



Town and Country Planning Act 1990 (as
amended by the Planning and Compensation Act 1991)
Section 195 Appeal

Appeal ref: **APP/Y1138/X/26/3378579**

Appellant's Statement of Case

Appeal by Mr Dean Aggett pursuant to section 195 Town and Country
Planning Act 1990 (as amended) to the Secretary of State for
Communities and Local Government against the Refusal of Mid Devon
District Council (MDDC) to Grant a Certificate of Lawful Use (LDC)

1. Background

- 1.1. XL Planning Ltd were instructed by Mr D AGGETT (the Appellant) to submit an application (the **CLU Application**) to Mid Devon District Council (the **LPA and MDDC**) relating to the use on the land and buildings at Meadow Forge (Cadeleigh Tiverton Devon EX16 8RZ) (**Meadow Forge**)
- 1.2. The CLU Application was made under section 191(1)(c) of Town & Country Planning Act 1990 (as amended) (the Act) 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'.
- 1.3. Appellant's description of lawful development in the CLU Application. The LPA's description is of the CLU Application was 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.
- 1.4. Permission 09/01587/FULL (the **Permission**) was granted by MDDC on 14 December 2009 for the 'Retention of change of use from agricultural to blacksmith's forge' at Meadow Forge. The Permission was granted subject to conditions including:
 - 1.4.1. Condition 2 'The blacksmith's forge hereby permitted shall be used only as a blacksmith's forge, and for no other purpose (including any purpose in Classes B1 or B8 of the Schedule to The Town and Country Planning (Use Classes) Order 1987 (as amended)), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification ' (**Condition 2**)
 - 1.4.2. Condition 5 "No materials, goods, products, chattels, scrap or waste materials shall be stored outside of any building, at any time. (**Condition 5**)
- 1.5. The CLU Application was assigned reference 25/01406/CLU by the LPA.
- 1.6. On 29 January 2026 the LPA refused the CLU Application (the **Refusal**)
- 1.7. The Appellant now appeals that Refusal under the provisions of Section 195 on the ground that the Refusal was not well founded.

- 1.8. The Appeal was lodged on 7th May 2026 and has been assigned reference APP/Y1138/X/26/3378579 by the Planning Inspectorate.

2. Documents, maps and plans the Appellant intends to rely upon

- 2.1. The Appellant intends to rely on the following evidence, documents, maps and plans at the appeal.

- 2.1.1. The documents submitted with the CLU Application being:

- 2.1.1.1. Application form 25/01406/CLU
- 2.1.1.2. Approved Supporting Statement CLEUD 2 10 25
- 2.1.1.3. AGGETT Dean Signed Sworn Declaration dated 9 10 25
- 2.1.1.4. AT 02325 Dean AGGETT Plans
- 2.1.1.5. Exhibit DA1 dated 9 October 2025
- 2.1.1.6. Exhibit DA2 dated 9 October 2025
- 2.1.1.7. Exhibit DA3 dated 9 October 2025
- 2.1.1.8. Exhibit DA4 dated 9 October 2025
- 2.1.1.9. The case of *R Ocado Retail Ltd v London Borough of Islington* 2021 EWHC 109

- 2.1.2. The following documents were submitted by others and placed online during the determination of the Application the underlined and **bold** representation is by an individual who will present their evidence at the Inquiry as a Witness and Under Oath.

- 2.1.2.1. 29 Jan 2026 Decision Notice (the **Refusal**)
- 2.1.2.2. 29 Jan 2026 Officer Report (the **OR**)
- 2.1.2.3. 21 Nov 2025 Supporting Information Statutory Declaration - C V Flavell
- 2.1.2.4. 21 Nov 2025 Supporting Information Statutory Declaration - J Balsdon
- 2.1.2.5. 21 Nov 2025 Supporting Information Statutory Declaration - P Balsdon
- 2.1.2.6. 21 Nov 2025 Supporting Information Statutory Declaration - F Warren
- 2.1.2.7. 21 Nov 2025 Supporting Information Statutory Declaration - J Wilson
- 2.1.2.8. 16 Nov 2025 Objection Comment Ms Beatrice Hearne
- 2.1.2.9. 08 Nov 2025 Support Comment Maria Moore
- 2.1.2.10. 06 Nov 2025 Support Comment Miss Rima Staines
- 2.1.2.11. 02 Nov 2025 General Comment Mr Julius Harper
- 2.1.2.12. 31 Oct 2025 Supporting Information Sworn Declaration - **K. Meraga**

2.1.2.13.	31 Oct 2025	Objection Comment	Mr Robert Davies
2.1.2.14.	30 Oct 2025	General Comment	Mr David Brock
2.1.2.15.	30 Oct 2025	Objection Comment	Mrs Faye Warren
2.1.2.16.	30 Oct 2025	Supporting Information	Statutory Declaration - J. Steel
2.1.2.17.	<u>30 Oct 2025</u>	<u>Supporting Information</u>	<u>Statutory Declaration - N. Steel</u>
2.1.2.18.	29 Oct 2025	Support Comment	Mr Adam James
2.1.2.19.	29 Oct 2025	Objection Comment	Mr Paul Balsdon
2.1.2.20.	29 Oct 2025	Objection Comment	Mr James Wilson
2.1.2.21.	29 Oct 2025	Objection Comment	Ms Claire Wilson
2.1.2.22.	29 Oct 2025	Objection Comment	Mrs Janet Balsdon
2.1.2.23.	26 Oct 2025	Support Comment	Mrs Sarah Knock
2.1.2.24.	24 Oct 2025	Consultee Comment	Cadeleigh Parish Council
2.1.2.25.	22 Oct 2025	Support Comment	Mr Paul Cane
2.1.2.26.	22 Oct 2025	Support Comment	Maria Moore
2.1.2.27.	21 Oct 2025	Support Comment	Mr Colin Kemble
2.1.2.28.	20 Oct 2025	Support Comment	Mrs Pauline Farr
2.1.2.29.	17 Oct 2025	Correspondence/Report Confirmation of Displayed	
2.1.2.30.	The Site Notice placed on 17 Oct 2025		

2.2. The documents submitted with the CLU Appeal being:

2.2.1. The Appellant's Appeal Statement including its appendices that have not already been listed above:

2.2.1.1. Appendix E Appellant's legal submissions

2.2.1.2. Appendix F Statutory Declaration of Heather Woodman dated 29 April 2026 confirming the Appellant never lived at 36 Stratford Avenue Exeter and confirming Ms Woodman's knowledge of the Appellant's residential use of Meadow Forge (Note Ms Woodman is unable to attend the Inquiry).

2.2.1.3. Appendix G Floor Plans and Elevation Plans

2.2.1.4. Appendix H Photos of Meadow Forge including:

2.2.1.4.1. Photo of the Meadow Forge bathroom 11 February 2013

2.2.1.4.2. Photo of the Meadow Forge landing 11 February 2013

2.2.1.4.3. Photo of the Meadow Forge kitchen 14 December 2010

2.2.1.4.4. Photos of the Meadow Forge living room 20 January 2013 and 23 January 2017

- 2.2.1.4.5. Photo of the Meadow Forge vegetable garden at Meadow Forge 9 August 2012
- 2.2.1.5. Appeal Ref: APP/H0520/X/24/3348935 dated 12 May 2025
- 2.2.1.6. Appeal Ref: APP/P0810/X/04/1139958 dated 3 September 2004
- 2.2.1.7. Video evidence, from the Appellant's YouTube channel 'Devon Blacksmith', showing the Meadow Forge's propensity to support a residential use the Appellant's occupation of the Meadow Forge over the requisite time period:
 - 2.2.1.7.1. CHAIN OF CHANGE episode four sustainable technology, building a resilient future - <https://www.youtube.com/watch?v=CZt077wE-Tg> – showing the living room and kitchen at Meadow Forge uploaded seven years ago.
 - 2.2.1.7.2. THE ROAD TO A SIMPLE LIFE a day at a time, Regenerative living - <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.
 - 2.2.1.7.3. FREE HOUSE how I built my home for free - <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.
 - 2.2.1.7.4. SHEPHERDS HUT BUILD. - https://www.youtube.com/watch?v=vl_v-LGyWFQ – showing the storage use of the land outside Meadow Forge uploaded 14 years ago
- 2.2.2. The following proofs of evidence for the Appellant's witnesses who are attending the Inquiry:
 - 2.2.2.1. Proof of Evidence of Dean Aggett, which will include additional photographs and videos showing how the interior of Meadow Forge has been made suitable for and used for residential purposes in breach of Condition 2 of the Permission for a period of more than ten years and how the exterior of Meadow Forge has been used for storage of materials in breach of Condition 5 of the Permission for a period of more than ten years.
 - 2.2.2.2. Proof of Evidence of Norman Steel which will describe Mr Steel's knowledge of the Appellant's ongoing residential use of Meadow Forge in breach of Condition 2.
 - 2.2.2.3. Proof of Evidence of Karim Meraga will describe Mr Meraga's knowledge of the Appellant's construction of certain residential facilities which facilitated a

residential use of Meadow Forge and his knowledge of the Appellant's ongoing residential use of Meadow Forge in breach of Condition 2.

3. Appellant's case

- 3.1. In short the Appellant considers that the evidence submitted with the CLU Application was itself suitably sufficient that (together with the MDDC's own files and the third party submission) on the balance of probabilities any reasonable planning authority should have concluded that the information showed Conditions 2 and 5 had been breached for more than ten years prior to the issue of the two Breach of Condition Notices dated 28 March 2025 (for the alleged breach condition 2 the **Cond 2 BCN**, for the alleged breach condition the **Cond 5 BCN**, and together the **BCNs**) such that the Refusal was not well founded and that a certificate of lawfulness ought to have issued a certificate of lawfulness confirming that the breaches of Condition 2 and Condition 5 were at the date of the CLU Application lawful through the passage of time (section 171B of the Act applying).

Legal argument

- 3.2. The Appellant's legal argument is fully set out in Appendix E submitted by the Appellant with the Appeal.
- 3.3. The CLU Application was made pursuant to section 191(1)(c) of the Act. Accordingly, the test for lawfulness is that under 191(3) being that at the time of the CLU Application no enforcement action could be taken against the breaches of Conditions 2 and 5 of the 2009 Permission because (and the Appellant's evidence will show) that the time for enforcement action (ten years) had expired in accordance with section 171B(3) and that the breaches of these Conditions as described in the CLU Application did not constitute a contravention of any of the requirements of any enforcement notice that was in force.

Weight of evidence

- 3.4. The LPA give weight to the responses given by the Appellant in the two PCNs dated 22 April 2010 (the **2010 PCN**) and January 2022 (the **2022 PCN**). The Appellant addressed these responses in his statutory declaration submitted with the CLU Application.
- 3.5. The Appellant has given reasonable justification for the responses to the 2010 PCN and the 2022 PCN are explained by the Appellant in the Application and MDDC did not challenge his responses to 2010 PCN or the 2022 PCN as they could have done. Moreover the Appellant notes that MDDC did go on to disregard the Appellant's responses in the 2022 PCN by serving the BCNs.
- 3.6. It is the Appellant's case that his responses to the PCNs are not determinative of the actual use of Meadow Forge and the Appellant will give evidence under oath of his use of Meadow Forge in breach of Conditions 2 and 5.
- 3.7. Regardless of whether the LPA had legitimate concerns about the veracity of the Appellant's own evidence (and the Appellant contends that they should not have such concerns) there was sufficient supporting photographic evidence that the breaches of the two conditions have been ongoing since the date of the Permission. Moreover, there was statutory declaration evidence from two other people supporting the Appellant's confirmation that the breaches have been ongoing for more than ten years prior to the date of the BCNs.
- 3.8. The LPA have the benefit of their planning file for Meadow Forge. This file has not been shared with or disclosed to the Appellant despite the Appellant having submitted subject access and Environmental Information Requests. This is a material prejudice to the Appellant's case. Where the Appellant has seen extracts of the file there is evidence that the LPA's officers have historically accepted that the Appellant was residing at Meadow Forge.
- 3.9. The LPA never questioned whether those persons giving evidence objecting to the CLU Application (in the same statutory declarations form) had knowledge of the interior of Meadow Forge or had the physical ability to know whether the Appellant was living in Meadow Forge. The Appellant will confirm that they had not.

Lawfulness of the breach of Condition 2

- 3.10. It is the Appellant's case that on the balance of probabilities:
- 3.10.1. The reasonable interpretation of Condition 2 is that prohibits any use of Meadow Forge other than as a blacksmith's forge. A blacksmith's forge use is not a residential use.
- 3.10.2. A use that combines a blacksmith use with a residential use is a mixed use (a sui generis use) comprising what is now class E and class C3 uses.
- 3.10.3. Such a C3 use of Meadow Forge is prohibited by Condition 2.
- 3.10.4. The building known as Meadow Forge and its immediate curtilage is the planning unit against which the materiality of a change of use should be assessed (*Burdle* applying).
- 3.10.5. The Appellant's evidence that confirms that Meadow Forge has been used for C3 residential purposes in addition to the lawful blacksmith use. The evidence as presented by the Appellant of the residential component of the mixed use is substantiated by:
- 3.10.5.1. Meadow Forge being fitted with all the facilities required for day-to-day private domestic existence (*Gravesend*) and
- 3.10.5.2. by the Appellant's evidence of his occupation of Meadow Forge.
- 3.10.6. The Permission authorises the use of Meadow Forge as a blacksmith's forge subject to conditions. The Appellant's evidence will show that that Meadow Forge is used as both a blacksmith's forge and for residential purposes.
- 3.10.7. This mixed use in breach of Condition 2 has been continuous for more than ten years prior to the date of the Cond 2 BCN.
- 3.10.8. This breach of Condition 2 was subsisting at the date of the CLU Application and is still subsisting at the date of this Appeal.

Lawfulness of the breach of Condition 5

- 3.11. It is the Appellant's case that on the balance of probabilities:
- 3.11.1. Condition 5 prohibits the use of the land surrounding Meadow Forge for the storage of vehicles, materials, goods, products, chattels, scrap and waste materials.
- 3.11.2. The Appellant's evidence shows that on the balance of probabilities the area of land outside Meadow Forge has been used in breach Condition 5 for more than

ten years (commencing more than ten years prior to the date of the Cond 5 BCN).

- 3.11.3. This breach of Condition 5 subsisting at the date of the CLU Application and still subsisting at the date of this Appeal.
- 3.11.4. The storage use in breach of Condition 5 is a B8 use that is also in breach of Condition 2.
- 3.12. The Appellant's evidence shows that the breaches of Condition 2 and 5 commenced immediately at the date of grant of the 2009 Permission. They have continuously subsisted for more than the requisite ten years described by section 171B (3) of the Act.
- 3.13. The Appellant has already evidenced the breach of Condition 2 and the breach of Condition 5 in the CLU Application.

Breach of Condition Notices and section 191(3) of the Act

- 3.14. It is the Appellant's case for more than ten years prior to the date of the BCNs Meadow Forge was occupied in continuous breach of both Condition 2 and Condition 5 and that those breaches had become lawful through the passage of time.
- 3.15. From the time the breaches of Condition 2 and Condition 5 became lawful the LPA could no longer issued effective enforcement notices for the purposes of section 191(2) of the Act.
- 3.16. Cond 2 BCN and the Cond 5 BCN were served after the breaches described in each breach of condition notice had become lawful through the action of section 171B of the Act. Accordingly, neither Cond 2 BCN or Cond 5 BCN are effective. Breaches of condition notices that are not effective cannot be considered to be in force. The lawfulness of the use of Meadow Forge in breach of Conditions 2 and 5 of the 2009 Permission is not therefore brought into question by section 191(3)(b) of the Act.

4. Conclusion

- 4.1. The Appellant considers that the Appeal should be allowed on proper consideration of the evidence and law.

- 4.2. Accordingly, the Appellant requests the Inspector issue a certificate of lawfulness pursuant to this Appeal confirming that the breach of Condition 2 is lawful by reason of immunity from enforcement against breach of Condition 2 such that Meadow Forge and the curtilage land around Meadow Forge may be used for a mixed use of residential and commercial (blacksmithing) and storage use, and that Meadow Forge may be lawfully occupied in breach of Condition 5 by reason of immunity from enforcement against breach of Condition 5 such that materials etc. may be lawfully stored outside the building.
- 4.3. The Appellant also respectfully requests that the Inspector confirms in his decision notice that the evidence confirms that Condition 2 and 5 had been in breach of a period of ten years prior to the issue of the BCNs and as such the BCNs are of no effect.

16 July 2026