



Appeal Decision

Site visit made on 30 July 2026

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 July 2026

Appeal Ref: APP/U2370/X/25/3370391

Land at Crook Gate Lane, Out Rawcliffe, Preston, Lancashire, PR3 6TR

- 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 Mr Peter Nicholson against the decision of Wyre Borough Council.
 - The application ref 25/00325/LAWP, dated 7 April 2025, was refused by notice dated 2 July 2025.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The development for which a certificate of lawful use or development is sought is provision of moveable structures in association and incidental to the agricultural activities on the land.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. For the avoidance of doubt, I make clear that the planning merits of the proposed development are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.

Main Issue

3. There is no dispute between the main parties that the proposal would not amount to a material change of use of the land. The proposed facility to be used as a shelter, washroom and canteen, alongside the associated solar pod facility, would be used on an ancillary basis in connection with the primary use of the land for agricultural purposes.
4. Notwithstanding the above, there is dispute between the main parties in terms of whether the proposal constitutes the erection of buildings and hence whether the proposal amounts to operational development requiring planning permission. The main issue is therefore whether the Council's decision to refuse to grant an LDC was well-founded with particular regard to whether (i) the proposal constitutes the provision of buildings and (ii), if so, whether it would be permitted development.

Reasons

5. The proposal includes a facility for use as a shelter, washroom and canteen (i.e., a welfare facility) in association with the agricultural use of the land. It would have a tow bar, 'forklift pockets', and wheels. The agricultural use of the land was confirmed as being lawful by the Council in respect of LDC application 24/00560/LAWE. The proposal also includes a solar pod to provide power for the above facility.

6. Case law has established that the appropriate criteria for determining whether a structure constitutes a building are size, permanence, and physical attachment. None of these factors are necessarily decisive and greater weight may be given to one factor over another in reaching a decision. It is ultimately a matter of planning judgement on a fact and degree basis.
7. In terms of size, the welfare facility and associated solar pod are of a size that they would be perceived as buildings. Moreover, owing to the position and size of the facilities, I find that they would materially change the character of the land. That said, the evidence is that they would be brought to the site in an assembled state. They would not be constructed or assembled on the land, and nor would they have to be taken apart if they were to be theoretically moved within or off/onto the land.
8. While the proposed welfare unit would include a toilet and a sink, the appellant's evidence is that neither this facility, nor the associated solar pod, would be physically attached to any utilities on the land. They would rest on the land on their own weight.
9. As regards permanence, there is nothing to suggest that the two facilities would be provided on the land for a temporary period. If that was proposed to be the case, it was incumbent upon the appellant to have specifically said that in the interests of precision. I emphasise, in any event, that permanence does not necessarily mean that the facilities must be on the site for 365 days per year. It is a matter of degree between temporary and everlasting.
10. Moreover, and notwithstanding the theoretical potential to move the facilities, the appellant does not propose that they would be regularly moved around the land or off or onto the land. If that was the case, then it was also incumbent upon the appellant to have said that in the interests of precision.
11. In my judgement, it is more likely than not that the two associated facilities would not be regularly moved within the land, or off/onto the land. In this case, the potential to theoretically move the facilities, with relative ease, would not in this case deprive the facilities of the quality of permanence.
12. In considering the above, it is also noteworthy that it is stated on the appellant's LDC application form that *"An existing entrance, track and hardstanding area will be utilised. This also ensures that there will be no detrimental impact on any existing hedgerows, trees, landscaping or ecology"*. This also demonstrates to me, that it is more likely than not that there would be a degree of permanence in respect of the position of the two facilities, as shown on the hard standing on the plans submitted with the LDC application. There is no evidence before me to suggest why the facilities would need to be moved to the extent that they would not be deemed to be permanent additions within the landscape.
13. In this case, my finding in respect of permanence is decisive. When all factors are considered in the balance, and as a matter of fact and degree, I conclude that the proposal would therefore amount to the erection of associated buildings on the land. I have reached this decision exercising my own professional judgement and despite the references made by the appellant to other LDC application decisions which were considered on their own facts. I emphasise that I have not, in any event, been provided with the full facts which led to these other decisions being made.

14. As the proposal would comprise the erection of buildings on the land, it would be an act of operational development under section 55 of the Act. I have considered whether the proposed buildings would be permitted development under classes A or B of Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
15. I am not certain from the evidence if the land falls within an agricultural unit of less than or more than 5 hectares. If the agricultural unit is more than 5 hectares, then at least a prior approval application would need to be submitted to the Local Planning Authority. If it is less than 5 hectares, then Class B only permits extensions or alterations to buildings. Either way, the proposal is either not permitted development under Part 6 of the GPDO, or it does not meet its conditions. Therefore, I conclude that the proposal would not be lawful if instigated or begun on the date of the LDC application.

Conclusion

16. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the provision of moveable structures in association and incidental to the agricultural activities on the land is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

D Hartley

INSPECTOR