Planning Inspectorate

Appeal Decision

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 9 November 2026

Appeal Ref: APP/J0405/X/25/3360356
Bywater Meadow, Pilch Lane, Great Horwood, Buckinghamshire MK17 0NX

- 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 Farokh Khorooshi against the decision of Buckinghamshire Council.
- The application ref 24/01525/CPE, dated 20 May 2024, was refused by notice dated 9 July 2024.
- The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 (as amended).
- The development for which a certificate of lawful use or development is that the agricultural building was not erected in accordance with the approved drawings in that it has larger eaves, amended door openings, rooflights and different roof materials.

Decision

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

Preliminary Matters

2. As the issues in dispute have been capable of determination on the basis of the parties' submitted documentary evidence, it has not been necessary to undertake a site visit.

3. An LDC is not a planning permission (PP). Its purpose is to allow landowners and others to ascertain whether specific uses, operations or other activities are or would be lawful and therefore immune from enforcement action. The determination of an LDC depends entirely on factual evidence and the interpretation of planning law, rather than planning policies or planning merits. Hence, for example, any amenity impacts on neighbouring properties, or the fact that the appeal site is within the countryside, are immaterial to whether or not an LDC is issued.

4. The onus is on the appellant to demonstrate, on the balance of probabilities, that the proposed development would be lawful. If there is no contradictory evidence from others to make their case less than probable, there is no reason to dismiss the appeal, provided that the appellant's evidence alone is sufficiently precise and unambiguous.

5. It is common ground that the building was not built in accordance with the details submitted pursuant to a 2017 agricultural notification (17/00171/AGN) for a replacement wooden tractor/machinery store. Accordingly, there is no dispute between the parties that the building does not benefit from express PP or permitted development rights.

Main Issue

6. The main issue in this appeal is whether the Council's decision to refuse a LDC was well founded.

7. This turns on whether the building was substantially completed more than 4 years before the date of the application, hence before 20 May 2020 ("the relevant date"). For clarity, the LDC application and my decision relate only to the building as operational development and not to any use.

Reasons

8. The provisions of s191(2) of the Act include (a) that a use is lawful at any time if no enforcement action can be taken in respect of it, whether because it did not involve development or require planning permission, or because the time for enforcement action has expired, or for any other reason, and (b) it does not constitute a contravention of any of the requirements of any enforcement notice then in force.

9. Where a breach of planning control consists of the carrying out, without planning permission, of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken under section 171B(1)(a) of the Act after the end of the period of four years beginning on the date on which those operations were substantially completed, where that took place before 25 April 2024.

10. Caselaw[1] indicates that whether a building is substantially complete is a matter of fact and degree. What is required is a building that has attained the character of a complete building, rather than a structure that remains materially under construction. The mere completion of the external shell will not necessarily be sufficient if significant works remain outstanding. In this regard, the courts have confirmed that what is required is "a fully detailed building of a certain character". Accordingly, it is necessary to identify both the nature of the building operation relied upon and whether that operation had been substantially completed by the relevant date.

11. In support, the appellant has submitted a range of evidence, which includes personal statements, testimonial letters, invoices, and photographs.

12. A statement from Anthony Hollard confirms that he helped the appellant with the construction of a new tractor shed. He states that work began in mid-February 2018 with the excavation of a trench to provide water and electricity, followed by site levelling, excavation of footing trenches and the pouring of concrete footings. A few weeks later, he states that a concrete slab was prepared and poured. He confirms that timber cladding arrived in late spring 2018, and estimates that the building was largely completed by late August or early September 2018. A further statement from Anthony Hollard indicates that fibreboard cladding was installed to the internal walls and ceiling during the winter of 2020.

13. A statement from Matt Bruce confirms that he was commissioned to work as a carpenter on the new tractor shed. He explains that his work included installing the roof rafters, forming the skylight openings, and constructing the wall frames to the sides and rear of the building. He states that the works were completed by mid-

[1] Sage v SSETR & Maidstone BC [2003] UKHL 22, Hillside Parks v Snowdonia NPA [2022] UKSC 30 and Dharmeshkumar v SSHCLG [2025] EWHC 25123 (Admin)

August 2018, at which point the building was handed over to the appellant to use for his farming equipment.

14. A statement from Tom Amos confirms that he was commissioned to work as a carpenter alongside Matt Bruce on the tractor shed in the summer of 2018. He confirms that the project was completed by mid-August 2018.

15. A statement from Ben Butler confirms that he acted as team leader for the erection of the steel frame and the operation of the telescopic handler. He explains that his work included assisting with the construction of the roof timbers, wall cladding and the installation of the fire-retardant roof membrane. This was followed by the installation of the roof tiles and cladding to the eaves. He indicates that the final stages of the project involved fitting rainwater gutters and installing the treatment tank. He states that his involvement commenced in spring 2018 and that the works were largely completed by early autumn 2018.

16. Multiple invoices have been submitted in support of the appeal. An invoice from Paragon Tool Hire indicates that a 7.6 Tonne digger was hired for 7 days of use at the appeal site in August 2018. Invoices from Travis Perkins indicate that drainage equipment was purchased on 28 April 2018 and structural OSB was purchased on 4 May 2018. An invoice dated 27/04/2018. from Danecker Structural Metal Fabrication Ltd confirm that metal posts, stubs, ridge and beams were obtained. An invoice dated 28 July 2018 from C&G Concrete Pumping Ltd indicate that a pumps service was undertaken at the appeal site. An invoice dated 8 August 2018 for boxes of Eco Slate were obtained from Eco Systems Distribution Ltd.

17. The appellant has submitted photographs of the steel frame while the building was partway through construction, and the metadata indicates that this image was taken on 12 June 2018. The Council confirms that images from 2021 onwards show the building as it is now.

18. The appellant also relies on an email dated 24 May 2023 from a Council Officer, who considered that the building was substantially completed in late September or early October 2018. Submitted photographs indicate that the building has two open bays, suggesting that further alterations were carried out after January 2020. Since the primary construction works were undertaken, the appellant states that between January and April 2020 temporary security cladding and doors were installed on the eastern elevation. These were subsequently removed on 20 and 21 April 2020.

19. At the time of a site visit for the planning application for conversion of the building in February 2023 (on 23/00280/APP), the Council Officer observed that the building contained some logs, building materials and general tools. The appellant also states that timber was installed between the steel frame members during the winter of 2023 to make the high-level storage area safe for operational use

20. On the balance of probabilities, and having regard to the evidence before me as a whole, I find that the evidence is sufficient to demonstrate that a series of substantive building operations were undertaken to erect the building. Whilst the supporting statements and testimonials have generally not met the relevant criteria to be considered as statutory declarations, thereby attracting less weight, they nonetheless provide broadly consistent and mutually corroborative accounts of the construction process. When read alongside the documentary evidence, including the submitted invoices and other supporting material, they present a coherent

chronology of the works undertaken and are indicative of the progressive construction of the building over a sustained period.

21. The relevant test is whether the building was substantially completed before the relevant date. As a matter of fact and degree, the evidence indicates that by the relevant date the works progressed well beyond the construction of the external shell. It is common ground that the building had acquired a roof, external walls and other features which gave it the character of a complete building. Importantly, there is no persuasive evidence before me that significant elements of the building remained outstanding such that the building could reasonably be described as materially still being under construction. The subsequent works referred to by the appellant, including the installation of temporary security doors and their later removal, do not alter my overall assessment. Accordingly, by the relevant date, I am satisfied that the structure had acquired the essential characteristics of a substantially completed building.

22. I note Council's concerns that the building contains features which may be unnecessary for agricultural use, including rooflights, a sewerage connection and an internal steel-framed arrangement. Whilst such features may or may not be indicative of a potential residential use, the matter before me is whether the operational development represented by the construction of the building has become lawful through the passage of time. They do not detract from my finding that the building had acquired the physical characteristics of a complete structure and was substantially complete more than four years before the application was made. Accordingly, I find that the building is immune from enforcement action in respect of the operational development, irrespective of any dispute regarding its intended or actual use.

23. Accordingly, I conclude that the proposal would be lawful and that a Lawful Development Certificate should be granted.

Conclusion

24. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for an agricultural building not erected in accordance with the approved drawings in that it has larger eaves, amended door openings, rooflights and different roof materials was not well founded. The appeal should succeed, and I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended

S Lo

INSPECTOR

Planning Inspectorate

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(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 20 May 2024 the operations 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, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

1. The building, as constructed would be lawful because it was substantially completed more than 4 years before the date of the application and thus had become immune from enforcement action under section 171B of the Town and Country Planning Act 1990 (as amended), such that no enforcement action may be taken in respect of that operation.

Signed

S Lo

Inspector

Date: 9 November 2026
Reference: APP/J0405/X/25/3360356

First Schedule

The agricultural building was not erected in accordance with the approved drawings in that it has larger eaves, amended door openings, rooflights and different roof materials.

Second Schedule

Bywater Meadow, Pilch Lane, Great Horwood, Buckinghamshire MK17 0NX

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation 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.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Planning Inspectorate

Plan

This is the plan referred to in this decision dated: 9 November 2026

by S Lo LLB M.SRA

Land at: Bywater Meadow, Pilch Lane, Great Horwood, Buckinghamshire MK17 0NX

Reference: APP/J0405/X/25/3360356

Scale: Not to Scale

