



Appeal Decision

Inquiry held on 27 January 2026

Site visit made on 27 January 2026

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 February 2026

Appeal Ref: APP/N2345/X/25/3368735

Gafoor Poultry Products Ltd, Fletcher Road, Preston, Lancashire PR1 5AJ

- 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 Gafoor Pure Halal Ltd against the decision of Preston City Council.
 - The application ref 06/2024/1306, dated 20 December 2024, was refused by notice dated 8 May 2025.
 - The application was made under section 191(1)(c) of the Town and Country Planning Act 1990 (as amended).
 - The failure to comply with any condition or limitation for which a certificate of lawful use or development is sought is in relation to breach of Condition 3 of planning application ref. 06/2000/0361.
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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.

Preliminary Matters

2. Following the submission of the appeal, the parties have collaboratively reviewed the evidence made available by the appellant. Consequently, the Statement of Common Ground prepared by the parties prior to the Inquiry confirms that there are no longer any matters in dispute between them. A draft certificate of lawfulness prepared by both parties was also submitted on the basis that what is set out in the certificate is what the Council considers to be lawful. The terms of the draft certificate are that the following activities have been taking place in breach of Condition 3:

i) The operation of machinery, processes carried out and for deliveries taken or despatched from site under permission 06/2000/0361 between the hours of 2100 hours and 0700 hrs on Monday to Saturday, (excluding killing on a Saturday before 0700hrs and past 2100 hours).

ii) The operation of machinery, processes carried out and for deliveries taken or despatched from site under permission 06/2000/0361 on Bank Holidays and Public Holidays (excluding Christmas Day and Boxing Day).

iii) The operation of machinery, processes carried out and for deliveries taken or despatched from site under permission 06/2000/0361 on a Sunday (excluding killing), limited to a maximum site staffing level of no more than 8 employees (as logged on staff entry system) on site in total (excluding delivery drivers) and no more than 6 deliveries taken or despatched from site.

3. As a result of the agreed position, the Council called no witnesses at the Inquiry. The appellant called two witnesses to provide an overview of the evidence and clarification as to what it was and what it meant.
4. Despite the main parties' agreed position, interested parties were given the opportunity to have their say and express their views. Concerns were raised pertaining to the effect of noise, odour and general disturbance on neighbouring residents. Whilst I acknowledge the concerns raised by neighbouring residents, the planning merits of the development have had no bearing on my consideration of whether the breach of condition 3 has continually taken place for a period of 10 years prior to the LDC application being made.
5. Notwithstanding the parties' agreement that a certificate can be issued in the terms set out in the draft certificate, as the determining authority, I must be satisfied that the breach of planning control is immune from enforcement action.

Main Issue

6. Whether the Council's decision to refuse to grant an LDC was well-founded, having particular regard to whether the development has been operating in breach of condition 3 attached to planning permission 06/2000/0361 continuously for a period of 10 years prior to the date of the lawful development certificate application (LDC), without significant interruption.

Reasons

7. The onus is on the appellant to demonstrate that, on the balance of probabilities, the use was lawful at the time of the LDC application. A development is lawful under the provisions of section 191(2)(a) and (b) of the Town and Country Planning Act 1990 (as amended) (the Act) if no enforcement action may be taken because it did not involve development requiring planning permission, or because the time for enforcement action against the use has expired; and, providing it does not constitute contravention of any requirement of any enforcement notice then in force. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided their evidence alone is sufficiently precise and unambiguous.
8. For the breach of condition to be lawful through the passage of time, the appellant must demonstrate that the breach took place for a period of at least 10 years prior to the date of the application, without significant interruption.
9. Condition 3 attached to planning permission reference 06/2000/0361 states:
No machinery shall be operated, no process shall be carried out and no deliveries taken or dispatched from the site outside the hours of 0700 hours to 2100 hours on Monday to Saturday nor at any time on Sundays, Bank or Public Holidays.
10. The appellant's evidence mainly comprises lairage sheets, staff movement data, kill sheets and vehicular movement logs. It also includes Food Standards Agency veterinary records to corroborate these documents.
11. The data contained in the evidence identifies times when staff were on the premises 'clocked in' for work; when vehicular movements took place; when

deliveries of chickens were made to and dispatched from the site, including how many; and, when and how many chickens were killed and processed.

12. Cumulatively, the data in these documents are extensive, detailed and cover a ten-year period prior to the LDC application being made. Overall, they indicate that, on the balance of probabilities, the use has operated before 0700 hours and after 2100 hours on Monday to Saturday, excluding the killing of chickens; has operated on Sundays, albeit limited to no more than 8 members of staff being present at once and no more than 6 deliveries taken or dispatched from the site; and, has operated on bank and public holidays, excluding Christmas Day and Boxing Day. All this activity has taken place in breach of Condition 3 continuously over a period of more than ten years prior to the LDC application without significant interruption.
13. Some of the evidence provided, for example the lairage sheets, are a legal requirement for the purposes of other regulatory regimes regarding food safety and animal welfare. The fact there are severe criminal sanctions for breaching these legal requirements adds significant weight to the reliability of this evidence.
14. Overall, the evidence before me is sufficiently precise and unambiguous to demonstrate, on the balance of probabilities, the development has been operating in breach of condition 3 attached to planning permission 06/2000/0361 continuously for a period of 10 years prior to the date of the lawful development certificate application, without significant interruption and is therefore immune from enforcement action. The breach of condition 3, as set out in the terms of the draft certificate, is therefore lawful.

Conclusion

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

A Walker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Anthony Gill, counsel for the appellant

They called:

Michelle Grose, Technical Manager for the appellant

Daniel Hughes BA(Hons) MPlan MRTPI, Director at PWA Planning

FOR THE LOCAL PLANNING AUTHORITY:

Piers Riley-Smith, counsel for Preston City Council.

Mark Bray (Planning consultant for Council)

INTERESTED PARTIES:

Dale Hughes, local resident

Jamie Lopez, Blog Preston

INQUIRY DOCUMENTS:

1. Opening submissions, submitted by the appellant
2. Opening/closing submissions, submitted by the Council
3. Closing submissions, submitted by the appellant

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 20 December 2024 the matter described in the First Schedule hereto, constituting a failure to comply with a condition or limitation subject to which planning permission has been granted, in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(3) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The evidence is sufficiently precise and unambiguous to indicate, on the balance of probabilities, that over a 10-year period prior to the making of the Lawful Development Certificate application, the use has been operating in breach Condition 3 attached to planning permission ref: 06/2024/1306 (appeal ref: APP/N2345/A/00/1046951) without significant interruption. Consequently, the activities, as set out in the First Schedule hereto, that were carried out in breach of the condition were lawful when the application was made.

Signed

A Walker

Inspector

Date: 13 February 2026

Reference: APP/N2345/X/25/3368735

First Schedule

- i) The operation of machinery, processes carried out and deliveries taken or despatched from site under permission 06/2000/0361 between the hours of 2100 hours and 0700 hrs on Monday to Saturday, (excluding killing on a Saturday before 0700hrs and past 2100 hours).
- ii) The operation of machinery, processes carried out and deliveries taken or despatched from site under permission 06/2000/0361 on Bank Holidays and Public Holidays (excluding Christmas Day and Boxing Day).

iii) The operation of machinery, processes carried out and deliveries taken or despatched from site under permission 06/2000/0361 on a Sunday (excluding killing), limited to a maximum site staffing level of no more than 8 employees (as logged on staff entry system) on site in total (excluding delivery drivers) and no more than 6 deliveries taken or despatched from site.

Second Schedule

Gafoor Poultry Products Ltd, Fletcher Road, Preston, Lancashire PR1 5AJ

IMPORTANT NOTES – SEE OVER

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 matter, constituting a failure to comply with any condition or limitation subject to which planning permission has been granted, 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 or 187A of the 1990 Act, on that date.

This certificate applies only to the extent of the matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any matter 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.

Plan

This is the plan referred to in this decision dated: 13 February 2026

by A Walker

Land at: Gafoor Poultry Products Ltd, Fletcher Road, Preston, Lancashire PR1 5AJ

Reference: APP/N2345/X/25/3368735

Scale: Not to Scale

