



Appeal Decision

Site visit made on 18 March 2026

by M Madge Dip TP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2026

Appeal Ref: APP/V2635/X/25/3376192

Pentney Country Club Touring Caravan Park, Narborough Road, Pentney, Norfolk PE32 1JD

- 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 Pentney Country Club Limited against the decision of King's Lynn and West Norfolk Borough Council.
 - The application ref 25/00394/LDP, dated 21 February 2025, was refused by notice dated 23 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 proposed use of land for the siting of 22 static caravans and 40 touring caravans for the purpose of human habitation (residential use) throughout the year.
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Decision

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

Preliminary Matters

2. The description of development is usually taken from the application form. The application form, dated 21 February 2025, however states "*Please refer to supporting information*". The Planning Statement identifies the proposal as set out in the banner heading above, as does the Council's decision notice. As both the appellant and Council have used this description, I shall also proceed on this basis.
3. The Council provided a copy of the plan and flood risk assessment referred to in the decision notice for planning permission reference 16/01330/CU. This submission was made at my request to ensure that I had the full details of that planning permission.
4. For the purposes of this decision use as a 'caravan park' shall have the same meaning as use as a 'caravan site' as defined in section 1 (4) of Part 1 of the Caravan Sites and Control of Development Act 1960.

Reasons

5. To be clear, the subject of this appeal is an application for an LDC, not an application for planning permission. If it were an application for planning permission, my decision-making process would involve an assessment of the planning merits of the proposal and its compliance with national and local planning policies. However, since it is an application for an LDC, none of those considerations are before me; rather, my assessment is confined to the narrow

issue of determining whether the use described in the application would be lawful if instituted at the date of the application¹.

6. The matter before me relates only to the use of land, and not whether any facilitating operational development would be lawful. The **main issue** is therefore whether the Council's refusal to issue an LDC is well founded. This turns on whether the appellant can show, on the balance of probabilities, that the proposed use falls within the existing lawful use of the land or, if it does not, it would not involve a material change to the definable character of the existing lawful use. If either of those circumstances are shown to be true at the date the application was made, then the LDC should be granted. In all other circumstances, the LDC should be refused.

Legal Authorities

7. The courts have held that a 'material' change in use is not entirely straightforward. A change is not material if it is de minimus. Further, the courts have accepted that it is proper to assess materiality in planning terms, having regard to the possible effect of the change on local amenity in borderline cases.
8. The main appeal parties have directed me to several legal authorities, which I address below.
9. The High Court held in *I'm Your Man Ltd v SSE* (1999) 77 P&CR 251, that the inclusion of the words "*for a temporary period of seven years*" in the description of development without any condition requiring the cessation of the use after seven years did not amount to a functional limitation on the use granted planning permission. The same cannot be said to apply in the case before me as the reference to "*touring caravan site*" in the description of the 2016 PP establishes a clear functional limitation, which the appellant does not dispute.
10. *Hertfordshire CC v SSCLG & Metal and Waste Recycling Ltd* [2012] EWCA Civ 1473 accepted that a material change of use can occur as a result of intensification and/or a combination of other activities. It also established that, where intensification of use is argued to bring about a material change of use, there must be some definable change to the character of the use. While there is no restriction on the number of touring caravans that can be sited on the appeal site, intensification may still have relevance depending on what actual use the land has been put to compared to what use is proposed.
11. The appellant argues that the correct test to be applied, having regard to *Hertfordshire CC*, is that it is the existing lawful use, not the existing actual use that constitutes the baseline for comparison, as Ouseley J stated at paragraph 36:

"...in judging whether an increase in activity has led to an intensification of such a nature or degree as is necessary to constitute a material change of use, the level at which that activity did or could occur without giving rise to a change of use has to be ascertained...It is only what happens above that no doubt not very clearly defined baseline which can contribute to the material change of use. In so far as the change in effect is relied on, the change in effect must exceed that which could be caused by the permitted use..."

[appellant's emphasis]

¹ As per section 192(2) of the Town and Country Planning Act 1990

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12. Ouseley J went on to clarify in paragraph 37, “*So even if effects could prove that a material change of use had occurred, they had to be effects generated by activities beyond those which did not require planning permission*”. It is therefore not enough for me to have regard to what purpose and level of activity the land has been put to. It is necessary to determine what purpose and level of activity could occur within the scope of any extant planning permission to establish the baseline for comparison.

Background

13. The main appeal parties agree the appeal site is land for which planning permission was granted for the “*extension of existing touring caravan park*” on 7 October 2016² (the 2016 PP). This permission is subject to four conditions, which are précised as follows:
1. the statutory time limit for implementation;
 2. that the development be carried out in accordance with approved plan 9981-1A received on 19 July 2016;
 3. that the development be carried out in accordance with the conclusions and recommendations of the Flood Risk Assessment dated July 2016 (FRA); and
 4. prior to first use, the submission of a Flood Plan for approval and the development to be carried out in accordance with the approved details.
14. In respect of condition 2, the appellant highlights that while the development had to be carried out in accordance with the approved plan, there is no requirement for the development to be retained as such thereafter. It would seem more likely than not that the purpose of bringing this to the reader’s attention is that the development either did not remain as shown in the approved plan or that at some future point it would deviate from the approved plan. I agree with the appellant’s finding in respect of condition 2.
15. The appellant also confirms the Flood Plan details required by condition 4 of the 2016 PP were approved on 17 January 2017. The appellant highlights the need to have the Flood Plan approved in advance of the use commencing. It would therefore be reasonable to conclude, in the absence of any evidence to the contrary, that the use of land as an extension of the existing touring caravan park commenced after 17 January 2017.
16. The appellant is silent in respect of condition 3. The approved FRA conclusions and recommendations include the following provisions, “*Floor level of the caravans shall be at 600mm above existing ground level and securely anchored with safe refuge in the Pentney Bowls and Leisure Club.*” The evidence does not show the use as a touring caravan park has been carried out in accordance with the conclusions and recommendations of the FRA. The appellant’s case does not suggest that the touring caravan park use has subsisted in breach of that condition for 10 or more years. To become lawful, the breach would have had to occur on or before 21 February 2015, which significantly pre-dates the development commencement date, 17 January 2017.
17. Furthermore, even if 10 years had passed, it would be necessary to show that every touring caravan sited on the land since the breach first occurred had done

² Application reference 16/01330/CU

so in breach of condition 3 as it is a continuing requirement condition. If, at any point during the relevant 10-year period, even a single touring caravan had been sited in accordance with condition 3, the clock for the 10-year period would restart.

18. Taking all the above factors together I find, on the balance of probability, that the 2016 PP was lawfully implemented. The use of the land as an extension of existing touring caravan park therefore has the benefit of planning permission, subject to compliance with requirements of condition 3.
19. An application, seeking a lawful development certificate (LDC) for *“Use of the land as a residential caravan site”* under s191(2) of the 1990 Act, was submitted in April 2019 (2019 LDC). In determining that application, the Council found that the application description was much broader than what had been granted planning permission by the 2016 PP. Furthermore, during their site visit the officer saw *“a number of caravans on site, all of which appeared to be touring caravans”*³. The POR goes on to explain that in accordance with s191(4) of the 1990 Act, the description for which the LDC was applied for was modified to reflect what the Council found to have occurred, namely *“Use of land for the siting of touring caravans for the purposes of human habitation (residential use) throughout the year”*.
20. The reason for granting the 2019 LDC was *“There are no limitations on the use of the touring caravans in terms of type of residential occupancy or duration throughout the year controlled by condition on the relevant planning permission (16/01330/CU) on the land identified. Therefore, on the basis that the use is for touring caravans only, the use of the land for the siting of touring caravans for the purposes of human habitation (residential use) is considered lawful.”* It would be reasonable to conclude from this reason and the description of the use set out in the LDC that the permanent siting of touring caravans for permanent residential occupation therefore falls within the scope of the 2016 PP. The grant of the 2019 LDC also adds confirmation that the Council were satisfied that the 2016 PP had been lawfully implemented.
21. The Council’s decision was not challenged, and I find no reason why the 2019 LDC should not be taken as read. The 2019 LDC is not however a planning permission. It does not remove or discharge conditions imposed on the land by the 2016 PP. Condition 3 of the 2016 PP therefore remains in effect and the provisions set out in the conclusions and recommendations of the FRA would need to be met.
22. After the 2019 LDC, the Council refused to grant a proposed LDC in 2020 for *“Proposed use of land for the siting of static caravans for the purposes of human habitation (residential use) throughout the year.”*⁴ (2020 LDC) This refusal was appealed and as there is no legal differentiation between touring and static caravans, the Inspector directed themselves to an assessment of whether there would be any differentiation in planning terms. They concluded, *“the application for the siting of static caravans is remarkably unspecific and by no means sufficiently precise to justify the grant of an LDC. On the balance of probabilities their introduction for permanent residential use might amount to a material change to the permitted use that would require planning permission.”*

³ Planning Officer’s Report (POR) for Ref. No. 19/00543/LDE – page 5

⁴ Application reference 20/00678/LDP

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23. The 2020 LDC refusal and subsequent appeal do not change my findings in respect of the 2016 PP and 2019 LDC. They are however a material consideration in my determination of the current appeal.

Existing Lawful Use of the Land

24. I have established that the use of the appeal site is governed by the 2016 PP and the lawful use of the land is as an extension to existing caravan park. The 2019 LDC confirms the 2016 PP allows for the siting of touring caravans for the purposes of human habitation (residential use) throughout the year. A more precise description of that use would be; it allows for the permanent siting of touring caravans for permanent residential occupation. As the use set out in the 2019 LDC falls within the scope of the 2016 PP, it would not require the benefit of a further planning permission.
25. There is no conditional limitation on the number of caravans that could be sited on the land. However, the 2016 PP was granted based on the plan referred to in condition 2, which shows the provision of 6 touring caravan pitches on the land. The appellant implies the use was implemented in accordance with this plan, and in the absence of any evidence to the contrary, I accept the appellant's claim. The previous Inspector's decision and the POR confirm that the number of caravans on the land had deviated from the approved plan by 2019. This deviation did not require the benefit of a further planning permission as condition 2 of the 2016 PP did not require the implemented plan to be retained thereafter.
26. The appellant has provided an 'Indicative Site Capacity Layout for Touring Caravan Pitches', drawing/figure number 12600-0009-01 rev A (Plan A). This shows the siting of 67 touring caravans. The appellant's argument that Plan A represents a lawful use of the land is predicated on there being no conditions on the 2016 PP to prevent it.
27. The Council acknowledges⁵ that Plan A *"includes the space requirements within the model standards"*. They offer no commentary on whether the content of Plan A is lawful within the scope of the 2016 PP and 2019 LDC. In the absence of evidence to the contrary, there is however no reason for me not to accept the appellant's assertion that the touring caravan park use shown on Plan A falls within the parameters of the 2016 PP and 2019 LDC. It would therefore be reasonable to conclude that the siting of 67 touring caravans on the land would not require the benefit of a further planning permission. For these reasons, Plan A shall form the baseline for any subsequent comparison.

Assessment

28. Having regard to *I'm Your Man*, the inclusion of 'touring' in the description of the 2016 PP development is a functional limitation. The obvious distinctions between a touring caravan and a static caravan are clear to any reasonable person, in the interests of brevity I will not recite them here. Static caravans are clearly not capable of being used for 'touring' purposes and therefore their siting on the land would not fall within the scope of the 2016 PP, as clarified by the 2019 LDC. It therefore falls for me to determine whether the proposed siting of 22 static caravans and 40 touring caravans would cause a material change in the definable character of the lawful use.

⁵ Planning Officer's Report for Ref. No. 25/00394/LDP – page 6

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29. At the time of my site visit there were no caravans on the appeal site. There was however an ablution block, several water standpipes, several electric hook-up points and two waste-water tanks. A cinder track within the site remained evident as did several hardstandings. The periphery of the site, particularly at the southern end, was overgrown with reeds and I saw that there are watercourses adjoining the site boundaries.
30. The matter before me for consideration is therefore whether the introduction of a quantum of static caravans in addition to the siting of touring caravans on the land for human habitation (residential use) throughout the year would cause a definable change in the character of the existing lawful use, thereby amounting to a material change of use. The baseline for comparison is that shown on Plan A and the proposed use is shown on Indicative Site Capacity Layout for Touring Caravan Pitches & Static Pitches', drawing/figure number 12600-0009-02 rev A (Plan B).
31. The Council's case is that, while the number of "units" would slightly decrease, *"the siting of the proposed 22 static caravans by virtue of their size and appearance would result in a change to the character of the land. The site is located within an area of open countryside where impact created by the proposed larger static caravans would be considered to create a material change in the character of the area and thus a material change of use."* The Council also quotes from appeal decisions APP/E1210/X/17/3168305 and APP/E1210/X/17/3168307, in which the Inspector allegedly makes reference to there being "obvious differences" between touring and static caravans, with *"Normal residential units (mobile home caravans) tend to be much larger and a more consistent size and general appearance than touring caravans...for this reason a static caravan would have a significant and materially different impact on the character of the area."*⁶
32. The Council's assessment, and that identified in the referenced appeal decisions, is predominantly based upon the visual effect of the proposal on the character of the land and surrounding area. I agree that there are obvious visual differences between touring and static caravans, which allow each type of caravan to be easily recognisable. Touring caravans are available in a wide variety of sizes, the largest of which are not dissimilar to small static caravans. Touring caravans also tend to have an aerodynamic shape to facilitate towing, whereas static caravans have an angular shape. As a matter of fact and degree I do not find that these visual differences would cause a definable change in the character of the use.
33. Public views of the appeal site are limited. With the proposed use there would remain a greater proportion of touring caravans than static caravans. It would, no doubt, be possible to discern which caravans are tourers and which are statics. In my view the proposed mix of touring caravans and static caravans would however have no greater visual effect on the character of the site or wider landscape than the baseline position shown in Plan A.
34. Plan B shows existing and proposed landscape vegetation. While any form of landscaping is absent in Plan A, I do not doubt that similarly proposed landscaping could be achieved for Plan A. The provision of landscaping could not be secured in any event as part of this LDC application. The colour wash/landscaping proposal does not therefore have any definable effect on the character of the existing or proposed uses in my view.

⁶ Quotations taken from the Council's planning officer report REF. NO: 25/00394/LDP

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35. Except for the access tracks and position of individual caravans, the land and the ablution block is colour washed green in Plan B. This colour wash is suggestive of the land upon which all the caravans would be sited would remain grassed. While this implies that the grassy character of the land would be retained regardless of the type of caravans being sited on it, I doubt that would be the case. As static caravans do not move, grass or other vegetation is unlikely to grow beneath them. They are therefore, more often than not, sited on hardstanding and have brick skirts erected around them. Such a characteristic would be materially different to that associated with touring caravans that are regularly moved and are therefore generally sited on grass.
36. In this case however, the touring caravans can remain on the land and do not have to be moved. Grass or other vegetation would also be unlikely to survive beneath the touring caravans in this scenario. I am unconvinced that the colour wash on Plan B provides a true representation of what would occur in terms of the surfacing of the land. However, I do not find that the siting of 22 static caravans in lieu of 27 touring caravans would cause a definable change in the character of the use based on the surfacing of the land.
37. A definable characteristic of touring caravans is that they provide rudimentary cooking and washing facilities. They are unlikely to be plumbed into mains water supply or foul water disposal systems. Instead, occupiers will fill containers from standpipes to provide water for drinking and washing. Similarly, foul water will be collected in containers and emptied regularly into facilities provided on the caravan site for that purpose. I saw two such containers on the land. Electricity hook up points allow external extension cables to be run to serve touring caravan electrical needs; alternatively, some touring caravans may have batteries, solar panels and/or generators.
38. There can also be considerable differences in the size of and the accommodation provided within touring caravans. The level of accommodation provided within smaller touring caravans can require internal spaces to serve more than one function. For example, seating within living areas being adapted to provide sleeping accommodation. Toilet and showering facilities within touring caravans tend to be small and coupled with the need to empty the wastewater collection containers, can lead to occupiers making use of ablution blocks provided on the caravan site. While touring caravans provide facilities that are adequate to meet the day-to-day needs for domestic existence, they are not ideal in terms of providing for the long term domestic needs of occupiers.
39. Conversely, static caravans contain fixtures, fittings and a level of accommodation not dissimilar to that found in bricks and mortar dwellinghouses including, more often than not, permanent connection to all utilities. Accommodation within static caravans does not therefore need to be adapted to cater for different day to day needs of occupiers. Nor do occupiers have to fill water storage containers, empty foul water containers or rely on external electricity hook-ups or ablution blocks for washing.
40. In time, I do not doubt that the permanent siting of touring caravans on the appeal site could lead to them being provided with permanent utility connections, their sizes being increased to do away with the need for internal adaptation and the removal of waste collection points and shared ablution blocks. However, that was not the case on the material date. There would therefore be a difference between how the land would be used for the siting of touring caravans for permanent

residential use and how it would be used for the siting of static caravans for permanent residential use at the date the application was made.

41. The substitution of 27 of the 67 touring caravans indicated in Plan A with 22 static caravans as indicated in Plan B would retain the need for water pipes, electricity hook ups, wastewater collection tanks and an ablution block on the land. There would therefore be no significant difference in the type or level of activity associated with the use as a touring caravan site for 67 touring caravans and the use as a caravan site for 40 touring caravans and 22 static caravans.
42. As established above, the 2016 PP provides for touring caravans to be permanently sited on the land and occupied for permanent residential use. Whether those permanent units take the form of touring or static caravans does not change the fact the lawful permitted use provides for permanent residential occupation with its associated traffic generation and demand for local services, including education and medical services. These off-site impacts would occur regardless of the type of caravans being sited on the land. I accept that the overall number of residents may increase through the substitution of some touring caravans with static caravans, but that would not change the definable character of the use.
43. In these circumstances, I find that there would be no definable change in the character of the use of the land. The appellant has therefore shown, on the balance of probabilities, that the proposed use of the land for the siting of 22 static caravans and 40 touring caravans for the purpose of human habitation (residential use) throughout the year would not constitute a material change of use as defined in section 55 (1) of the 1990 Act (as amended).

Conclusion

44. For the reasons given above, I conclude on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for the proposed use of land for the siting of 22 static caravans and 40 touring caravans for the purpose of human habitation (residential use) throughout the year 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).

M Madge

INSPECTOR

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 21 February 2025 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched in black 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:

Based on the lawful existing use of the land being capable of accommodating 67 touring caravans, the substitution of 27 touring caravans with 22 static caravans would not cause a material change in the definable character of the lawful use specified in planning permission 16/01330/F, dated 27 July 2016, and confirmed in the lawful development certificate reference 19/00643/LDE, dated 8 April 2019. The proposed development set out in schedule 1 below would not therefore have amounted to a material change of use of the land at the date the application was made.

Signed

M Madge

Inspector

Date: **07 May 2026**

Reference: APP/V2635/X/25/3376192

First Schedule

Proposed use of land for the siting of 22 static caravans and 40 touring caravans for the purpose of human habitation (residential use) throughout the year.

Second Schedule

Land at Pentney Country Club Touring Caravan Park, Narborough Road, Pentney, Norfolk PE32 1JD

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 /operations 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 /were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation 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: **07 May 2026**

by **M Madge**

Land at: Pentney Bowls and Leisure Club, Kings Lynn PE32 1JD

Reference: APP/V2635/X/25/3376192

Scale: Not to Scale

