



Appeal Decision

Inquiry held on 24-26 January and 11 December 2024

Site visits made on 22 January and 2 February 2024

by Jean Russell MA FRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 20 June 2025

Appeal ref: APP/C4235/X/22/3312461

Chesters Croft, Spath Lane East, Cheadle Hulme, CHEADLE, SK8 7NN

- The appeal is made by Mr Simon Daly o/b Chesters Croft Residential Park Limited under section 195 of the Town and Country Planning Act 1990 against the decision of Stockport Metropolitan Borough Council to refuse to grant a certificate of lawful use or development.
 - The application for a certificate of lawful use or development, ref: DC/084991, was dated 13 April 2022 and refused by notice dated 8 June 2022.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 in respect of an existing use described as 'use of land as part of a caravan site, including the stationing of caravans for human habitation and use in conjunction with land on which caravans are so stationed.'
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FORMAL DECISION

1. The appeal is dismissed.

PRELIMINARY MATTERS

2. An application made by the Council for an award of costs against the appellant is subject to a separate decision letter.
3. It is worth stating upfront that, since this appeal is made for a lawful development certificate (LDC), it is strictly concerned with the lawfulness of an existing land use for the purposes of planning legislation. Residents of Chester's Croft Caravan Park have raised concerns about purported disbenefits of the development in question, but planning merits are entirely outside of my remit.
4. All evidence to the inquiry was taken on oath. To minimise any loss of privacy, I shall refer to individuals mentioned in this decision letter by their initials.
5. Two Chester's Croft residents, WT and CP, made sworn declarations dated 23 January 2018 and 14 November 2018 in support of earlier LDC applications and/or the one now before me. However, CP made an unsworn statement on 20 August 2019 which somewhat contradicted their earlier evidence, while WT wrote to the Council on 12 January 2023 and asked to 'withdraw my previous statement as I felt obliged to sign it at the time...'
6. While I regret any distress caused to WT or CP, I cannot disregard their evidence. Neither of them has expressly disavowed the contents of their sworn statements, which remain in the public domain and relied upon by the appellant.
7. As indicated above, I visited the land subject to this appeal twice. I attended alone at my first visit on 22 January 2024 but was accompanied by representatives of the appellant, the Council and Chester's Croft residents on 2 February 2024.

The Field and the Caravan Park

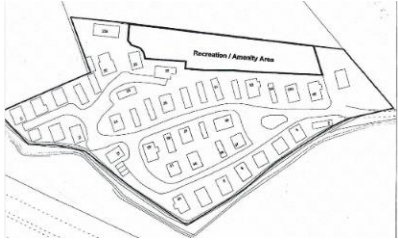
8. The land subject to the appeal, shown edged in red on the location plan dated 13 April 2022, is known as 'the field'. It lies to the north of Chester's Croft Residential Park, which I shall refer to as 'Chester's Croft' and 'the caravan park' interchangeably. It is edged in blue on the location plan because it is in the same ownership as the field but not subject to the appeal.
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9. The caravan park comprises 50 static caravans (or park or mobile homes) stationed on individual plots for permanent residential use by persons over the age of 45. The plots include bases and service connections for the caravans, plus spaces for parking and private domestic gardens.
 10. The plots are laid out around a network of estate roads which connect to the sole entrance to Chester's Croft. The entrance is at the eastern end of the caravan park and the western end of Spath Lane East, the only means of vehicular access to Chester's Croft. However, the entrance is also close to a public footpath which runs from the west around the southern boundary of the caravan park.
 11. A 1m high fence on the northern boundary of Chester's Croft is punctuated so as to provide four points of access to the field: the 'main gate' which is wide enough for vehicular access and leads from the eastern estate road; a 'middle gate'; and private gates from Plots 22A and 47. However, there is no vehicular or pedestrian route into the field except via the caravan park. The field is enclosed from other fields to the west and land at Manchester Rugby Club to the north and east by trees, shrubs and/or wire fencing. There is also a ditched stream beside the northern field boundary.
 12. The last lawful use of the field was agriculture. No farming has taken place within living memory, but the field is still laid to grass. It is undeveloped except for a sewage holding tank and pumping station which, together with underground pipes, connect the caravans to the mains sewer in Spath Lane East. The caravan park has had essentially the same means of foul drainage since at least 1977, although the existing pumping station is said to have been installed in 2017/18.

Planning Context and History

13. S1(4) of the Caravan Sites and Control of Development Act 1960 (CSCDA60) provides that "caravan site" means land on which a caravan is stationed for the purpose of human habitation and land which is used in conjunction with land on which a caravan is so stationed. In other words, a caravan site may contain one or any greater number of residential caravans. S1(1) of the CSCDA60 prohibits the use of land as a caravan site unless the occupier is the holder of a site licence.
14. Since caravans are moveable by definition¹, the stationing of a caravan is not normally taken to represent operational development in planning terms. However, planning permission is required where a caravan is stationed to facilitate a material change in the use of the land, such as a change to residential use.

¹ Under s29(1) of the CSCDA60, "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...

15. Planning permission (ref: 7/5/3468) was granted on 21 March 1961 for the 'continued use of Chesters Croft...as a Caravan Site for 47 Residential Caravans, and the retention of buildings incidental thereto...' Notwithstanding the word 'continued', I shall treat the '1961 permission' as the start of the relevant planning history for the purposes of this decision letter.
16. The 1961 permission was subject to one condition: to 'exclude' development permitted under the Town and Country Planning (General Development Order) 1930 that would 'result in the number of caravans on the site exceeding such number as may be permitted by any site licence [sic] for the time being in force'. I have not seen any plans subject to the 1961 permission.
17. Other relevant entries on the planning register are:

- An LDC (ref: DC/006922) was granted to certify that the 'continued use [of land within the caravan park] as informal recreation and amenity space' was lawful on 11 February 2002. I refer to this as the 'first 2002 LDC'. The 'recreation area' was to the immediate south of the field, as shown on a plan dated 5 March 2004 attached to a site licence issued on 19 March 2007.
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- An LDC (ref: DC/006920/1) was granted to certify that 'continued use [of land within the caravan park to each side of the recreation area] as mobile home park and associated development of hardstanding areas including concrete plinths, roads and car parking areas' was lawful on 11 February 2002. I refer to this as the 'second 2002 LDC'.
 - An LDC (ref: DC/013026) was granted to certify that the 'stationing of mobile home for residential occupation' on Plot 22A within the caravan park was lawful on 30 September 2003. I refer to this as the 2003 LDC. Plot 22A is shown on the above site licence plan as located in the northwestern corner of Chester's Croft, that is, to the south of the field and west of the recreation area.
 - The Council refused planning applications (refs: DC/016299 and DC/060377) made, in short, to station caravans on [part of] the recreation area. Both the '2005' and '2016' appeals were dismissed on their merits². An LDC application (ref: DC/068773) for 'use of [the recreation area **and** field] as...part of an existing caravan site' was refused on 14 December 2018.
 - However, an LDC (ref: DC/080464) was granted on 15 April 2021 to certify that the caravan park including the recreation area 'can accommodate up to 50 caravans...without a material change of use taking place...and...can lawfully accommodate...static caravans, which can remain for an unrestricted period of time and...be occupied at all times by persons living on the Park'. I refer to this as the '2018 LDC' because 14 December 2018 was the 'material date'.
18. Chester's Croft was owned by Wylde Mobile Home Parks (WMHP) from 1961 until 2002, with MW helping his father to manage the property from 1994 before taking over the ownership in 1997. In a letter to residents dated 1 June 1998 ('the 1998

² Appeal decision refs: APP/C4235/04/1170313 and APP/C4235/W/16/3158685 dated 18 July 2005 and 22 December 2016 respectively.

letter'), MW wrote that 'the unused field between Chester's Croft and the Rugby Club was bought many years ago in the hope of extending the Park. However, planning consent to use it has been refused repeatedly'. For the avoidance of doubt, there are no records before me of any such application(s) before 1998.

19. Subsequent owners of the caravan park and field included MM (2002-6), AB (2014-16) and GB (2016-21), who all provided evidence in support of this appeal. The appellant has owned the caravan park and field since 2021.

The Development Subject to this Appeal

20. Under s191(2) of the Town and Country Planning Act 1990 (TCPA90), existing uses are lawful at any time if no enforcement action may be taken in respect of them³. The relevant 'time' is the date of the LDC application, being 13 April 2022 in this case. S191(4) empowers the local planning authority (LPA) to modify the description of the use. An Inspector has the same power at appeal and is indeed obliged to issue an LDC for any existing use found to be lawful on the date.
21. The appellant's agent stated in paragraph 4.47 of his proof of evidence that 'the whole of the Field is part of a "caravan site" [but w]hether the stationing of additional caravans on the Field would require planning permission is an entirely different matter and...not the subject of this appeal'. It is probably right that increasing the number of caravans to more than 50 would be liable to require planning permission (plus a new site licence)⁴. However, the word 'additional' did not appear in the original description of development.
22. Following questions about paragraph 4.47 at the inquiry, the appellant indicated that the description could be amended to: 'use of land as part of a caravan site and use in conjunction with land on which caravans are so stationed' or 'use in conjunction with land on which caravans are so stationed' or, more specifically, 'use of the field for recreational purposes, amenity open space and for the siting of a pumping station and foul drainage infrastructure serving the mobile home park'⁵.
23. I allow that caravan sites generally include land where caravans are not actually stationed. However, the question of whether the stationing of caravans on the field would require planning permission in **principle** still seems to be the question at the heart of this appeal. At the inquiry, the appellant's agent raised the prospect of 'spreading' 50 plots across Chester's Croft and the field, and he continued to refer to an existing caravan [at Plot 3] being sited in part on the field.
24. As set out above, the statutory definition of a 'caravan site' includes not only 'land on which a caravan is stationed for the purpose of human habitation' but also 'land which is used in conjunction with land on which a caravan is so stationed'. The 2018 LDC was granted, to the effect that caravans can be and now are

³ Lawfulness also depends on the development not being in contravention of any of the requirements of any enforcement notice in force, but that is not applicable to this case.

⁴ Once the use of land as a caravan site is lawful, the number of caravans may fluctuate without further grants of planning permission necessarily being required. However, the number may be controlled by condition (as per the 1961 permission) and any number set out in an LDC, such as that granted in 2018, may be taken as a benchmark by which to assess whether an increase might result in a material change of use by intensification.

⁵ See paragraphs 6 and 9 of the appellant's closing submissions and paragraph 5.1 of Mr Brown's proof.

stationed on what was the recreation area within Chester's Croft, at least partly because of the effect of the statutory definition.

25. In that light, I struggle to see what practical difference amending the description of development would make in this case. Even so, I shall proceed on the basis that the description can be modified but may not need to be. An LDC should be issued if and to whatever extent the field is lawfully used within the statutory definition of a caravan site. In my reasoning, to cover all possibilities concisely and fairly, I shall summarise the use subject to the appeal as 'use of the field as part of and/or in conjunction with a caravan site'.
26. Another issue arose at the inquiry as to whether the description should be modified so that an LDC could be granted in respect of the works carried out to install the pumping station and associated foul drainage infrastructure in the field. I agree with the Council that, although the works may be uncontroversial, the application was only made in respect of an existing use and there is insufficient evidence for me to fairly rule on the lawfulness of any operational development.

MAIN ISSUES

27. From the planning history set out above, it is undisputed that:
 - The use of Chesters Croft (edged in blue) as a caravan site is lawful, following the grant of the 1961 permission and 2002, 2003 and 2018 LDCs.
 - The last active use of the field (edged in red) was probably agriculture. Planning permission has not been granted, and nor has any LDC, for the use of the field as part of and/or in conjunction with a caravan site.
28. The appellant's case is that there was a material change of use of the field to use as part of and/or in conjunction with the caravan site and, by the date of the LDC application, that use had continued without substantial interruption for a period of at least ten years. Under s171B(3) of the TCPA90, no enforcement action may be taken in respect of an unauthorised material change of use of land after the end of the period of ten years beginning with the date of the breach.
29. From all the evidence before me, the main issues are:
 - a) Whether the field is part of the same planning unit as Chester's Croft so that it has or has had an 'existing use' as part of and/or in conjunction with a caravan site, and
 - b) Whether use of the field as part of and/or in conjunction with a caravan site is lawful because, on the date of the LDC application, it was too late for the Council to take enforcement action against it.

REASONS FOR THE DECISION

The Planning Unit

30. The term 'material change of use' is not defined in statute, but taken to have occurred where some significant difference arises in the character of the activities taking place on the land as a matter of fact and degree. Where there is a dispute as to whether there has been a material change of use, it is necessary to establish the correct 'planning unit' and its primary use(s).

31. The planning unit is essentially the appropriate physical area against which to assess the materiality or significance of any change in the character of activities taking place. It was held by Mr Justice Bridge (Bridge J) in **Burdle v Secretary of State for the Environment** [1972] 1WLR 1207 that there are three “broad categories of distinction” when considering “the appropriate criteria to determine the planning unit...[and] whether there has been a material change of use”:
- “...whenever it is possible to recognise a single main purpose of the occupier's use of his land to which secondary activities are incidental or ancillary⁶, the whole unit of occupation should be considered [as the planning unit]...”
 - “...it may equally be apt to consider the entire unit of occupation even though the occupier carries on a variety of activities and it is not possible to say that one is incidental or ancillary to another...[as] in the case of a composite [or mixed] use where the component activities fluctuate in their intensity from time to time, but the different activities are not confined within separate and physically distinct areas of land.”
 - “...[where] within a single unit of occupation two or more **physically separate and distinct areas** are occupied for **substantially different and unrelated purposes**...each area used for a different main purpose (together with its incidental and ancillary activities) ought to be considered as a separate planning unit.”
32. The unit of occupation is the area occupied for one or more main purposes (or primary use(s)). It is often, but not by necessity or always in practice, the same as the area of ownership. As held in **R (on the application of Campbell Court Property) v Secretary of State for the Environment, Transport and the Regions** [2001] EWHC Admin 102, what is ‘important for planning purposes [is] not the ownership of the [land] but its use...not who [is] legally entitled to exercise control...but who [is] actually controlling or using the land’.
33. I agree with the appellant that the specifics of **Campbell Court Property** and related judgments put before me are not relevant to this appeal⁷. I simply take that what is the appropriate planning unit is a question of fact and degree. There may be more than one unit of occupation within land that is in single ownership.

Unit of Occupation

34. It is undisputed that the caravan park is occupied for the main purpose of carrying out residential use, or the stationing of caravans for human habitation, and that has been the case since the grant of the 1961 permission. Secondary activities taking place within the park, such as the parking of cars and the storage of garden equipment on individual plots, can be described as incidental to the primary residential use, or as uses in conjunction with land on which a caravan is stationed for human habitation.

⁶ An ‘incidental or ancillary’ use is one which is functionally related to the primary use(s) in a reasonably normal way. By definition, an incidental use must be different to the primary use(s) but take place within the same planning unit.

⁷ Johnston v Secretary of State for the Environment (1974) 28 PCR 424; Rawlins v Secretary of State for the Environment [1990] WL 754819; Church Commissioners for England v Secretary of State for the Environment (1996) 71 P&CR 73

35. The lawful primary residential use, and uses incidental to that, are carried out within Chester's Croft by the residents who own their caravans, lease their plots from the appellant for the purpose of stationing caravans for human habitation, and reside within them. Since their leases afford rights of access over the estate roads, it can be said that the residents collectively occupy the whole caravan park for the single main purpose of carrying out the lawful residential use.
36. The appellant must also occupy Chester's Croft because he is the 'occupier' for site licencing purposes. As the freeholder and licensee, the appellant is responsible for management and maintenance of the caravan park as a whole, including the common areas, and he draws an income from leasing the plots. However, he does not reside on any plot himself.
37. The appellant also occupies the field; as the owner, he is responsible for the drainage infrastructure and general land management. I am satisfied that the appellant occupies both the caravan park and field, but the residents do not occupy or have any control over the field. They can **enter** and carry out some activities on the field, because there are unlocked gates in the intervening fence, but that is entirely at the appellant's discretion.
38. The residents cannot put the field to residential use and the appellant does not do so. The appellant has not shown that Chester's Croft and the field comprise a single unit of occupation or are occupied together for the same main purpose(s). On the balance of probabilities, the field is not occupied by the same persons or for the same main purpose as the caravan park.
39. Applying **Burdle**, the planning unit may be the same as or smaller, but not larger than the unit of occupation. Since the field probably forms a separate unit of occupation, it cannot be in the same planning unit as Chester's Croft or in use as part of and/or in conjunction with the caravan site.
40. However, to do justice to the evidence, I shall not dismiss the appeal at this point but proceed to consider the planning unit in more detail. If the caravan park and field **were** within the same unit of occupation, whether they form a single planning unit would now depend on their physical and functional connections.

Physical Connections

41. The appellant suggests that the field and caravan park comprise a self-contained area of land and are not materially divided; 'to the reasonable observer, applying commonsense...there are no actual subdivisions or separate and distinct areas'.
42. That analysis ignores the fact that the field and caravan park have wholly different characters and appearances. As discussed later, the only operations ever carried out on the field appear to have comprised installation of drainage infrastructure plus the erection of one or two sheds and the creation of a pond, which are all now removed. Grass on the field is maintained but the vegetation and wire fencing on the western, northern and eastern boundaries are not.
43. There is a clear visual contrast between the substantially green field and the 50 plot residential caravan park, reinforced by the fact that the main gate into the field marks the end of the tarmac surface of the eastern estate road. On that basis alone, I find that the reasonable observer, applying commonsense, would see the field as physically separate and distinct from Chester's Croft – and I suspect the

same would have been said even when the caravan park included a recreation area, because that was relatively small and enclosed on three sides by 47 plots.

44. Moreover, Chester's Croft was divided from the field by a conifer hedge for most of the forty-odd years preceding the application subject to this appeal. The hedge essentially stood on the northern boundary of the caravan park as shown in the appeal location plan – and here I digress to consider the position of that line.
45. The 2002 LDC applications were accompanied by supporting statements and letters from MW⁸ and park residents. MW thought that the hedge had been planted in 1985, and residents who had lived at the park since before that date – the then occupiers of Plots 3, 8, 20, 26, 38 and 47 – suggested that the 'fir trees' had been planted '**across** the field'. The January 2018 sworn declarations from CP and WT, cited in the Council's report on the refused 2018 LDC application, indicated that the 'back field' had been 'one big open space' until 'some shrubs were planted to form a line partway through the field'.
46. CP and WT thought the hedge was planted because of complaints about views between the caravans and nearby houses, but that seems unlikely because land at the Rugby Club lies to the north. It may be that the hedge was planted as a windbreak, but another possible explanation was to expand the caravan park, the aim noted in the 1998 letter. It seems that the field originally included what became the recreation area and Plot 22A, and planting the hedge, by accident or design, facilitated a material change of use by subdivision of the field.
47. The 2002 and 2003 LDCs were granted on the basis that the 'informal recreation and amenity space', the land to either side of that area, and then Plot 22A had been 'in use continuously in excess of 10 years...'; that period would go back to the establishment of the hedge in the mid-1980s⁹. However, it does not matter if that speculation is irrelevant or wrong because the appeal location plan takes the former hedge line as the southern boundary of the field.
48. MW's statement in support of the 2002 LDC applications described the hedge as forming 'the northern boundary' of the caravan site. AW, a park resident who was employed by MW¹⁰ to mow the recreation area and, from some point, to maintain the field and pumping station, also wrote to say that 'the conifer hedge form[ed] the northern boundary' and 'land up to the trees' – meaning the hedge – was part of the mobile home park. Residents who had only lived at Chester's Croft since 1985 suggested in their 2001 letters that they had taken the trees to be the boundary when they moved in.
49. MW also said in 2001 that the hedge was 'present and of a good size, in fact approaching 6 metres in height' when he had taken over as manager in January 1994. Even so, it is clear that the hedge never cut the field off completely from Chester's Croft. The 1998 letter noted that 'at one time there were several convenient – but unofficial – ways' between the two areas. Residents were asked

⁸ MW's statement dated 15 March 2001 is misdescribed as a statutory declaration in the Council's closing submissions.

⁹ CP's letter of 14 March 2001 in support of the 2002 LDC applications said that the area with trees as the northern boundary had been used and looked after as part of the park for about 15 years. The occupier of Plot 8 said much the same.

¹⁰ And by later landowners up to GB.

to access the field only via the 'tarmac road', their own plot or another plot by agreement, but that still shows there were interconnections. CP and WT indicated in their sworn statements that occupiers had 'always been allowed access to the field' and 'nothing' ever prevented that.

50. An aerial photograph taken in 2000 shows that the hedge was densely planted but nonetheless had gaps and did not extend across Plot 22A. MM and AB swore that the hedge was 'not continuous' and did not prevent passage for vehicles or pedestrians between 2002-06 and 2014-16. I am not clear who the intervening landowner was, but it appears from the 2009 and 2013 aerial photographs that they widened the gap in the hedge by Plot 3 and the tarmac road. Subsequently, AB, GB and the 2016 aerial photograph confirm that the hedge was chopped down to stump level, so there ceased to be any kind of barrier to movement at all.
51. Since the existing fence was not installed until 2022 or 2023, as part of the works to develop additional plots on the former recreation area, there was probably no effective boundary treatment for at least six years, with that period encompassing the material date of 13 April 2022. However, whether parcels of land should be considered 'physically separate and distinct' does not depend on whether one can be accessed from another.
52. The hedge delineated Chester's Croft by the time of and for the purposes of the 2002 and 2018 LDCs – and the 2007 site licence, which required that 'the boundaries [of the caravan site]...shall be clearly marked by a permanent fence, hedge or wall not less than 2m in height...'. The current site licence contains a similar requirement and that probably explains why the hedge stumps were never dug out and a new fence has been installed on much the same line.
53. The appellant has not demonstrated why the gaps in and then removal of the hedge should carry more weight than the fact that the field has consistently had a significantly different character and appearance to the caravan park – and that the southern boundary of the field has been marked since 1985 by a hedge, tree stumps or a fence, plus the edge of the tarmac road. As a matter of fact and degree, on the balance of probabilities, the field and Chester's Croft were and had long been, on the date of the LDC application, physically separate and distinct.

Functional Connections

Recreation Use

54. The appellant suggests that the field is provided for and used by residents for recreational activities such as walking or sitting out. Children cannot live at Chester's Croft, but residents may be visited by grandchildren who they can take to play on the field.
55. The field once included a pond, which I shall assume for the sake of argument was provided by WMHP for residents to use recreationally. Whether or not that is right, CP suggested that the pond was removed in the mid-80s 'because it was not being used enough'. Benches were left on the field but, by the time of my site visit, the only one of those remaining lay broken and encroached by brambles on the western field boundary. As indicated by the aerial photographs, the field has probably not been 'laid out' for recreational use for many years. However, the same seems to have been true of the former recreation area within Chester's

Croft. While I return to this matter below, I attach little weight to the presence or absence of recreational facilities.

56. The same applies to the maintenance regime. The field was mown in tandem with the recreation area by AW, who used 'an old tractor mower', until GB acquired the site and outsourced the work on an annual landscape maintenance contract. The appellant has not shown that the field has ever been maintained specifically for recreational use – and there can be other reasons to keep grass under control – but again this does not count for or against the appeal.
57. The critical questions for me are whether there is evidence of actual recreational use by the park residents and, if so, whether that should be described as 'use as part of and/or in conjunction with a caravan' – or whether the recreational use amounted to use for a substantially different and unrelated purpose.
58. The 1998 letter said that 'for as long as the field has been owned, residents have had the privilege of free access to it if they want to stroll around, watch birds or the sports events [at the Rugby Club] or do anything reasonable which does not cause nuisance to anyone else. A few people do make use of this facility...[but] regrettably the main use of the field recently seems to have been dumping garden – and even household – rubbish at the fire site by the sewage pump house'.
59. CP swore in January 2018 that the residents were free to use the back field, which was regarded as part of the caravan site. They reiterated in November 2018 that the 'field was always known by residents as the recreation ground...we were never told that we could not use the field for recreational purposes or once the trees were planted go beyond the trees into the field'. CP also said in both sworn statements that people used to take their grandchildren on the field to play.
60. However, CP also said in January 2018 that they did not see much daily activity on the field. And they made no mention, in either sworn statement, of using the field for recreation or any other purpose themselves. They said in their final but admittedly unsworn statement of 20 August 2019 that they had 'never seen the site and field being used for recreational purposes'.
61. Similarly, WT swore in January and November 2018 that residents could use the back field at any time, it was considered part of the caravan site, they were led to believe that it was a recreational space, they were never told they could not enter the field, and 'people did go into the field from time to time. It was mainly used by children playing. People used to walk along the stream between the field and the rugby club. Walkers also used to cut across the field to get to the rugby club'. Again, however, WT did not describe using the field themselves.
62. MM declared that, during their 2002-6 period of ownership, 'some of the site residents used to use the field for recreational purposes. There were benches for people to sit on...the field was part of the amenities of the mobile home park. It was 'never used for any other purpose...'. AB, who owned the land in 2014-16, swore much the same and that the recreational activities included 'occasional get-togethers and parties'. The appellant's brother saw people and dogs on the field when he visited with a view to buying Chester's Croft in 2004-06 and 2021¹¹.

¹¹ The appellant's brother told the inquiry that he also visited on occasions between 2006 and 2021. He recalled there was always 'activity' on the field but not whether he saw dog walkers then.

63. GB owned the land from 2016 to 2021, and said in his sworn declaration that 'residents have always been free to use the field as they wish for dog walking and general exercise/recreation'. He affirmed, when giving oral evidence at the inquiry, that he saw such activity. He carried out a lot of work when he first acquired Chester's Croft before reducing his visits to once or twice a month, and on most occasions saw residents use the field for recreation. He pointed out that some residents were elderly and less mobile, but he saw people walk their dogs or play with grandchildren on the field.
64. When GB bought the site, Rule 14 in the 'Park Rules for Chester's Croft Park' in fact prohibited residents from keeping 'any pet or animal at the park home or on the pitch'¹². I heard that rule had been introduced previously, and that seems likely because none of the letters or statements from earlier landowners or any residents makes any mention of dogs. GB said he 'may' have amended the rules to allow for the keeping of pets but AN, Secretary of the Chester's Croft Residents' Association (CCRA) said that never happened.
65. Either way, some residents may have owned dogs, and I accept GB was relaxed about them doing so for the benefits of 'companionship [and] exercise'. It seems unlikely that many residents would have taken the risk of buying a dog and walking it on the field in plain sight of the caravan park, if they had any doubt about the rules, given that the hedge was removed when GB had the property. That said, the appellant's brother submitted stills to the inquiry of two and then one or two people walking dogs on the field in July and October 2023¹³.
66. It would be astonishing if residents had never walked or sat out on the field, with or without child or canine companions. I do not dispute that some recreational activity had occurred by the time of the LDC application. However, as discussed later, the appellant's evidence can only be described as vague with regards to the extent, frequency and consistency of such use – and with regards to how the activity might be **functionally** related to the residential use of Chester's Croft.
67. As landowner, the appellant grants access to the field only to leaseholders and only for recreational purposes. The field is conveniently located for residents of Chester's Croft as well as larger than their individual plot gardens. However, those undeniable facts do not show that any recreational use of the field is or has been 'use as part of and/or in conjunction with a caravan site'. The appellant has not shown, when residents have walked, sat out or played with grandchildren on the field, how or why that is probably different to their carrying out such activities in a public park or any other open space with common, public or permissive access.

Drainage, Storage and the Disposal of Waste

68. The Council accepts, as do I, that there is an essential functional link between the pumping station, holding tank or pipes on and under the field, and the residential use of Chester's Croft. The caravan site use could not subsist without proper sewage facilities and the terms of the residents' leases encompass use of all

¹² Park rules sent to the Council on 17 February 2015

¹³ Stills submitted as inquiry photographs B1-5. I should record at this point that I took my own dog on both of my site visits, and it seemed to be my revelation of this which led to discussion of dogs at the inquiry. On my unaccompanied visit, I saw a person walking within the caravan park with a dog, but I do not know if they were a resident or not, and I do not know whether they were going straight to a caravan (as their home or to visit) or to the field.

services and utilities connected to the plots. However, the appellant does not suggest that the residents have any rights or responsibilities specifically over the drainage infrastructure on or under the field¹⁴.

69. I am not persuaded that the installation and working of the infrastructure and/or the activities of maintaining the installations and emptying the sewage tank somehow changed the use of the field to use as part of and/or in conjunction with a caravan site. Planning permission is required for the installation of a sewerage system – and it is granted by Order of Parliament where the works are carried out by a ‘sewerage undertaker’ such as a water company¹⁵, but only on application to the LPA where the works are carried out by and for a private landowner. Either way, permission is only needed for the **operations**; the installation of a sewerage system does not generally give rise to a material change of use of land.
70. It is not unusual for any property to be served by off-site drainage infrastructure; other caravan sites are sometimes served by septic tanks located under paddocks where animals graze. The pumping station occupies a small part of the field and does not put the land into some kind of ‘drainage use’; indeed, it would not prevent use of the field for agricultural or recreational purposes.
71. Storage is a land use, however, and one that may be carried out on an incidental basis. CP said that, when WMHP owned the caravan park, there was a workshop ‘on the edge of field behind park home number 32’ as shown by a site layout plan (ref: 2018-30/CAP1) where the manager and their ‘handyman’ kept tools. When MM and AB owned the field, the ‘brick shed’ or ‘garage building’ was still there and used to store tools and equipment, including the ride-on mower used by AW on both the recreation area and field.
72. GB told the inquiry that there were in fact two sheds here when he bought the property, although that is not evident from aerial photographs¹⁶. Either way, GB removed the shed(s) around 2017-18 and outsourced all landscape work, but still used the field to store construction materials including kerbs, hardcore and concrete, required for building works. He said these items were kept by Plot 3 and the recreation area. He was clear in his sworn written statement that ‘the field always formed part of the operational area of the park’.
73. I accept that the storage of equipment and materials for land maintenance and construction facilitated the use of the caravan site, but it is an indirect relationship. The residents – those who occupy Chester’s Croft for the single main purpose of carrying out residential use – are not and have never been able to store private domestic items on the field. Other problems for the appellant are that the aerial photographs show the shed(s) occupying a small part of the field, and no items being stored outdoors after the shed(s) had been demolished. Uses do not need to take place on every square inch of land in order to be significant but, even so, the appellant has not shown that storage was carried out so that, as a matter of fact and degree, the field could be described as probably in use as part of and/or in conjunction with use as a caravan site.

¹⁴ If AW helped to maintain the installations, that was probably by the terms of his employment.

¹⁵ Under Article 3(1) and Part 13 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015

¹⁶ The 2016 appeal decision referred to ‘2 small buildings’ on the field, but one of them was probably the then pumping station.

74. The final activity I shall consider here is the use of the field by residents for storing or disposing of household refuse. CP suggested that there was a garden waste recycling area on the field, but it was removed in the mid-80s due to misuse. There are other references in the written representations to garden and/or household waste being deposited on the field, while the appellant's brother told the inquiry he had seen Christmas trees left here. However, there is little evidence as to the extent of any waste disposal use or if residents were responsible.
75. I am not aware of any planning permission, LDC or licence ever being granted for the use of the field for waste disposal or collection. The 1998 letter cautioned residents against depositing refuse on the field except for 'large tree branches'. There are obvious health and safety reasons why the disposal of waste on the field could cause problems for any landowner and the residents. As far as such activity took place, it does not show that the field has probably been used, as a matter of fact and degree, as part of and/or in conjunction with a caravan site.

Plots 3 and 22

76. Plot 3 initially lay entirely to the south of the conifer hedge. By the time of the 2009 aerial photograph, however, the end of the hedge had been removed, seemingly to allow the construction of some kind of outbuilding to the north of the caravan. By around 2018, there was a much larger mobile home on Plot 3 which, together with the plot garden, was partly within the field.
77. Plot 22A lies to the immediate south of the field at its western end. Here the extent of the plot officially remains as shown on the 2003 LDC plans, and the caravan here does not intrude upon the field. However, it is undisputed that the occupiers of Plot 22A have been maintaining part of the field and there are suggestions – denied – that this part of the field is being or has been used as though it is part of the private garden at Plot 22A¹⁷.
78. The appellant suggests that, because the caravan at Plot 3 is partly stationed on the field and used for human habitation, and another part of the field **may** be used for purposes linked to Plot 22A, the statutory definition of a caravan site applies to the field: land on which a caravan is stationed for the purpose of human habitation and land...used in conjunction with land on which a caravan is so stationed.
79. Occupiers of various kinds of dwelling have been known to extend their gardens into adjoining open spaces, and thus (unwittingly) make a material change of use of the land to residential use for which planning permission is required. I do not speculate as to whether the occupiers of Plot 3 and/or Plot 22A have in fact carried out such development on the field. But the best case scenario for the appellant is that they did, and the changes of use have acquired immunity from enforcement action due to the passage of time.
80. Even if that is what happened, and although the field is in the same ownership as the caravan park, the appellant has not shown that – as a consequence – the whole field as a matter of fact and degree is probably in use as part of and/or in conjunction with a caravan site. The appellant's agent accepted that at the inquiry.

¹⁷ The residents of Plot 22A wrote on 23 June 2023 that 'we confirm that we have only cut the grass on a small area of land outside our home for approximately 6 years...because the gardeners did not...it was unsightly and neglected, and we had kept a small patch of it tidy to make it look a presentable view from our window. We would also like to confirm that the land is not and never has been used as a garden'.

The only parts which could conceivably be in such use are those incorporated into Plot 3 and (possibly) Plot 22A. The use of a whole public park is not necessarily changed if and when an adjoining householder manages to encroach upon part.

81. That finding is consistent with the judgment in **Royale Parks Ltd v Secretary of State for Housing, Communities and Local Government [2021] EWCA Civ 1101**. In that case, a caravan site had been permitted subject to a condition that the caravans be occupied for holiday purposes only. On four plots, the condition was breached for such a time that permanent occupancy acquired immunity from enforcement action. The Court of Appeal held that the Inspector was entitled to reject the contention that the condition no longer applied to other caravans. In other words, the other caravans still had to be occupied for holiday purposes only.
82. It follows from **Royale Parks** that what is lawful on one plot does not necessarily apply to the whole planning unit, let alone to land outside of that. The lawfulness of the expansion of Plot 3 and perhaps Plot 22A beyond the original boundaries of Chester's Croft into relatively small parts of the field cannot mean that the whole field is somehow brought, as a matter of fact and degree, into the same unit of occupation or into use as part of and/or in conjunction with a caravan site.
83. Moreover, the appeal location plan, which shows the boundary between the field and Chester's Croft as dissecting Plot 3, was out of date even when the application was made. The plan attached to the 2018 LDC – shown here with arrow added by me – alters the boundary between the field and caravan park so the extended Plot 3 is now entirely within the latter.
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84. The 2018 LDC was sought to allow for the creation of new plots on the former recreation area. Whether or not that application was also made for the purpose of regularising changes to Plot 3, that is what actually happened. The 2018 LDC establishes that Chester's Croft as shown on the plan with Plot 3 extended, can 'lawfully accommodate caravans, including static caravans which can remain for an unrestricted period of time and...be occupied at all times by persons living on the Park'. The Council pointed out at the inquiry that they have accepted the lawfulness of the use at Plot 3.
85. The appellant has not demonstrated that any material change occurred in any relevant matter before the use described in the 2018 LDC was begun. There are now plots on the recreation area, and the plan attached to the 2021 site licence is consistent with that attached to the 2018 LDC. The lawfulness of that use, within the revised boundaries of Chester's Croft, must be conclusively presumed under s192(4) of the TCPA90.

Conclusions on Functional Connections and the Planning Unit

86. The appellant's agent suggested that the inquiry that residents may consider the field as a 'visual amenity' in that it affords them views of green space from some of their caravans and parts of estate roads. However, they could have much the same view whether the field was in recreational or agricultural use.
87. The Council referred to the case of **R v Axbridge Rural District Council ex parte Wormald [1964] 1 WLF 442**, where it was held by Lord Denning that for land to "be used in conjunction with land on which a caravan is so stationed" for

the purposes of the statutory definition of a caravan site, 'it must be used immediately and directly in conjunction with it. For instance, land for a latrine or on which a motor car stands, or land laid out as a playground, would be part of the site; but not waste land over which children or adults may run from time to time'.

88. **Axbridge** was applied in **Berkeley Leisure Group Ltd [1995] Lexis Citation 3484**, In that case, the question for the Court was whether a lower court judge had been right to refuse 'to grant a judicial review of a [Council's] decision...that it had no power to grant a site licence...for the use of...land...as part of a caravan site' because there was no planning permission for such a use. The land included a 'sewage treatment plant' and four swings for children.
89. In that case, Lord Justice Glidewell held that the land was 'separated from the caravans by a hedge, and except presumably for the four swings, is not laid out in any way. In other words [as per Lord Denning] it is rough ground on which children run and play. If [the lower court judge] had been finding the facts, in my view he would and should have found as a matter of fact and degree that the [land] does not form part of an existing caravan site' and the Council had been correct not to grant the site licence.
90. I agree with the appellant that **Axbridge** and **Berkeley** both turned on their facts and do not, in themselves, show what the outcome of this appeal to be. For one thing, I respectfully consider Lord Denning's examples of 'immediately and directly in conjunction' uses to be of limited assistance. I repeat that the field not being 'laid out' for recreation cannot be enough to dismiss the appeal, when the same was true of the recreation area and children cannot live at Chester's Croft. And however important a theoretical 'latrine' might be, I remain dissuaded that the drainage infrastructure puts the field into use in conjunction with the caravan site.
91. Another difficulty with **Axbridge** is that it predates the lower court but still leading judgment in **Burdle**. I question whether it remains necessary to read the statutory definition of a caravan site as though it includes the words 'immediately and directly' before 'in conjunction', when the now prevailing test for a functional relationship – on any planning unit, including a caravan site – is whether land is occupied for 'substantially different and unrelated purposes'. However, if this is a genuine conundrum, I do not need to resolve it.
92. On the balance of probabilities, the appellant has not shown that the recreational and/or small scale storage uses of the field amounted to use as part of and/or ['immediately and directly'] in conjunction with use of the caravan site, whether or not the **Axbridge** words are included. In terms of **Burdle**, the appellant does not dispute that recreation and storage are 'substantially different' to residential use – and he has not shown that those uses are related in any functional sense to the carrying out of the residential use at Chester's Croft.
93. Taken together, the evidence of recreational and storage activities, plus the presence of the drainage infrastructure and the extensions to Plots 3 and perhaps 22A, do not show that the field is used for purposes functionally connected to the use of Chester's Croft, such that it has an existing use 'as part of and/or in conjunction with a caravan site'. The field remains as MW described in the 1998 letter: unused agricultural land over which caravan park residents merely have 'the privilege of free access' at the landowner's discretion.

94. The appellant has not demonstrated that the field is part of the same unit of occupation as Chester's Croft, or that the two areas are physically and functionally connected. On the balance of probabilities, the field is not in the same planning unit as the caravan park, it is a physically separate and distinct area which is occupied for substantially different and unrelated purposes. It is not and has not been in use as part of and/or in conjunction with a caravan site.

Time for taking Enforcement Action

95. Having found that the field is not in use as part of and/or in conjunction with a caravan site, it is not possible that any such use could have acquired immunity from enforcement action. Nonetheless, I shall still deal with this issue briefly to reinforce that there could only be one outcome to this appeal.
96. It seems likely that the use of the field for agricultural purposes had ceased by the time that the caravan park was established following the 1961 permission, but it does not follow that a new use must then have been begun. It is possible that the what the 1998 letter describes as 'the unused field' was in 'nil' use after 1961 for planning purposes. That being the case, it is surprising that the appellant barely touched in evidence as to when the claimed material change to use as part of and/or in conjunction with a caravan site might have taken place.
97. The evidence about the pond suggests that it did not take long, after 1961, for WMHP to facilitate if not encourage use of the field by residents for recreation. And, since 1961, there have probably been two material changes of use of the field by subdivision, so as to extend the caravan park: firstly, via the planting of the conifer hedge and secondly through the extension of Plot 3. Those developments, however, are now lawful.
98. By the time of the 1998 letter, MW's position was that the field is 'not part of Chester's Croft, and technically has no more connection with it than any other adjoining field. It is an agricultural field which just happens to be under the same ownership. Residents of Chester's Croft therefore have no automatic right of access to or use of this field'.
99. The next landowner seems to have held the same view at the time of the 2005 appeal. It concerned the planning merits of stationing caravans on the former recreation area, and one issue was whether the loss of that open space would harm the living conditions of the existing residents¹⁸. To overcome that objection, the Inspector recorded that the then appellant was '**willing** to make alternative [open space] provision on his adjoining open land', perhaps casting some doubt as to whether the field catered for the residents already.
100. The appellant has suggested that the appeal change of use took place in or around 2009, when gaps in the hedge were widened. However, it has not been shown that those works coincided with any material change – except at Plot 3 – to the character of the activities taking place on the field. The same is true in respect of the removal of the hedge which occurred in any event less than ten years before the date of the LDC application.
101. As noted above, there is ample sworn evidence that residents of Chester's Croft were able, at all and any times since 1961, to use the field for recreation. But

¹⁸ An objection to the 2016 appeal on that ground was withdrawn and not addressed by the Inspector.

there is almost no evidence of any of them actually doing so. No resident has described, under oath or otherwise, using the field for recreation themselves. More importantly, perhaps, the accounts of people being seen recreating on the land do not show that the use took place to a material extent for any ten year period without substantial interruption.

102. The aerial photographs do not assist the appellant; they consistently show few signs of human activity on the field, except for circular tracks probably made by mowers, and tracks to the pumping station probably made by maintenance vehicles. Even the 2021 aerial image, presumably taken after the Covid pandemic had kept residents on site for more or less a year, shows remarkably untrodden grass. I appreciate that any photograph merely represents a snapshot in the time, but regular walking on grass creates wear and tear which is not that ephemeral.
103. Park residents who objected to the appealed application suggested that they do not walk on the field because it has been used for dumping rubbish, the ground is uneven, and it is prone to flooding which, at least before the existing pumping station was installed, led to raw sewage seeping onto the land. I saw that the field can get muddy, but I agree with the appellant that there is little evidence of flooding; photographs of land being waterlogged were taken on the atypical occasion of the former recreation area being dug up¹⁹.
104. I heard that residents are in dispute with the appellant with regard to what seems to be a non-planning matter, but it would make no difference if I disregarded their objections for that or any other reason. AN revealed at the inquiry that she sometimes takes a short cut through the field when walking between her pitch and that of a friend, and that evidence weighs in favour of the appellant but **still** does not make it probable that there was a material change of use of the field to recreational use as part of and/or in conjunction with a caravan site, or that such use has since taken place for a continuous ten year period.
105. I have already found that the use of the field for storage did not take place to such an extent as to result in a material change of use of the field as a matter of fact and degree. Although the appellant's brother filmed dog walkers on the field in 2023, it has not been shown that use of the field as part of and/or in conjunction with a caravan site had probably continued without substantial interruption for a period of at least ten years by the date of the LDC application, such that no enforcement action could have then been taken under s171B(3) of the TCPA90.

Other Submissions and Overall Conclusion

106. The appellant submitted a Legal Opinion dated 31 September 2021 on the lawfulness of the appeal use. The Opinion was that the "unit of occupation" is the Site as a whole, comprising...the mobile home park, the recreation area and the field' – but the barrister did not explain which documents before them, namely their instructions, the 2018 LDC and associated Council officer's report, and various plans and aerial photographs, supported that conclusion.
107. The barrister found that the conifer hedge had not formed an 'impregnable' barrier since at least 2009. I have reached the same conclusion but, with more evidence being before me, I am not persuaded that the gaps in and then removal of the

¹⁹ Inquiry photographs C1-4

hedge, taken with the presence of the pumping station and use of the field for dumping rubbish as well as storage, probably mean that the 'Site as a whole is a single planning unit in use as a caravan site'.

108. I have had regard to the 'Wiltshire' appeal decisions²⁰ where an Inspector granted an LDC for 'use of land as part of a caravan site'. In that case, the Inspector noted that 'there is nothing on the ground that demarcates the two areas' and that the Council accepted what for me were more important facts: the land had not only been used for recreational purposes 'by guests of the holiday park throughout the year' but also for stationing 'campervans and touring caravans during the months of April to September each year' for more than ten years.
109. The 'Wiltshire' Inspector did not need to consider in any more detail how the land was laid out or used, or even the unit of occupation, because it was 'agreed by the Council that the...land is an extension' to the caravan park. The Inspector accepted what was common ground between the parties. His decision cannot bear on mine when this appeal is contested and also distinctive on the facts.
110. The appellant's evidence does not need to be corroborated but must be precise and unambiguous enough to make his case for the grant of an LDC. I conclude that he has not demonstrated to that standard that the field, on the material date of 13 April 2022, was occupied for the same main purpose as Chester's Croft, was not a physically separate and distinct area occupied for substantially different and unrelated purposes, or had been in use as part of and/or in conjunction with a caravan site for a continuous ten year period, such that the use would be lawful by reason of immunity from enforcement action on the balance of probabilities.
111. It follows that:
- The Council's decision to refuse to grant a certificate of lawful use or development in respect of use of the field 'as part of a caravan site, including the stationing of caravans for human habitation and use in conjunction with land on which caravans are so stationed' was well-founded.
 - I also cannot grant an LDC for use of the field 'as part of a caravan site and use in conjunction with land on which caravans are so stationed' or 'use in conjunction with land on which caravans are so stationed' or 'use of the field for recreational purposes, amenity open space and for the siting of a pumping station and foul drainage infrastructure serving the mobile home park'.
112. Since the appeal location plan is inconsistent with that attached to the 2018 LDC, I have considered whether I ought to make a split decision and issue a certificate pertaining only to the 'Plot 3 extension'. There is no need for me to do so because the 2018 LDC authorised the use of that land as part of a caravan site. I conclude that this appeal must fail. I will exercise accordingly the powers transferred to me under s195(3) of the TCPA90.

Jean Russell

INSPECTOR

²⁰ Inquiry document 10 – Appeal B

APPEARANCES AT THE INQUIRY

Michael Rudd, Counsel for the Appellant

He called: Philip Brown, the appellant's agent.
Gary Burns, former owner of Chester's Croft

He assisted: John Daly, the appellant's brother.

John Hunter, Counsel for Stockport MBC

He called: Anne Nerney, Secretary of the Chester's Croft Residents Association
Chris Smyton, Senior Planning Officer, Stockport MBC

INQUIRY DOCUMENTS, PLANS AND PHOTOGRAPHS

Documents

1	List of appearances on behalf of the Council
2	Notice from the Council of their intention to apply for an award of costs against the appellant.
3	The Inspector's schedule of Mr Brown's appendices sent initially by email on 19 January 2024
4	The Inspector's opening remarks sent by email on 25 January 2024.
5	Opening submissions on behalf of the appellant
6	Opening submissions on behalf of the Council
7	Email from the Inspector dated 29 January 2024 confirming procedural matters following adjournment of the inquiry
8	Email from the Inspector dated 6 February 2024 setting out her site visit observations
9	The Council's costs application with appended copies of Berkeley Leisure Group Ltd [1995] Lexis Citation 3484 and emails between the Council and appellant
10	The appellant's response to the costs application with appended copy of decision letter dated 2 April 2024 for appeal refs APP/Y3940/X/23/3332453 and /3332851
11	The Council's final comments on the costs application
12	Closing submissions on behalf of the Council with appended copy of Johnston v SSE [1974]
13	Closing submissions on behalf of the appellant with appended copy of Royale Parks Ltd v SSHCLG [2021] EWCA Civ 1101

Plans

A	Site plan annotated by Ms Nerney while giving oral evidence
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Photographs

A1-A13	Bundle comprising all Google Earth aerial photographs submitted by Mr Brown (dated 2000, 2003, 2005, 2009, 2013, 2016, 2017, 2018, 2019, 2020, 2021, 2022 and 2023)
B1-5	Stills from videos taken by Mr John Daly on 23 October 2023 (B1-4) and 7 February 2023 (B5)
C1-4	Undated photographs of land within the caravan park and the field, taken during works to the former 'recreation area' by Ms Nerney