



Town and Country Planning Act 1990

Appeal by Mr Dean Aggett (herein ‘the Appellant’)

**Site Address: Meadow Forge, Hillside Barn, Cadeleigh, Tiverton, Devon,
EX16 8RZ – HM LR Title DN445870 (‘the Appeal Property’)**

**Lawful Development Certificate Appeal
Mid Devon District Council (herein ‘the LPA’)**

**PROOF OF EVIDENCE OF ADRIAN DEVEREAUX ON BEHALF
OF MID DEVON DISTRICT COUNCIL**

PINS ref: APP/Y1138/X/26/3378579

LPA ref: 25/01406/CLU

1. INTRODUCTION

- 1.1. My name is Adrian Devereaux. I am a Chartered Town Planner with over 25 years experience in town planning. I have a BSc (Honours) 2:1 degree, in Environmental Planning with a specialism in Urban Regeneration together with a post graduate diploma in Town and Country Planning. I am a member of the Royal Town Planning Institute.
- 1.2. During my career to date I have worked for five Local Planning Authorities and I am currently employed as an Area Team Leader in the Development Management section at Mid Devon Devon Council, a post I have held for just over 7 and a half years.
- 1.3. The Local Planning Authority (LPA) refused 25/01406/CLU relating to a certificate of lawfulness to establish 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 at Meadow Forge, Hillside Barn, Cadeleigh on the 29th January 2026 on the following ground:

‘In the opinion of the Local Planning Authority, the submitted evidence base is not considered to be sufficiently clear and unambiguous to demonstrate, on the balance of probability, that the alleged use of the building for a mixed use comprising a Blacksmith Forge and for residential purposes and the 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’.
- 1.4. Whilst I was not the Case Officer for this application, I was the authorising officer as the Area Team Leader. I can confirm that I read and agreed with the conclusion of the Case Officers report (attached to Appendix A for ease of reference), having viewed the supporting documents on the planning file

and those of objection and the enforcement history and relevant communications.

2. APPEAL SITE AND SURROUNDINGS

- 2.1. The appeal site is located in the countryside between the villages of Bickleigh and Cadeleigh. The site area extends to approximately 1500sqm. Within it, there is an existing building located roughly centrally with a footprint of approximately 255sqm. There is a hardstanding area between the front of the building and the access lane. The access is via a shared private lane, also a public footpath, which adjoins the public highway to the east of the site. The building appears to have been known as Meadow Forge and Hillside Barn.

3. PLANNING HISTORY FOR APPEAL SITE

- 3.1. The application which is the subject of this appeal was refused on the 29th January 2026 under delegated powers with the reason for refusing to issue a certificate being that listed within Section 1 of this proof.
- 3.2. There has been various previous planning applications, enquiries and relevant enforcement history for this site as set out within the case officer report and listed both in the Statement of Case and Statement of Common Ground.
- 3.3. Planning permission 09/01587/FULL is key to this appeal, which approved the retention of change of use from agricultural to blacksmith's forge on the 14th December 2009. Conditions were imposed as part of this planning permission with Condition 2 outlining that 'The blacksmith's forge hereby permitted shall be used only as a blacksmith's forge, and for no other purpose (including any purpose in Classes 3 B1 or B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended)), or in any provision equivalent to that Class in any statutory instrument revoking

and re-enacting that Order with or without modification. Reason: In the interest of the amenity of the area or and to restrict the traffic generation from the approved use to that which is acceptable on the local highway network'. Condition 5 stated 'No materials, goods, products, chattels, scrap or waste materials shall be store outside of any building, at any time. Reason: To safeguard the character and amenities of the area'.

- 3.4. For an application for a certificate to be successful and issued, the appellant needs to be able to demonstrate through factual evidence, that on the balance of probabilities, that the uses have been carried out continuously for 10 years to achieve the issuing of a certificate of existing lawful use. The view of the Local Planning Authority as outlined further below is that the submitted evidence base is not considered to be sufficiently clear and unambiguous in light of the council's own evidence and that provided by third parties through the course of the application.

4. CERTIFICATE PROPOSED AND CONSIDERATION BY THE LPA

- 4.1. The application refused sought a lawful development certificate to establish 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.
- 4.2. Applications for Certificates of Lawful Use or Development are not assessed against planning policy but on the weight of the evidence submitted and in accordance with s191 of the 1990 Act (As Amended). The onus of proof was on the Appellant to provide sufficient clear and unambiguous evidence to support the Application and in the absence of any counter evidence, the Planning Practice Guidance states: "In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the

applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.”

4.3. S191 states that:

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

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

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

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

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

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

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

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

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

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

- 4.4. S171B outlines the relevant time limits for immunity against such breaches. Section 171B(2)(a) of the 1990 Act stipulates that where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
- 4.5. S171B(3) states in the case of any other breach of planning control (breach of planning condition), no enforcement action may be taken after the end of the period of ten years beginning with the date of breach.
- 4.6. It was and remains the LPA's opinion that the relevant period for is ten years, for each element representing a breach of conditions attached to the planning permission granted for the site. The Case Officer report which has been included within Appendix A, sets out the evidence provided by the appellant at the application stage, the counter evidence held by the LPA and the consideration made which ultimately led to the refusal.
- 4.7. It is acknowledged that the enforcement history for this site had a bearing on the decision for this certificate. It provided contradictory evidence that opposes the appellant's case and was considered to make the appellant's version of events less than probable, particularly noting that the applicant's current evidence contradicts earlier assertions they have made. The Senior Enforcement Officer, Heather Nesbitt, will be providing a Proof of Evidence which will expand on the enforcement side.

5. CONCLUSION

- 5.1. Overall, it is not considered that the appellant has demonstrated on the balance of probabilities that the uses contrary to conditions 2 and 5 of 09/01587/FULL are lawful in accordance with section 171B of the Town and Country Planning Act 1990.

- 5.2. For the reasons set out above and in the attached appendices, the Inspector is respectfully requested to dismiss this appeal

Appendices

Appendix A – 25/01406/CLU – Case Officer report