



Appeal Decision

Site visit made on 10 March 2026

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2026

Appeal Ref: APP/J1860/X/25/3362288

The Ridgeway, Malvern Road, Powick, WR2 4SN

- 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 (LDC).
- The appeal is made by Mr Malcolm Rankin against the decision of Malvern Hills District Council.
- The application ref M/24/01647/CLE, dated 22 November 2024, was refused by notice dated 20 January 2025.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended) (the Act).
- The use for which a certificate of lawful use is sought is the stationing of a caravan for residential purposes.

Decision

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

Procedural Matters

2. The appeal is made to ascertain whether the claimed siting of a caravan for residential purposes is lawful as described in s191(2) of the Act. It provides that '...uses and operations are lawful at any time if - (a) no enforcement action can be taken in respect of it, whether because it did not involve development or require planning permission, or because the time for enforcement action has expired, or for any other reason, and (b) it does not constitute a contravention of any of the requirements of any enforcement notice then in force'.
3. Section 171B of the Act sets out the time limits for enforcement for any breach of planning control. The relevant period is 10-years or more on, or prior to, the time of the application. As the date of the application was 22 November 2024, the date on or before which the use must have commenced is 22 November 2014 and continued without any significant interruption thereafter.
4. The burden of proof in satisfying the requirement of s191(2) falls to the appellant. The appropriate standard for testing the evidence is made on the balance of probabilities, that is to say whether something is more likely than not.
5. The Planning Practice Guidance¹ reflects prior Court judgments. It sets out that an appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided the appellant's evidence alone is sufficiently precise and unambiguous.

¹ Paragraph: 006 Reference ID: 17c-006-20140306

6. As part of the appeal, the appellant submitted additional documents which were not before the Council when it considered and determined the application. The Encyclopedia of Planning Law and Practice sets out that appeals under s195 of the Act as amended 'are invariably treated as *de novo* appeals...the parties and interested persons may submit additional evidence to the Secretary of State which was not before the authority at the time of its decision'. Consequently, I have had regard to the additional documents in my determination of the appeal.

Main Issue

7. The main issue is whether the Council's decision to refuse the LDC is well founded.

Reasons

8. The location of the caravan is amongst a considerable area of stored touring caravans, shipping containers and some buildings arranged about surfaced areas served by a dedicated access from Malvern Road, which lies some distance to the north-west. The single-unit static caravan is located adjacent to a mature hedgerow such that it can be readily identified on a series of aerial photographs provided by the appellant.
9. There is no dispute between the main parties that a caravan has been sited in the specific location for some time. This is evidenced across aerial images dating between 1999 and 2021. Although there are time intervals in between, and it is not possible to identify whether or not the caravan is the same unit throughout, it seems probable that a static unit has persisted in the location for considerably more than 10 years.
10. The Council rightly identify that the presence of the caravan is not confirmation of its consistent use for residential purposes. To that end, the appellant has submitted a statement under the Statutory Declarations Act 1835 detailing the siting of the original caravan and various replacements on the same footprint, and inhabited by a succession of occupiers.
11. The statement refers to initial consistent occupation by the appellant's son between 1998 and 2000, then by a lorry driver from March 2000 to spring 2010. More irregular use as a holiday home and visitor accommodation was said to follow, before the current occupation commencing in late 2014.
12. Although there is limited supporting evidence to demonstrate consistent occupation of the initial periods, the aerial photograph of 1999 shows an area of worn grass leading to the unit. In subsequent years, the images include various vehicles parked alongside or close by. These suggest a degree of attendance and/or use taking place.
13. A site valuation carried out in 2007 refers to a caravan being occupied by a lorry driver. The document fails to identify the subject caravan such that it is somewhat ambiguous, nevertheless, it is consistent with and corroborates the claim made in the statutory declaration.
14. On the appellant's claim, the use of the site for the stationing of a caravan for residential purposes was probably lawful some time in 2008 - 10 years after the initial use by the appellant's son in 1998. In the absence of any evidence to the contrary, I find little reason to dispute that position.

15. The appellant's evidence acknowledges that there was a period of absence of a caravan when one was removed in spring 2010 and replaced by another in July of that year. However, as the claimed use had probably been established by that time, a limited break would not result in a substantial interruption of the use and there is little to indicate that, or any other circumstances, then caused the loss of accrued lawful use rights².
16. Following the use of the caravan as a holiday home and visitor accommodation from 2010 - both residential uses, the evidence suggests that the current occupier has been in residence since late 2014. A spreadsheet detailing rent and electricity payments between October 2014 and October 2024 was provided. This has since been supplemented by copies of the receipts of payments.
17. While there are numerous gaps in the rental payments suggesting times of absence of one or two months or more in any year, electricity bills are continuous over that period. As above, pursuant to my finding that the use had probably already attained immunity by virtue of s171(B)(3), that lawful status is not affected by limited periods of vacancy.
18. In the substantial absence of evidence to the contrary, I find it more likely than not that the claimed use has taken place for sufficient time to become lawful prior to the date of the application.

Other Matters

19. I note the appellant's concerns in relation to the Council's handling of the LDC application. However, these are not relevant considerations in the appeal.

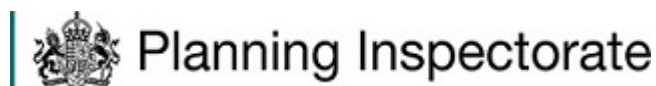
Conclusion

20. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use for the stationing of a caravan for residential purposes is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

R Hitchcock

INSPECTOR

² See *Panton & Farmer v SSETR & Vale of White Horse DC* [1999] JPL461



Lawful Development Certificate

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

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

IT IS HEREBY CERTIFIED that on 22 November 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and coloured green on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The evidence provided by the appellant demonstrates that the land coloured green has probably been in consistent use for the siting of a caravan for residential purposes for a period of 10 years, or longer, prior to the time of the application.

No enforcement action could have been taken in respect of the use because the time for enforcement action had expired and it did not constitute a contravention of any of the requirements of any enforcement notice then in force.

Signed

R Hitchcock

Inspector

Date: 12 March 2026

Reference: APP/J1860/X/25/3362288

First Schedule

The stationing of a caravan for residential purposes

Second Schedule

Land at The Ridgeway, Powick, WR2 4SN

IMPORTANT NOTES – SEE OVER

NOTES

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

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

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

Plan

This is the plan referred to in the Lawful Development Certificate dated: 12 March 2026

by R Hitchcock

Land at: The Ridgeway, Powick, WR2 4SN

Reference: APP/J1860/X/25/3362288

Scale: Not to Scale

