



Appeal Decision

Site visit made on 21 October 2025

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 10 November 2025

Appeal Ref: APP/J1860/X/24/3353569

Caravan at Upper Orchard Cottage, Hollybed Street, Castlemorton, Malvern, Worcestershire WR13 6DB

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development.
 - The appeal is made by Miss Josie Wilkes against the decision of Malvern Hills District Council.
 - The application ref M/23/01787/CLE, dated 21 December 2023, was refused by notice dated 12 April 2024.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is described as a change of use of land for the stationing of a caravan and its use for residential purposes.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development (LDC) describing the existing use which is found to be lawful.

Preliminary Matters

2. The LDC application describes the use sought in the banner heading above. From the submissions from both main parties, for clarity, the LDC application sought to establish the lawful use of the land for the siting of a caravan and its use for residential purposes separate from the main dwellinghouse, Upper Orchard Cottage.
3. Section 191(2) of the Town and Country Planning Act 1990 (the 1990 Act) states that uses are lawful at any time if: a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
4. Section 171B of the 1990 Act specifies the timescales within which enforcement action must be taken. For a material change of use of land, s171B(3) specifies that no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach. Thus, for an LDC to be awarded it is necessary for the appellant to show that the use sought has occurred without significant interruption for 10 years, starting on or before 21 December 2013.
5. The onus of proof is firmly upon the appellant whose own evidence does not need to be corroborated by independent evidence to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to refuse the

application, provided the appellant's evidence alone, on the balance of probabilities, is sufficiently precise and unambiguous.

6. For the avoidance of doubt, the planning merits of the matters applied for do not fall to be considered. The decision is based strictly on factual evidence, the history and planning status of the site in question and the application of relevant law or judicial authority to the circumstances of the case.

Main Issue

7. The main issue is whether the Council's decision to refuse to grant a certificate was well founded. This turns on whether, on the balance of probabilities, the use of the land for the stationing of a caravan and its use for residential purposes independent from the main dwellinghouse was lawful within the meaning of s191(2) of the 1990 Act.

Reasons

8. The caravan is sited some 50m from Upper Orchard Cottage, a detached dwelling situated among a handful of properties at the end of a long rough track within countryside to the east of the Malvern Hills. The caravan sits to the side of the house and along the western boundary of the land holding. There is a building close to the caravan which provides annexed accommodation associated with the house. A single gated entrance provides access from the lane to the house, caravan, annexe and the adjoining land. The caravan has a partially covered raised wooden decking area along its frontage. Low-level picket fencing separates the land on which the caravan is sited from the annexe and the driveway, and there are low-level boundary treatments which separate it from the house. The fenced area is laid to grass providing a garden within which there are some raised beds, a log store, two sheds and some play equipment.
9. The gist of the appellant's case is that the caravan, which was brought to site in September 1998, has been occupied as a separate and independent residential unit of accommodation since that time. With all facilities required for day-to-day domestic living, it is claimed to be physically and functionally separate from Upper Orchard Cottage.
10. Although it is stated to have been functionally separate from the main house from the beginning, at some point around 1999, a boundary fence was erected to physically separate the caravan from Upper Orchard Cottage. Thus, the appellant considers that the material change of use of the land for the stationing of a caravan for independent residential purposes occurred at the outset and gained immunity from enforcement action becoming lawful for planning purposes in September 2008. The use is said to have been continual and has not subsequently been abandoned or changed.
11. The Council considers, however, that although aerial imagery shows the caravan is likely to have been in situ for more than ten years prior to the date of the application, its use as a unit of accommodation separate from the house has not been sufficiently demonstrated. It considers that the evidence suggests that the living arrangements at the caravan appeared to be more akin to renting a spare room or a converted garage as a short-term holiday let. Furthermore, as the caravan was not separately charged for council tax, and utility bills were shared with Upper Orchard Cottage with occupiers providing informal cash contributions

and no records of such being supplied, it is considered that a functional connection has remained.

The evidence

12. The appellant has submitted three signed Statutory Declarations dated 7 December 2023, provided by herself, her brother Edd, and her mother. Each declaration was witnessed and signed in the presence of a solicitor. These statements confirm that the family (Mrs Wilkes and her four children) moved into Upper Orchard Cottage in August 1998 and provide a summary of the caravan's use by the children as they reached young adulthood and sought independent living. The declarations explain that the caravan is connected to electricity and water from the main dwelling via the workshop and equipped with a wood burner for heating. It is stated that the caravan contains all necessary facilities to function as self-contained living accommodation, separate from the main dwelling, and was used as such.
13. The declarations describe how the caravan was first occupied by the eldest sibling, Fred, when it was sited on the land in 1998. It is said to have provided everything required for day-to-day living, enabling him to live independently from the family in Upper Orchard Cottage. When Fred moved out in 2006, Tom moved in and lived in a similar manner until 2010, when Edd took over occupation. Edd vacated the caravan in 2015 and returned to the house when Tom and his partner required temporary accommodation while searching for a property to purchase. The caravan was replaced within days at some point in 2015 by Tom, and I have no reason to disagree with the Council's view that this amounted to no more than a minor interruption lasting only a few days.
14. The caravan is described as being fully independent from the family home with its own dedicated garden and parking facilities. Mrs Wilkes emphasises the high level of independence demonstrated by all her children while residing in the caravan. She describes how they would come and go and how she may not see them for weeks as they got on with their jobs and their own lives. The occupiers entertained their friends, shopped, cooked and laundered for themselves and there was said to be no reliance on the main house for day-to-day living requirements. Regular payments were made by the occupiers to cover essential services including water and electricity, as well as contributions towards the occasional emptying of the septic tank. These arrangements were informal in nature, reflecting the family relationship between the parties.
15. The appellant and her partner moved into the caravan in Spring 2016. During their occupancy, they lived independently from the main house and raised their young child within the caravan. Since the appellant commenced occupation of the caravan, a more structured financial arrangement has been implemented. Fixed monthly payments have been made to cover utility costs, with additional contributions for the emptying of the septic tank. It is noted that these monthly payments have increased over time, although specific figures have not been provided.
16. The appellant has undertaken various works to improve the caravan and its immediate surroundings. These include cladding the caravan in timber, installing a decking area with a canopy, replacing the original wood burner with a new unit, and creating raised beds for the cultivation of salad and vegetable crops. In 2022,

following the discovery of mould on the internal walls, the appellant and her family vacated the caravan for health reasons and have since resided elsewhere, as confirmed by the address provided in the Statutory Declaration. The purpose of the LDC application is said to establish the lawful status of the caravan, as the appellant intends to replace it with a newer model and return to occupy the site.

17. Where a self-contained area within a planning unit provides all the necessary facilities for independent day-to-day living, for cooking, eating and sleeping, whether this be within a building, part of a building or in another structure, and is used for that purpose, its use as someone's home or dwellinghouse would not normally be incidental to some other main use of the land.
18. An example of this approach is through use of part of a property as a 'granny annexe'. A granny annexe, even in a separate building in the curtilage of the 'main' dwellinghouse, would normally be regarded as part and parcel of the primary residential use of the main dwellinghouse use, provided only that the occupant uses facilities in the main house for some day-to-day needs. However, if the occupant occupies the accommodation entirely independently (although the occupants of the main house may keep a watchful eye on the person) the use of the granny annexe is likely to become an independent main use of the land as a separate dwellinghouse. It would not be incidental to the enjoyment of the main dwellinghouse.
19. I find similar circumstances here. The caravan provides all the facilities for day-to-day living and there is no indication that the occupants relied on any facilities in the main dwelling for their existence. There is clearly a physical separation between the main dwelling and the caravan with the spaces demarked by fencing and planting. Furthermore, at my site inspection, when asked by me, I was informed that I could not access the garden land belonging to Upper Orchard Cottage, as the appellant did not have permission.
20. The Statutory Declarations provided by family members are formal statements made under the provisions of the Statutory Declarations Act 1835, affirming that the contents are true to the best knowledge of the declarant. These documents carry substantial evidential weight due to their legal standing and the penalties applicable for making a false declaration. In the absence of cogent evidence to undermine their veracity, I consider that they constitute credible evidence supporting the claim regarding the caravan's long-standing use.
21. The caravan has reportedly been occupied by various family members over the years. While shared utilities might not typically suggest independent occupation, these factors are not always decisive. It is not unusual in rural locations to share facilities such as a septic tank, and in these types of set up, to share utility connections. Furthermore, although no Council Tax liability has been registered or paid for the caravan, the absence of such payment is not, in itself, indicative that independent occupation has not occurred. In my view and in these circumstances, they have little bearing on the actual manner in which the accommodation has been *used*, as evidenced by the appeal submissions.
22. The land is visually and physically arranged as separate units of accommodation. There is no evidence to suggest that the occupants of the caravan have been dependent upon or reliant on the use of the main dwelling. The evidence indicates that the occupants have consistently assumed responsibility for both financial

contributions and physical improvements to the caravan and its surroundings. These actions reinforce the caravan's status as a self-contained and independently maintained living unit.

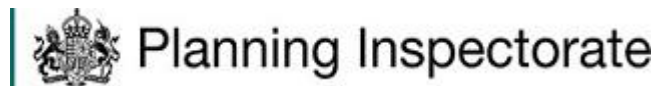
23. The Council refer me to what is described as a similar appeal where the Inspector determined that, in their view, what had been provided as evidence was insufficient to show that, on the balance of probabilities, the caravan had been independently occupied for the 10-year period. Each case, however, is determined based on the individual evidence presented and without the full details of the appeal, I am not equipped with sufficient information to enable me to make any meaningful comparison.

Conclusion

24. Overall, based on the evidence presented in this case, I am satisfied that, as a matter of fact and degree, the caravan provides independent accommodation for the occupants. It demonstrates that they have lived separate lives without reliance on Upper Orchard Cottage, notwithstanding the shared utility connections. On the balance of probabilities, the evidence supports the appellant's position that the caravan constitutes an independent residential unit and that its use has persisted on an interrupted basis for 10 (or more) years, which is a sufficient period to establish lawful status under planning legislation. While it may be that the caravan has not been occupied lately due to the mould issues, there is no evidence to suggest that its use as a separate unit of accommodation has been materially interrupted by another use.
25. For the reasons given above, and having regard to all other matters raised, I conclude that the Council's refusal to grant an LDC for a change of use of land for the stationing of a caravan and its use for residential purposes was not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in s195(2) of the 1990 Act as amended.

S A Hanson

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 21 December 2023 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use of the land for the siting of a caravan and its use for residential purposes separate from the main dwellinghouse, Upper Orchard Cottage, was lawful within the meaning of section 191(2) of the 1990 Act because no enforcement action may have then been taken in respect of it (whether because it did not involve development or because the time for enforcement action has expired or for any other reason); and, there is no evidence that such use constituted a contravention of any of the requirements of any enforcement notice then in force.

Signed

S A Hanson

INSPECTOR

Date 10 November 2025

Reference: APP/J1860/X/24/3353569

First Schedule

Use of the land for the stationing of a caravan and its use for residential purposes (independent of the main dwelling).

Second Schedule

Land at Caravan at Upper Orchard Cottage, Hollybed Street, Malvern, Worcestershire
WR13 6DB

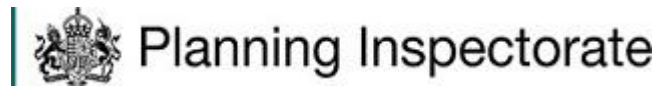
IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

This is the plan referred to in this decision dated 10 November 2025

by **S A Hanson BA(Hons) BTP MRTPI**

**Land at: Caravan at Upper Orchard Cottage Hollybed Street, Malvern,
Worcestershire WR13 6DB**

Reference: APP/J1860/X/24/3353569

Scale: Not to Scale

