



Appeal Decision

Inquiry held on 16 and 22 December 2025

Site visit made on 16 December 2025

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2026

Appeal Ref: APP/W3520/X/25/3370693

Land at The Caravan Park, Mendlesham Road, Wetheringsett-cum-Brockford, Suffolk, IP14 5NU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr William Bond against the decision of Mid Suffolk District Council.
 - The application ref DC/24/03350, dated 26 July 2024, was refused by notice dated 18 June 2025.
 - The application was made under section 191(1)(c) of the Town and Country Planning Act 1990 (as amended).
 - The failure to comply with any condition or limitation for which a certificate of lawful use or development is sought is: The use of the land as a residential caravan park (21 caravans and bungalow) without complying with Condition No 1 of planning permission 121/85 issued on 24 April 1985.
 - The site address on the application form indicates the caravan park is on Mendlesham Road, as stated above. On the plans and aerial photographs showing the site, the land lies adjacent to and has access onto Brockford Road
-

DECISION

1. The appeal is dismissed.

REASONS

Main Issue

2. The LDC application concerns a failure to comply with a planning condition imposed on planning permission 121/85, not the lawfulness of a use of land or operational development. The main issue is whether the Council's refusal to issue a certificate is well founded.
3. In accordance with section 191(3) of the 1990 Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if (a) the time for taking enforcement action in respect of the failure has then expired; and (b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.
4. The relevant time limit for taking enforcement action is a period of ten years beginning with the date of the breach (section 171B(3)). If during the ten year period the breach ceases and there is compliance with the condition a subsequent breach results in the ten year period starting again. The onus is on the appellant to prove their case on the balance of probability.

5. In terms of 191(3)(b), the appellant and the Council agreed the enforcement notice issued on 7 July 2025 has no effect on the outcome of the current LDC appeal. My determination will focus on whether any failure to comply with condition 1 has become immune from enforcement action due to the passage of time.

The 1985 permission

6. By a notice dated 24 April 1985 Mid Suffolk District Council granted planning permission for “Retention of caravan site to accommodate 21 residential caravans and retention of prefabricated bungalow”, subject to eight conditions.
7. Condition 1 states: “The occupation of the site, including the bungalow, shall be limited to gypsies as defined in Section 16 of the Caravan Sites Act 1968 (see Note 1 below).” Note 1 states: “In relation to Condition 1 the Caravan Sites Act 1968 defines ‘Gypsies’ as meaning “persons of nomadic habit of life, whatever their race or origin, but does not include members of an organised group of travelling showmen, or of persons engaged in travelling circuses, travelling together as such.”
8. The reason for the condition 1 is “The development hereby permitted is contrary to the general policy of the Local Planning Authority and is granted solely in recognition of the situation and circumstances of the applicant and his family and to avoid hardship.” The condition imposes a continuing requirement regarding occupation of the site, including the bungalow.
9. The permission was not time limited at all. Conditions 2 to 7 related to landscaping, preclusion of commercial use and access and turning arrangements. Condition 8 limits the number of residential caravans on the site at any one time to a total of 21, providing that small touring caravans not used residentially on the site and the caravans of genuinely short stay visitors shall not be included in the total.
10. The site shown by hatching on the 1985 location plan is a roughly rectangular shaped area of land, including the bungalow at the northern end of the site. An additional adjacent area to the south, outside the defined site but edged in black, probably was in the same ownership.
11. Over the forty year period to the present day the conditions attached to the 1985 permission have not been varied or removed at all. The planning history shows an application to remove condition 1 was refused in November 2021.

The appeal site and adjacent land

12. The LDC application plan (ref 1647-0001-01) identifies a smaller area than the site approved in 1985. The bungalow and adjacent parcel of land are excluded.
13. On the appeal site visit the land of the 1985 permission was occupied by two rows of static caravans separated by a central access area and served by a gated access onto the public highway. The caravans extended south onto the adjacent land parcel in the appellant’s ownership. The northern boundary of the caravan park was marked by close boarded fencing but access was possible into an enclosed area used for storing containers. To the north the bungalow was on a separate plot with its own access and parking area to the front.

14. At the inquiry the appellant confirmed the area of land ownership was correctly shown on the Land Registry plan and was equivalent to the extended area shown on the 1985 plan.
15. The appellant bought the land in July 2017 from the Gaskin family. He described the site as being in a fairly run down state. There was one other mobile home on the site, together with a small caravan and pick-up trailer. A few members of the Gaskin family were living there but within three months they had moved to another caravan site nearby. In addition, there were two non-travellers: MJ lived in a caravan by the site entrance and moved away in September 2017, and SM who still lives there.

Condition 1: continuing effect

16. The first consideration put forward by the appellant is that condition 1 has no continuing effect following the repeal of section 16 of the Caravan Sites Act 1968.
17. A long established principle is that planning permission usually runs with the land and it is rarely appropriate to provide otherwise. The Planning Practice Guidance on use of conditions continues to recognise that there may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. An example is a condition limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, or a caravan site for gypsies and travellers.
18. The purpose of condition 1 was to control who occupied the caravan site, including the bungalow. The reason for the condition indicates the caravan site, which was already developed, was granted permission in a countryside location because of the circumstances of the then occupiers. The approach followed at the time was to limit the benefit of the permission to a particular class of people, Gypsies as defined, rather than to make the condition personal to named individuals in an extended family group and related occupiers. Expressed in a different way, the use of the land as a caravan site would not have been acceptable without planning control on who could reside there.
19. On the evidence available, the condition met the three legal tests – it was imposed for a planning purpose, was fairly and reasonably related to the development permitted, and not so unreasonable that no reasonable planning authority could have imposed it. Condition 1 also met the six policy tests and was necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. In summary, Condition 1 was a valid condition in 1985. The condition has not been removed, or the wording varied, through the statutory powers available in the 1990 Act and continues to be an integral element of the 1985 permission. The focus on this appeal under section 195 is on lawfulness and whatever the outcome condition 1 will not be removed from the 1985 permission.
20. When the 1985 permission was granted the statutory definition of 'gypsies' was set out in section 16 (Interpretation) of the Caravan Sites Act 1968, linked to the statutory duty placed on county councils by section 6 [of the 1968 Act] to provide sites for gypsies as defined.

21. In November 1994 the Criminal Justice and Public Order Act 1994 (section 80) repealed Part II of the Caravan Sites Act 1968 (duty of local authorities to provide sites for gypsies and control of unauthorised encampments), which includes section 6, together with the definition of gypsies in section 16. In conjunction with this, an amendment was made to the Caravan Sites and Control of Development Act 1960 by introducing in section 24(8) a definition of gypsies as an identical replacement for the definition in the 1968 Act. The 1994 Act in section 80(4) states the repeal by subsection (1) of the definition of “gypsies” in section 16 of the said Act of 1968 “shall not affect the interpretation of that word in any document embodying the terms of any planning permission granted under the Town and Country Planning Act 1990 before the commencement of this section”.
22. Neither the appellant nor the Council referred to section 80(4) of the 1994 Act in their legal submissions. Nevertheless, the provision appears to me to be decisive and condition 1 continues to have legal effect. This conclusion is also supported by section 16(1)(b) and (c) of the Interpretation Act 1978 cited by the Council, which in summary states where an Act repeals an enactment the repeal does not affect the previous operation of the enactment repealed or any right or obligation derived under that enactment. Furthermore, the definition did not disappear but was retained with exactly the same wording through the amendment to the 1960 Act. The appellant’s submissions on the statutory context, with reference to case law, do not alter my conclusion.
23. The use of Note 1 as an informative in the 1985 permission to set out the meaning of gypsies is helpful to the understanding of the document and does not weaken the interpretation or application of condition 1.

Condition 1: meaning of ‘gypsies’

24. The meaning or definition of gypsies and travellers in policy guidance has evolved over the years, often in response to court judgements and statutory obligations and duties. This appeal is concerned only with the wording used in the 1985 permission.
25. At the time of granting permission, the local planning authority decided, by relying specifically on section 16 of the 1968 Act, to restrict occupation of the caravans and bungalow on the site to “persons of nomadic habit of life, whatever their race or origin, but does not include members of an organised group of travelling showmen or persons engaged in travelling circuses, travelling together as such.”
26. There is no debate to be had over the exclusion of travelling showpeople and the main interest is in understanding the term ‘persons of nomadic habit of life’ and who may comply with this description. The appellant, with reference to the reason for condition 1, submitted that the 1985 permission provided for the needs of the traditional travelling community, the traditional and cultural gypsies who had limited accommodation options and were a highly disadvantaged section of society. The permission was not for the benefit of people who had a nomadic habit of life because they travelled away from home to work and needed low cost accommodation, such as workers on construction sites.
27. Case law provides assistance in respect of the definition as worded in condition 1. Whether a person is of nomadic way of life is a functional test to be applied to their way of life at the time of the determination. The travelling or nomadism must be a habit of life, implying travelling is a custom, a lifestyle. The travelling may follow a

pattern and rhythm. Whether a person comes from a traditional gypsy background and has travelled in the past may be relevant circumstances. A recurring theme is that there must be a connection between the travelling and the seeking and making a livelihood. The essential connection between wandering and working indicates the definition does not embrace people who travel to pre-arranged work. A gypsy may have no fixed abode and no fixed employment and so lives in a caravan. However, the definition does not require a person to live in a caravan. Whether a person does so is capable of being a relevant factor but is not essential. It has been accepted that a gypsy within the definition given by the statute may have a permanent base from which they go out and to which they return. In the event travelling ceases permanently, the person no longer has a nomadic habit of life.

28. In summary, determining whether a person has a nomadic way of life is fact sensitive and requires a matter of fact and degree judgement taking full account of the principles established by the courts and all the facts of the case.
29. The appellant placed emphasis on condition 1 applying only to 'traditional and cultural gypsies' because of the circumstances of the applicant in 1985 and the need to avoid hardship, as referred to in the reason for the condition. However, the wording of the definition is very clear that it applies to persons of nomadic habit of life, whatever their race or origin. The primary purpose was to provide land and accommodation for those who were nomadic. In the 1980's probably in practice persons of nomadic habit of life were mostly 'traditional' gypsies, whose characteristic lifestyle debarred them from access to conventional sources of housing provision. The task in this appeal is to consider the individual circumstances of the occupiers over the relevant time period and not to conclude on broad groups or categories of workers who may or may not be eligible to occupy the site.
30. For the appellant, reference was made to the English Household Survey to provide information on the average length of time people lived in their home, to illustrate the meaning of nomadic, nomad and nomadic way of life. I place little weight on this exercise and prefer to concentrate on the considerations arising from case law.

The evidence

31. Planning Practice Guidance confirms the applicant is responsible for providing sufficient information to support an application for a LDC. Where a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. All oral evidence at the inquiry was given under solemn affirmation.
32. The ten year period identified by the appellant to establish immunity from enforcement action is the period between 26 July 2014 and 26 July 2024 (the relevant period). The appellant relies on the evidence of six people to establish there has been a continuous breach of condition 1 for a period in excess of ten years prior to the LDC application. Their evidence was in the form of statements of truth (not statutory declarations) and they did not appear as witnesses at the inquiry. I shall refer to these people by their initials: TP, ND, JH, SB, MJ and SM.

33. TP's statement dated 26 October 2021 sets out his work as a groundworker takes him all over the country. He lived in a static caravan at the Caravan Park for several months around 1989/90, returning on average for two to three weeks, three or four times a year. Most recently TP moved back to the site on 19 October 2021. There is no information on such matters as whether he returned every year since 1989/90 or if there were some years he did not stay at the caravan park, whether he occupied the same unit, whether he was there during the period of refurbishment, if he travelled in a caravan looking for work at any time or how he secured his periods of employment.
34. ND stated on 20 October 2021 he moved back to the caravan park in June 2014 and stayed there for 2 years to 2016. Most of his working life was in insurance. There is no information on where he resided on the caravan park or what prompted the move back in June 2014.
35. On 18 February 2022 JH stated she lived in a caravan opposite the site entrance just to the left when working as a painter and decorator in the area between July 2012 and May 2017.
36. In a statement dated 24 October 2021 SB stated he first lived in a static caravan at the Caravan Park between July 2007 and October 2011. He returned for two months between May and July 2017 when he was lorry driving for a living.
37. MJ in a statement dated 31 July 2025 explained he moved to the site after a change in domestic circumstances in January 2017. While there, he worked as a casual labourer and stayed in the same caravan until he moved away in September 2017. The month of leaving is consistent with the appellant's oral evidence. A statement of truth from his employer confirmed MJ resided at the site in 2017, MJ worked for him 5 or 6 months from May 2017 and then stopped working for him when he moved away.
38. SM stated he first lived on the site in the early 1990's and moved back to the caravan park in June 2017 (which ties in with the appellant's oral evidence). He continued to live there until 23 February 2021, the date of the statement, in static caravan no. 13.
39. In addition to these statements of truth, the evidence of the appellant's two witnesses of fact at the inquiry (JOC and GG) primarily concerned their knowledge of the caravan site from the early 1980's to 2017. Their evidence provided little support for a breach of condition 1 over the relevant period.
40. A statement by WC dated 12 March 2021 briefly indicates his occupation of the site and employment from the late 1980s. He moved back to the caravan park in March 2020 residing in a static caravan no. 20.
41. The evidence of all witnesses raises areas of concern in relation to precision and ambiguity regarding site identification, definition of gypsies, reliability of the statements of truth, consistency, continuity in the breach and the site layout.
42. There are no plans of 'the site' attached to the statements of truth. This omission results in uncertainty over whether 'the site' people refer to is the site identified on the LDC plan or the larger site granted permission in 1985. This was highlighted at the inquiry when the appellant stated he had not seen the LDC plan before and in

his mind the site was equivalent to his company's land ownership shown on the Land Registry plan.

43. All statements of truth comment on occupation of the site and whether they and other residents were gypsies or travellers. The appellant's planning consultant (RB) described the process of obtaining the witness statements and considered the witnesses are the best placed to make a judgment on whether or not they comply with the condition 1 definition of gypsies and travellers. However, the statements of truth all refer to the definition in 'Annexe 1 of Planning policy for traveller sites'. In cross examination RB confirmed none of the witnesses were provided with a copy of the document or informed of its contents. There was nothing to indicate the witnesses were informed of the wording of the condition 1 definition, the factors to take into account when considering a nomadic habit of life or that the definition specifically includes people 'whatever their race or origin'.
44. The significance of these points was demonstrated through the oral evidence of the appellant and his witnesses of fact at the inquiry. The appellant stated he had not read Annexe 1 or had it explained to him. All three witnesses based their assessments of gypsy status on instinct, cultural background and heritage, which was understandable given their own family background. They probably were unaware of the extensive related case law. The matter was not remedied through the evidence of RB, who did not explore it in detail with any the witnesses to come to a reasoned judgement for each of the occupiers in respect of the condition 1 definition.
45. The standard of proof is the balance of probability, not beyond reasonable doubt, but facts are thin, accuracy questionable and conclusions on occupancy cannot be based on assumptions. The Census data for 2021 does not assist for various reasons, including the note to the data on disclosure of personal information, the transient population on the LDC site and the recording of ethnicity rather than being based on a nomadic habit of life.
46. The evidence on which the appellant relies for the continuity over the relevant period is in the form of statements of truth. Even though the statements refer to the Statutory Declarations Act 1835 they were not witnessed by and signed in the presence of a solicitor, commissioner for oaths or notary public. The description of the process of obtaining the statements does not indicate the witnesses were advised of the importance of precision in dates and related factual information. The statements of truth have not been tested through questioning. Significantly, matters such as Annexe 1 and the site plan came to light at the inquiry through cross examination and questions. We also learnt the appellant lived on the site during the period of refurbishment, probably outside the LDC site in a caravan near the bungalow and in the bungalow when it became vacant. Such factors raise doubt over the reliability of the detail of the statements and hence reduces the weight that may be attached to their content.
47. A number of inconsistencies occur in the information related to occupation. The Council issued a Planning Contravention Notice (PCN) in September 2021 and in May 2024. In the response to the PCN of September 2021, TP is not included in the lists of occupiers for previous years, and June 2018 is the date given for when SM moved back (not June 2017). The dates in MJ's statement are not entirely consistent with the statement of his employer. According to the witness statements the LDC caravan site could have been occupied by two people (MJ and SM) in

August 2017. The photographs dated 4 August 2017 indicated only one caravan on the main caravan park and the ground surface was unkempt. The appellant stated caravans were moved around the site during the two year period of refurbishment but this is not reflected in the statement of SM. The contractor who carried out refurbishment of the site in the summer of 2017 stated¹ work took around a week to complete. During the work at least two caravans had to be moved to spread the road planings. They returned to do some drainage works to occupied caravans in October 2017. These inconsistencies detract from the reliability of the statements.

48. The importance of accuracy in dates is very relevant to the issue of continuity in non-compliance during the change in ownership. A table of occupancy throughout 2017 was based on the evidence of three witnesses: JH to cover January to May, SB for May to July, and SM for June to December². However, the witnesses were not specific in the timescales. To illustrate, JH resided on the caravan park until May 2017, which could have been the beginning or the end of the month. Three months May, June and July are blocked out for SB. However, SB stated two months between May and July 2017, which could be May and June or June and July. SM stated he arrived in June 2017, which could have been at the beginning or the end of the month. Provided the months were correctly remembered the site could have been unoccupied in May 2017 and into June 2017.
49. In considering the test to show non-compliance the appellant has emphasised condition 1 applies to the whole site as opposed to individual plots found in the case of *Royale Parks*³. The site is said not to have had dedicated bases and each individual caravan is not marked out on anything resembling a pitch. The aerial photographs over the periods December 1999 to September 2017 and May 2020 and May 2024 indicate a different picture.
50. In the earlier period the layout on the northern part of the 1985 site appeared relatively constant, with the fixed position of the bungalow and a similar siting of caravans. An additional caravan possibly was introduced near the access after December 2007. On the remainder of the 1985 approved site, a basic layout was identifiable, with the main access to the highway and caravans and bases each side of a central accessway. The position of caravans appeared to have been very similar over time in three areas - near the southern end, more centrally and near the division to the area by the bungalow. Areas between the caravans were mainly vacant. By September 2017 caravans were limited primarily to the northern area round the bungalow and adjacent to the southern side of the main site access. By May 2020 the site had been refurbished. The new hard surfacing and the regimented layout of caravans each side of the accessway is clearly visible. Two distinct enclosed areas occupy the northern end of the site. An extension of the caravan park to the south took place sometime between March 2022 and May 2024.
51. Witness statements and the PCN responses also lend support to an organised layout even before the site was refurbished. JH identified a specific plot where she resided throughout her stay of nearly five years. SM referred particularly to residing in a static caravan number 13 after returning in June 2017. In the

¹ Statement of truth dated 31 July 2025 at Appendix 15 to RB's proof

² RB Proof of Evidence paragraph 4.28 and Table 2

³ *Royale Parks Ltd v Secretary of State for Housing, Communities and Local Government* [2021] EWCA Civ 1101

response to the PCN dated 8 September 2021 the caravans are numbered in the information related to 2015, 2018, 2019, 2020 and 2021.

Conclusions

52. The Council did not submit factual evidence to contradict or make the appellant's evidence less than probable. However, the appellant's evidence must be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.
53. The procedure for obtaining the statements of truth did not follow best practice and when examined, the factual evidence lacks detail and displays many inconsistencies. Statements have limited weight for the purposes of establishing lawfulness. The reliance on residents' assessment of whether people were gypsies, as defined by condition 1, was not sufficiently rigorous. In terms of a particular area of concern previously highlighted by the Council, the continuity of non-compliance has not been demonstrated adequately during 2017. The oral evidence of witnesses of fact, given genuinely, is of little assistance in understanding the detail of occupation over the relevant period.
54. The appellant submitted, with reference to case law, that it is the use of the land that is controlled by condition 1, not the use of individual caravans. Any breach applies across the whole of the land, not just an individual caravan. The reasoning behind this conclusion has not been fully supported by the evidence on the physical layout of the LDC site over the relevant period and residents' identification of their homes. Even adopting the appellant's approach, the evidence is not sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Conclusion

55. For the reasons given above I conclude on the evidence available that the Council's refusal to grant a certificate of lawful use or development in respect of the use of the land as a residential caravan park (21 caravans and bungalow) without complying with Condition No 1 of planning permission 121/85 issued on 24 April 1985 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.

Diane Lewis

Inspector

APPEARANCES

FOR THE APPELLANT:

Michael Rudd	Barrister instructed by RPS Group Limited
He called	
John O'Connor	
Gary Gaskin	
William Bond	The Appellant
Richard Boother	Associate Director, Tetrattech RPS
BSc(Hons) Dip TP MRTPI	

FOR THE LOCAL PLANNING AUTHORITY:

Robin Green	Barrister instructed by the solicitor to the Council
He called	
Jon Gerrish	Planning and Public Protection Officer, Mid Suffolk District Council

DOCUMENTS submitted at the inquiry

- 1 Opening submissions on behalf of the appellant
- 2 Mid Suffolk District Council's opening statement.