enter land under the 1990 Planning Act will be provided if requested. The enforcement officer's role is simply to gather the facts of the case and they will not always be able to advise on the acceptability of the works and the potential to gain consent for any unauthorised works.

The officer will record a description of the site and the alleged breach of planning control, take any necessary measurements/photographs, obtain the identity of the owner/occupier/person responsible for the activity/operations taking place if possible and identify any neighbouring properties likely to be affected.

If a breach of planning control has clearly taken place the owner/occupier/person responsible will be informed straight away (if they are present). If the case is not clear cut then the Enforcement Officer may need to confer with colleagues or check the legislation before reaching a decision. In either case where a breach has occurred the owner/occupier/person responsible will be advised that if they carry on with the activity/development this will be entirely at their own risk and may be subject to enforcement action. The investigating officer will have regard to the provisions of Sections 66 and 67(9) of the Police and Criminal Evidence Act 1984 (PACE) in relation to cautioning suspected offenders for breaches that are of a criminal nature as set out in law for example unauthorised works to a Listed Building.

Following the site visit

If the owner/occupier/person responsible was not present or further investigations were required then they will be contacted and advised of the Council's intended action and options available to resolve the matter as soon as possible after the site visit.

If it was established at the site visit that there is no breach the person/s reporting the breach will be advised and no further action will be taken.

Further investigations

Further investigation may be necessary following the site visit to determine whether a breach has occurred and may involve:

- Monitoring the site to collect further evidence. Any monitoring of a site will need to be within the guidelines of the Regulation of Investigatory Powers Act 2000. Where appropriate, the person/s reporting the breach may be requested to take photographs or keep a diary of events for use as evidence if the matter proceeds to formal enforcement action.
- Serving a Planning Contravention Notice (PCN) requiring the owner/occupier/person responsible to provide information relating to the potential breach of planning control within 21 days or in the case of a Listed Building a Sec 330 Notice may be served to establish ownership of the property (see Section 6).
- Checking against the legislation to see if the works are within permitted development limits.
- Consultation with other departments or organisations.
- A Land Registry Search to establish ownership of the land (if registered) and a 'Requisition for Information' to identify any other people with an interest in the land together with information about the length of time the activity/development has been in existence.

- In certain circumstances, the owner or other persons responsible for a breach of planning control in relation to Listed Buildings, Tree Preservation orders or non-compliance with enforcement notices may be invited to attend a Police and Criminal Evidence Act recorded interview. This is a voluntary interview.

7. RESULTS OF INVESTIGATIONS

The following outlines the likely steps to be taken in certain scenarios.

- **If a reported breach relates to a non-planning matter such as disputes over land ownership, boundary disputes, private covenants and legal agreements/obligations, moral or ethical concerns, commercial competition and private interests.**

As these are outside the jurisdiction of planning, no planning enforcement action can be taken. However, if the report can be dealt with by another Council service the person/s reporting will be advised and the relevant information passed on with the person/s reporting permission. If it appears that another authority or organisation may be able to assist the person/s reporting they will be advised of this and provided with contact details if possible.

- **If the breach reported relates to an activity, building or works that are lawful for planning purposes, for example the works are “permitted development”.**

In these circumstances no planning enforcement action can be taken and the person/s who reported the breach will be advised.

- **If the report relates to a minor breach of regulations and is regarded as so trivial that formal action would not be justified as no harm is being caused (for example there is no harm to the amenity of an area and/or residents, no highway safety issues and the breach complies with planning policy).**

If action were taken in these circumstances the Council could be justifiably criticised and costs may be awarded in any resultant appeal. No planning enforcement action will be taken in these circumstances and the person/s reporting the breach will be advised of this. Enforcement action will not therefore be taken against a minor or technical breach which causes no harm to the local area (examples could include a shed constructed a bit higher than permitted and located within a large garden away from neighbours and not highly visible, or a window inserted in a dwelling that does not overlook neighbours). Nor will enforcement action be taken purely to regularise breaches of planning control that have been found to be acceptable. In these cases an application may be invited for consideration through the usual process to regularise the situation but further formal action will not be taken regardless of whether or not an application is submitted.

- **If a breach of planning control has occurred and there is considered to be planning harm.**

In these circumstances the Council will consider what enforcement action should be taken.

Although a report may be received regarding a single matter (for example a building being constructed in the wrong location), the Council will look at all other aspects of the development (such as window positions and height) to establish if any other breaches have occurred. If other breaches have occurred, these will be investigated.

8. TIME LIMITS FOR FORMAL ACTION

There are time limits for taking enforcement action. In cases prior to 25th April 2024 where the development is substantially complete, it will become lawful development if no formal enforcement action is taken within the timelines below;

- Within 4 years of substantial completion of the construction of a building;
- Within 4 years for an unauthorised change of use to a single dwelling;
- Within 10 years for any other breach.

Under The Levelling Up and Regeneration Bill, from 25th April 2024 onwards, any breach of planning must be able to demonstrate 10 continuous uninterrupted years in order to be outside the time limit for enforcement action. This change does not apply where any operational development or change of use to a dwelling was substantially complete before this deadline. In these cases, the four-year rule applies.

These time limits do not prevent enforcement action where a further breach has taken place within 4 years of previous enforcement action, where it relates to a listed building, or where there has been deliberate concealment of a breach.

9. TAKING ENFORCEMENT ACTION

Once investigations are complete and a breach of planning control causing harm has been identified, officers will decide whether or not it is expedient to take enforcement action. They will take into account the development plan and any other material considerations. Many breaches of planning control can be resolved informally and by negotiation with the owner/occupier. Formal action will be taken only where other means to resolve the problem have been unsuccessful or inappropriate in relation to the breach carried out for example breaches of Tree Preservation Orders or significant unauthorised works to a Listed Building.

The Council will take enforcement action when it is essential to maintain public safety, the character and appearance of the area, the area's social and economic well-being and to preserve the natural and built environment. The impact of developments varies greatly and enforcement action should be proportionate to the specific breach.

Enforcement action will not be taken merely to rectify an absence of planning permission if it is likely that planning permission would have been granted for the development or where there is no loss of public amenity. Equally enforcement action will not be taken as a means of punishment.

Enforcement action is normally authorised by the Service Lead of Legal, in conjunction with the Development Management Manager under delegated powers. However, where matters are considered to be of strategic or wider importance, the Service Lead may refer the matter to the Planning Committee.

Where enforcement action is considered expedient officers will draw this to the attention of the person responsible (and the landowner if different). They will be advised of the most appropriate course of action, which will be proportionate to the breach of planning

control, and generally as follows:

- **If the development can be amended such that planning permission is no longer required:**

The Council will advise if changes can be made to a development that is in breach of planning control so that it no longer requires planning permission. If the development is amended as per the advice given to the owner, no further action will be taken once the works have been carried out and officers have confirmed that it no longer requires planning permission. The person/s who reported the breach will be advised of the outcome.

- **If the development could satisfy relevant policies and other material considerations with modification and/or the imposition of appropriate conditions:**

The Council will request a “retrospective” application for the relevant permission/consent. A period of 1 or 2 months (according to the complexity of the matter) will be allowed for submission of the relevant application requested. This does not automatically imply that permission will be granted. Any application would follow the normal planning process, including consultation and notification of neighbours where required. Formal enforcement action will not take place until after the application has been determined and will not be taken if the breach of planning control is remedied by the granting of planning permission.

- **If the breach could be immune from enforcement action due to the passage of time:**

The person responsible will be advised of the option to submit an application for a Certificate of Lawful Use or Development. A period of 1 or 2 months (according to the complexity of the matter) will be allowed for submission of the relevant application. This does not automatically imply that a certificate will be granted. Any application would follow the normal planning process. Formal enforcement action will not take place until after the application has been determined and will not be taken if the breach of planning control is remedied by the grant of a certificate.

- **If the breach is causing serious harm and permission is unlikely to be given:**

The Council will ask for the activities or the works to cease voluntarily. A reasonable time will be allowed, depending on what needs to be done. For example business tenants will be allowed a suitable time to find somewhere else to operate if livelihoods are affected. A retrospective planning application will not be invited, but if one is submitted enforcement action may be suspended to allow determination of the application. However, if the proposal is fundamentally unacceptable and serious harm is being caused, the Council may not await the outcome of an application before taking further action.

- **If the breach cannot be resolved by negotiation and/or a retrospective application is refused:**

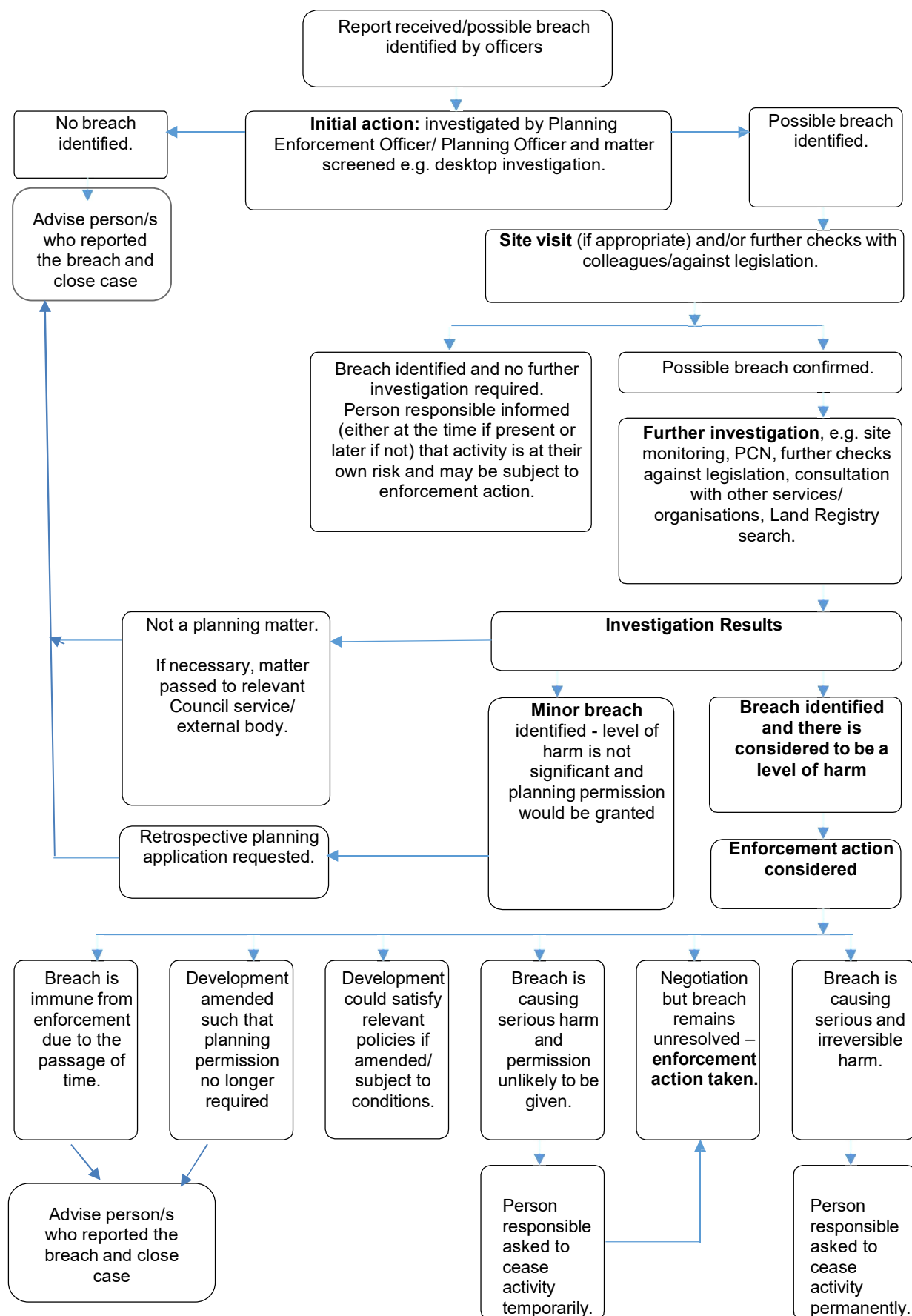
Enforcement action will be taken if it is expedient. This is a discretionary decision made on a case by case basis and must be taken only after proper consideration of the

relevant facts and planning merits. Formal action must be justified and the specific requirements and the time period to comply with these must be reasonable. The responsible person will be advised of the right of appeal against refusal of retrospective permission but the Council will not await the submission and outcome of an appeal before taking formal enforcement action, because this can be used as a mechanism for prolonging a breach. There is a right of appeal against an enforcement notice and this can be dealt with concurrently with an appeal against a refusal of permission.

- **If the breach is resulting in serious and irreversible harm requiring immediate prohibition:**

The responsible person will be advised to stop work immediately. If the request is not complied with the Council will serve a 'Stop Notice' or 'Temporary Stop Notice' (TSN). These will only be directed at preventing the specific harm that is occurring. As a Stop Notice can only be served in conjunction with an enforcement notice it is not possible to serve one immediately a breach of planning control is identified. A TSN can be served on its own and is the quickest way to compel a development to cease as it take effect immediately. This will compel those to stop the breach of planning control straight away but only for a limited period of 56 days. During this time the Council will decide whether further enforcement action is expedient. A TSN cannot be used to effectively deprive someone of their home but it can be used to prevent the home being established. Stop Notices and Temporary Stop Notices are only available to deal with development requiring planning permission.

10. ENFORCEMENT PROCESS FLOW CHART



11. PLANNING ENFORCEMENT POWERS AVAILABLE

The following details the planning enforcement and related powers available to the Council.

Planning Contravention Notice

A Planning Contravention Notice can be issued under Section 171C of the Town and Country Planning Act 1990 and can be used to:

- allow the Council to require information needed for enforcement purposes about any operations being carried out; any use of; or any activities being carried out on the land, and;
- can be used to invite its recipient to respond constructively to the Council about how any suspected breach of planning control may be satisfactorily remedied.

A planning contravention notice can be served when the Council believes that a breach of planning control may have occurred to find out more information before deciding what, if any, enforcement action to take. It cannot be used to undertake an investigative trawl just to satisfy the Council about what activities are taking place on a parcel of land.

The power is discretionary and as such the Council does not need to issue a planning contravention notice before taking any enforcement action.

Failure to complete or return a notice within 21 days is an offence. It is also an offence to provide false or misleading information on the notice. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Enforcement Notice

An enforcement notice should only be issued where the Council is satisfied that a breach of planning control has occurred and it is expedient and in the public interest to issue a notice.

An enforcement notice requires works to be undertaken or a use to cease to rectify a breach of planning control within a specified time period.

The legislation (Section 172 of the Town and Country Planning Act) 1990 requires that an enforcement notice shall: -

- State the nature of the alleged breach;
- Identify the land to which the notice relates;
- Clearly state the matters that appear to constitute the breach of planning control;
- State the Council's reason for issuing the notice, including any relevant development plan policies that are allegedly contravened;

- Specify the date on which the notice takes effect (not less than 28 days after service to allow for an appeal);
- Specify the steps which the Council require to be taken or the activities which the Council require to cease in order to remedy the breach or any injury to amenity it has caused;
- State a reasonable period for compliance after the notice takes effect, having regard to the practicalities of carrying out the required steps and the effect that the breach is having;
- Be registered as a local land charge in Part 3b of the Land Charges Register.

The enforcement notice will state the breach of planning control, the reasons for serving the notice and the steps to be taken in plain language that will be understood by anyone required to comply with its requirements. This is particularly important given that criminal liability attaches to any breach of the requirements of an enforcement notice. This should also make checking for compliance easier and assist in mounting a successful prosecution if the notice is not complied with. The enforcement notice may require the restoration of the land to its condition before the unlawful development took place; the demolition or alteration of any building or other works; the discontinuance of the use of land; or the carrying out of any building works or other operations.

The enforcement notice must be directed only at the specific breach. It cannot take away existing lawful rights to use land or retain buildings and other works. The Council can direct an enforcement notice to only part of the breach of planning control and/or it can require only a partial remedy. This is termed “under enforcement” and will be used to take action where only part of the unauthorised works causes harm and therefore only action against those elements is appropriate. The notice will be served on the owner of the land and therefore tenants carrying out works to a rented property should keep their landlord advised of any enforcement investigation on their property; together with anyone who we identify as having an interest in the land.

It is an offence not to comply with an enforcement notice once the period for compliance has elapsed, and there is no outstanding appeal. The LPA does have discretionary power under the legislation to extend the time period only if they consider it to be necessary. A person guilty of an offence is liable on conviction to an unlimited fine. The Courts will have regard to any financial benefit accrued from the offence when determining the fine. The Council on receipt of a successful conviction can apply for a Confiscation Order under the Proceeds of Crime Act 2002 to recover any financial benefit obtained through the unauthorised development.

Appeals against an Enforcement Notice

There is a right of appeal to the Secretary of State against an enforcement notice. The appeal must be lodged before the notice takes effect. Details of how to appeal will be included with the enforcement notice. An appeal can be lodged on one or more of the following grounds:

- a) That planning permission should be granted for what is alleged in the notice.

- b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.
- c) That there has not been a breach of planning control.
- d) That at the time the enforcement notice was issued it was too late to take enforcement action against the matters stated in the notice
- e) That the notice was not properly served on everyone with an interest in the land.
- f) That the steps required to be taken, or the activities required to be ceased, exceed what is necessary to remedy the breach of planning control or to remedy any injury to amenity which has been caused by the breach
- g) That the time given to comply with the notice is too short.

When an appeal is made against an enforcement notice on ground a) above, an application for permission to retain the development is deemed to have been made. This will only be considered by the Planning Inspectorate if the appropriate fee (two times the planning application fee where applicable) has been paid.

From the 25 April 2024, the Levelling-up and Regeneration Act 2023 limited the circumstances when a ground (a) appeal (an application for retrospective planning permission) against an enforcement notice can be brought. These changes do not apply to appeals against enforcement notices that were issued, and have not been withdrawn, before 25 April 2024. This change means that if planning permission for what is alleged in an enforcement notice has been refused by the Local Planning Authority AND that refusal was appealed and dismissed, an appellant in an enforcement appeal cannot appeal under ground (a).

There are some restrictions. The refused planning permission must have been appealed under s78 to the Secretary of State and the enforcement notice must have been issued within 2 years of the appeal decision to which the development relates.

As of the 25 April 2024, there is now included a power for the Secretary of State to dismiss appeals where it appears to them that the appellant is responsible for undue delays in the progress of the appeal. This change applies to both enforcement appeals and certificate of lawfulness appeals.

The Breach of Condition Notice (BCN)

This is an alternative to an enforcement notice that is available to remedy the failure to comply with any condition of a planning permission. There is no right of appeal and failure to comply is an offence.

The BCN must specify the steps that must be taken, or the activities that must cease in order to secure compliance with the condition(s). The BCN may, therefore, be positive (requiring something to be done) or prohibitive (requiring something to stop). Unlike an

enforcement notice, a BCN can only require full compliance. A BCN also has to specify a period for compliance, which shall be not less than 28 days.

Non-compliance with the notice is an offence that can be prosecuted through the Magistrate's court. There is no right of appeal against the notice. A person guilty of an offence is liable on summary conviction and a fine.

Complying with an Enforcement Notice or Breach of Condition Notice

As soon as the compliance period set out in an enforcement notice or BCN has passed, enforcement officers will investigate whether or not the breach of planning control is continuing.

When officers conclude that notices have been complied with, this will be confirmed verbally to the owner/occupier and to anyone who has complained about the building works or activity. Compliance with an enforcement notice does not, however discharge it. The notice will remain in place to prevent any further breaches and it will continue as a registered charge on the land or property.

Failure to comply with the requirements of an enforcement notice or BCN is an offence. If there are grounds to suspect that an offence has been committed, interviews of suspects or witnesses will be carried out in accordance with Police and Criminal Evidence Act 1984 (PACE) requirements. The Council will take firm action where the requirements of an enforcement notice or BCN have not been complied with.

Further action following non-compliance with an Enforcement Notice or BCN

The Council may attempt to bring the matter to a successful conclusion as quickly as possible through the pursuit of action in the Courts (usually Magistrates Courts). Any decision to prosecute will have due regard to the availability, nature and strength of evidence and will consider whether the public interest is served (see sections below under Prosecution).

Alternatively, an injunction may be sought (see below). This is an order from the Court to comply with the Enforcement Notice. Failure to then follow the court order is contempt of court and carries the threat of a prison sentence.

The Council can take Direct Action (see below) when the requirements of a Notice have not been complied with. This will only be considered in exceptional circumstances. The Council can place a legal land charge against the property to enable all reasonable costs incurred in the direct action to be recovered and in certain circumstances enforce the sale of the land.

Stop Notice

The Council can, when appropriate to do so, under Section 183 of the Town and Country Planning Act serve a Stop Notice requiring alleged breaches of planning control (including activities) to cease immediately. Such a notice can only be served in conjunction with an Enforcement Notice. There are limitations on the service of this notice and additionally compensation may be payable by the Council in some circumstances if the recipient makes a successful challenge. It is used very selectively and it is not

necessarily an instant solution.

The Stop Notice is not usually effective until 3 days after it is served and cannot prohibit the use of any building as a dwelling house.

In certain circumstances the Council can be liable for compensation if the associated enforcement notice is quashed, varied or withdrawn.

The serving of a notice is discretionary and should only be used where it is expedient that any relevant activity should cease before the expiry of the compliance period in the associated enforcement notice.

If a Stop Notice is contravened a person is guilty of an offence and if found guilty shall be liable upon summary conviction to a fine not exceeding £20,000 or on conviction on indictment to unlimited fine. The Court will have regard to any financial gain that has accrued or likely to accrue.

There is no right of appeal against a Stop Notice.

Temporary Stop Notices

Where the Council consider that there has been a breach of planning control and it is necessary in order to safeguard the amenity of the area that the activity that amounts to the breach should stop immediately, Section 171E of the Town and Country Planning Act 1990 enables the local planning authority to issue a temporary stop notice. This differs from the normal stop notice powers because the temporary stop notice does not have to wait for an enforcement notice to be issued. In addition, the effect of the temporary stop notice will be immediate.

A Temporary Stop Notice can require an activity to cease, or reduce to minimise any impact but cannot be used to prevent the use of a building as a dwelling house.

A Temporary Stop Notice expires after 56 days. Should further action be required after the 56 days an enforcement notice and stop notice will be required.

If a Temporary Stop Notice is contravened a person is guilty of an offence and if found guilty shall be liable upon summary conviction to a fine not exceeding £20,000 or on conviction on indictment to unlimited fine. The Court will have regard to any financial gain that has accrued or likely to accrue.

There is no right of appeal against a temporary stop notice.

Injunction

Where the Council considers a breach of planning control to be a serious and immediate risk to health and safety, or necessary in terms of expediency, it may apply to the County or High Court for an Injunction under Section 187B of the Town and Country Planning Act 1990. This can be extremely expensive, but can be effective in appropriate circumstances. An injunction is a special court order that requires a party to refrain from certain acts or to carry out certain measures.

Proceedings for an injunction are the most serious enforcement action a Council can take as failure to comply with an injunction can lead to prison for contempt of court. As a

result an injunction is usually a last resort following persistent breaches of planning control.

Planning Enforcement Order

Where somebody deliberately conceals unauthorised development, it may not come to light until the period for taking action (4 of 10 years) has expired. A planning enforcement order enables the Council to take action notwithstanding the time limits.

Where there is sufficient evidence of a breach, the Council can apply for a planning enforcement order under Sections 171B, 171BB and 171BC of the Town and Country Planning Act 1990.

The application must be made to the magistrate's court within 6 months of the Council having sufficient evidence to identify the apparent breach. There is a right to be heard by the court. The Council has to prove that positive steps were taken to conceal the unauthorised development.

The effect of the order is that the Council will be able to take enforcement action, generally within a year of the order being granted.

Enforcement warning notices

From 25 April 2024, Local Planning Authorities can issue an enforcement warning notice where it appears to them that there has been a breach of planning control and there is a reasonable prospect that, if an application is made, permission would be granted. The enforcement warning notice must state that unless an application for planning permission is made within a period of time specified in the notice, further enforcement action may be taken. Issuing an enforcement warning notice 'stops the clock' on immunity and can reduce the number of appeals for 'acceptable' developments when an enforcement notice has been issued.

Development Commencement Notices

The Town and Country Planning Act has been amended under the Levelling up and Regeneration Act 2023 to include powers to serve commencement notice. This applies where planning permission has been granted.

Before the development has begun, the person proposing to carry it out must give notice (a 'commencement notice') to the Local Planning Authority (LPA), specifying when they propose to commence the work.

Once a person has given the LPA a commencement notice, they may vary the date of the commencement of development and must do so if the development is not commenced on the date previously given.

Where it appears to the LPA that a person has failed to comply with the requirements set out above, they may serve a notice on any relevant person, requiring the relevant information to be submitted to the LPA.

If a notice is served by the LPA, requiring the information to be provided to it, and the relevant person fails to give that information within 21 days, they shall be guilty of an offence.

Completion Notices

Where a planning permission has been granted for development and is subject to the 'commence within 3 years' condition, and this condition has been complied with, but the development has not been completed, The Local Planning Authority can serve a completion notice.

This can be served if the Local Planning Authority are of the opinion that the development will not be completed within a reasonable time period, then they may serve a notice ('completion notice') stating that the planning permission will cease to have effect at a specified time ('the completion notice deadline').

The completion notice must be served on the owner of the land, the occupier of the land and any person with an interest in the land.

An appeal against a completion notice is made to the Secretary of State and can be made under any of all of the following 3 grounds:

- That the appellant considers that the development will be completed within a reasonable period;
- That the completion notice deadline is an unreasonable one and;
- That the notice was not served on the persons on whom it was required to be served.

The effect of a completion notice is that the planning permission to which the notice related becomes invalid at the completion notice deadline.

Advert Removal Notice

Sections 225 of the Town and Country Planning Act 1990 provide the Council with powers to deal with illegal adverts.

Section 225A of the 1990 Act (as amended) allows the Council to remove an illegal advert through the serving of an Advert Removal Notice. If the notice is not complied with within 22 days, the authority may remove the structure/advert and recover any reasonable expenses incurred in doing so.

There is a right of appeal to the Magistrate's Court.

The Council also has powers under Section 225 to remove or obliterate any placard or poster displayed illegally following advance notice to the person responsible for the display.

High Hedges Remedial Notice

The Council can take action where a hedge or a row of trees forming a hedge cause a significant loss of amenity to a neighbouring property. The legislation does however require complainants to have approached the owner of the hedge and pursued all reasonable means of mediation before making a complaint to the Council. If a reported breach has been properly made and the Council decide that action should be taken to resolve the breach we may issue a formal notice to the person responsible for the hedge, setting out what must be done and by when. There is also a fee payable to the Council for investigating a High Hedge Report. This action is under the Anti-Social Behaviour Act 2003 and is known as a remedial notice. The remedial notice can include long-term maintenance of the hedge at a lower height. It cannot involve reducing the height of the hedge below 2 metres, or its removal. Although the Council cannot require such action, the hedge owner is free to go further than the remedial notice requires. The remedial notice becomes a charge on the property and legal obligations under such a notice pass to any subsequent owners. It is an offence not to comply and if found guilty on summary conviction a fine not exceeding level 3 on the standard scale can be imposed and there is also a provision for daily fines if the works remain outstanding following a court order. The Council's decision can be appealed to the Planning Inspectorate by the applicant or person affected by the Notice.

Untidy Land Notice

Owners and occupiers sometimes neglect their land and buildings and allow them to become seriously unkempt or derelict. This can create eyesores that can be particularly damaging for the neighbourhood. Section 215 of the 1990 Act empowers planning authorities to require owners to take steps to alleviate these problems. These powers can be used in a variety of situations – e.g. heavily overgrown and neglected gardens; derelict buildings and sites that disfigure town centres and village centres. The power can also be exercised in conjunction with other environmental powers such as those directed to the upkeep of listed buildings and powers exercised by the Council's Environmental Health and Building Regulations Services. Officers will liaise with these services to ensure that the most appropriate remedy is used.

Officers will investigate such sites and if remedial action is necessary they will contact the owner and advise them that the state of their land and/or buildings is causing problems. They will be advised of the steps they need to take to alleviate the problems and given (initially) 28 days to voluntarily carry these out. If no serious effort has been made, the Council will serve a formal notice compelling the owner/occupier to take the necessary steps. The notice becomes effective after 28 days. There is a right of appeal to the Magistrates or Crown Court. If this happens the notice has no effect pending the outcome of the appeal.

Once the notice becomes effective, it is an offence not to carry out the required steps within the specified time period. The Council may prosecute the offender for non-compliance. It may also enter the land, carry out the works and recover the costs from the owner either by sending them a bill or applying to the Land Registry to place a charge on the property.

Prosecution

The Council will consider commencing a prosecution in the Courts against any person who has failed to comply with the requirement(s) of any of the above Notices where the date for compliance has passed and the requirements have not been complied with.

The decision to prosecute:

In making a decision on a prosecution the authorised officer will apply two tests. Application of these tests will ensure that all relevant factors are considered and that fair consistent decisions are made about each potential prosecution.

The first test is consideration of the evidence. If the case does not pass the evidential test a prosecution must not go ahead no matter how serious the case is. If the evidential test is satisfied the authorised officer will then consider if it is in the public interest to prosecute. A prosecution will only be taken if both tests are satisfied.

The Evidential Test:

The first matter the Council will look at when considering a caution, administrative penalty or a prosecution is whether there is enough evidence to prosecute the matter. This is the evidential test. If the case does not pass the evidential test it must not go ahead no matter how serious or important the case may be. In order for a case to pass the evidential test there must be enough evidence to provide a “realistic prospect of conviction” against each defendant on each charge.

Authorised officers must be satisfied that there is sufficient admissible reliable evidence to provide a realistic prospect of conviction. This is detailed further in the overarching Regulatory Enforcement and Prosecution Policy published by the Council.

As part of the process the Council must consider what the defence case is and how it is likely to affect the prosecution case. A realistic prospect of conviction is an objective test; it means that a jury or a bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged. When deciding whether there is a realistic prospect of conviction officers should have regard to whether the evidence can be used in court and also whether or not it is reliable.

If the evidential test is satisfied then the most appropriate way of dealing with the matter will be assessed. When considering which course of action is the most appropriate the Council will consider the factors outlined below. This is called “the Public Interest Test”.

The Public Interest Test:

The more serious the offence is the more likely it is that a prosecution should take place. However the Council will weigh public interest factors carefully. Public Interest Factors in favour of and against Prosecution are detailed in the overarching Regulatory Enforcement and Prosecution Policy published by the Council.

Further Action:

Failure to comply following a successful prosecution may lead to further prosecutions to secure compliance where an offence is on-going.

Where an offence leads to on-going financial or other gain for the offender then the Council will consider whether to take action under the Proceeds of Crime Act 2002 to ensure that the offender does not gain from their actions.

Direct Action

The Council is empowered to take direct or default action to remedy a breach of planning control if the requirements of a Notice have not been complied with. This will only be considered in exceptional circumstances. This may involve the use of contractors to enter a site and physically remove or put right unauthorised building work. Such circumstances are likely to arise when successive fines by the Courts have not proved to be a sufficient deterrent for the perpetrators of the breach. It may also be considered where the effects of a breach of planning control are so harmful that compliance with notices should not be subjected to delay in Court processes. The Council can place a legal land charge against the property to enable all reasonable costs incurred to be recovered. In some circumstances we can also enforce the sale of the land to recover our costs.

12. TREES

Section 198 of the 1990 Act provides the Council with the power to protect trees through the making of Tree Preservation Orders. Consent is then required to carry out works to the protected trees. Section 210 of the Act makes it an offence to cut down, uproot or willfully destroy a protected tree or to willfully damage, top, or lop a protected tree in such a manner as to be likely to destroy it.



Provided the trunk diameter is more than 7.5 cm at 1.5m above ground level, trees in Conservation Areas are similarly protected. Notice of any intended works has to be given to the Council and work is unauthorised until the Council has responded to the notice or 6 weeks have elapsed, whichever is the sooner.

Consent is not required for the following works to protected trees.

- a) Works to trees that are dead
- b) Works to trees that are urgently necessary to remove an immediate risk of serious harm. 5 working days prior written notice must be given to the authority before cutting down or carrying out other work on a dead tree.
- c) Works to trees that are necessary in order to implement a planning permission
- d) Works to trees cultivated for the production of fruit where such work is in the interests of that trade or business.
- e) Removal of deadwood from a living tree.

In relation to a) and b) above in particular it is best to check with the Councils Tree Officer before undertaking such work to ensure that they are satisfied that the tree is dead or that the works are genuinely urgent and necessary.

Section 97 of the Environment Act 1997 makes it an offence to remove what are termed “important” hedgerows, without the consent of the Council. Where this takes place the Council has the power to serve a ‘hedgerow replacement notice’.

The Council will give high priority to reported breaches relating to works to protected trees and hedgerows as any harm will be irreversible and arises from not just the loss of the tree or hedgerow itself but the loss of wildlife habitat that it provided.

Tree enforcement issues fall into two principal categories:

- unauthorised works or, damage to, or removal of trees that are protected by Tree Preservation Orders or situated within Conservation Areas (see below), and;
- breach of planning conditions relating to tree retention and protection. These will be dealt with in the same way as a breach to any other planning condition (see above).

There are two offences, which apply equally to trees protected by Tree Preservation Orders and those within Conservation Areas.

- Firstly, anyone who cuts down, uproots or willfully destroys a tree, or who lops, tops or willfully damages it in a way that is likely to destroy it, is liable, if convicted in the Magistrates Court, to a fine of up to £20,000. If the person is committed for trial in the Crown Court, they are liable on conviction to an unlimited fine. The Courts have held that it is not necessary for a tree to be obliterated for it to be “destroyed” for the purposes of the legislation. It is sufficient for the tree to have been rendered useless as an amenity.
- Secondly, anyone who carries out works on a tree that are not likely to destroy it is liable, if convicted in the Magistrates Court, to a fine of up to £2,500. Any proceedings for offences in this category must be brought within six months of the date the offence was committed.

In addition to directly carrying out unauthorised works on protected trees, it is an offence to cause or permit such works.

In order to bring a successful prosecution, the Authority must be able to prove that:

- the defendant has carried out, or caused, or permitted works on the tree;
- the tree was protected;
- the works were carried out without the Authority’s consent; and
- the works were not exempt works.

Whenever a tree has been removed in contravention of the legislation, or because it is dead, dying or dangerous, there is an automatic duty on the landowner to plant a replacement tree of a suitable size and species at the same place as soon as reasonably possible (unless that requirement is waived by the Local Planning

Authority). The planting of a replacement tree is the minimum the Council will require from a landowner who has removed a tree in contravention of the legislation.

The Council has a range of possible further courses of action available to deal with cases of unauthorised works on protected trees. These include the following:

- seek a prosecution;
- administer a formal caution. This is a formal process whereby the perpetrator signs a statement admitting the offence and submitting to the caution. It may be referred to at the sentencing stage if the same person is ever found guilty of a subsequent offence. It may also be taken into consideration when deciding whether or not to prosecute at a later stage for another similar offence;
- under Section 206 of the Town and Country Planning Act 1990, require the planting of a replacement tree for each tree destroyed;
- under Section 207 of the same Act, serve a replanting direction. This is a formal procedure to secure replacement planting, which can be invoked if the landowner does not otherwise comply with a duty to carry out replacement planting;
- On receipt of a successful conviction can apply for a Confiscation Order under the Proceeds of Crime Act 2002 to recover any financial benefit obtained through the works; and,
- take no formal action. This may be accompanied by informal action, such as advising the alleged offender to ensure that the incident is not repeated.

Decisions as to what action to take in cases of unauthorised works on trees will be taken in the public interest, with each case being dealt with on its own merits.

Where enforcement action against works to protected trees and important hedgerows is involved, the Council will take the following into account alongside the Evidential and Public Interest Tests outlined in Section 6 above:

- The size of the tree(s)/length of hedge(s) involved;
- The prominence of the tree(s) or hedge(s);
- The condition of the tree(s) or hedge(s);
- The life expectancy of the tree(s) or hedge(s);
- The seriousness of the offence;
- The loss of/effect on amenity;
- Whether there have been persistent offences by the people involved;
- Any other mitigating factors.

Where a tree which is the subject of a Tree Preservation Order is removed without consent, or a tree in a Conservation Area is removed without consent, the Council will:

- If the tree is a single specimen tree of high amenity value in a prominent location and having a significant impact on amenity, prosecute those responsible for its removal and seek replacement planting in all but exceptional circumstances;
- In all other cases (e.g. lesser value trees or groups), prosecute, issue a Caution and/or require the provision of a semi-mature replacement tree in all but exceptional circumstances;
- With regard to trees in a Conservation Area, the seriousness of an offence will be judged by determining if the tree would have been made the subject of a Tree Preservation Order. If the tree was not worthy of a Preservation Order then the Council is unlikely to Prosecute but will seek the planting of a suitable replacement tree and will decide whether or not to issue a Caution.

Where unauthorised works are carried out to trees the subject of a Tree Preservation Order or are located within a Conservation Area:

- The seriousness of the offence is determined by the extent and quality of works and the effect on visual amenity and life expectancy;
- Where minor works have been carried out to an acceptable standard, the owner and any other relevant parties will be advised that any further works must be subject to a formal application;
- Where more extensive works have taken place that would not have been granted, the Council will decide whether to issue a Caution or Prosecute; Prosecution is more likely where there is a clear wider effect on visual amenity.
- Where works have been carried out but would have been granted, but to an unacceptable/poor standard, the Council will ensure remedial works are undertaken.

13. LISTED BUILDINGS

Unauthorised works to a listed building is an offence under Section 9 of the Planning (Listed Building and Conservation Areas) Act 1990. A person who is guilty of such an offence will be:

- Liable on conviction to imprisonment not exceeding 2 years or an unlimited fine or both.



In deciding the amount of fine to be imposed on any person convicted, the court will take into account any financial benefit which has been gained as a result of the offence.

The Council has a range of possible courses of action available to deal with cases of unauthorised works to listed buildings. These include the following:

- seek a prosecution;
- administer a formal caution. This is a formal process whereby the perpetrator signs a statement admitting the offence and submitting to the caution. It may be referred to at the sentencing stage if the same person is ever found guilty of a subsequent offence. It may also be taken into consideration when deciding whether or not to prosecute at a later stage for another similar offence;
- serve a breach of condition notice – note it is an offence to fail to comply with a condition on a listed building application;
- serve a temporary stop notice or stop notice;

- negotiate the reversal of works/works to address the unauthorised works;
- serve an enforcement notice to remedy the works – note that there are no time limits for issuing listed building enforcement notices;
- take no formal action. This may be accompanied by informal action, such as advising the alleged offender to ensure that the incident is not repeated.

With regard to Listed Buildings, the Council also has the following powers at its disposal: Urgent Works Notices and Repairs Notices and more information on this is available in Historic England's publication 'Stopping the Rot - A Guide to Enforcement Action to Save Historic Buildings'.

Urgent Works Notices

Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 enables local authorities to undertake works which are urgently necessary for the preservation of a listed building. Works can only be carried out to parts of a building that are not in use. The owner will be given a minimum of seven days' written notice of the intention to carry out works. The notice will describe the works to be carried out.

Section 55 of the Planning (Listed Buildings and Conservation Areas) Act 1990 allows the Council to recover the costs of the works from the owner. The owner will be served a notice requiring them to pay the expenses of the works. The notice can be appealed to the Secretary of State within 28 days of the service of the notice.

Repairs Notices

Section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 allows the Council to serve a Repairs Notice on the owner of a listed building specifying works that it considers are reasonably necessary for the preservation of the building.

After 2 months, if it appears that reasonable steps are not being taken to carry out the repairs, the Council can begin compulsory purchase proceedings under Section 47 of the Planning (Listed Building and Conservation Areas) Act 1990. This process requires confirmation from the relevant Secretary of State.

Serving a Repairs Notice does not commit the Council to proceed to compulsory purchase action. The Council can withdraw the Repairs Notice at any time giving notice to the owner.

Decisions as to what action to take in cases of unauthorised works to listed buildings will be taken in the public interest, with each case being dealt with on their own merits.

When considering enforcement action against unauthorised works to listed building or other heritage assets, in addition to the Evidential and Public Interest Tests the following will be taken into account:

- an injunction will be considered where it would (i) prevent anticipated unauthorised works (ii) remedy damage where there is urgency, for example where urgent remedial action is required to prevent further imminent degradation and (iii) compel compliance with an enforcement notice where there are little signs of it happening;
- Prosecution will be likely to be used where unauthorised demolition has taken place or where unauthorised alterations are considered to be harmful to the special

architectural or historic character of the building;

- Prosecution is unlikely if the alteration is sympathetic to the special architectural or historic character of the building;
- The Council will judge the effect on the character of the building, its listing and consider any changes to the form, scale, appearance, integrity and special character that contributes to it being of special interest; the structural integrity of the building; and the relationship between the building and its setting.

14. BREACHES OF SECTION 106 LEGAL AGREEMENTS

When granting planning permission for development, the Council can impose planning obligations on the applicant. These obligations are usually contained with a legal agreement (often called a S.106 Agreement) and require certain works to be carried out or contributions to be paid/complied with at certain times. These agreements sit alongside the planning permission such that the land owner and developer are required to comply with any obligations with the legal agreement as well as any conditions on their planning permission.

If the Council decides that there is a breach of a planning obligation (e.g. a financial contribution has not been paid or required works have not been carried out within the timescale specified within the legal agreement), there are three options available:

- The Council can apply to the Court for an injunction to force the obligation(s) to be complied with. Failure to comply with an injunction can lead to an unlimited fine and/or imprisonment;
- The Council can enter the land to complete works if an obligation required works to be carried out by a certain time and this has not been carried out. The Council must give 21 days' notice of the intention. The Council will seek to recover costs incurred in the completion of the works;
- The Council may place a local land charge on the land or property which is binding on successive owners.

15. FURTHER INFORMATION

For further information and guidance please see useful links below;

[Planning Portal](#)

[Enforcement and post-permission matters - GOV.UK \(www.gov.uk\)](#)

[Search the List - Find listed buildings, monuments, battlefields and more | Historic England](#)

[High hedges: complaining to the council - GOV.UK \(www.gov.uk\)](#)

[Outdoor advertisements and signs: a guide for advertisers - GOV.UK \(www.gov.uk\)](#)