Planning Inspectorate

Appeal Decision

Site visit made on 16 June 2026

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 November 2026

Appeal Ref: APP/M2372/X/25/3374899
White Lodge Farm, Blackburn Road, Edgworth, BOLTON, BL7 0PU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use (LDC).
- The appeal is made by Mr Kenneth Warner against the decision of Blackburn with Darwen Borough Council.
- The application ref 10/25/0340, dated 31 March 2025, was refused by notice dated 12 June 2025.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
- The uses for which a certificate of lawful use is sought is 'Use of the land as residential C3 use with the exception of the land where the caravan is located and siting of a static caravan (not for residential use)'.

Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The address in the banner heading above is taken from the appeal form. According to the site planning record, including an enforcement notice served in 2024, the site was previously also known as 'former Hob Lane Farm' and 475 Blackburn Road.

3. The description in the banner heading is taken from the application form. However, if a lawful development certificate is issued it must clearly describe the land uses subject of it. This is because the description of the existing or proposed use given on a certificate is the benchmark against which the materiality of any subsequent change of use would be assessed. The description should be more than a title or label so there are no later difficulties in interpretation.

4. As the siting of a caravan is not, of itself, 'development' as defined by s55 of the Act, but one associated with the use of the land on which it sits, or the use it is put to, that use should be so defined. On invitation, the appellant confirmed that the use of the caravan is 'storage for the benefit of and in relation to the property White Lodge Farm only'. This was subsequently qualified as domestic storage in conjunction with the house and garden at White Lodge Farm.

5. The appeal is made to ascertain whether the Class C3 residential use of the land and siting of a caravan for ancillary storage purposes was lawful as described in s191(2) of the Act on the date of the application to the Council. 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'.

6. The burden of proof in satisfying the requirement of s191(1)(a) falls to the appellant to establish that the uses of the land were lawful on the relevant date. The application was submitted on 31 March 2025.

Main Issue

7. The main issue is whether the Council's decision is well founded. This turns on whether the land identified in the LDC application benefitted from lawful Class C3 residential use and for the siting of a caravan for storage for the benefit of and in relation to the residential dwelling and garden at White Lodge Farm on the date of the application.

Reasons

8. Part of the appeal site was the subject of an enforcement notice (the Notice) issued on 26 March 2024. The Notice alleged 'Without planning permission, the material Change of Use of the land to that of a residential use, by virtue of the siting of a caravan used for residential purposes'. The requirement of the Notice was amended to 'Cease the residential use of the caravan', and the period for compliance was amended to six months from 21 October 2024 on an appeal[1] made against it (the EN appeal).

9. The appellant's case, in part, relies on the operation of s173(11) of the Act which states:

Where—
(a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and
(b) all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

10. The appellant contends that by requiring only the use of the caravan to cease for residential purposes, the alleged material change to residential use of the remainder of the Land identified in the Notice benefits from the s173(11) provision and planning permission shall be treated as having been granted for that use of the land. Furthermore, because the Notice did not require the removal of the caravan, the appellant contends that it subsequently has planning permission for its siting on the land providing it is not lived in as precluded by the Notice.

11. Section 173(1) of the Act requires that an EN shall state - (a) the matters which appear to the authority to constitute the breach of planning control; and (b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls. Section 173(2) provides that 'A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are'.

12. In the case of *Miller-Mead*[2] it was held that the test is namely whether the enforcement notice tells the recipient fairly what they have done wrong. The enforcement notice must inform the recipient with *reasonable certainty* what the

[1] Appeal APP/M2372/C/24/3343383
[2] *Miller-Mead v MHLG* [1963] 2 WLR 255

breach of planning control is. Moreover, a recipient of an enforcement notice should not need to rely on their own knowledge of what was taking place on the land at that time. Rather, they should be able to understand from the four corners of the Notice what it is which appears to the Council to be a breach of planning control.

13. Accordingly, it is a matter of interpretation from the plain reading of the words on the paper as to what the Council considered the breach to be and what was required to resolve it. Whether there was any residual element/s of the breach which would benefit from the provisions of s173(11) once the Notice was complied with must stem from the exact wording of the breach and whether there was any degree of under-enforcement arising because of a difference between what was alleged and what was required.

14. The allegation is phrased in a single sentence. It refers to a material change of use of the land to a residential use by virtue of the siting of a caravan used for residential purposes. The character of the use the enforcement notice is concerned with is clearly set out. The material change of use is caused by the activity of occupying the caravan for residential purposes. There is no other residential use alleged in the Notice.

15. I find little merit in the appellant's attempt to subdivide the residential use from its cause. Afterall, it is explicitly the 'activities' that s173(11) is concerned with. In the absence of reference to any other residential use or activity, I find the appellant's approach somewhat speculative.

16. In coming to that conclusion, I am mindful that what is referred to in the Notice is analogous to a caravan site. In the Caravan Sites and Control of Development Act 1960, that is defined 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'. The Notice included other land because the caravan could be moved about the wide area of the site. If the purpose of human habitation is removed, then the siting of the caravan and the use of the land about it is no longer the 'caravan site' described i.e. the use referred to here is also ceased.

17. Moreover, in regard to the use for which the appellant seeks an LDC, there is no reference to a Class C3 dwellinghouse in the Notice. In line with caselaw referred to by the Council[3], it is not open to make claim for anything which is not referred to in the description of the breach. The reference to residential use is suitably qualified in the description, and there is clear daylight and a material difference between a residential use associated with the residential occupation of a caravan and the occupation of a dwelling. That the Council does not rely on s191(2)(b) to defend its refusal of the LDC is consistent with that position.

18. In support of his position, the appellant refers me to the reason for the correction to the Notice at the EN appeal. Because the Notice included land associated with the lawful use of the dwelling and also overlapped with an area benefitting from an LDC[4] for the construction of a garage and a driveway to it, the requirement to cease the residential use of the land would have breached the *Mansi*[5] principle – that an enforcement notice should include a saving for any element of lawful use.

[3] See *Maldon DC v Hammond* [2004] EWCA Civ 1073 and *Fidler v First Secretary of State* [2005] JPL 510
[4] 10/23/0145 and appeal APP/M2372/X/23/3320474
[5] *Mansi v Elstree RDC* [1964] 16 P&CR 154

19. In that respect, the Council at the EN appeal preferred to the case of *Cord*[6] - that an enforcement notice need not include a saving for that which is obvious. However, in accepting the correction of the Notice, the appellant states the Council effectively conceded to the Notice's reference to 'residential use' must have included C3 use.

20. The Inspector's Decision Letter concerning that ground (f) appeal refers only to the wording of the requirement of the enforcement notice. It reports that the Council considered any change to the Notice was unnecessary because lawful use of the land for residential purposes in conjunction with the dwellinghouse would not offend anything in the Notice.

21. However, noting that a caravan sited for independent residential use within the garden, as opposed for use incidental/ancillary to the occupation of the dwelling, could have conflated one residential use with another, it is unsurprising that a requirement which could be interpreted widely, was made more specific to the description of the breach. The variation removed any ambiguity.

22. While I was not party to any discussion at the EN appeal, nor availed of any evidence submitted to it, it seems to me that the Notice was ultimately amended by the Inspector in the interests of removing any potential uncertainty in the requirement. He did not seek to amend the description of the breach and was clear in his Decision Letter that the variation would still achieve the intended purpose of remedying the breach of planning control such that no under-enforcement in relation to the alleged use would occur. I find no reason to disagree with that conclusion, and there is nothing to lead me to support the claim that the whole of the area identified in the application benefits from a C3 use as a consequence of s173(11) alongside the variation.

23. The appellant further asserts that the land subject of the EN formed a single residential planning unit (PU) with the dwelling at White Lodge Farm. I am referred to the Inspectors' findings in both appeal APP/M2372/X/23/3320474 (the LDC appeal) and the EN appeal. Both Inspectors are said to refer to the PU concept, which is one to assist assessment of whether a material change of use of land has occurred, or not.

24. The appellant highlights that the Inspector in the LDC appeal concluded that there was one large planning unit for the majority of the property, and a smaller unit occupied by the caravan. However, it is unclear from the evidence as to the extent of either of those PUs, whether they coincide with the appeal site here, or what uses they might contain.

25. In the EN appeal, that Inspector referred to various uses and changes which occurred over time. While he considered a single planning unit had been formed when a former caravan was used in conjunction with the occupancy of a cottage and agricultural activity on the wider site had ceased at some point around 2006, paragraph 23 of the Decision Letter clearly states that it was 'not possible to be precise over the exact boundaries of the planning unit at this point'. Notwithstanding, in consideration of whether or not the uses at that time had accrued lawfulness, he determined that was not the case.

[6] *Cord v SSE & Torbay BC* [1981] JPL 40

26. I acknowledge that the appellant contests that there was misinterpretation of case law in the EN appeal such that lawful use rights said to have accrued may not have been lost. However, that decision was not challenged and it is not open to me to relitigate it now.

27. In support of the appeal, the appellant states that since the start of his ownership he has regularly mown the 5 acres of 'garden'. The maintenance of land is not conclusive as to any established lawful use. Moreover, there is little before me to demonstrate how the former agricultural land, or any other parts of the land which might be encompassed by the application boundary, have been used, or whether their consistent use for a period of ten years, or more, has occurred to become lawful. The EN Inspector's explicit reference to 'agricultural areas of the appeal site' suggests those parts of the site did not benefit from any other established lawful uses.

28. Mindful that a planning unit may comprise of mixed/composite uses and could include dormant lawful uses, I find there is little evidence of a precise and unambiguous nature to show that either the land subject of the EN, or additional land alongside Hob Lane included in the application, now benefit from a lawful C3 residential use.

29. Turning to the matter of the siting of the caravan for storage purposes in conjunction with the use of the dwelling and garden. Reflecting the saving made by the EN Inspector, the use of the caravan for purposes incidental to the C3 use of the dwellinghouse and domestic gardens would be lawful if sited within that part of the site benefitting from lawful C3 residential use. However, there is little evidence to demonstrate the extent of those lawful areas, or that the position of the caravan shown on the application plan benefits from that status. Accordingly, I am unable to either define the area where siting of a caravan for the stated purpose might be considered lawful, or to conclude that it is lawful in the position shown.

Other matters

30. I acknowledge the appellant's criticism of the Council's representatives in terms of the level of communication and reporting of matters in the lead up to the submission of his application for an earlier LDC. However, those are not relevant matters in this appeal

Conclusion

31. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use for a residential C3 use of the land and use of the caravan for storage in conjunction with the house and garden at White Lodge Farm is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

R Hitchcock

INSPECTOR