

Senior Enforcement Officer Heather Nesbitt Summary of Proof of Evidence

Meadow Forge, Hillside Barn, Cadeleigh, Tiverton, Devon EX16 8RZ

Town and Country Planning Act 1990 (as amended)

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7 August 2026

PLANNING INSPECTORATE REFERENCE:

APP/Y1138/X/26/3378579

Mid Devon District Council Reference:

25/01406/CLU

This summary of Proof of Evidence has been prepared by Heather Nesbitt, Senior Enforcement Officer at Mid Devon District Council, in relation to the appeal by Dean Aggett Mohan against the Council's refusal to grant a Certificate of Lawfulness for Meadow Forge, Hillside Barn, Cadeleigh.

The appeal concerns whether the building and land have lawfully acquired a mixed use as a blacksmith's forge and for residential purposes, together with external storage of materials, goods, products, chattels, scrap, vehicles and waste materials. The appellant claims that these uses have continued for more than 10 years and are therefore immune from enforcement action. The Council's position is that the evidence does not demonstrate, on the balance of probability, that the alleged breaches have existed continuously for the required 10-year period.

The site is located in the countryside between Bickleigh and Cadeleigh and contains the building known as Meadow Forge or Hillside Barn. Planning permission 09/01587/FULL was granted on 14 December 2009 for the change of use of an agricultural building to a blacksmith's forge. That permission is central to the appeal. Condition 2 restricted the building to use only as a blacksmith's forge, and Condition 5 prohibited the outside storage of materials, goods, products, chattels, scrap or waste materials.

The Certificate of Lawfulness application was refused by the Local Planning Authority because the appellant's evidence was not considered sufficiently clear, precise or unambiguous to demonstrate continuous mixed residential and blacksmith use, or continuous external storage, for more than 10 years. Certificates of Lawfulness are determined on evidence rather than planning merits, and the burden of proof rests with the applicant.

The Council's enforcement history is important. Reports of alleged residential use were received in 2010, 2013 and 2020. However, the appellant repeatedly stated that the building was not being used for residential purposes. In 2010, he stated that he lived at Rose Cottage and that the building was only used as a blacksmith's forge. In 2013, he again stated that he was not residing at the property and that any facilities were for employee welfare. Earlier enforcement cases were closed on the basis that no breach had been found.

Following a further report in 2020 that the property had been converted into a house, the Council served a Planning Contravention Notice in January 2022. In his written response, the appellant repeatedly stated that there was no residential use of the building, shepherd's hut or land. He also stated that there were no residential facilities, no residential conversion, and that the building had not been used for residential

purposes. These responses were given in the context of a formal notice carrying penalties for false or misleading information.

On 12 November 2024, a site visit was carried out by Heather Nesbitt, police and a planning enforcement assistant. The appellant again stated that he did not live at the property and that there was no planning breach. During the visit, officers observed domestic facilities and items including a kitchen, utility area, first-floor sitting room, bathroom, bedroom, furniture, clothing and other items associated with residential occupation. The forge area appeared not to have been used for some time, and the building contained extensive storage of items not clearly associated with blacksmith use.

Following that investigation, the Council served a Breach of Condition Notice on 28 March 2025 in relation to Condition 2. The notice required the unauthorised residential use to cease and required the removal of residential facilities and items. Compliance was required by 28 June 2025. No judicial review was brought against the notice.

A further inspection took place on 13 August 2025. The appellant stated that nothing had changed inside the property. The Council found no meaningful compliance with the Breach of Condition Notice. During that visit, the appellant maintained that the notices were invalid and also referred to the 10-year immunity period, while continuing to state that the property was not a residence. The Council later authorised prosecution for failure to comply with the notice.

The evidence also addresses the alleged breach of Condition 5, which prohibits outside storage. Reports of outside storage were received in 2017 and 2018, but those cases were later closed after officers considered that most items had been removed and no further reports had been received. A further report was made in 2021. Photographs showed some items similar to those seen previously but also showed that other items had been removed and new items had appeared. The Council's position is that this does not demonstrate one continuous breach for more than 10 years.

Although the appellant stated in the 2022 Planning Contravention Notice response that vehicles outside the building had been stationed there for around 15 years and were used for his blacksmith business, the Council's records do not provide clear evidence that the same vehicles or materials were continuously stored outside for the required 10-year period. During the 2024 visit, officers again observed vehicles and other items outside the barn, but no photographic or documentary evidence was provided to prove continuous external storage for the relevant period.

A further Breach of Condition Notice was served on 28 March 2025 in relation to Condition 5, requiring compliance by 28 May 2025. The notice related to continued external storage of materials and vehicles contrary to the 2009 permission.

The legal framework is also relevant. Section 191 of the Town and Country Planning Act 1990 allows a Certificate of Lawfulness to be granted where evidence demonstrates that a use is lawful. Section 171B sets out the relevant immunity periods, including 10 years for relevant breaches. The evidence also refers to case law on concealment, including *Welwyn Hatfield, Fidler and Jackson*, which supports the principle that a person should not benefit from deliberate concealment or deception in planning matters.

In conclusion, the Council's position is that the appellant has not provided sufficiently clear, precise or unambiguous evidence to prove that the alleged mixed residential and blacksmith use, or the alleged external storage, continued for more than 10 years. The Council relies on the appellant's previous formal and verbal statements denying residential use, the closure of earlier enforcement cases where no breach was found, the lack of continuous evidence of external storage, and later site inspections showing residential facilities and non-compliance with Breach of Condition Notices.

This standalone summary therefore supports the Council's decision to refuse the Certificate of Lawfulness and maintains that the appeal should be dismissed.