



Appeal Decision

Hearing held on 10 February 2026

Site visit made on 10 February 2026

by Peter Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2026

Appeal Ref: APP/T0355/X/25/3373234

Newtonside Orchard, Burfield Road, Old Windsor SL4 2RE

- 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 Fred Sines against the decision of Royal Borough of Windsor and Maidenhead.
 - The application ref 24/02255/CPU, dated 16 September 2024, was refused by notice dated 3 March 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 'Use of land as a caravan site for the siting of up to 4 mobile homes for human habitation'.
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Decision

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

Preliminary Matter

2. An indicative site layout plan accompanying the application shows two existing structures, as well as the 4 proposed mobile homes. These existing structures are not labelled, but at the site visit it was clear that one of them was a mobile home, apparently in use. Thus, the plan shows 5 mobile homes on the land, which raises the possibility of inconsistency with the 4 mobile homes proposed. Accordingly, to ensure clarity, I have disregarded that plan and based my decision on the proposal for 4 mobile homes and the accompanying location plan.

Main Issue

3. The main issue is whether the Council's decision to refuse to issue a certificate was well founded. This turns on whether, on the date of the application, the use of the land as a caravan site for the siting of up to 4 mobile homes for human habitation would have amounted to a material change of use.

Reasons

General approach to LDCs and lawfulness

4. In LDC cases, the burden of proof falls on the appellant. The Government's Planning Practice Guidance (PPG) provides advice relating to LDCs, and confirms that the applicant is responsible for providing sufficient information to support an application. To succeed in this instance, the appellant must demonstrate, on the balance of probability, that there would not be a material change of use.

5. Uses of land may become lawful due to the passage of time. In accordance with s191(2) and s171B(3) of the Act (as amended), the relevant period in respect of any change of use relevant to this case is 10 years.
6. I have been referred to a range of court decisions on the question of material changes of use¹. These establish that whether there would be a material change of use depends upon whether there would be a change in the character of the use of the land. Thus, a comparison needs to be made between the character of the existing, lawful use and that of what is proposed. The mere intensification of a use can bring about a material change, but only if it results in a change in the definable character of the use. Whether it does in any given case will be a matter of fact and degree, for the decision-maker.
7. Thus, it is necessary in this case to establish the nature and character of the existing use of the land. Linked to that is the question of the 'planning unit' – the relevant area to be considered in making that assessment.

The current lawful use of the appeal site and the planning unit

8. The appellant's land includes both the appeal site and an adjacent caravan site. The land has a long and complex planning history, but there is no dispute regarding the facts of what has taken place.
9. The established caravan site benefits from a planning permission, granted in 1979, for use as a caravan site for the stationing of 16 mobile homes. The appeal site was not part of that permission.
10. The key document in the history of the appeal site is an LDC, granted by the Council in 2024. Section 191(6) of the 1990 Act provides that the lawfulness of any use, operation or failure to comply with condition for which an LDC is in force under s191 'shall be conclusively presumed'. Thus, the uses described in an LDC are lawful and will remain so unless and until there is a material change in circumstances. The certificate granted in this instance is described as:

Certificate of lawful use for the ancillary recreational use of the land by residents of the adjacent mobile home park; the ancillary parking of cars by residents of the adjacent mobile home park; and the storage of two touring caravans, being activities that are not development as defined by section 55 of the Town and Country Planning Act 1990 and do not require planning permission.

11. The reason given for issuing the certificate is brief, and states that the activities did not involve development or require planning permission. However, the application was supported by evidence including statutory declarations from a number of long-standing residents of the mobile home park, stating that the land had been used for recreation, play, storage, camping, parking and other purposes ancillary to the caravan site for over 10 years and for no other purpose.
12. Of particular note is that the certificate refers specifically to ancillary (as opposed to primary) uses. It is clear from the discussion at the hearing and the material before me that the use of the word 'ancillary' in this context means ancillary to the established caravan site. That alone is a clear indication that the lawful primary

¹ Palser v Grinling [1948] AC 291; East Barnet UDC v British Transport Commission [1962] 2 QB 484; Hertfordshire CC v The Secretary of State for Communities and Local Government and Metal Waste Recycling Ltd [2012] EWCA Civ 1473; Reed v Secretary of State for Communities and Local Government & Anor [2014] EWCA Civ 241;

use of the land was also that of a caravan site; by its nature, an ancillary use is derived by reference to the primary use.

13. The facts on the ground support that view. The land is reached via the established caravan site, and there is no other means of accessing it. The land is privately owned and, I understand, the general public have no rights of use of the land. Thus, it appears that the land is for the exclusive use of the residents of the caravan site. The activities taking place on the land - which include car parking, caravan storage, and outdoor recreation - are of a kind which one would expect to find on a caravan site. The LDC confirms that these are taking place lawfully.
14. Further support is found in the statutory definition of 'caravan site' for planning purposes. Section 336 of *The Town and Country Planning Act 1990* (as amended) states that "*caravan site*" has the meaning given in section 1(4) of the *Caravan Sites and Control of Development Act 1960*. Section 1(4) of that Act defines 'caravan site' as '*land on which a caravan is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed*' (my emphasis). Thus, land can form part of a caravan site even if it does not, itself, have a caravan on it, where it is used in conjunction with land containing a caravan for human habitation. Quite plainly, the appeal site is used in conjunction with the established caravan site.
15. I have considered carefully the Council's view that the primary use of the land is a recreation use. I understand that a 2012 appeal decision made reference to the land being used for outdoor sport and recreation. However, whatever the previous position, the clear physical and functional relationship of this land to the caravan site leads me to conclude that its primary use now relates specifically to the caravan site. Moreover, a significant part of the appeal site is used for car parking and storage rather than recreation. Consequently, the use is correctly described as a caravan site, rather than a recreation use.
16. Fundamentally linked to the use of the site is the question of the planning unit. In this case, the appellant argues that the appeal site is part of a single planning unit that includes the established caravan site. The Council says that they are two separate planning units.
17. The leading case for determination of the planning unit is *Burdle & Williams v SSE & New Forest DC* [1972] 1 WLR 1207, in which it was held that the planning unit is usually the unit of occupation, unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct, and occupied for different and unrelated purposes.
18. The judgement suggested three broad categories of distinction:
 - a) A single planning unit where the unit of occupation has one primary use and any other activities are incidental or ancillary;
 - b) A single planning unit that is in a mixed use because the land is put to two or more activities and it is not possible to say that one is incidental to another; and
 - c) The unit of occupation comprises two or more physically separate areas which are occupied for different and unrelated purposes. Each area that has a different primary use ought to be considered as a separate planning unit.

19. Here, the unit of occupation includes both the appeal site and the established caravan site; both are owned by the appellant and both are used by residents of the caravan site. Of the 3 categories above, it seems to me that the first – (a single planning unit where the unit of occupation has one primary use and any other activities are incidental or ancillary) applies. The site is not in a mixed use because as I conclude above, both the appeal site and the adjacent land, are in use as a caravan site. Nor does the final category apply; while the established caravan site and the appeal site might be said to be separate areas (albeit adjoining areas with a common access), they are not occupied for unrelated purposes. Indeed, the 2024 certificate establishes the relationship very clearly.
20. I have considered the Council's comparison of the appeal site to a play area serving a housing development. However, the makeup of a planning unit in any given instance depends on matters of fact and degree. A caravan site is a single planning unit, very different in nature to a dwellinghouse and, as the definition in the Act makes clear, can include land used in conjunction with the land on which the caravans are stationed. Moreover, only part of the appeal site is used for outdoor recreation, much of it being set aside for car parking, also linked to the caravan site use.
21. For these reasons, I conclude that the appeal site is part of a larger planning unit which includes also the established caravan site. The primary use of the planning unit is as a caravan site. The materiality of any change of use must be assessed with regard to the planning unit as a whole.

The effect of the proposal on the character of the use

22. The larger part of the planning unit is made up of the established caravan site, which features a fairly dense layout of 16 mobile homes. There is some greenery, but there is also a great deal of built development between the units, such as roadways, paths, walls and lighting columns. Thus, it has a very built-up character. Features such as walls and brick plinths below the units give the site an air of permanence, comparable to a built development.
23. The appeal site is more open in character, but is by no means free of development. It contains a substantial surfaced parking area and a landscaped recreation area, which contains play equipment, a small pool and various ornamental features. Additionally, when I saw the site there were various structures along the western boundary. I do not have the planning details of these, but they included a large timber-framed building, a mobile home, and other structures, apparently for use by residents of the mobile home park.
24. The appeal proposal would see a total of 4 mobile homes for residential occupation on the appeal site. The proposal is specifically for mobile homes. While it is common ground that these would meet the statutory definition of a caravan, I am mindful that such units can be large and, by their very nature, give a greater impression of permanence than touring caravans. Thus, the appeal site would become less open, more developed in character. To that extent, there would be some change within the planning unit.
25. Nevertheless, the effect on the site as a whole would be limited. Even assuming, as seems likely, there is no reduction of units on the established site, the appeal proposal would represent a reasonably modest increase in numbers. Despite its

more open character, the appeal site is intimately related to the rest of the land, such that the siting of mobile homes on it would not appear incongruous.

26. Furthermore, as noted above, the land is not wholly free from development. Indeed, a significant proportion of it is tarmacked and the LDC recognises that car parking can take place on the land. As the Council officer's report notes, even the amenity space contains children's play equipment and a free-standing swimming pool. Thus, even setting aside the other items on the land when I viewed it (given the lack of background information relating to them), the appeal site is already far from having an undeveloped character.
27. Any off-site impacts would be very limited. The site is well screened with a wall and greenery, so that there would only be glimpses of the mobile homes from outside the site. While there would be additional traffic movements arising from the mobile homes, that would be experienced in the context that there are already 16 lawful mobile homes within the complex. In my judgement, the actual off-site impact arising from additional traffic would be minimal.
28. It is also unlikely that there would be any noticeable change in noise or lighting arising from the site in my view. Given the screening at the site, the limited scale of what is proposed and the relationship of the site to other dwellings in the locality, I am not persuaded that there would be any significant effect on the living conditions of nearby residents, either within the complex or elsewhere.
29. Viewing matters as a whole, I do not consider that the effects of the intensification of the caravan site use arising from the 4 mobile homes proposed would change the definable character of the use such as to result in a material change of use of the land. The planning unit already has the character of a fairly typical mobile home park, and that would continue to be the case.

Other considerations

30. The established caravan site is subject to a planning condition limiting the number of units to 16. However, that condition does not relate to the appeal site and so has no bearing on my decision. My decision to grant a certificate has no effect on the way the condition applies to the relevant land.
31. I have been referred to a range of appeal decisions. For the most part, these depend on the facts of the particular cases and are of little assistance. To the extent that the decision concerning an LDC for the siting of residential park homes at Kings Copse Mobile Home Park, Garsington² is relevant, it reinforces my view that the use of this current appeal site for purposes ancillary to the caravan site is an indication that it has the same primary use and is part of the same planning unit. While the Council refers to a subsequent appeal decision relating to the Kings Copse site³, the appellant has provided evidence to show that that decision was subsequently quashed in the High Court.
32. An appeal decision relating to land at Coldharbour Cross, Loddiswell⁴ concerned a proposal for 4 additional caravans at a site which contained only a single lawful unit, which is materially different to the situation here, where the planning unit already lawfully contains 16 mobile homes.

² APP/Q3115/X/18/3199426

³ APP/Q3115/X/19/3240630

⁴ APP/K1128/X/23/3319601

Conclusion

33. I have concluded that the appeal site is part of a larger planning unit which is in lawful use as a caravan site. The siting of 4 mobile homes on the appeal site would not result in a significant change in the character of that use such as to bring about a material change of use. Consequently, the Council's refusal to grant a certificate of lawful use or development is not well-founded and the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended) and grant the certificate applied for.

Peter Willows

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Michael Rudd, Barrister

Nick Laister, Laister Planning

Mustafa Khan, RPS

Fred Sines - Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Jo Richards – Development Management Team Leader

Tom Hughes – Development Management Planning Officer

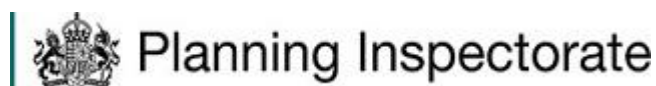
Diana Miller – Planning and Highways Locum Solicitor

INTERESTED PARTIES

Neil Knowles – Old Windsor Parish Council

DOCUMENTS ACCEPTED AT THE HEARING

1. Planning permission Ref 409565
2. Text of Old Windsor Parish Council submission
3. Burdle & Williams v SSE & New Forest DC [1972] 1 WLR 1207
4. Consent Order – APP/Q3115/X/19/3240630
5. Hertfordshire CC v SSCLG & Metal and Waste Recycling Ltd [2012] EWHC 277 (Admin)
6. Hertfordshire CC v SSCLG & Metal and Waste Recycling Ltd [2012] EWCA Civ 1473



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(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 16 September 2024 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, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

On the balance of probability, the site (edged red on the attached plan), together with the adjoining land (edged blue) is part of a single planning unit in lawful use as a caravan site. The siting of 4 caravans on the land edged red would not materially change the definable character of the use of the land forming the planning unit.

Signed

Peter Willows

Inspector

Date: **12 March 2026**

Reference: APP/T0355/X/25/3373234

First Schedule

Use of land as a caravan site for the siting of up to 4 mobile homes for human habitation

Second Schedule

Land at Newtonside Orchard, Burfield Road, Old Windsor SL4 2RE

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 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 would have been 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.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in this decision dated: **12 March 2026**

by **Peter Willows**

Land at: Land at Newtonside Orchard, Burfield Road, Old Windsor SL4 2RE

Reference: APP/T0355/X/25/3373234

Scale: Not to Scale

