



Appeal Decision

Hearing held on 7 October 2025

Site visit made on 7 October 2025

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2025

Appeal Ref: APP/R0335/X/25/3368858

Land at Heathley Hall Farm, Bracknell Road, Warfield, Bracknell RG42 6BN

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Innovation Agritech Group against the decision of Bracknell Forest Borough Council.
 - The application ref 24/00117/LDC, dated 22 February 2024, was refused by notice dated 19 December 2024.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is a use for agriculture.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is found to be lawful.

Main Issue and Main Considerations

2. Section 191(4) of The Town and Country Planning Act 1990 as amended (the 1990 Act) indicates that if, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application was lawful at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.
3. I have noted the representations of interested parties, including those of Warfield Parish Council, which in part refer to the planning merits of the matter for which the certificate is sought and the effect of this on such matters as access, highway safety and the living conditions of nearby residents. To be clear, my decision is based on the facts of the case and judicial authority. The main issue in this case is whether the Council's decision to refuse to grant a LDC is well founded.
4. I have noted the suggestion that certain of the portacabin type structures and hard surfacing on site do not have the benefit of planning permission. The LDC is sought for a use of the land and building. Whether or not these other matters are lawful is not for me to consider within the remit of this appeal.
5. There is no dispute that, prior to the commencement of the current activities on the appeal site, the use of the land was for the purposes of agriculture and that this is the lawful use of the site. The main dispute between the parties and, therefore, the main consideration in this case is whether or not the activities taking place on the

appeal site have resulted in a material change of use of the land for which planning permission is required.

6. The test of the evidence is on the balance of probability, and the burden of proof is on the appellant. Paragraph 006 of the Planning Practice Guidance document on Lawful development certificates (the PPG) advises that, 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.

The Appeal Site

7. The land identified on the plan that accompanied the LDC application is occupied by a large warehouse or barn type building, which benefits from a large roller shutter entrance in addition to pedestrian doorways. Around the building is an area of hardstanding and a track that leads from the building to the vehicular access in the southern corner of the site. On the hardstanding area to the south east of the building I saw three portacabin type structures. There were also a number of shipping containers on hardstanding adjacent to the north east and north west elevation of the building. The building and the adjacent hardstanding areas were open to the remainder of the site, which is an open field parcel.
8. At the hearing the appellant confirmed that they are the tenant of only part of the appeal site, which they identified with reference to a plan. This part of the site comprised the building and the hard surfacing, as described above. The appellant confirmed that they do not occupy or use the remainder of the appeal site.

Reasons

9. Paragraph 010 of the PPG advises that 'precision in the terms of any certificate is vital, so there is no room for doubt about what was lawful at a particular date, as any subsequent change may be assessed against it'. It goes on to say that 'it is important to note that a certificate for existing use must include a description of the use, operations or other matter for which it is granted', and that 'in all cases, the description needs to be more than simply a title or label, if future problems interpreting it are to be avoided. The certificate needs to therefore spell out the characteristics of the matter so as to define it unambiguously and with precision'.
10. With the above advice in mind, I have had regard to the description of the matter for which the LDC is sought, which is specified in the LDC application form and repeated in the Council's decision notice as a 'use of land and buildings for agriculture'. The definition of agriculture at section 336 of the 1990 Act includes a substantial number of activities. It informs that agriculture includes:

 'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly'.

11. Whilst the appellant's case is that the activities that are the subject of this appeal are a use for the purposes of agriculture, this description fails to identify the activities that are being carried out at the site. It also fails to spell out the characteristics of the matter for which the certificate is sought, so as to define it unambiguously and with precision.
12. In addition to this, despite the LDC application having been made in respect of a large parcel of land, only a small part of this site is occupied and used by the appellant, as I note above.
13. In view of the above, I asked the parties to consider and, if possible, agree to a more detailed description that encompasses the activities that take place on the site that are the subject of the appeal. Also, to identify an area of the site upon which these activities are taking place.
14. Both the appellant and the Council described a use of the building on site for indoor vertical farming. The appellant has added to this description, stating that this activity includes sowing seed, germination and propagation, crop growing, harvesting, and distribution. They also describe the use of hardstanding for associated storage, access and parking.
15. I heard in more detail at the hearing the activities that take place in various parts of the site occupied by the appellant and at the site visit I was shown all parts of the site where these activities take place.
16. The layout of the building is accurately depicted on the drawing number SK063 Revision A, which shows the areas within the building I observed, including the lobby, beyond which was an area for hand washing, and where protective footwear and clothing is stored and could be put on. I also observed the areas described on the plan as seeding, propagation and germination, as well as the farm areas, which comprised rows of vertically hanging irrigated planters surrounded by artificial lighting. I was told of the variety of plants that were currently growing in the building, all of which were consumable (i.e. salads, herbs, etc.). The evidence indicates that this is typical of the type of plants grown in the building.
17. The environment within the building is very controlled, and is adapted depending on the type of plants grown. I was shown a substantial amount of equipment and technology within the building used to achieve this. This, together with the means of propagation, germination and growing is particularly unusual in the context of an agricultural environment. I also noted the number of staff needed for this activity. Nevertheless, I have no doubt that the activities taking place in the building and the staff carrying out these activities, as described by the appellant, is all for the purposes of growing plants within it, albeit in an intensive manner.
18. The appellant confirmed at the hearing that crops are grown to order, depending on the needs of their customers. They said that around 80% of the crops grown in the building are sold to customers, including local farm shops, restaurants and local markets. The remaining crops might be donated. Otherwise, the crops have failed, resulting in the need for the plants to be destroyed or used for compost. The appellant drew my attention to the Red Tractor certification that has been obtained, which is a national mark of assurance that certifies that the food grown on the site achieves a specified standard.

19. Whilst the definition of agriculture includes horticulture and fruit growing, it does not specifically refer to the growing of other crops. Nevertheless, there is no dispute that the growing of food crops, such as those grown at the appeal site, is an activity that cannot be described as anything other than agriculture. Furthermore, I note that the 1990 Act does not specifically refer to the purpose for which, for example, fruit might be grown. However, as the vast majority of plants grown on the site are sold to be consumed, this adds weight to a conclusion that the activity taking place at the site is for the purposes of agriculture.
20. Other than those involved in the plant growing process on the site, the other employees at the site include a site manager and a member of office staff. A farm manager would not be unusual on an agricultural unit. Neither would a person employed to take orders for crop sales, for the purchasing of materials and to administer staff pay, as described by the appellant. I do not consider the provision of an office and a separate staff room for employees at the site to be an indication of an alternative use of the site. The evidence indicates that the staff that use these facilities are all connected with, and on site for the purposes of, the crops growing activities that take place within the building.
21. Having regard to the equipment used on the site for the growing of crops, it is unsurprising that two maintenance engineers are employed at the site. The appellant says that the storage containers on site are, on the whole, used as a workshop or to store parts, equipment and materials used within the building. There was no suggestion that the items stored in the containers were for use or for sale elsewhere.
22. Both the Council and interested parties refer to the appellant's wider business, which I understand includes the promotion and sale of the vertical farming technology and units, such as that I observed at the appeal site. Whilst this is noted, my decision in this case is made on the basis of the activities that take place at the appeal site. The activities associated with the appellant's wider business are not relevant in this case, unless of course they take place at the appeal site.
23. When asked about this at the hearing, the appellant does not dispute that the promotion and sale of vertical farming units and technology is part of their wider business. However, their evidence is that this part of the business does not involve the appeal site. The appellant explained that they hold offices elsewhere, where their sales and customer service staff are located.
24. The appellant explained that any vertical growing units sold to their customers would be constructed at the customers' sites, not at the appeal site. My observations on the site visit were consistent with this. By this I mean that I did not observe space on the site used for the manufacture and distribution of units. Neither did I observe the site used for the storage of parts for new units on a scale consistent with a use of the site for the manufacture of the units.
25. The Council suggests that the appeal site is used to showcase and develop vertical farming units and that potential customers might come to the site to observe the equipment and technology before purchasing it. I have viewed the online videos that have been drawn to my attention, which appear to show two separate sales type events held at the appeal site.
26. The appellant acknowledged that two large events have previously been held at the site and I have no doubt that these events were associated with the sale of vertical

farming units. Nevertheless, these events were some time ago and there is no suggestion that such events occur at present.

27. The appellant acknowledged that, whilst in the past customers may have come to the appeal site to view the vertical farming units in use, this is no longer the case and that new customers typically view the units in use at other of the appellant's customers' sites. I found the appellant's evidence in this regard persuasive, particularly as potential customers are likely to want to speak to former customers of the business.
28. As for the reference to research and development on the site, the appellant explained that this ordinarily takes place at the universities that the appellant's business is connected to. The appellant explained that new techniques, materials, etc, are on occasion trialed at the appeal site. However, there was no evidence to indicate that this was anything more than would be expected on a traditional farm where, for example, new fertilisers might be trialed to increase crop yields. Indeed, the appellant indicated at the hearing that the decisions about the type of crop and the quantity of a particular crop to be grown at the site is dictated by those who wish to purchase the crop. There was no suggestion either in the written evidence or in answer to my questions at the hearing that crops are grown at the site only for the purposes of, for example, testing the response of a particular crop to a new process or technology.
29. Notwithstanding this, I am mindful that horticulture, which is included in the definition of agriculture in the 1990 Act, includes the study or practice of growing plants. Whilst horticulture is usually associated with garden plants, this nevertheless indicates that, for the purposes of the 1990 Act, agriculture can include an element of research into the science of plant growing and the development of new or improved plant growing technologies.
30. In this regard, I note that one of the portacabin type structures adjacent to the building is described as a lab. The appellant explained that it is often necessary to study or test the plants growing within the building to ensure that, for example, they meet the buyer's standards, which in some cases can be strict. There is nothing to indicate that this part of the site is used for anything more than this and, having regard to the wide definition of agriculture within the 1990 Act, I am not persuaded that this activity demonstrates a use that is out of accord with an agricultural use.
31. The Council have drawn to my attention a recent online video interview with Mr Jaz Singh of Innovation Agritech Group, in which he describes the appeal site as a facility 'purely for research and development'. When asked about this at the hearing, the appellant did not dispute what was said, but explained that the interview was conducted to target future customers of the vertical farming unit sales element of the appellant's business.
32. I acknowledge that this is a very definite statement about the purpose of the appeal site, which appears to contradict what is otherwise said about how the site is used. However, the appellant does not dispute that new techniques, materials, etc are trialed at the appeal site, as noted above. Furthermore, this statement does not contradict what was said about the types and yield of crops grown at the appeal site, that the vast majority of crops grown are either sold, with a small portion donated, and that all activities on the site are associated with the growing of crops on site.

33. I noted at the site visit that there were some parts of the farm areas where plants were not currently growing. Indeed, the Council suggest that the building is not being used as intensively as it could be. The appellant explained that in some instances this is where plants have been harvested and the areas are being cleaned and prepared to receive a new crop. Nevertheless, the Council have compared the size and scale of the appeal site and the crop yields (details of which were provided) to other vertical farming enterprises elsewhere. The yields of some were substantially more than have been realised at the appeal site.
34. The Council suggest that food production and crop yield is not the primary or sole focus of activities on the site; the suggestion being that the growing of crops at the site might not be for commercial purposes. The scale of the farming activities on the appeal site might not compare with the other farming enterprises referred to either in terms of intensity or commercial viability. Whilst there is little evidence of the commercial viability of the appellant's farming enterprise, I am not persuaded that this is a decisive matter in this particular case. It might well be that the other elements of the appellant's business financially support the activities at the appeal site. Furthermore, I have no doubt that there is a connection between the activities on the appeal site and the other elements of the appellant's business. This does not, however, change that the activities at the appeal site are primarily for the purposes of growing crops for sale to the appellant's customers.
35. Bringing all of the above together, I am satisfied that the activity within the building on site is for the purpose of growing crops. The other activities taking place on the appeal site, including those taking place on the hard surfacing and within the office and staff room, as well as the storage and workshop activities taking place within the shipping containers, are all incidental to the activity of growing crops within the building, on the balance of probability. By this I mean that the main activity on the site is the growing of crops and it is more likely than not that the other activities take place only because of this main activity. I have no doubt that the growing of crops on site includes a degree of what is referred to as research and development associated with the propagation, germination, and growing of crops. I am not, however, persuaded that this is the only or primary focus of the activities on the site. The scale of this activity is such that it is part and parcel of the activity of growing crops.
36. Furthermore, the evidence indicates that any activity associated with the demonstration of the vertical farming units at the site to visiting members of the public is limited and does not lead me to conclude that crops are more likely than not grown at the site for the main purpose of demonstrating the equipment and technology sold by other parts of the appellant's business.
37. I acknowledge that the activity on the appeal site might well be more intensive than was the case prior to the appellant's occupation of the site. This does not alter my findings above. After all, the definition of agriculture provided within the 1990 Act includes a large variety of activities, each of which will have varying planning consequences.
38. All things considered, and having regard to the broad definition of agriculture in the 1990 Act, I am satisfied that the characteristics of the activities that take place on the site are primarily for a purpose that I can only describe as agriculture. Accordingly, the appellant has demonstrated that, on the balance of probability, the use of the building on site and the hardstanding areas that are occupied by the

appellant are used for the purposes of agriculture and for purposes incidental to this use. The current activities on the appeal site have not, therefore, resulted in a material change of use of the land for which planning permission is required.

39. The appellant's use of the appeal site is, therefore, lawful for the purposes of section 191(2) of the 1990 Act. The appeal should, therefore, succeed and I intend to issue a LDC. In doing so, I am mindful of the advice in paragraph 010 of the PPG, that a certificate needs to spell out the characteristics of the matter so as to define it unambiguously and with precision. Accordingly, I intend to use in the certificate a description in line with that suggested by the appellant. This not only includes the description of the activities taking place within the building, but also describes the activities taking place around the building, which I have concluded are incidental to the primary use of the site for agriculture.
40. I acknowledge that the appellant does not occupy the vast majority of the appeal site and that the activities that will be described in the certificate take place on only part of the appeal site. I will, therefore, refer in the certificate to the plan provided by the appellant as the land upon which the described activities are taking place.

Conclusion

41. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for a use for agriculture is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act.

J Moss

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mark Batchelor
Jaz Singh
Dean Barron

4TY Planning
Innovation Agritech Group
Innovation Agritech Group

FOR THE LOCAL PLANNING AUTHORITY:

Will Rendall
Rachel Swan
Eric Nicol
Indejit Bhatti
Sarah Horwood

Bracknell Forest Borough Council
Bracknell Forest Borough Council
Bracknell Forest Borough Council
Bracknell Forest Borough Council
Bracknell Forest Borough Council

INTERESTED PERSONS:

Councillor Patrick Kennedy
Ken McAlpine
Barbara McAlpine

Warfield Parish Council
Interested Party
Interested Party

HEARING DOCUMENTS

- HD1 Council's plan annotated with the building on the appeal site outlined in red
HD2 Appellant's plan of part of the appeal site annotated with a thick black line



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 22 February 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate and labelled 'Plan 1', was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

It has been demonstrated that, on the balance of probability, the activities that take place on the part of the site outlined with a thick black line on the plan attached to this certificate and labelled 'Plan 2' comprise a use for the purposes of agriculture and uses incidental to this primary agricultural use. The activities have not, therefore, resulted in a material change of use of the land for which planning permission is required.

Signed

J Moss

Inspector

Date: **7 November 2025**

Reference: APP/R0335/X/25/3368858

First Schedule

A use for agriculture, comprising:

- i. the use of the building outlined in red on Plan 2 as an indoor vertical farm, including sowing seed, germination and propagation, crop growing, harvesting, the testing of crops grown on the site, and distribution; and
- ii. the use of the hardstanding area occupying the land outline with a thick black line on Plan 2 for uses incidental to the primary agricultural use of the building, including storage, a workshop, access, parking, an office, and a staff room.

Second Schedule

Land at Heathley Hall Farm, Bracknell Road, Warfield, Bracknell RG42 6BN

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Planning Inspectorate

Plan 1

This is the plan referred to in the Lawful Development Certificate dated: **7 November 2025**

by **J Moss BSc (Hons) DipTP MRTPI**

Land at: **Heathley Hall Farm, Bracknell Road, Warfield, Bracknell RG42 6BN**

Reference: **APP/R0335/X/25/3368858**

Scale: Not to scale





Planning Inspectorate

Plan 2

This is the plan referred to in the Lawful Development Certificate dated: **7 November 2025**

by **J Moss BSc (Hons) DipTP MRTPI**

Land at: **Heathley Hall Farm, Bracknell Road, Warfield, Bracknell RG42 6BN**

Reference: **APP/R0335/X/25/3368858**

Scale: Not to scale

