



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

Appeal Statement

Appeal by; Mr D AGGETT

Site at: 'Meadow Forge' Cadeleigh, Tiverton, EX16 8RZ

Appeal 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) *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. (applicant/appellants 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. (LPA Description)

MDDC Certificate Application reference 25/01406/CLU

Notice Appeal ref: **APP/**

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Appendix B. Content of Certificate Application to MDDC ref – 25/01406/CLU.

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Appendix E; Appellant's Legal Submission (Michelmores) (the **LS**)

Appendix F: Sworn Statutory Declaration of Heather WOODMAN dated 29th April 2026.

Appendix G: Plans: Site Location Plan, Floor Plans, Elevations

Appendix H: Photos and YouTube videos of use of Meadow Forge

1.Introduction

- 1.1. XL Planning Ltd are instructed by Mr D AGGETT (the appellant) to submit an appeal under the provisions of Section 195 Town & Country Planning Act 1990 (as amended) against the refusal of MDDC to grant a Lawful Development Certificate ref - 25/01406/CLU. Refusal dated 29th January 2026 (Appendix A)
- 1.2. This Appeal Statement is supported by the Appellant's Legal Submissions (the **LS**).

- 1.3. One (1) Refusal Decision dated 29th January 2026. (copy of refusal & associated site location plan) Appendix A
- 1.4. NOTE. There is no statutory time limit for a Section 195 appeal to be lodged (LS paragraph 2.21). However, it is understood to be good practice to lodge such an appeal within 6 months following the date of refusal. In this case before 29th July 2026.

Guidance Certificate of lawful use or development appeals: procedural guide
Updated 26 February 2026

2.4.1. For appeals under section 195 (see paragraph 1.2.8), there is currently no time limit within which an appeal must be received. However, in the interests of efficiency, we would expect to receive a timely appeal (usually, within 6 months of the LPA's decision or failure to determine).

Notice appeal ref; = APP/

2. Certificate and Refusal Decision 25/01406/CLU

2.1 The application 25/01406/CLU (the Application) was submitted on 10 October 2025.

2.1.1 The application comprised the following documents

- (a) Application form 25/01406/CLU
- (b) Approved Supporting Statement CLEUD 2 10 25
- (c) AGGETT Dean Signed Sworn Declaration dated 9 10 25
- (d) AT 02325 Dean AGGETT Plans
- (e) Exhibit DA1 signed 9 10 25
- (f) Exhibit DA2 “
- (g) Exhibit DA3 “
- (h) Exhibit DA4 “
- (i) 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:

29 Jan 2026 Decision

Decision Notice

29 Jan 2026	Officer Report	Officer Report
21 Nov 2025	Supporting Information	Statutory Declaration - C V Flavell
21 Nov 2025	Supporting Information	Statutory Declaration - J Balsdon
21 Nov 2025	Supporting Information	Statutory Declaration - P Balsdon
21 Nov 2025	Supporting Information	Statutory Declaration - F Warren
21 Nov 2025	Supporting Information	Statutory Declaration - J Wilson
16 Nov 2025	Objection Comment	Ms Beatrice Hearne
08 Nov 2025	Support Comment	Maria Moore
06 Nov 2025	Support Comment	Miss Rima Staines
02 Nov 2025	General Comment	Mr Julius Harper
31 Oct 2025	Supporting Information	Sworn Declaration - K. Meraga
31 Oct 2025	Objection Comment	Mr Robert Davies
30 Oct 2025	General Comment	Mr David Brock
30 Oct 2025	Objection Comment	Mrs Faye Warren
30 Oct 2025	Supporting Information	Statutory Declaration - J. Steel
30 Oct 2025	Supporting Information	Statutory Declaration - N. Steel
29 Oct 2025	Support Comment	Mr Adam James
29 Oct 2025	Objection Comment	Mr Paul Balsdon
29 Oct 2025	Objection Comment	Mr James Wilson
29 Oct 2025	Objection Comment	Ms Claire Wilson
29 Oct 2025	Objection Comment	Mrs Janet Balsdon
26 Oct 2025	Support Comment	Mrs Sarah Knock
24 Oct 2025	Consultee Comment	Cadeleigh Parish Council
22 Oct 2025	Support Comment	Mr Paul cane
22 Oct 2025	Support Comment	Maria Moore
21 Oct 2025	Support Comment	Mr Colin Kemble
20 Oct 2025	Support Comment	Mrs Pauline Farr
17 Oct 2025	Correspondence/Report	Confirmation of Displayed Site Notice
17 Oct 2025	Photo	Displayed Site Notice

2.1.3 The MDDC prepared an officer report for the determination of the Application (the **OR**).

2.1.4 The Certificate Refusal decision was issued and dated 29th January 2026. (**Appendix A**).

2.1.5 The LPA considered the Certificate Application related to three elements:

- a) the residential use;
 - b) the use of the building as a blacksmith's forge in accordance with its granted permission; and
 - c) the external storage.
- 2.1.6 This is not a correct representation of Appellant's Certificate application which was that Meadow Forge was occupied in breach of conditions 2 and 5 of the 2009 Permission.
- 2.1.7 The LPA considered that 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.
- 2.1.8 Whilst it is appropriate for the decision maker to consider the lawfulness of the development described in the Certificate application at the date of determination it is the Appellant's case the conditions had been breached for more than the requisite ten-year period.
- 2.1.9 In its determination of the Certificate the LPA *"noted that significantly more evidence of an ongoing blacksmith use would be expected to be available if an ongoing business use has been undertaken"* (page 14). This is irrelevant. The blacksmith use was rendered lawful by the 2009 Permission.
- 2.1.10 The reason stated by the LPA for refusing the Certificate application were:
- "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"*
- 2.1.11 For the purposes of assessing the lawfulness of the breach of condition 2:
- a) The LPA has given insufficient weight to the statutory declarations of those people with knowledge of the internal use of Meadow Forge and the domestic facilities that facilitated the residential occupation of the building. The evidence from those supporting the Appellant's residential use of Meadow Forge covers the requisite ten years.
 - b) The LPA has given too much weight to the statutory declarations of those people who had no knowledge of the internal use of and facilities installed at Meadow Forge. The evidence from those asserting that the Appellant has lived either in vehicles outside Meadow Forge or elsewhere than Meadow Forge is for a shorter period than the ten years.
 - c) The LPA gave no weight to their own file records, including the email dated 13 July 2023 at 13:31 which was exhibited by the Appellant which recognised that the

facilities at Meadow Forge's would support a residential use (which the MDDC enforcement officer noted comprised a kitchen, bathroom, landing and living area from 2013, and the installation of windows in 2021), that the Appellant's Facebook photographs and went on to consider whether the use was as a single dwelling house or an unauthorised mixed use.

- d) The LPA's course of action runs counter to its decision to refuse the Certificate Application. It served the 2022 PCN on the Appellant. It noted but did not accept the Appellant's responses relating to the residential use of Meadow Forge. It subsequently served the Cond 2 BCN. The use identified in Cond 2 BCN that was to cease was 'the unauthorised use of the first floor of the blacksmith's forge for residential purposes'. The steps set out as required in the Cond 2 BCN are the removal of the various facilities that have facilitated the Appellant's residential use of Meadow Forge.

2.1.12 For the purposes of assessing the lawfulness of the breach of condition 5:

- a) The LPA has failed to reasonably apply the balance of probabilities test such that the Appellant's evidence and the objector's evidence all provided detail of the storage of chattels and vehicles around the front and side of the Meadow Forge building in breach of condition 5.
- b) The timeframe of the storage use was evidenced by the aerial photographs of the site exhibited by the Appellant.
- c) Again, the LPA's course of action in service of the Cond 5 BCN runs counter to the refusal. That BCN identifies the very same types of chattels that the Appellant maintains have been stored on the land outside Meadow Forge in breach of Condition 5.

3.Location and Description of the Appeal Site

3.1 For the purposes of this appeal the relevant site is identified and outlined in red on the Site Location Plan (SLP) (Appendix A) Block Plan and elevational plans. The building is known on the refusal as 'Meadow Forge' Cadeleigh, Tiverton, EX16 8RZ



Site Location Plan Refusal 25/01406/CLU

4.Planning History

The salient planning history at Meadow Forge is:

<u>Date</u>	<u>MDDC Reference</u>	<u>Description</u>	<u>As referred herein</u>
14/12/2009	09/01587/FULL	Full permission granted pursuant to an application for retrospective planning permission for the "Retention of change of use from agricultural to blacksmith's forge"	2009 Permission
22/04/2010	ENF/10/00037/UCU	Planning Contravention Notice (date of response 14/5/2010)	2010 PCN
08/03/2013	13/00042/UCU	Planning enforcement considered against unauthorised material change of use from blacksmith's forge to mixed use of	

<u>Date</u>	<u>MDDC Reference</u>	<u>Description</u>	<u>As referred herein</u>
		blacksmith's forge and residential	
10/10/2025	25/01406/CLU	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 (refused on 29/01/2026)	Certificate Application
January 2022	ENF/20/00223/RURAL	Planning Contravention Notice (date of response 08/02/2022)	2022 PCN
28/03/2025	20/0223/RURAL	Breach of condition notice – condition 2 of 09/01587/FULL	Cond 2 BCN
28/03/2025	20/0223/RURAL	Breach of condition notice – condition 5 of 09/01587/FULL	Cond 5 BCN
10/10/2025	25/01406/CLU	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	Certificate Application

<u>Date</u>	<u>MDDC Reference</u>	<u>Description</u>	<u>As referred herein</u>
		to Conditions 2 and 5 imposed on Planning Permission	
03/03/2026	DS/Legal services	Prosecution for failing to comply with Cond 2 BCN and Cond 5 BCN under section 187A	Summons

5. Grounds

The Appellant's ground/s for appeal are that the MDDC decision to refuse is not well founded for the following reasons.

5.1 The Certificate Application was made pursuant to section 191(1)(c) (LS 2.1) relating to the lawfulness of the breaches of conditions 2 and 5 of the 2009 Permission.

5.2 Accordingly, the test for lawfulness for the Certificate Application is 191(3) (LS 2.5) being that both

- (i) at the time of the application no enforcement action may then be taken against the breaches of Conditions 2 and 5 of the 2009 Permission because the time for enforcement action has expired in accordance with section 171B(3) (LS 2.3.3) and
- (ii) that breaches do not constitute a contravention of any of the requirements of any enforcement notice then in force.

5.3 It is the Appellant's case that on the balance of probabilities that the breach of condition 2 is lawful for the following reasons:

- (a) The reasonable interpretation of Condition 2 (LS 2.34) is that the condition prohibits any use of Meadow Forge other than as a blacksmith's forge. A blacksmith's forge use is not a residential use.
- (b) 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.
- (c) A material change of use to a *sui generis* use is prohibited by condition 2.
- (d) The building known as Meadow Forge is the planning unit against which the materiality of a change of use should be assessed (LS 2.26).
- (e) The Appellant's evidence confirms that Meadow Forge has been used for 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:

- (i) Meadow Forge being fitted with all the facilities required for day-to-day private domestic existence (*Gravesham* apply, see LS 2.27) and
- (ii) by the Appellant's evidence of his occupation of Meadow Forge.

(f) This mixed use in breach of condition 2 has been continuous for more than ten years (with the breach in condition 2 commencing on the date grant of the 2009 Permission).

(g) This breach of condition 2 was subsisting at the date of the Certificate Application and is still subsisting at the date of this appeal.

5.4 It is the Appellant's case that on the balance of probabilities that the breach of condition 5 is lawful for the following reasons

(a) Condition 5 prohibits the use of the land surrounding Meadow Forge for the storage of vehicles, materials, goods, products, chattels, scrap and waste materials.

(b) The Appellant has presented evidence to show that on the balance of probabilities the land outside Meadow Forge has been used in breach Condition 5 for more than ten years (commencing on or around the date grant of the 2009 Permission).

(c) This breach of Condition 5 subsisting at the date of the Certificate Application and still subsisting at the date of this appeal.

(d) The storage use in breach of Condition 5 is a B8 use that is also in breach of Condition 2.

5.5 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).

5.6 The Appellant has already evidenced the existence and duration of the breaches of Condition 2 and the breach of Condition 5 in the Certificate Application such that MDDC ought to have been satisfied on the balance of probabilities (LS 2.20) that the breaches were lawful and should have issued the certificate pursuant to section 191(4) (LS 2.19).

5.7 The Appellant's reasons for the responses to the 2010 PCN and the 2022 PCN are explained by the Appellant in the Application. MDDC did not challenge the 2010 PCN or the 2022 PCN. MDDC disregarded the responses in the 2022 PCN in the service of the Cond 2 BCN and Cond 5 BCN. The Appellant's responses in the 2010 and 2022 PCNs are not determinative of the actual use of Meadow Forge. If given the opportunity the Appellant will give evidence under oath of the use of Meadow Forge in breach of Conditions 2 and 5.

5.8 To address the 'uncertainty' described in the LPAs reasons for refusal the Appellant will provide photographic and video evidence showing the residential use of Meadow Forge and the storage use of the land surrounding Meadow Forge comprising:

a) Photographic evidence of Meadow Forge's propensity to support residential occupation and the Appellant's occupation of Meadow Forge over the requisite time period including (Appendix H):

- i) Photo of the Meadow Forge bathroom 11 February 2013
- ii) Photo of the Meadow Forge landing 11 February 2013
- iii) Photo of the Meadow Forge kitchen 14 December 2010
- iv) Photos of the Meadow Forge living room 20 January 2013 and 23 January 2017
- v) Photo of the Meadow Forge vegetable garden at Meadow Forge 9 August 2012

b) 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 including (Appendix H):

- i) 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.
- ii) 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.
- iii) 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 year ago
- iv) 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

c) Statutory declaration from 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

5.9 If the parties objecting to the Certificate attend the inquiry and present themselves to give evidence then through cross examination the Appellant will test their knowledge of the Appellant's residential use.

5.10 Further it is the Appellant's case that on or around the date falling ten years from the date of grant of the 2009 Permission the continuous breaches of both Condition 2 and Condition 5 of the 2009 Permission became lawful through the passage of time.

5.11 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).

5.12 Cond 2 BCN and the Cond 5 BCN were served after the breaches described in each breach of condition notice were lawful. 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).

6. Conclusion.

For the reasons given above the Refusal decision 25/01406/CLU issued by MDDC and dated 29th January 2026 was not well founded.

It is respectfully requested that the inspector using their powers under the provisions of Section 195(2) Town & Country Planning Act 1990 can grant a certificate of lawful use as applied for or as amended by the inspector.

7. Request for determination by inquiry

7.1 The Appellant requests that the appeal be determined by way of public inquiry. This is because:

- a) The evidence of the LPA and the third parties needs to be tested though formal questioning by an advocate.
- b) The Appellant's factual evidence relating to the duration of the Appellant's use of the Property ought to be given under oath.
- c) Third party representations were made by statutory declaration, and they may wish to give their evidence under oath.