

DELEGATED REPORT

Application No. 25/01406/CLU

Grid Ref: Easting 292759 : Northing 107734

Applicant: Mr D Aggett

Location: Meadow Forge
Hillside Barn
Cadeleigh
Tiverton

Proposal: 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

Case Officer: Miss Helen Govier

Site Visit: No

Site Visit Undertaken: True / False - F

Date of Site Visit:

Date Photographs taken:

Site Notice Displayed: Yes

Completed Site Notice Declaration form: Yes

Photograph of Displayed Site Notice: Yes

SUDs: Yes / No - No

Date of Overall Expiry: 5th November 2025

Reason for refusal	1. 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. <u>First schedule</u> 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,
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	vehicles and waste materials contrary to Conditions 2 and 5 imposed on Planning Permission 09/01587/FULL <u>Second schedule</u> Meadow Forge Hillside Barn Cadeleigh Tiverton
Officer's Recommendation	Refuse lawful development certificate.
EIA	• Due to its scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA Development.
Pre-Commencement Conditions Required	N/A
Pre-Commencement Conditions	N/A
Restricted PD	N/A
Biodiversity Duty Action Plan	N/A
Biodiversity Net Gain Enhancements	N/A
Conditions/Reasons	N/A
Other Conditions/Reasons	N/A
Informative Notes	<u>Site visit</u> The case officer has not carried out a site visit in the determination of the application. The officer has instead considered the application using maps, photographs and information available from other office visits and considers that to determine the application without a site visit would not prejudice any interested party. Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

Statement of Positive Working	N/A
BNG – Biodiversity Net Gain	N/A The application relates to a lawful development certificate not an application for planning permission.
Relevant Constraints	Area of Special Control of Adverts - Area of Special Control of Advertisements Beaver Activity Zone - Location: Exe Lower C045005D Cobbacombe Cross Air Safeguarding Zone - Consult MOD on all buildings_structures_works over 45.7 m AGL Planning Enforcement Site - Ref: 10/00037/UCU, Status: CLOSED Planning Enforcement Site - Ref: 13/00042/UCU, Status: CLOSED Planning Enforcement Site - Ref: 17/00184/BRE, Status: CLOSED Planning Enforcement Site - Ref: 20/00223/RURAL, Status: NOTICE Planning Enforcement Site - Ref: 07/00039/UCU, Status: CLOSED Exeter Airport Air Safeguarding Zone - Consult EASC on all buildings_structures_erections_works over 90m Hamlet/Open Countryside - Outside Settlement

	Hamlet/Open Countryside - Outside Settlement DCC road classifications - Cadeleigh Footpath 2, Type: PRoW (Footpath) DCC road classifications - Lane to East Court Farm, Type: Private SSSI Impact Risk Zone - Follow link to consult NE: https://irz.geodata.org.uk/IRZ/step2.html?irzcode=00000000000000&notes=&location=271245,114565 %20(IRZ%20polygon%20centre)
Relevant site history	05/00017/FULL - REFUSE date 7th March 2005 Erection of 2 no. lean-to off existing silage barn for livestock/general purpose use 05/00693/FULL - REFUSE date 13th July 2005 Erection of 2 no. lean-to off existing silage barn for livestock/general purpose agricultural use (Re-submission) 05/02000/FULL - REFUSE date 16th November 2005 Erection of 2 no. lean-to's off existing barn for livestock/general purpose agricultural use 09/01587/FULL - PERMIT date 14th December 2009 Retention of change of use from agricultural to blacksmith's forge 15/01077/PE - CLOSED date 9th October 2015 Notification of PNCOU Class M - As at 12th May 2015 - The agricultural use shall be use as a gallery (A1 shops use) to display the market and works made in the building next to it known as Meadow Forge - Less than 150sqm 25/01406/CLU - PCO date 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
Site description, Proposal (including supporting information)	The site is located in the countryside between 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. The application seeks 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. Supporting information: - Application form - Supporting statement - Site location plan, block plan - Existing floor plans, roof plan, north and east elevations - Proposed south and west elevations - Sworn declaration- D Aggett - Exhibits DA1- DA4 - High court judgement- R Ocado v Islington (2021) EWHC 1509 - Sworn oath- J Steel - Sworn oath- N steel - Statutory declaration- K Meraga - Supermarket home deliver details April 2020- September 2023
Notifications, Representations and issues raised	This planning application has been advertised by means of a site notice (one erected by the case officer and one by applicant) and by notifying immediately adjoining neighbours in writing in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement July 2020. The following properties were written to: Valley View Cadeleigh Tiverton Devon EX16 8RZ Sunrise House Cadeleigh Tiverton Devon EX16 8RZ Hillside Barn Cadeleigh Tiverton Devon EX16 8RZ At the time of writing this report 17 representations have been received, of which 8 are listed in support and 7 objections. <u>Objections</u> 5 of the objectors have submitted statutory declarations that all confirm to have witnessed the following for the periods they have occupied their current properties which neighbour the site: - known DA to reside and sleep in a converted library bus and other various vehicles over the years and not consistently in the commercial barn. - This summer DA has been residing in a yurt/ hut building that he constructed at the rear of this field. - DA has also commuted regularly from other properties over the years, where he was residing. - DA regularly leaves the property entirely for extended periods of time. - I have personally witnessed numerous vehicles parking up for periods of time and then leaving the property over the years.

	The frontage of the property changes regularly, with different vehicles or trailers. In addition to the points set out in the statutory declarations, the following comments were also received: - Not observed or heard any blacksmith forge activity during time residing nearby - There is no sign of business activity - In 2006 you could see the applicant working in the barn, this hasn't happened for many years. - The applicant appears to fix up old vans on occasion - The applicant consistently stores multiple vehicles and various items on the forecourt of the property, some of the vehicles/items encroach over the access lane. The number and type of vehicles change frequently - The applicants current claim of continuous residence within the barn is highly questionable and I believe to be untrue. - The applicant has been adding various windows etc by cutting into the façade of the barn - The applicant appears to have admitted to providing some false information to the council in the past <u>Support</u> The main points from supporting letters are summarised below: - Confirmation from visitors that the occupant uses the property for blacksmith work - The occupant has had toilet and kitchen facilities since 2006 - Vehicles, sundries and trailers have been present outside since the occupant moved in - The occupant has been living on site since owning the property - Frequently visited the applicant at Meadow Forge and confirm that what he has said is accurate and true <u>NB</u> Various concerns relating to needing to support artisan skills, setting a precedent, lack of health and safety, sewage arrangements, no observable adherence to building regulations and the applicant's conduct have been raised. However these matters are not considered to be relevant to determine of this application for a lawful development certificate which is not an application for planning permission. The relevant tests of determination of the certificate application are discussed further below.
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Parish / Town Council / Ward Member's comments	CADELEIGH PARISH COUNCIL- The parish meeting on 17th October 2025 unanimously objected to the planning proposal at Meadow Forge. The reasons given were:- 1.) The Parish does not want to set a precedent over applicants applying for retrospective planning permission. 2.) The applicant appears to have been living on site in tents/lorries/ambulance. 3.) There appears to be no sewerage or water supply. 4.) The applicant (Redacted) to people using the footpath and private lane. 5.) The scrap and lorries overhang the private lane. 6.) There is little or no evidence of the applicant carrying on a blacksmith business at the barn.
Consultee Responses	None.
Relevant Planning Guidance/Policy	National Planning Practice Guidance
Observations	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 Town and Country Planning Act 1990, amended in particular by The Planning and Compensation Act 1991. The onus of proof is on the applicant to provide sufficient clear and unambiguous evidence to support their claim and in the absence of any counter evidence, the Planning Practice Guidance states: <i>"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."</i> S.191 states that <i>(2) For the purposes of this Act uses and operations are lawful at any time if-</i> <i>(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</i> <i>(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.</i> <i>(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-</i>

- (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.*

S171B outlines the relevant time limits for immunity against such breaches. Section 171B(2) of The Town and Country Planning Act 1990 (as amended) 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 dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach. Section 171B(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.

The application relates to three elements:

- residential use
- use of the building as a blacksmith’s forge in accordance with its granted permission
- external storage

It is the Council’s view that the relevant period for all three elements is ten years from the date of the application, each element representing a breach of conditions attached to the planning permission granted for the site.

The applicant’s case

In short, it is the applicant’s case that the alleged uses have occurred since 2010 and the Council has served breach of condition notices after the immunity period was established. The application form states that the use began on 01/01/2007 with no interruption.

	As per the submitted statutory declaration, it is the applicant's version of events that (summarised); - He is the registered owner of the site and acquired it in 2006 - At the time of application 09/01587/FULL the applicant used Copenhagen Farmhouse as a correspondence address but was moving between that address and 'Meadow Forge' spending most of his time at the forge - On 14/05/2010 the applicant completed and returned a Planning Contravention Notice (PCN) relating to an alleged breach of the mixed use of the building for blacksmith workshop and human habitation. He answered that there was no human habitation of the building at that time, and that he lived at 'Rose Cottage' TA2 6QS. However in the submitted statutory declaration it is set out that Rose Cottage was a correspondence address and he was in fact living in the blacksmiths forge for most of the time. - During 2011 works were undertaken including the installation of, within the NE corner of the blacksmiths forge/ building, dwellinghouse facilities that enabled him to live within the building and use that part for residential purposes. This included wash facilities, a bath, sink and toilet on the 1st floor and a laundry area on the ground floor. - He completed a census form which was sent to him at Hillside Barn - In November 2011 he registered himself as resident at Hillside Barn on the Electoral Roll. He was informed he could only register as 'local area connection' as the property was not classed as residential. - His driving license shows him as resident at Hillside Barn from 15th October 2011 until 12th May 2021 - He assumed MDDC had decided to take no further action regarding alleged residential use as he heard nothing until a further PCN was served in early 2022. - From January 2022 he has paid residential Council Tax band A which describes Hillside Barn as a 'mixed use' property. The declaration then goes on to provide additional information in respect of the applicant's answers to the PCN (signed and dated 8/2/2022), these are discussed further where relevant, below. It is the applicant's case that he has used the approved blacksmith forge building continually for both residential purposes and as a working forge "in what he would describe as a composite use" for more than 10 years and certainly from 2011 until the date of the declaration. The supporting evidence provided includes: - MDDC letter 23/11/2011 stating he is on the register of electors - Driving licenses with address of Hillside Barn
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- Copy of census form sent to Hillside Barn
- Various email correspondence between MDDC Officers- Building Control, Planning Enforcement, Revenues,
- Google earth photographs 2010- 2025
- Details of supermarket deliveries

In respect of the use of the surrounding land the applicant's declaration sets out that:

- Outside storage of vehicles and chattels has taken place continually for more than 10 years, as set out in replies to PCN
- Google Earth aerial images show outside storage from 1st January 2010 up until 1st March 2025 (Exhibit DA4)

Sworn Oaths- N and J Steel

- In February 2013 the applicant began teaching J Steel to be a blacksmith, they visited the site virtually every week until 2020.
- Throughout the time he has known the applicant, he has lived in a section of the barn.
- He has also had vehicles in various states of repair stored both inside and outside the barn.

Statutory declaration- K Meraga

- Employed by the applicant as an apprentice blacksmith in early 2009. There were kitchen facilities and a toilet in the building.
- The area outside was used as a parking area for employees and deliveries, as well as storage area for scrap metal and some project vehicles.
- Later in 2009 the applicant moved residence from Tiverton to Meadow Forge, KM used their van to help move all his furniture and belongings to Meadow Forge
- KM assisted the applicant with building work on several occasions, an example being putting in some salvaged oak joists to form the first floor under what is now the bathroom area
- KM went on to undertake an NVQ course in plumbing and as part of their coursework, replumbed the first floor bathroom at Meadow Forge
- KM remains friends with the applicant and has visited him at Meadow Forge often, and has known Meadow Forge to be his place of residence throughout this time.

Outline of relevant planning history including enforcement

09/01587/FULL- Retention of change of use from agricultural to blacksmith's forge. Application permitted 2nd November 2009 subject to the following conditions of relevance;

2. The blacksmith's forge hereby permitted shall be used only as a blacksmith's forge, and for no other purpose (including any purpose in Classes B1 or B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended)), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

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.

5. 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.

In that case the red line was drawn tightly around the building itself.

10/00037/UCU Change of Use from Blacksmith Workshop to mixed use of Blacksmith Workshop and human habitation

Case notes:

- 14/05/2010: PCN returned- States that building is a forge and owner lives at Norton Fitzwarren.
- 11/05/2011: Case notes: follow up site visit- Photo taken, office and small kitchen area in building but no evidence of living on site. No further action required.
- 17/05/2011: case closed, no breach.

13/00042/UCU- Unauthorised material change of use from blacksmiths forge to a mixed use of blacksmiths forge and use for residential occupation.

- 08/03/2013- Site visit notes [summary]: Mr Aggett denied living in the barn and stated that the facilities were required as ancillary to the blacksmith use as he used to employ 5 people and had to provide toilet facilities under employment law.
- 28/03/2013- Second site visit carried out. Case notes: there is no evidence of the building being converted to a house although there are elements that could be argued to fulfil part of the role. Mr Aggett was at pains to explain that he has to provide any potential employees with certain facilities and that what I could see amounted to those facilities. Totally denies living on site.
- 08/04/2015- case closed- no breach identified.

15/01077/PE- Notification of PNCOU Class M - As at 12th May 2015 - The agricultural use shall be use as a gallery (A1 shops use) to display the market and works made in the building next to it known as Meadow Forge - Less than 150sqm

- red line area relating to the eastern side of the building (applicant email indicates there is an internal partition wall)
- case officer queried how the building was returned to agricultural use in 2011 from former B2. Stated that the building appeared to be in use for some form of mixed storage.
- Letter 09/10/2015- regarding an enforcement visit 8/3/2013- where kitchen and washing facilities were contained within that part of the building- not considered to be an agricultural use

20/00223/RURAL – Conversion of barn to dwellinghouse and siting of shepherds hut for human habitation (enforcement case)

- PCN responses 09/02/2022
 - o Home address stated as at Stratford Avenue, Exeter (stated as permanent residential address for 4 years)
 - o Started using Meadow Forge for blacksmith purposes since late 2006 or early 2007
 - o States Meadow Forge has been in sole use as a blacksmith forge since he purchased it
 - o Not used for other purposes or uses
 - o Confirmed there is no residential use at various answers including 3.8, 3.9, 4.9, 5.0, 5.5, 5.6, 5.7, 6.1, 6.4, 6.7,
 - o Vehicles at front of barn are used for blacksmith business and have been stationed at the premises for some 15 years
- Breach of condition notice served in respect of condition 5 of 09/01587/FULL- dated 28/03/2025, compliance period 2 months
- Breach of condition notice served in respect of condition 2 of 09/01587/FULL- dated 28/03/2025, compliance period 3 months

The Council's case and assessment of the applicant's evidence base

The Council issued breach of condition notices on 28/03/2025 in respect of conditions 2 and 5 of 09/01587/FULL following consideration of the evidence available.

The Council's Tax records confirmed that a commercial business rates account has been registered at the site since 01/02/2007. The residential tax account for the property commenced on 01/01/2022.

The Council's Electoral Role records confirm that Mr Aggett has been registered at this address for over 10 years, but only with a "Declaration of Local Connection" to the property. He could not be registered in the normal way as it was not registered as a residential property. In 2023 the Local Land and Property Gazetteer confirmed it had been classified as residential so Mr Aggett's registration was switched to an ordinary elector.

The submitted driving license records are noted however are not considered to be conclusive of a continuous residential use of the site.

Similarly whilst the supermarket delivery details (April 2020-September 2023) are noted, they are also considered to provide limited evidence of a continuous residential use of the site, particularly for the relevant period.

The supporting statutory declarations and oaths are noted and appear to support the applicant's version of events.

Whilst Mr Aggett alleges that the mixed use (forge and residential) have been undertaken since at least 2011 this contradicts with the findings of the Council's Enforcement Team in their investigations since that time (as summarised above).

Furthermore, at the time of 15/01077/PE Mr Aggett alleged that the eastern most part of the building was in agricultural use. This contradicts the responses provided to planning contravention notices and within the submitted statutory declaration.

The applicant's case, including sworn declaration, makes a number of assertions that are directly contradictory to the evidence provided in response to the Planning Contravention Notice dated 09/02/2022. Specifically that:

- His home address was stated as at Stratford Avenue, Exeter (stated as permanent residential address for 4 years)
- Started using Meadow Forge for blacksmith purposes since late 2006 or early 2007
- States Meadow Forge has been in sole use as a blacksmith forge since he purchased it
- Not used for other purposes or uses
- Confirmed there is no residential use at various answers including 3.8, 3.9, 4.9, 5.0, 5.5, 5.6, 5.7, 6.1, 6.4, 6.7,
- Vehicles at front of barn are used for blacksmith business and have been stationed at the premises for some 15 years

In the submitted statutory declaration, in reference to the PCN questions where the applicant had clearly stated there was no residential use, the applicant sets out that he "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 blacksmith forge". However the PCN responses are quite clear and unequivocal in repeatedly stating there has been no residential use of the building.

	The submitted emails at exhibit DA3 are relied upon to suggest that the Council was “aware of a mixed use taking place since 2008”. However the email correspondence is not considered to be conclusive. It is internal correspondence from a previous Enforcement Officer considering various different hypothetical scenarios, none of which are considered to be substantiated by the evidence base put forward by the applicants. The statutory declarations received from objectors are noted, and suggest that the applicant has lived in other vehicles/ structures on the land. In terms of the blacksmith use, it is noted that significantly more evidence of an ongoing blacksmith use would be expected to be available if an ongoing business use has been undertaken. In relation to the external storage element, the applicant seeks to rely on a series of aerial photographs of the site from 01/01/2010- 2025 (exhibit DA4). Whilst the most recent photos appear to show some form of storage being undertaken on site (externally), the photos are not particularly clear. It is noted from 2016 and previous to that, the area around the building appears to be well covered with trees and provide little evidence of external storage uses. The statutory declarations appear to suggest there has been some use of the forecourt for storage however there is no clear evidence of timeframe for this. <u>Summary</u> The applicant’s evidence of the alleged uses is not considered to be clear or unambiguous. The Council has obtained contradictory evidence that opposes the applicant’s case and is considered to make the applicant’s version of events less than probable, particularly noting that the applicant’s current evidence contradicts earlier assertions they have made. Overall, it is not considered that the applicant 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.
Human Rights Act	The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant’s reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Signing officer's name/date signed	Name Adrian Devereaux Date 29/01/2026 I have read the officer's report and agree with the considerations and conclusions made for the reasons set out therein.
Reason Determination Delayed	Reason: ● <i>Other- to allow applicant to respond to evidence obtained by the Council</i>
Reason for Extension	Extension of Time: ● <i>Planning Officer Request</i>