



Appeal Decision

Virtual Hearing held on 18 May 2021

Site visit made on 19 May 2021

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 4th August 2021

Appeal Ref: APP/A2470/X/20/3257350

Land at North End of Cemetery Lane, Manton, Oakham, Rutland LE15 8SR

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr A White against the decision of Rutland Council.
 - The application Ref 2020/0541/CLP, dated 26 May 2020, was refused by notice dated 21 July 2020.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended (the 1990 Act).
 - The use for which a certificate of lawful use or development is sought is use of land for the siting of Static Holiday Caravans within the area edged red on the attached plan.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development for which an LDC is sought, set out above in the last bullet point, is imprecise. The description of lawful proposed use does not reflect the arguments advanced by the appellant which seek to establish that the land edged red on the submitted plan can be used lawfully to site static caravans for the purposes of holidays. The parties were given the chance to comment on this matter at the Hearing. The appellant agreed that the description of the proposed development should read: *'the siting of static caravans for the purposes of holiday occupation within the area edged red on the attached plan.'*
3. For clarity's sake, the appellant seeks an LDC certifying the proposed use of the appeal site for the siting/stationing of a specific type of caravan to be used for holiday occupation as lawful. I am not being asked as to whether a specific number or a specific siting or layout of those caravans would be lawful.
4. The evidence before me from a number of the parties relates to planning merits, including highway safety. Nevertheless, the planning merits of the development are not relevant in this appeal which relates to an application for an LDC. My decision rests on the facts of the case, on relevant planning law and judicial authority.

5. The appellant has referred to a number of appeal decisions¹ to support his case. The Inspectors in each of these cases were interpreting the planning permissions that had been granted on each of those sites. These appeal decisions are fact sensitive. Whilst the findings of the Inspectors are relevant and there is a need for consistency in the planning process, I am not bound to reach the same conclusions. As far as material to my decision, the principles applied by those Inspectors in each case will be applied to this appeal having regard to the evidence presented.
6. Both parties have referred to numerous legal authorities². As I have said elsewhere, the relevant principles will be applied to this case, but I do not make express reference to all judgments in the interests of brevity. After the Hearing had closed I was made aware of a recent '*Barton Park*' judgment³. Both parties were given the chance to comment and I will take the comments, specifically related to that judgment, into account.

Background

7. In 2013 an appeal decision⁴ granted planning permission on the appeal site for the '*change of use from agricultural grazing land to a camping and caravan site with a new utility building with associated access to serve plots, waste/recycling area, landscape work and drainage*'. I will refer to this as the 2013 permission.
8. In 2017 a planning application⁵ under section 73 of the 1990 Act was granted planning permission for the '*change of use from agricultural grazing land to a camping and caravan site with a new utility building with associated access to serve plots, waste/recycling area, landscape work and drainage. Variation of the requirements of conditions on previous permission APP/2011/0033: Condition 6 (Traffic Management Plan / Scheme of Highway Improvements), Condition 8 (Hard & Soft Landscaping Works), Condition 10 (Schedule of Landscape Maintenance), Condition 11 (Fencing) & Condition 12 (Ecological Management Plan)*'. I will refer to this as the 2017 permission.
9. In 2019 two LDC applications⁶ for proposed uses relating to the use of the site for the siting of static caravans were refused by the Council.

Reasons

10. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded.

¹ APP/M9496/X/09/2105897, APP/X1118/X/18/3217206, APP/L3245/X/16/3163851 and APP/L3245/X/16/3163852

² *Wyre Forest BC v SSE & Allen's Caravans* [1990] 2 WLR 517; [1990] JPL 724; *R (oao Shepway DC) v Ashford BC* [1998] EWHC Admin 488; JPL 1073; *I'm Your Man Ltd v SSE & North Somerset DC* [1999] 4 PLR 107; *Skerritts of Nottingham Ltd v SSETR (No. 1)* [2000] EWCA Civ 60; [2000] JPL 789; *Hulme v Secretary of State for Communities and Local Government* [2011] EWCA Civ 638; *R. (on the application of Midcounties Co-operative Ltd) v Wyre Forest* [2010] EWCA Civ 841; [2011] J.P.L. 173; [2010] 7 WLUK 891 (CA (Civ Div)); *Telford and Wrekin Council v SSCLG & Growing Enterprises Ltd* [2013] EWHC 79 (Admin); *Cotswold Grange Country Park LLP v SSCLG & Tewkesbury DC* [2014] EWHC 1138 (Admin); [2014] JPL 981; *Trump International Golf Club Scotland Ltd & Another v the Scottish Ministers* [2015] UKSC 74; *Lambeth LBC v SSCLG & Aberdeen Asset Management, Nottinghamshire CC & HHGL Ltd* [2019] UKSC 33; *DB Symmetry Ltd v Swindon BC & SSHCLG* [2020] EWCA Civ 1331; *Breckland DC v SSHLG & Plum Tree Country Park* [2020] EWHC 292 (Admin)

³ *Barton Park Estates Ltd v SSHCLG & Dartmoor NPA* [2021] EWHC 1200 (Admin)

⁴ APP/A2470/A/13/2199931 – 7 November 2013 (APP/2011/0033)

⁵ Ref No: 2016/0874/FUL

⁶ Ref Nos: 2019/0515/CLP and 2019/1340/CLP

11. In order for an LDC to be granted under section 192 of the 1990 Act, the burden of proof is with the appellant and the appropriate test of the evidence is the balance of probabilities. The onus is firmly on the appellant to show that the proposal would be lawful at the time the application was made.
12. The appellant contends that planning permission was granted for a camping and caravan site without limit on the number or type of caravans or the ratio of caravans to tents that can be sited on the land edged red on the plan submitted with the LDC application if those caravans are used for the purposes of holiday occupation.
13. The Council on the other hand maintains that planning permission was granted for a touring caravan and camping site for holiday occupation and that the camping and caravan site consisted of 20 touring caravan and 20 camping plots. The Council also maintains that a reasonable reader would interpret the wording of condition 2 of the 2013 permission and condition 1 of the 2017 permission, based on reading the whole applications, as: -

*'The development hereby permitted shall be carried out **and the uses hereby permitted undertaken** in accordance with the following approved plans: 100, 101B and 232057 201. (emphasis words to be implied into condition 2)'*

14. Firstly, I shall consider the detail of the 2013 and 2017 permissions, their planning conditions and the interpretation of those permissions and which one was implemented. This will enable an assessment of what was granted planning permission and whether or not the proposed use for the *'siting of static caravans for the purposes of holiday occupation within the area edged red on the attached plan'* would comply with the terms and conditions of the relevant planning permission. If it does not, it will then be necessary to consider whether the proposed use would be a material change of use.

The permissions

15. The recent judgment in the High Court case of *Barton Park* considered, in paragraph 10, the approach to be taken to the interpretation of planning permissions and other public documents. That paragraph states:

'At the heart of this appeal is the proper interpretation or construction of the 1987 permission. The relevant principles were not in dispute before me and accordingly may be summarised as follows.

*i) Such construction is a matter of law for the court: **Barnett v Secretary of State for Communities and Local Government** [2009] EWCA Civ 476 at paragraph 28.*

*ii) As a general rule a planning permission must be construed within the four corners of the consent itself, including the conditions in it and the express reasons for those conditions, unless another document is incorporated by reference or it is necessary to resolve an ambiguity: **R v Ashford DC Exp. Shepway DC** [1999] PLCR 12 at paragraph 19 (*Ashford*).*

iii) The question is not what the parties intended but what a reasonable reader would understand was permitted by the local planning authority. In determining objectively what a reasonable reader would understand,

it is relevant to consider the natural and ordinary meaning of the relevant words, the overall purpose of the consent, any other conditions which cast light on the purpose of the relevant words, and common sense: *Trump International Golf Club v Scottish Ministers* [2015] UKSC 74, per Lord Hodge at paragraph 34 (*Trump*).

iv) Conditions should be interpreted benevolently and not narrowly or strictly and should be given a common sense meaning: *Carter Commercial Developments Ltd (In Administration) v Secretary of State for Transport, Local Government and the Regions* [2002] EWHC 1200 (Admin) at paragraph 49 and *Northampton BC v Secretary of State for the Home Department* [2005] EWHC 168 (Admin) at paragraph 22.

16. Within *Wyre Forest BC v SSE & Allen's Caravans* [1990] 2 WLR 517; [1990] JPL 724 (*Wyre Forest*) Lord Lowry stated that '*If Parliament in a statutory enactment defines its terms (whether by enlarging or by restricting the ordinary meaning of a word or expression), it must intend that, in the absence of a clear indication to the contrary, those terms as defined shall govern what is proposed, authorised or done under or by reference to that enactment.*' Consequently, unless there is a clear indication to the contrary the statutory definitions of 'caravan' at section 29(1) and 'caravan site' at section 1(4) of the Caravan Sites and Control of Development Act 1960 (the CSCDA60) apply to a planning document.
17. Section 29(1) of the CSCDA60 states that 'Caravan' means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include - (a) any railway rolling stock which is for the time being on rails forming part of a railway system, or (b) any tent ..."
18. The term "caravan site" is defined at section 1(4) as: "...land on which a caravan is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed."
19. The *Wyre Forest* judgment pre-dates that of *Trump* and *Ashford* but the recent judgments in *Breckland*⁷ and *Barton Park* both apply the principle outlined in *Wyre Forest*.
20. In *Cotswold Grange County Park v Secretary of State for Communities and Local Government* [2014] JPL 981 (*Cotswold Grange*), the judge said:

"...the grant identifies what can be done – what is permitted – so far as use of land is concerned; whereas conditions identify what cannot be done – what is forbidden. Simply because something is expressly permitted in the grant does not mean that everything else is prohibited. Unless what is proposed is a material change of use – for which planning permission is required, because such a change is caught in the definition of development – generally, the only things which are effectively prohibited by a grant of planning permission are those things that are the subject of a condition, a breach of condition being an enforceable breach of planning control."

⁷ *Breckland DC v SSHLG & Plum Tree Country Park* [2020] EWHC 292 (Admin)

21. In *Winchester City Council v Secretary of State for Communities and Local Government* [2015] EWCA Civ 563 (Winchester), Sullivan LJ concludes by stating:

"It is possible that the use of the word "limitation" in the judgments has contributed to the misunderstanding of the effect of the I'm Your Man line of authorities. The simple proposition which should not be lost sight of is that the use for which a planning permission is granted must be ascertained by interpreting the words in the planning permission itself. Whether other uses would or would not be materially different from the permitted use is irrelevant for the purpose of ascertaining what use is permitted by the planning permission. If the permitted use has been implemented, and a change to the permitted use takes place, then it will be a question of fact and degree whether that change is a material change of use."

22. As stated above, the 2013 permission was granted on appeal, 7 November 2013, and the description of the development granted planning permission was 'change of use from agricultural grazing land to a camping and caravan site with a new utility building with associated access to serve plots, waste/recycling area, landscape work and drainage'
23. This permission was subject to 12 conditions. Condition 2 of that permission requires the development to be carried out in accordance with the approved plans. Condition 3 states that the development shall not be used other than for the provision of holiday occupation and that no caravans shall be occupied as permanent dwellings. Condition 6 relates to the submission and approval of a Traffic Management Plan and a scheme of highway improvements. Conditions 8, 10, 11 and 12 relate to the submission and approval of hard and soft landscape works, a schedule of landscape maintenance, the specification and positioning of fencing for the protection of trees and hedges and an ecological management plan.
24. The 2017 permission was a section 73, of the 1990 Act, application. Section 73 of the 1990 Act gives an express power to apply for planning permission for the development of land without complying with conditions attached to an earlier permission. The outcome of a successful application is the grant of a wholly new planning permission, which the applicant is entitled to implement or to ignore.
25. The description of the development granted planning permission in 2017 is 'change of use from agricultural grazing land to a camping and caravan site with a new utility building with associated access to serve plots, waste/recycling area, landscape work and drainage. Variation of the requirements of conditions on previous permission APP/2011/0033: Condition 6 (Traffic Management Plan / Scheme of Highway Improvements), Condition 8 (Hard & Soft Landscaping Works), Condition 10 (Schedule of Landscape Maintenance), Condition 11 (Fencing) & Condition 12 (Ecological Management Plan).' That application sought to vary conditions 6, 8, 10, 11 and 12 in relation to the timing of when the details required by those conditions were to be submitted and approved. The application was granted on 20 March 2017 subject to 11 conditions. These conditions reflect those on the 2013 permission (minus the standard time limit condition) with the altered wording of the five conditions cited above. Consequently, the differences between the

2013 and 2017 permissions relate only to the wording of conditions 6, 8, 10, 11 and 12 (2013 permission).

26. Details required by conditions 4, 5, 7, 9 and 11 attached to the 2017 permission were approved by the Council on 12 April 2018. Those details relate to external lighting, the traffic management plan and associated highway improvements, landscaping, landscape maintenance and the ecology management plan. Part of those submitted details included a Discharge of Conditions plan. The appeal site relating to this appeal excludes the parts of the site that are proposed to be retained with trees/hedges on them, have new trees/hedges planted on them or retained as the ecological area within those conditions.
27. Given the description of the development granted by the 2013 permission a reasonable interpretation is that planning permission was granted for the change of use, of the land from agricultural grazing to camping and caravan site, which is facilitated by operational development, a new utility building with associated access to serve plots, waste/recycling area, landscape work and drainage.
28. There is no dispute that in 2016 works carried out to the access drive constituted a material operation for the purposes of section 56(4) of the 1990 Act in relation to the 2013 permission. Moreover, the Council stated within its Officer Report associated with the 2017 permission that the five pre-commencement conditions (conditions 6, 8, 10, 11 and 12) did not '*go to the heart of the matter*'. Therefore, even though they had not been discharged prior to the works being carried out the Council considered that the failure to discharge them would not have fettered the commencement of the development granted planning permission by the 2013 permission. I have no reason to disagree with the Council in this respect.
29. Even though, the development granted by the 2013 permission has been begun there is no evidence before me to indicate that the site was in use as a camping and caravan site at the date of the LDC application. There is also no evidence before me to indicate that there is an extant caravan site licence on the appeal site. Nevertheless, the operational development facilitates the material change of use. There is no dispute that the material change of use could be implemented.
30. I observed at the site visit that signage has been erected, lighting bollards installed and a stone base laid to form an access drive and a number of relatively small rectangular areas that appear to have 'hook up' posts next to them. The location of the lighting bollards appears to correlate with those indicated by the details submitted as part of Condition 4 of the 2017 permission. The design and location of the signage appears to pertain to the details, associated with condition 5 of the 2017 permission, approved by the Council in 2018. Part of the stone base laid for the access drive appears to relate to the part of the access drive shown as planings and tarmac on the Discharge of Conditions plan approved in 2018.
31. The remainder of the stone base laid on the site does not appear to correlate with the hard landscaping details approved as part of condition 7 of the 2017 permission. Despite this, taking into account the works undertaken on the ground, appears to me that the works are broadly consistent with the details approved in 2018. I consider that the 2017 permission has in effect been

implemented on the ground. As such, this permission determines the existing lawful use of the land.

32. As stated above, the statutory definitions of 'caravan' and 'caravan site' apply to planning documentation unless there is a clear indication to the contrary. I accept that the *Breckland* judgment makes it clear that *'where two alternatives are separated by the word "and", the natural and ordinary meaning is one can do both or either. One alternative does not restrict the scope of the other'*. However, that case did not relate to a planning permission and following the approach as confirmed by the case law above, it is necessary to identify what use the 2017 permission actually permits. The description of the development permitted in 2017 is for the change of use from agricultural grazing land to a camping and caravan site with a new utility building with associated access to serve plots, waste/recycling area, landscape work and drainage. As I have already said elsewhere, this is a standalone planning permission for a camping and caravan site.
33. Applying the objective approach, whilst the wording *'change of use from agricultural grazing land to a camping and caravan site'* is not ambiguous a reasonable reader would also see the words that follow in the description including an *'access to serve plots'*. This would highlight that the associated operational development was being permitted and that the camping and caravan use involved *'plots'*.
34. The 2017 permission decision notice includes the wording *'grant planning permission in accordance with the application and plans submitted'*. Therefore, that wording is sufficient to inform a reasonable reader that the application and its plans form part of the planning permission.
35. The number of plots is not cited within the description. Yet, a reasonable reader would most likely note that one of the approved plans⁸ (plan 101B) indicates that the proposed layout of the site shows 20, generally, square plots and 20 circular plots around an amenity area. Even though the annotation, *'10 x 10 Caravan plots with hook up'*, on that plan only has one arrow pointing to one of the squares it is apparent, given the annotation on the plan, that the different shapes relate to the type of plots. Circles as camping plots and squares as caravan plots. There was discussion at the Hearing as to the meaning of 10 x 10 and it is highly likely that it relates to 10 metres by 10 metres.
36. Condition 1 of the 2017 permission relates to the development being carried out in accordance with the approved plans. In *DB Symmetry Ltd*⁹ Lewison LJ states:

'The court asks itself what a reasonable reader would understand the words to mean when reading the condition in the context of the other conditions and of the consent as a whole. This is an objective exercise in which the court will have regard to the natural and ordinary meaning of the relevant words, the overall purpose of the consent, any other conditions which cast light on the purpose of the relevant words, and common sense.'

⁸ Drawing No: 101B

⁹ *DB Symmetry Ltd v Swindon BC* and SSHCLG [2020] EWCA Civ 1331, [2021] P.T.S.R. 432

37. The '*consent as a whole*' includes the reason for the imposition of the relevant condition. The reason given for that condition within the 2017 permission is '*for the avoidance of doubt and in the interests of proper planning*'.
38. The starting point is that the wording is clear that the development is to be carried out in accordance with the approved plans. There is nothing to suggest within the reason for the condition that it was intended to prohibit anything or that the additional wording, '*and the uses hereby permitted undertaken*', suggested by the Council was missed out due to poor drafting. This type of condition is applied to planning permissions to ensure that there is no doubt as to which plans are approved and that that development is constructed/laid out in accordance with those plans. In that sense the condition is an amplification of the description of the development. It gives certainty as to what has been approved as part of the planning permission.
39. Condition 2 of the 2017 permission states that '*The development hereby permitted shall not be used other than for the provision of holiday accommodation. No caravans shall be occupied as permanent dwellings*'. There is no dispute that the proposed use would be to provide holiday accommodation. Therefore, the interpretation of this condition would not alter my decision. Nevertheless, it highlights that it was considered necessary to restrict the use of the caravans that were to be stationed on the site.
40. The details approved under the landscaping plan and maintenance conditions indicate that the caravan and camping plots shown on plan 101B would not be demarcated in a visible way as they would remain as mown grass and, other than hook ups, no hard landscaping would be associated with them. The access and turning area from Cemetery Lane would be surfaced in bound porous asphalt in part, planings or tarmac for the area shown hatched on plan 101B and for the remainder it would be grass with plastic reinforcement.
41. In this case it is clear that the detail provided by plan 101B indicates that the proposed development would provide space for 20 caravan plots and 20 camping plots. The caravan plots are indicated to be 10 x 10 with hook ups. No size is expressly indicated for the camping plots and the annotation on that plan states '*20 informal camping plots*'. Whilst the plots would not be visibly demarcated, they are shown as adjoining or adjacent to the access drive and the trees/hedges that are shown on plan 101B.
42. Moreover, the details approved with respect to the landscaping/landscaping maintenance and ecology management plan indicate that the remaining areas of ridge and furrow would be levelled using soil from the site and the areas seeded with a specific type of grass. The location of the plots was proposed to the north of the planings/tarmac section of the access drive and the utility building and to the south of the ecological area. Plan 101B clearly shows caravan and camping plots in relatively fixed positions taking into account the layout of the access drive, the landscaping/ecological area and the utility building.
43. Given all of the above, the natural and ordinary meaning of the wording of the permission, read in conjunction with the conditions attached to it, can only reasonably mean that planning permission was granted in 2017 for a camping and caravan site use, facilitated by operational development, to be used for the provision of holiday accommodation. That camping and caravan site use was

proposed to consist of 20 caravan plots and 20 camping plots and that is what is permitted.

44. The Council consider that if the caravan and camping plots are not utilised with a touring caravan/motor home on each caravan plot and a tent on each camping plot that a breach of condition in relation to the approved plan condition on the planning permission would occur. However, the Council would have been aware of what constitutes the statutory definition of a 'caravan' and 'caravan site' as indicated by condition 2 on the 2017 permission in relation to the use of the caravans. That condition only refers to 'caravans'. A condition or conditions that restricted the number and type of caravans and the number of tents could have been imposed.
45. I accept that a reasonable reader would expect that the reference to hook up points infers the type of caravans that would be stationed within each plot and that the hook-up points would be installed close to each of the plots they would serve. The Caravan Sites Act 1968 (CSA68) states that for the purposes of Part I of the CSCDA60, the expression "caravan" shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) of section 13(1) of the CSA68 if its dimensions when assembled exceed any of the following limits, namely 20m in length and 6.8 m in width. The size of each caravan plot as shown on plan 101B, as stated above, is more than likely than not to be 10m by 10m and is relatively fixed due to the location of the access drive, utility building and landscaping. As such, in all probability no more than one caravan would be stationed within each caravan plot shown on plan 101B.
46. I also acknowledge that the traffic management plan submitted in relation to condition 5 of the 2017 planning permission does not refer to specific types of caravan. Nevertheless, conditions restricting the type and number of caravans or the number of tents that could be stationed on the site are not expressly imposed and none can now be implied. If a static caravan meets the statutory definition of what constitutes a 'caravan' it could be stationed on one of the caravan plots. Therefore, it is possible that the use of the appeal site for the stationing of static caravans for the purposes of holiday occupation could be carried out without breaching the conditions of the 2017 permission.
47. Yet, what has actually been granted planning permission should not be disregarded. I have found that the 2017 permission granted planning permission for a camping and caravan site use, facilitated by operational development, to be used for the provision of holiday accommodation. That caravan and camping site use was proposed to consist of 20 caravan plots and 20 camping plots.
48. I accept that minor alterations to the operational development associated with the 2017 permission may not constitute 'development' that requires planning permission. The location and the amount of hard landscaping associated with the 2017 permission is shown on plan 101 B and the Discharge of Conditions plan and condition 7 includes a requirement that *'hard landscaping works shall be carried out as approved before first use of the development hereby permitted'*.
49. The numbers and locations of the static caravans to be stationed on the site, that would be associated with the proposed use, are not before me because the appellant has not provided this level of detail. In my experience, the stationing

of static caravans would be likely to result in a significantly larger amount of hard landscaping within the appeal site than that shown on plan 101B and approved by and required to be carried out by condition 7 of the 2017 permission. This is because the static caravans would be likely to require a level and stable base to be stationed upon. Moreover, it is more likely than not that grass would be difficult to mow, establish and maintain underneath a static caravan.

50. A significant alteration to the location and/or amount of hard landscaping would be highly likely to also have a substantial impact on the ecological management of the overall site and specifically drainage issues relating to the ecological area.
51. It therefore follows that the evidence presented does not show on the balance of probabilities that the proposed use would fall within the scope of the 2017 permission.

Would the proposed use constitute a material change of use?

52. As set out in Planning Practice Guidance there is no statutory definition of 'material change of use'; however, it is linked to the significance of a change and the resulting impact on the use of land and buildings. Whether a material change of use would take place is a matter of fact and degree. The appellant believes that materiality does not need to be considered as the use of the land would remain as a caravan site and has provided little analysis on the potential implications of the proposed use for comparison purposes. Nevertheless, it is important to be clear that what is to be compared, in deciding whether there would be a material change of use, is the present use (rather than any notional use which may theoretically be possible without the need for a further grant of planning permission) and the proposed use.
53. In order to assess the materiality of any change of use, it is necessary to establish the appropriate planning unit. In my judgment, the planning unit would encompass the whole of the land bound by the land edged red on the approved plans associated with the 2017 permission as this is the unit of occupation of the permitted use. There are no arguments within the appeal parties' evidence to contradict my assessment.
54. As stated above, the caravan and camping site permitted by the 2017 permission was not in use and there was no associated caravan site licence at the date of the LDC application. However, the issue is whether the definable character of the proposed use would be significantly different to that permitted by the 2017 permission.
55. I acknowledge that there are no conditions imposed on the 2017 permission that restrict the duration an individual caravan can be on the site. Moreover, I accept that touring caravans with attached awnings and motor homes can be relatively large and could be of a similar scale to a static caravan. I also accept that the type of caravan to be stationed on the site is not restricted by conditions on the 2017 permission.
56. Nonetheless, as stated above, the numbers and locations of the static caravans to be stationed on the site, that would be associated with the proposed use, are not before me. Moreover, for the reasons given above the stationing of static caravans would be likely to result in a significantly different amount

and/or location of hard landscaping than that shown on plan 101B and approved and required to be carried out by condition 7 of the 2017 permission. In addition, that type of alteration to the location and/or amount of hard landscaping would be highly likely to also have a substantial impact on the ecological management of the overall site and specifically drainage issues relating to the ecological area.

57. Given that the number of static caravans that are proposed to be stationed on the site is not before me there is little evidence to demonstrate that the number of trips generated by the proposed use would or would not be significantly different from the use permitted by the 2017 permission.
58. It was agreed at the Hearing that the conditions attached to the 2017 permission do not require the utility building to be constructed prior to the occupation of the site. However, it was accepted that if a caravan site licence was granted on this site, based on the 2017 permission, that it would require the provision of the utility building. The utility building, on the approved plans, is shown to include a unisex washroom/showers, an office and reception, a drying room and a kitchen. The majority of the facilities provided within that building would more than likely not be required if static caravans were stationed on the site. As such, it is not clear if a similar building or no building would be required in association with the proposed use.
59. Moreover, no hard landscaping/access was shown on the areas to the south of the proposed turning circle and parking area indicated on plan 101B and the Discharge of Conditions plan. The caravan and camping plots do not extend into that area on those plans. If caravans and associated hard landscaping were stationed on this part of the site this layout would have dramatic impact on the site's use and the caravans would be visible from Cemetery Lane along the line of the access. As such, there would be different – visually significant – impacts arising from the proposed use.
60. Consequently, there are potentially significant on-site and off-site impacts and planning consequences arising from the proposed siting of static caravans for the purposes of holiday occupation within the area edged red on the attached plan. On the available evidence, those impacts and planning consequences would, on the balance of probability, bring about significant changes in the character of the use of the appeal site. As such, in my judgement there would be a material change of use. The appellant has not discharged the burden of proof.

Conclusion

61. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the siting of static caravans for the purposes of holiday occupation within the area edged red on the attached plan 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. Boffin

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Paul Tucker QC - Counsel – Kings Chambers

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FOR THE LOCAL PLANNING AUTHORITY:

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INTERESTED PERSONS:

Roger Hornby Manton Parish Council

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