



Appeal Decision

Inquiry held on 25 and 26 November 2025

Site visit made on 26 November 2025

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 March 2026

Appeal Ref: APP/P1615/X/25/3366502

Land at Rushmere Farm Campsite, Crossways, Coleford, Gloucestershire GL16 8QP

- 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 J Jobling of Rushmere Farm (Gloucestershire) Ltd against the decision of Forest of Dean District Council.
- The application ref P0154/25/LD2, dated 6 February 2025, was refused by notice dated 15 May 2025.
- The application was made under section 192(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 the use of land for the siting of an unrestricted number of static caravans (within the legal definition of a caravan) for an unrestricted residential purpose all year round and the siting of an unrestricted number of tents for an unrestricted residential purpose all year round together with the siting of an unrestricted number of touring caravans with no individual touring caravan being sited on the site for longer than 4 weeks (as required by condition 03 of planning permission P1042/12/FUL).

Decision

1. The appeal is dismissed.

Main Issue

2. Section 192(2) of the Town and Country Planning Act 1990 as amended (the 1990 Act) indicates that if, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.
3. I note that some interested parties have made representations regarding the planning merits of the development, including the effect of the use of the appeal site on highway safety. To be clear, the planning merits of the case are not relevant to my decision. My decision is based on the facts of the case and judicial authority.
4. The main issue is whether the Council's decision to refuse to grant a LDC is well founded. In this respect, the burden of proof is on the appellant to show that the development referred to in the application would have been lawful if instituted or begun at the time the application was made.

Relevant Planning History

5. It is agreed that the most relevant planning history for the site includes a LDC (Council reference P1919/05/LD1) granted on 17 January 2006 for 'the use of the land for the siting of up to 12 touring caravans (with no single caravan being upon the site for more than 2 months at a time) and 30 tents occupied for holiday/tourism purposes'. I will refer to this in this decision as 'the 2006 LDC'.
6. Also relevant is the planning permission (Council reference P1042/12/FUL) granted on 17 September 2012 for the 'erection of replacement amenity block and increase in tent and caravan pitches'. I will refer to this in this as 'the 2012 Permission'.

The Matters for which the LDC is Sought

7. Prior to the inquiry I wrote to the parties regarding the description of the matters for which the LDC is sought. In this I referred to paragraph 010 of the Planning Policy Guidance on Lawful development certificates (PPG), which advises that 'precision in the terms of any certificate is vital, so there is no room for doubt about what was lawful at a particular date, as any subsequent change may be assessed against it'. It goes on to say that 'it is important to note that a certificate for existing use must include a description of the use, operations or other matter for which it is granted', and that 'in all cases, the description needs to be more than simply a title or label, if future problems interpreting it are to be avoided. The certificate needs to therefore spell out the characteristics of the matter so as to define it unambiguously and with precision'.
8. With this in mind, I have noted the description given in the decision notice, which has been referred to by the appellant in their appeal form. This appears to have come from the documents submitted with the LDC application. I advised the parties of my concerns regarding this description, which is that it appears to pose a question.
9. Section 192 of the 1990 Act relating to certificates of lawfulness for a proposed use or development, sets out the two matters for which an LDC may be sought under that section. This is as follows:
 - (1) If any person wishes to ascertain whether—
 - (a) any proposed use of buildings or other land; or
 - (b) any operations proposed to be carried out in, on, over or under land,would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.
10. The description of the matter for which the LDC is sought is not a matter for which a certificate can be granted. Accordingly, I proposed only minor changes to the description so that the matter for which the LDC is sought would fall within section 192. Both parties agreed to the changes. Accordingly, my determination of the appeal is in respect of development comprising the following:

The use of land for the siting of an unrestricted number of static caravans (within the legal definition of a caravan) for an unrestricted residential purpose all year round and the siting of an unrestricted number of tents for an

unrestricted residential purpose all year round together with the siting of an unrestricted number of touring caravans with no individual touring caravan being sited on the site for longer than 4 weeks (as required by in accordance with condition 03 of planning permission P1042/12/FUL).

11. As this is a proposed use of the land, the matter would fall within section 192(1)(a) of the 1990 Act.
12. Whilst the above description of development is comprehensive, before I move on to consider whether or not it would be lawful, it is necessary to understand the character of the use. To this end, the description of the use can be broken down into three parts, namely:
 - (1) a use:
 - i. for the siting of an unrestricted number of static caravans (within the legal definition of a caravan);
 - ii. for an unrestricted residential purpose;
 - iii. all year round;
 - (2) a use:
 - i. for the siting of an unrestricted number of tents;
 - ii. for an unrestricted residential purpose;
 - iii. all year round; and
 - (3) a use:
 - i. for the siting of an unrestricted number of touring caravans;
 - ii. with no individual touring caravan being sited on the site for longer than 4 weeks (as required by in accordance with condition 03 of planning permission P1042/12/FUL).
13. For all three elements identified above, the proposed use of the land would be for a residential use taking place by reason of the siting of either static caravans, touring caravans or tents. To use a neutral term, I will on occasion refer to all three of these as 'units' in this decision. The description refers to an 'unrestricted residential purpose'. To my mind this would include, on the one hand, a temporary residential use, where those residing at the site might only stay for a limited period (i.e. for the duration of a holiday) and their primary living accommodation (i.e. their home) would be elsewhere. On the other hand, it would also include a permanent residential use, where those residing at the site would stay on a permanent basis and they might regard the site as their home.
14. The reference in the description to the duration or siting of the caravan or tent might be an indication of the permanency of the residential use for which the LDC is sought. With regard to the siting of tents or static caravans, the description states that this would be all year round. Unlike static caravans, I find it unlikely that a tent would be sited and used for residential purposes on the site permanently. Nevertheless, if found lawful, the use as described would be for permanent siting and permanent residential use of both tents and static caravans.
15. As for touring caravans, the description states that this would be for no more than four weeks. This indicates that an element of the residential use proposed would be temporary, more akin to a use for tourism and holiday purposes, as described above.

16. Having sought clarification from the appellant at the inquiry, it was suggested that the proposed use should be regarded as a mixed of both a temporary holiday and tourism residential use, as well as a permanent residential use. Having regard to my comments above, I can agree that the description fits with such a mix of permanent and temporary residential uses. However, it does not specify the extent of one element or the other. By this I mean that the description does not indicate, for example, what percentage of the site or units would be for a permanent residential use as opposed to a temporary (4 week) residential use. Nevertheless, the description does not indicate that one type of residential use would be ancillary or incidental to the other. The indication is that both the permanent and temporary residential uses would take place as primary uses of the site. I intend to determine the appeal on this basis.
17. Turning to the intensity of the proposed use, the number of units to be accommodated on the site has not been specified. Instead, the description refers to an unrestricted number of static caravans, tents and touring caravans. It would be absurd to say that the number of units would be limitless. Indeed, there was discussion at the inquiry with regard to the number of units that could be accommodated on the site, having regard to the size of the site and limitations that might be imposed by other legislation (e.g. the Caravan Sites and Control of Development Act 1960).
18. The number of units that could be accommodated on the site was considered by the witnesses at the inquiry. The Council suggested the site could accommodate in the region of 100 caravans, assuming a degree of separation between the units that might be imposed by a licence granted under the above-mentioned legislation. The appellant suggested around 84 caravans, allowing for separation, but indicated that this did not take account of the need for parts of the site to be free of units in order to accommodate internal roads, for example. In the absence of a definitive number of units within the description of the development, I have had regard to these estimates as an indication of the intensity and, therefore, the character of the proposed use.

Reasons

19. I have considered in detail above what would comprise the proposed use and have set out what I understand to be the characteristics of that proposed use. I now consider whether or not the proposed use would have been lawful if it had commenced at the time the LDC application was made. The appellant suggests that the use would accord with the 2012 Permission. Accordingly, I start by considering this permission and what it permitted.

What was permitted by the 2012 Permission?

20. The 2012 application site is broadly similar to the current appeal site. What was permitted in 2012 is described as the 'erection of replacement amenity block and increase in tent and caravan pitches'. There is no dispute that what was permitted in 2012 included the erection of a building, i.e. the amenity block. There is also no dispute that the amenity block on site is that permitted in 2012. Accordingly, there is no doubt that the 2012 Permission has been implemented. Whilst what was permitted in 2012 clearly includes an 'increase in tent and caravan pitches', there is dispute between the parties with regard to what this means.

21. The appellant suggests that this part of the description of the development comprises a material change of use (MCU) of the land. He describes this as a new chapter in the planning history for the site; the suggestion being that this supersedes the former use of the land.
22. There is no dispute that the application in 2012 was for development falling within section 55(1) of the 1990 Act. I say this because, as mentioned above, it is agreed that what was permitted included the erection of a building. The description of what was proposed, and subsequently permitted, includes an increase in tent and caravan pitches. This is a description used in the application form and is carried forward into the planning permission document. Although included in the description, it does not automatically follow that what is described as an 'increase in tent and caravan pitches' comprises development, in this case a MCU for the purposes of section 55(1) of the 1990 Act. That planning permission has been sought and granted for a matter is not a determination that the matter is development within the meaning of section 55(1). I have approached the 2012 Permission with this in mind.
23. In order to understand what was permitted in 2012, the parties have drawn to my attention caselaw which assists in understanding the meaning of planning documents, including a planning permission. This includes *Trump International Golf Club Scotland Ltd v the Scottish Ministers* [2015] UKSC 74. Whilst this case concerned itself with, amongst other matters, the meaning of a condition of a planning permission, it made clear that 'when the court is concerned with the interpretation of words in a condition in a public document such as a section 36 consent, it asks itself what a reasonable reader would understand the words to mean when reading the condition in the context of the other conditions and of the consent as a whole'. It goes on to say that 'this is an objective exercise in which the court will have regard to the natural and ordinary meaning of the relevant words, the overall purpose of the consent, any other conditions which cast light on the purpose of the relevant words, and common sense. A planning permission should stand by itself and the meaning of it should be clear within the four corners of the document'. This approach is endorsed in other caselaw drawn to my attention, including *Lambeth LBC v SSCLG & Others* [2019] UKSC 33, *Hillside Parks Ltd v Snowdonia National Park Authority* [2022] UKSC 30 and *Breckland DC v SSHCLG & Plumtree Country Park Limited* (CO/1919/2019).
24. The *Breckland* case also relates to an appeal made under section 195 of the 1990 Act. The Inspector granted an LDC for 'the siting of mobile homes for permanent residential occupation'. The basis for this decision included their interpretation of what was found to be lawful in a previous LDC granted for the site for a 'use of land as a caravan and camping site including associated amenity area'. The challenge to the Inspector's decision in that case was dismissed.
25. As I note above, the appellant's case is that an 'increase in tent and caravan pitches' is a MCU of the land permitted in 2012. With the above caselaw in mind, for the purposes of land use planning, I do not find it easy to fit the words 'increase in tent and caravan pitches' with a use of land, having regard to their natural and ordinary meaning. This is not least because the description does not include the word 'use'. I acknowledge that tent and caravan 'pitches' would be present on a caravan and camping site, and that such a use was specified in an LDC that was the subject of interpretation in the *Breckland* case. It was on the basis of such a description that a use for the siting of mobile homes for permanent residential

occupation (a use similar to an element of the use proposed in the case before me) was found to be lawful in that case.

26. However, the description of the matter permitted in 2012 is substantially different to that in the *Breckland* case. Indeed, in order for me to conclude that the use of the land permitted in 2012 was a new use as a caravan and camping site that would allow for, amongst other matters, static caravans with an unrestricted residential use, it would be necessary to add words to the description. This approach is not endorsed in *Breckland* (see paragraph 40 of the judgment).
27. Moreover, I cannot ignore that the description specifically refers to an ‘**increase in**’ the number of pitches. In doing so, a reasonable reading of this would be that at the time of the application there were already a number of tent and caravan pitches on the site, and more are proposed. Indeed, there is no suggestion that, prior to the 2012 application, there were no tent or caravan pitches on the site at all; the use of the words ‘increase in’ does not fit with such a situation.
28. The description does not specify how the additional pitches will be used. Neither do any of the conditions of the planning permission. However, there is no indication that the additional pitches referred to in the description would be used or occupied in an alternative way to what has already gone on at the site. There is no reference to a proposed change to the type of activities on the site, or how the additional tents or caravans would be used and occupied in a way that is different to how the existing tents and caravans were used and occupied. Again, for the description to be read in this way it would be necessary to add words to it.
29. The words used in the description are ‘increase in’. Accordingly, and because there are no additional words that would fit with a proposal for a change in use or a new use of the site, a reasonable reading of this would be permission for more tent and caravan pitches used in the same way as the existing.
30. To provide further clarity, and in view of the limited description of the matter permitted in 2012, I have had regard to the documents that accompany the 2012 application. In doing so, I am in accordance with other caselaw brought to my attention, including *Slough Estates v Slough BC* [1969] 21 P&CR 573 and *R (oao Shepway DC) v Ashford BC* [1998] EWHC Admin 488.
31. My understanding of this caselaw is that, if a planning permission is clear on its face, it should not be interpreted in the light of the application and its accompanying plans. Where it is not clear, these documents may be used as an aid to interpreting or understanding the scope of what is permitted, provided that the planning permission incorporates the application and/or plans. This principle is repeated in other judgments referred to.
32. With this in mind, I note that the 2012 decision notice states that the Council grant ‘full permission to the development described below in accordance with the submitted application and its accompanying plan(s)’. Furthermore, condition 02 of the planning permission requires the development to be carried out in accordance with the approved plans that are listed in the document. The plans list is introduced with the words ‘This permission relates to the following plans’.
33. Having regard to the above, I am satisfied that the application and plans are incorporated into the planning permission. The application refers to the existing use of the site as a campsite. The listed plans include drawing number AL 012

01A, which is annotated. There is reference to '6 No additional caravan pitches', with their location shown in six squares along the north eastern boundary of the site. There is also reference on the plan to '10 No additional tent pitches positioned randomly throughout site as per existing'.

34. Again, none of the plans specify the purpose to which the additional tents and caravan pitches would be put. Drawing number AL 012 01A does, however, refer to 'additional' tent and caravan pitches, rather than just tent and caravan pitches. Furthermore, I also note the reference in the annotation to 'as per existing' for the additional tent pitches. Having regard to this plan, it does not cause me to doubt how I have read the description of what was permitted in 2012, which is more tent and caravan pitches used in the same way and for the same purpose as the existing.
35. In view of the above, it is necessary to establish what is more likely than not to have been going on at the site at the time of the 2012 application in order to understand the permitted purpose to which the additional tent and caravan pitches could be put. In doing so, I have had regard to the 2006 LDC, which described the development found to be lawful at that time as 'the use of the land for the siting of up to 12 touring caravans (with no single caravan being upon the site for more than 2 months at a time) and 30 tents occupied for holiday/tourism purposes'. There can be no doubt that what was found to be lawful was a residential use, albeit a use that occurred by reason of the siting of touring caravans and tents that would have accommodated the residential use.
36. The description is also specific with regard to the nature of the residential use found to be lawful. To my mind the reference in the description to 'occupied for holiday/tourism purposes' applies to both the touring caravans and the tents. Reading the description as a whole, I cannot regard it as applying to the occupation of tents only. Indeed, what was found lawful was a use where no single caravan would be on site for more than 2 months at a time. This indicates that the residential use carried on in the caravans would be of a temporary nature, in line with 'holiday/tourism purposes'.
37. Having regard to the above, I have no doubt that what was found to be lawful in 2006 is the siting of touring caravans and tents used for temporary residential accommodation for holiday and tourism purposes. Furthermore, the intensity of the lawful use at that time is also clear from the description. It specifically refers to 12 touring caravans and 30 tents; 42 units in total. I am satisfied that the 2006 LDC is precise in terms of what was found to be lawful at that time; I find it clear and unambiguous on its face.
38. Whilst it is clear what was found to be lawful at the time of the 2006 LDC application on the vast majority of the 2012 Permission land, I am mindful that there is some 6 years between that time and the 2012 Permission. I have noted the evidence regarding correspondence which the appellant says was exchanged between the Council and the site owner after the grant of the 2006 LDC¹. I understand that this was prompted as a result of the reference in the 2006 LDC to no single caravan being on the site for more than 2 months at a time. In this the Council confirm that it would have 'no objection' to more than 4 of the caravans being kept on site permanently, on the basis that the caravans are not occupied for

¹ Referred to in the statement submitted with the LDC application subject of this appeal.

‘more than 62 consecutive days at any one time’; that ‘no caravan is occupied by any person or persons for more than 90 days cumulatively during any calendar year’; and that ‘only tourists must use the caravans for holiday purposes’.

39. I acknowledge that this does not change what was found to be lawful in the 2006 LDC. However, this is advice from the Council at the time and can be read as its view on how the site could be used without that use resulting in a breach of planning control. To put it another way, it demonstrates the Council’s view at the time on how the site could be used without that use resulting in a material change to the use found to be lawful in January 2006. As the site owner put this to the Council, it seems likely that this was either how the site owner intended to use the site or how the site was already being used.
40. There is limited evidence on how the site was used after this time, up until the 2012 planning permission was submitted. The appellant’s witness, Mr Eiser, confirmed that no static caravans have been sited on the land and that only 4 touring caravans have been sited permanently. It was also confirmed that there have not been any defined pitches on the site. This is consistent with the aerial photograph from 2006, provided by the Council.
41. There is nothing to indicate that there was any substantial or material change in the use of the land between 2006 and the time of the 2012 application. By this I mean that there is no suggestion that there had been any notable change to the definable character of the use of the site after the 2006 LDC. This includes a change to the nature of how any caravans and tents were occupied, the type of units sited or the number of units the site had accommodated.
42. The 2012 application describes the existing use of the site as a ‘campsite’. This fits with the officer report, which describes the site as providing ‘holiday accommodation’. The appellant does not suggest that this is an inaccurate description of how the site was used at this time.
43. Having regard to the evidence before me, I find it more likely than not that when the 2012 application was made the use of the site was not materially different to the use described in the 2006 LDC and subject to the subsequent advice of the Council in the January 2006 correspondence. The character of that use at the time of the 2012 application was, on the balance of probability, a use of the land for the siting of 12 touring caravans and 30 tents occupied as temporary residential accommodation for holiday/tourism purposes. The use would also include the permanent siting of up to 4 of the 12 touring caravans, but occupied only on a temporary basis.
44. I have found that what was permitted in 2012 was an increase in tent and caravan pitches used in the same way and for the same purpose as the existing. The existing tent and caravan pitches were, on the balance of probability, used as set out above. Accordingly, what was permitted in 2012 was an increase in the number of tent and caravan pitches used for temporary residential accommodation for holiday and tourism purposes.
45. As for the scale of the increase permitted in 2012, I note that the 2012 decision grants permission for the development described ‘in accordance with the submitted application and its accompanying plans’. Both the plans and the application refer to 6 additional caravan pitches and 10 additional tent pitches. These can be relied upon to identify the character of what was granted permission. Whether this limits

the number of pitches to that specified is a separate matter that I will come to later in this decision when I consider the limitations imposed by the 2012 Permission.

46. Having concluded on what was permitted in 2012, I am mindful of the appellant's case that the 2012 Permission has the effect of a new planning chapter in the planning history for the site. I also note that the parties have dealt with in evidence what might be the 'governing consent/s' for the site and have considered whether the 2006 LDC is still of any effect in this case following the grant of permission in 2012. Accordingly, I move on to consider the effect of the 2012 Permission and whether this was, as the appellant puts it, a new planning chapter.
47. I have had regard to the caselaw drawn to my attention, including *Pioneer Aggregates (UK) Ltd v SSE* [1984] JPL 651. Whilst this case considered whether a previous planning permission was abandoned or extinguished, it is relevant to whether lawful use rights (whether lawful by the grant of planning permission or via another means) have been lost by the grant of a subsequent planning permission. This established that there are three scenarios where rights can be lost, or planning permissions in effect extinguished.
48. The appellant has referred to the second of these, which is described in that case as that of the 'new planning unit'. Paragraph 143H of the judgment I have been provided with indicates that 'the existing use right disappears because the character of the planning unit has been altered by the physical fact of the new development'. This does not mean that **any** MCU of land would result in the loss of or the abandonment of a previous lawful use. Indeed, the judgment goes on to say that 'it is clear that where the evidence fails to establish the creation by development actually carried out on the land of a new planning unit the grant of planning permission does not preclude a landowner from relying on an existing use right'.
49. If a MCU was granted in 2012, I am not persuaded that what was permitted was a new planning unit, as described in *Pioneer*. As I have concluded that what was permitted in 2012 did not change the type of activity on site (i.e. it permitted an increase in the number of tent and caravan pitches used in the same way as the existing tent and caravan pitches), a MCU might only result from an intensification of the existing activity on the site (i.e. the additional tent and caravan pitches). That means that what went on at the site previously continued, albeit with a greater number of units, even after the carrying out of the MCU permitted. This fits with the scenario envisaged in the judgment whereby the 'planning permission does not preclude a landowner from relying on an existing use right'.
50. I note the suggested conflict, that the use found lawful in 2006 with 'no single caravan being upon the site for more than 2 months at a time', whereas condition 03 of the 2012 Permission states that no individual touring caravan shall remain on site for a period longer than 4 weeks. An LDC cannot impose any control over a use. Its purpose is to define the characteristics of the matter found to be lawful on a particular date. Accordingly, what is specified in the 2006 LDC is not a limitation of the lawful use. It cannot be 'breached' in the same way as a condition can. Furthermore, condition 03 imposes a limitation on the permission it granted, which is for additional caravan pitches that are shown on the plans incorporated into the planning permission.

51. The land that is the subject of the 2006 LDC is not the same as that subject of the 2012 Permission, which includes the land occupied by a private way from the main access to the site off the adopted highway. It also includes the land occupied by a building in the south west corner of the site. Whilst this building has the appearance of a dwellinghouse, at least part of it appears to have been used as a camp site office, although the building was vacant at the time of my site visit. I also saw externally accessed male and female showers and w.c. in the building.
52. To my mind the inclusion of these parts of the site in the 2012 permission is of little consequence in this case. The appellant confirmed that at the time of the 2006 LDC, access to the site (i.e. the land subject of the 2006 LDC) was via this private way. As for the land occupied by the dwellinghouse/site office building, there is nothing to suggest that this had not already been used in association with the 2006 LDC land prior to the 2012 Permission.
53. The LDC does not purport to identify the planning unit in 2006. It specifies what was the lawful use of the land identified in the LDC application. It is more likely than not that the land occupied by the private way was part of the planning unit at that time. Even if the dwellinghouse/site office was only added to the planning unit by the 2012 Permission, I am not persuaded that this is sufficient to have resulted in a new planning unit having been created across the entirety of the site.
54. Notwithstanding the above, I cannot say that the use of the site is 'governed' by the 2006 LDC, as suggested by the Council. As I note above, an LDC cannot impose any control over a use. I would, however, say that the use that was found lawful in 2006 continued, on the balance of probability, up to 2012 and that the lawfulness of the use survived the grant of permission in 2012.

What limitations or restrictions are imposed by the 2012 Permission?

55. Notwithstanding my findings above, it is still necessary to consider whether the 2012 Permission prohibits the use proposed. To do this, I must establish what limitations or restrictions are imposed by the grant of the 2012 permission that might be relevant to my determination of the appeal.
56. For this I have had regard to the caselaw referred to, including *Breckland*, referred to above. In *I'm Your Man Ltd v Secretary of State for the Environment* [1999] 77 P&CR 251, the High Court considered the terms of a planning permission for 'additional use of warehouse/factory for sales, exhibitions and leisure activities for a temporary period of seven years at Weston Business Park', which was not subject to any condition requiring the cessation of the use after seven years. The Court confirmed that the planning permission as granted permitted the change of use of the buildings, and did not impose any limit on the period for that use. This principle was endorsed in *R (oao) Altunkaynak v Northamptonshire Magistrates Court & Kettering Borough Council* [2012] EWHC 174 (Admin) and *Lambeth London Borough Council v Secretary of State for Housing, Communities and Local Government* [2019] UKSC 33; [2019] 1 W.L.R. 4317, also referred to by the appellant.
57. *Winchester CC v SSCLG* [2013] EWHC 101 (Admin) is also referred to. In that case it was held that planning permission for the use of land as a 'travelling showpeople's site' was a limited grant of planning permission for that use. Although there were no conditions limiting the occupation of the site to travelling showpeople, it could not be interpreted as planning permission for a residential

caravan site and no conditions were necessary for the local planning authority to enforce against a use by people who were not travelling showpeople.

58. *Cotswold Grange Country Park v Secretary of State for Communities and Local Government* [2014] EWHC 1138 (Admin) appears to be of particular relevance in this case. The High Court considered the terms of a grant of planning permission 'to erect and re-site 40 caravans and provide 14 additional static caravans (within original area) and ancillary works (partially retrospective) all for year round holiday use'. This was not subject to any condition restricting the number of caravans on the site. The Court noted that the determinative issue was not 'whether the limitation is imposed merely in terms of a restricted description of the permission granted, but whether it is in the form of a condition'. The judgement refers to this as the 'I'm Your Man principle'. It was held that there is a difference between a limitation of numbers of caravans in the description in the grant of permission, and a limitation of such numbers in the form of a condition. It was said that 'only the latter was capable of imposing a limitation at law'.
59. The description of what was permitted in 2012 refers to 'caravan pitches' without reference to any particular type of caravan unit. There is no condition limiting the type of caravans to touring caravans alone. Whilst condition 03 refers to 'touring caravans', this is to limit the period that such units can remain on the site. Elsewhere in the permission document, the application form and the approved plans, there is reference only to 'caravan pitches', but not to touring caravan pitches.
60. Having regard to the above, I can only conclude that, by granting permission for an increase in caravan pitches, the 2012 Permission imposes no limitation on the type of caravan unit that can be sited on those pitches. I can agree with the parties that this is provided that the caravan falls within the definition at section 29(1) of the Caravan Sites and Control of Development Act 1960. In concluding as I have, I am not at odds with the Council's concession on this matter, as set out in the appellant's closing statement.
61. Moving on, condition 02 requires the development to be carried out in accordance with the plans listed in the decision, including drawing number AL 012 01A. This shows the location of the 10 additional tent pitches and 6 additional caravan pitches permitted. Whilst I have set out earlier in this decision that this plan can be relied upon to identify the character of what was permitted in 2012, neither condition 02 nor the application form can reasonably be read as providing an absolute limit to the number of pitches permitted. There are no conditions that explicitly limit the number of additional pitches to 16 or limit the total number of pitches on the site to a specified number.
62. The appellant does not propose an unrestricted residential use of touring caravans and, as such, does not appear to suggest that such a use of touring caravans would not result in a breach of condition 03. Nevertheless, neither this condition, nor any of the other conditions of the 2012 Permission limit how the tent and other types of caravan units permitted can be occupied. Neither does it limit the period of time such units can be on site.

Would the proposed use be prohibited by any of the conditions or limitations of the 2012 Permission?

63. As I have concluded above, the 2012 Permission does not impose any limitation on the type of caravan unit it permits. Neither does it impose any limitation on the number of additional pitches. Save for the limitation on the period touring caravans can be sited, the 2012 Permission imposes no limitation on how the additional pitches can be used or occupied or the duration of their presence on site.
64. Having regard to the use proposed, as clarified earlier in this decision, I can only conclude that it would not be prohibited by any of the conditions and limitations of the 2012 Permission.
65. To be clear, this does not mean that I conclude that the proposed use would be lawful and a breach of planning control would not occur if static caravans were sited on the land, if the number of pitches on the site were to increase, if more units were sited on the land permanently and if units on site were permanently occupied. This simply means that if the proposed use were to commence, there would not be a breach of any conditions of the 2012 Permission.

Is the proposed use permitted by the 2012 Permission?

66. The use found lawful in 2006 survived the grant of permission in 2012. That was a use of the land for the siting of 12 touring caravans and 30 tents occupied as temporary residential accommodation for holiday/tourism purposes. The use included the permanent siting of up to 4 of the 12 touring caravans, but occupied only on a temporary basis. I have also concluded that what was permitted in 2012 was the siting of additional tents and caravans used for the same purpose as the existing, which is for temporary residential accommodation for holiday and tourism purposes.
67. Whilst the use proposed would include the siting of units used for temporary residential accommodation for holiday and tourism purposes, it would also include the siting of units used for permanent residential accommodation. Indeed, the use proposed specifically includes the siting of an unlimited number of static caravans and tents all year round for an unrestricted residential purpose. For this reason, there is tension between the use proposed and what was permitted in 2012.
68. I acknowledge that this might appear to sit awkwardly with my earlier conclusion that the proposed use would not be prohibited by the 2012 Permission. However, whether a proposed development is permitted by the grant of permission or whether it is prohibited by the conditions and limitations of that permission are two separate matters.
69. The *Cotswold Grange* judgement is of particular relevance here. At Paragraph 15 it refers to the judgment in *I'm Your Man*, and it is stated that 'the grant identifies what can be done – what is permitted – so far as use of land is concerned; whereas conditions identify what cannot be done – what is forbidden. Simply because something is expressly permitted in the grant does not mean that everything else is prohibited. **Unless what is proposed is a material change of use – for which planning permission is required, because such a change is caught in the definition of development**' (my emphasis). I have emphasised this text as this is a point considered in *Winchester*. As I have noted above, it was found in *Winchester* that, although there were no conditions limiting the occupation of the

site to travelling showpeople, the planning permission could not be interpreted as permission for a residential caravan site and no conditions were necessary for the local planning authority to enforce against a use by people who were not travelling showpeople.

70. Having regard to the above, it is necessary to consider whether there would be a material difference between the use proposed and the lawful use of the land following the grant of the 2012 Permission. I pause here because in their closing submissions the appellant says that, if the proposed use is not found to fall within the envelope of what was permitted in 2012, then they do not seek to argue that the proposed use would not be a material change of use. However, I consider it necessary in this case in order for me to determine whether the proposed use falls within the scope of the permission. This approach accords with the caselaw referred to above.
71. For there to be a MCU, there must be some significant difference in the character of the activities of the proposed use, when compared with what has gone on previously as a matter of fact and degree.
72. I have found it more likely than not that the use found lawful in 2006 has continued up to the time of the 2012 Permission and that it survived the grant of that permission. I have also defined what was permitted in 2012.
73. As I note above, whilst it was clarified that the proposed use would include a mix of units occupied for permanent and temporary residential purposes, it explicitly includes an unlimited number of static caravans and tents (although likely around 84) used for an unrestricted residential use. What was permitted in 2012 does not include units occupied for permanent residential purposes. The permanent presence of residents on site all year round is likely to result in activity on the site, including the movement of people around the site, children playing, noise and external lighting all year round, and not concentrated during the typical tourism and holiday periods.
74. The proposed units used for permanent residential purposes would bring with them comings and goings, including vehicular and pedestrian movements, that would differ from those associated with units used for temporary holiday and tourism accommodation. This is likely to include trips to local services, including doctors' and dentists' surgeries, local community and sports facilities, etc.; travel to and from work and school; domestic deliveries of groceries and parcels; and traffic from the visitors to those residing at the site.
75. It is also likely that the units used for permanent residential purposes would result in an increase in the presence of domestic paraphernalia, such as external storage boxes, outdoor seating, washing lines, and outdoor cooking facilities. Such domestic paraphernalia is less likely to be present with the units used for temporary residential accommodation, particularly where units are on site for only a temporary period. This would change the character of the site all year round, but most notably during the winter months where there are likely to be less units on site for holiday and tourism purposes.
76. All of the above considered, I conclude that, as a matter of fact and degree, the use of the site proposed would result in a significant difference in the character of the activities on the site when compared to the existing lawful use following the grant of permission in 2012. For this reason, I conclude that what is proposed would not be

permitted by the 2012 permission. I can also conclude that it would result in a MCU of the land. This leads me to conclude that the use proposed in the LDC application subject of this appeal, as amended with the agreement of the appellant, would not have been lawful if instituted or begun at the time of the application.

77. Whilst I have noted the appeal decisions drawn to my attention, these do not alter my conclusions above. In Ruda Holiday Park² it appears that the use for which the LDC was sought was for the siting of caravans on land used for the same purpose and for the same period each year as that permitted by the relevant planning permission in that case. The dispute in that case was with regard to the location of the caravans, which was proposed on land that was the subject of the relevant permission, but not prohibited by the conditions of the permission.
78. Similar to Ruda Holiday Park, in Romansleigh³ the existing permitted use and the use that was found lawful both appear to be for the siting of caravans occupied for holiday purposes. The difference between the parties in that case was with regard to the number of caravans permitted. Indeed, I note that this and other of the appeal decisions have been referred to because of my concern with regard to the lack of reference to a specified number of units in the proposed use.
79. I reach no conclusion on whether the siting of an unlimited number of units would be lawful in the case before me. Furthermore, putting aside how the proposed units would be occupied, I do not suggest that the siting of units on the appeal site is not permitted by the 2012 Permission. However, I conclude that the proposed use would not be lawful, having regard to how some of the proposed units would be occupied, finding that there would be a material difference between what is proposed and what is lawful following the grant of the 2012 Permission. That is the difference between the case before me and those referred to above.
80. In the Castle View appeal⁴, the permitted use of the land was as a caravan and camping site used for a limited period in a calendar year. The use proposed was as a caravan site all year round, not limited to the period specified in the permission. The appeal was dismissed and certificate granted for two reasons given in the alternative. The first of these is of most relevance to the appeal before me. This found the proposed use lawful because there was no condition requiring the use to cease outside of the period specified in the description of the permitted use of the land **and** because the proposed use would not result in a MCU of the site. There is a distinction between this case and that before me in that I have concluded, as a matter of fact and degree, that the proposed use would result in a MCU of the land.
81. Finally, the relevance of Meadow View Caravan Park⁵ is not obvious to me. The main consideration in that case was whether each element of a permitted mixed use of a site, that included a caravan site, could take place across the entirety of the site. The conclusion was that they could.

² Appeal reference APP/X1118/X/18/3217206

³ Appeal reference APP/X1118/X/20/3249504

⁴ Appeal reference APP/C1435/X/17/3190604

⁵ Appeal reference APP/D1265/X/21/3267159

Alternative Description

82. During the course of the inquiry, the appellant suggested two alternative descriptions of development for which the LDC is sought. These are set out in the appellant's closing submissions as follows:
- i. The use of land for a mixed use of a caravan and camping site consisting of the siting of fifteen static caravans, fifteen touring caravans in accordance with planning permission P1042/12/FUL) and forty tents; or
 - ii. The use of land for a mixed use of a caravan and camping site consisting of the siting of six static caravans, twelve touring caravans in accordance with planning permission P1042/12/FUL) and forty tents.
83. I have been asked to consider these alternatives and determine whether these uses would be lawful. Whilst I attempted during the inquiry to obtain the views of the Council's witness on whether these alternative proposed uses of the site would be lawful in this case, they were unwilling to give their view without consultation with their senior officers. Indeed, they suggested that they did not have the authority to give an opinion on this matter. I was only seeking an opinion of the Council's witness, rather than a determination of the Council. Nevertheless, the alternatives were proposed very late in the proceedings, which gave the Council's witness very little time to consider them, together with the implications of any opinion they expressed on their case overall.
84. Without giving the Council, and indeed interested parties, the opportunity to consider and make representations regarding the proposed alternatives, it would cause procedural injustice for me to consider within the remit of this appeal whether or not the proposed alternative uses would be lawful.

Conclusion

85. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the following is well-founded and that the appeal should fail:

The use of land for the siting of an unrestricted number of static caravans (within the legal definition of a caravan) for an unrestricted residential purpose all year round and the siting of an unrestricted number of tents for an unrestricted residential purpose all year round together with the siting of an unrestricted number of touring caravans with no individual touring caravan being sited on the site for longer than 4 weeks (as required by in accordance with condition 03 of planning permission P1042/12/FUL).

86. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

J Moss

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Michael Rudd
Ben Eiser BSc(hons) PG DIP MA MRTPI

Kings Chambers
Eiser Planning & Development Consultancy
Services Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Peter Wadsley
Stephen Colegate MRTPI MPLAN
BA (HONS)

St. John's Chambers
Forest of Dean District Council

INTERESTED PERSONS:

Councillor Cox
Mr Miller

Coleford Town Council
Interested Party

INQUIRY DOCUMENTS

ID1 Appeal decision reference APP/D1265/X/21/3267159
ID2 Amended description of development