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Our ref: 794-PLN-NPI-00295

Date: 30 January 2025

Wokingham Borough Council
Planning Services
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Berkshire
RG40 1BN

Dear Sir/Madam,

Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) (England) Order 2015
Use of land for siting of three additional caravans (fifteen in total)(mobile homes)
Walnut Tree Farm, Part Lane, Riseley RG7 1RY

I hereby submit an application via the Planning Portal under Section 192 of the Town and Country Planning Act 1990 (as amended) ('the 1990 Act') for a Certificate of Lawfulness of Proposed Use or Development (CLOPUD) for the use of land at Walnut Tree Farm, Part Lane, Riseley for the siting of three additional caravans (mobile home)(fifteen in total).

The application comprises the following:

- This covering letter;
- Application form duly signed and dated;
- Site Location Plan 00295-0001-01;
- Indicative Site Layout Plan 00295-0003-01;
- Appendix 1 Hertfordshire County Council v The Secretary of State for Communities and Local Government, Metal and Waste Recycling Limited [2012] EWCA Civ 1473;
- Appendix 2 , Reed v The Secretary of State for Communities and Local Government and Another [2014] EWCA Civ 241;
- Appendix 3: Appeal Decision Cannisland Park, Parkmill, Swansea (APP/B6855/X/18/3213425);
- Appendix 4: Appeal Decision The Smithy, Hampton Loade, Bridgnorth (APP/J3205/X/09/2099134);
- Appendix 5: Appeal Decision Greenacres, Mill Road, Wetheringsett-cum-Brockford (APP/W3520/X/07/2039698); and,
- Appendix 6: Appeal Decision Kings Copse, Garsington (APP/Q3115/X/18/3199426).

It has been established with the validation team with the three previous applications relating to this site that a layout plan showing the proposed caravans is not required.

Proposed Development

The application seeks to establish the lawful principle of the proposed use of the land edged in red on the site location plan for a caravan site, presently comprising 6 residential mobile homes, for up to 15 residential mobile homes (static caravans) for use as a main or sole permanent residence, without the further need to obtain planning permission.

For the avoidance of doubt, it does not include any operational development that may be required to support the caravan site use, such as those required by conditions of a caravan site licence issued under the Caravan Sites and Control of Development Act 1960 (the 1960 Act). Such operational development is normally permitted development under Town and Country Planning (General Permitted Development) Order 2015 (GPDO, as amended), Schedule 2, Part 5, Class B. The question of this application is strictly confined to the use of land for stationing of 15 residential mobile homes (static caravans), a increase of 3 static caravans for residential purposes and nothing more.

Legal Context

Section 192 and the Purpose of the Application

Section 192 of the 1990 Act states that an applicant may ascertain whether *"a proposed use of buildings or of other land"* would be lawful through an application for that purpose to the Local Planning Authority (LPA), who must issue the certificate if they have information satisfying them that the use would be lawful if instituted or begun at the time of the application.

Planning Practice Guidance (PPG) on Lawful Development Certificates (001 Reference ID: 17c-001-20140306) explains the process for obtaining a CLOPUD. The PPG advises that an LPA can grant a certificate confirming that a proposed use of buildings or other land, or some operations proposed to be carried out in, on, over or under land, would be lawful for planning purposes under section 192 of the 1990 Act.

The guidance advises*: "Once a certificate has been granted following an application under section 192, it means that any proposed use or development in accordance with it must be presumed as lawful, unless there is a material change before the use or development has begun"* (002 Reference ID: 17c-002-20140306).

PPG further advises (003 Reference ID: 17c-003-20140306) that, *"lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required."*

PPG continues (003 Reference ID: 17c-003-20140306) *"An application needs to describe precisely what is being applied for (not simply the use class) and the land to which the application relates. Without sufficient or precise information, a local planning authority may be justified in refusing a certificate."*

The PPG also states that: *"In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved'. 'A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process. 'In determining an application for a prospective development under section 192 a local planning authority needs to ask "if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?"*

Definition of a 'Caravan Site' and 'Caravan'

The House of Lords decision in *Wyre Forest District Council v Secretary of State for the Environment and Others* [1990] *UKHL J0222*-1 dealt with a permission for the use of land as a caravan site in which the council objected. The case considered the definition of a 'caravan site' and a 'caravan' and examined a case of whether a chalet was a 'caravan'.

Bridge L.J. states at Page 368, Part F:

"My Lords, I have to say that none of the foregoing observations dissuade me from the view that the terms 'caravan' and 'caravan site', when used at any time since D-Day [being the commencement of the Caravan Sites and Control of Development Act 1960, which defined both terms in statute] in any formal document under the Planning Acts, prima facie have the meaning which they are given by the Act of 1960 as amended."

The case was allowed with the Council paying the appellant's costs. It is clear from this decision that applications made under the 1990 Act for caravan sites adopt the definition of a 'caravan site' and a 'caravan' as set out in the Caravan Sites and Control of Development Act 1960 ('the 1960 Act').

Definition of 'Caravan Site'

Section 1(4) of the 1960 Act provides the definition of a 'caravan site' as follows:

"the expression "caravan site" means 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."

Planning control adopts the same definition arising from the 1960 Act, as set out in Section 336 (Interpretation) of the 1990 Act. This states:

"In this Act, except in so far as the context otherwise requires and subject to the following provisions of this section and to any transitional provision made by the Planning (Consequential Provisions) Act 1990, 'caravan site' has the meaning given in section 1(4) of the Caravan Sites and Control of Development Act 1960."

A 'caravan site' is statutorily defined in both planning and licensing terms. There are elements of caravan site which are used for the stationing of caravans, and areas which are used for ancillary purposes such as the roadways, private garden areas, service areas, car parking, open space and recreation areas, storage, caravan sales, etc.

Definition of 'Caravan'

Section 29 of the 1960 Act provides the definition of a 'caravan' as follows:

"'caravan' means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include—

(a) any railway rolling stock which is for the time being on rails forming part of a railway system, or

(b) any tent;"

The definition of a 'caravan' in section 29 above was amended by section 13 of the Caravan Sites Act 1968 ('the 1968 Act') to cover 'Twin-unit caravans'. Section 13 of the 1968 Act was amended by The Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006. The definition of a 'caravan' is now therefore as follows:

"(1) A structure designed or adapted for human habitation which—

(a) is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and

(b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer), shall not be treated as not being (or as not having been) a caravan within the meaning of Part I of the M1 Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway when assembled.

(2) For the purposes of Part I of the Caravan Sites and Control of Development Act 1960, the expression "caravan" shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) of the foregoing subsection if its dimensions when assembled exceed any of the following limits, namely -

(a) length (exclusive of any drawbar):65.616 feet (20 metres);

(b) width: 22.309 feet (6.8 metres);

(c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10.006 feet (3.05 metres).”

For planning purposes, both the 1990 Act and the GPDO each adopt this singular definition of a caravan.

The definition within the 1960 Act includes all types of caravans as being the same and interchangeable, including touring caravans, static caravans and park homes.

The Interrelationship between Planning and Licensing for Caravan Sites

A dual control system exists between the 1990 Act and the 1960 Act. The conventional differentiation applied is that planning permissions should be issued mainly on the basis of the principle of the use of the land as a caravan site and its external effects, and that site licences should be concerned with internal arrangements of the caravan site which affect only the users of the site and are primarily concerned with health and safety. Planning permissions could restrict the nature of the internal arrangements where it is considered necessary to mitigate against external effects of a caravan site.

The licensing process, using model standards, would normally dictate the precise layout and spacing of individual caravans; the requirement for infrastructure (including drainage and sanitation), ancillary development; and other features of the caravan site, in the absence of control via a planning permission.

Schedule 2, Part 5 of the GPDO covers permitted development at caravan sites and recreational campsites. Class B states that the following is permitted development: *“Development required by the conditions of a site licence for the time being in force under the 1960 Act”*.

As noted above, under normal circumstances, the internal arrangements of a caravan site - the roads, paths, hardstandings and other necessary infrastructure - are covered by the site licence (that a council is required to issue once planning permission is granted for the use) and would therefore be permitted development under Class B, Part 5, of Schedule 2 of the GPDO applicable to caravan sites.

Site Surroundings and Planning History

The site and surroundings

The application relates to Walnut Tree Farm, an established residential mobile home (caravan) site measuring approximately 0.9 ha, set out in a roughly rectangular shape, sitting in open countryside to the east of the village of Riseley. The site area is shown in 00295-0001-01, and comprises 12 no residential mobile homes, along with vacant areas and ancillary roadways and other infrastructure and facilities. A former farm building is also located within the property. Access is derived from Benham Lane to the west of the site, leading to Part Lane.

In its immediate surroundings, there are a few houses located to the south and southwest of the site, also located along Benham Lane. Benham Lane borders the site to the west, and beyond are agricultural fields separating the site from Riseley. Other properties are located to the north-east of the site. To the north of the site is Part Lane, and beyond it is agricultural fields.

Planning History

An Established Use Certificate for the use of the land as a site for a caravan/mobile home was issued on 16th June 1987.

Planning permission was granted for 'Siting of 1 Mobile Home' on 3rd November 1987 (ref 28856). The location plan showed an 'L' shaped site, including land fronting onto Part Lane between Beham Lane to the west and Walnut Tree Cottage immediately to the east.

Only two conditions were imposed: 1. limited the use of the mobile home to domestic purposes only and not for trade or business purposes; and 2. vehicle parking shall be provided before the mobile home was occupied.

A site licence was issued under the 1960 Act on 9th November 1987 for the same site.

The February 2020 CLOPUD

On 6 February 2020, the LPA issued a Lawful Development Certificate (LDC) for the proposed use of the land for *"Application for a certificate of lawfulness for the proposed use of the land for stationing of 1 no. (additional) mobile home for residential purposes."* The CLOPUD covered the entirety of the current site.

The April 2020 CLOPUD

On 29 April 2020, the LPA issued another CLOPUD, this time for *"Application for a lawful development certificate for the proposed stationing of 4 additional caravans for residential purposes"* under reference 200637. The CLOPUD applied to the same area as the current site and acknowledged that there was already a CLOPUD for the stationing of 1 additional residential mobile home in accordance with the February 2020 CLOPUD.

The 2023 CLEUD

On 2nd November 2023, the LPA issued a Certificate of Lawfulness for Existing Use or Development (CLEUD) under reference 232111 for *"Application for a certificate of existing lawful development for the use of the land for the stationing of 6no. residential mobile homes."* The CLEUD applies to the same area as the application.

The 2024 CLOPUD

Following the grant of the 2023 CLEUD, the LPA granted a further CLOPUD for "Application for a certificate of lawfulness for the proposed stationing of six additional caravans." The CLOPUD covered the entirety of the current site.

Prior Approval of Demolition

There is currently an open sided barn and two sheds on the site. Notice of the Prior Approval of the demolition of these buildings was given on 16 January 2025 (243191).

The Proposal and Does It Amount to a Lawful Use of the Application Site?

As noted above, the site has lawful use as a caravan site for the siting of 12 no. mobile homes for permanent residential occupation.

Planning permission is only required where the proposed development or use being carried out meets the statutory definition of 'development' as set out in Section 55 of the 1990 Act. The definition of 'development' includes building operations (e.g. structural alterations, construction, rebuilding, most demolition); material changes of use of land and buildings; and engineering operations (e.g. groundworks).

The question of this application is whether the proposed use ('Caravan Site with 15 no residential mobile homes (static caravans)') would amount to 'development' for which planning permission would be required. As caravan sites are a use of land, this would be by way of causing a material change of use. Otherwise, the proposed use is lawful as it does not amount to 'development' and the certificate can be issued.

The Proposal

The proposal is to seek to use the caravan site with 15 no residential mobile homes (static caravans) instead of 12 no residential mobile homes (static caravans) which are already on site. This would increase the number of caravans by 25%.

The proposals would not change how the caravan site would be used, which is for residential mobile homes/static caravans. This is already lawful, and there is no change in this regard (and so would not cause a material change of use). An additional 3 residential mobile homes would be stationed within available plots/areas of the existing caravan park, complying with any requirements of a site licence. The static caravans would be used for permanent residential use, in the same way as the current residential mobile homes which are on site at present.

It is necessary to assess whether this would cause a material change of use.

Legal Background to Material Change of Use

As noted above, PPG states (009 Reference IC: 17c-009-20140306):

"In determining an application for a prospective development under section 192 a local planning authority needs to ask 'if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?'.

Therefore, we need to determine if it would be lawful to station 15 no residential mobile homes (static caravans) on the land indicated on the location plan without the need for further planning permission.

The basic tests to establish if a material change of use has occurred have been established by a number of court decisions, notably *East Barnet Urban District Council v British Transport Commission* [1962] *2 QB 484,* and *Palsar v Grinling* [1948] *AC 291.*

The way that this question has been assessed has been clarified by the Court of Appeal in the case: *Hertfordshire County Council v The Secretary of State for Communities and Local Government, Metal and Waste Recycling Limited* [2012] *EWCA Civ 1473* (**Appendix 1**). In this case, a Council was arguing that a material change of use had been caused by an intensification in the use of a long-established lawful scrapyard (which has then recently almost doubled its throughput via the introduction of additional equipment).

At arriving at their unanimous judgment to uphold an earlier decision of the High Court to dismiss the Council's challenge to an Inspector's decision to quash an Enforcement Notice, the Lord Judges confirmed at Paragraph 26 that any planning consequences arising from the proposed development must be seen within the context of a change in the on-site character and that any change must be material. Off-site effects, however great, cannot alone amount to a material change of use.

On change in the character of the use, the High Court states at Paragraph 40:

"Although the concept of a material change of use can be expressed clearly enough as a concept, it is elusive in practice, perhaps even illusory. But one point is clear from all the authorities, and the Inspector expresses it correctly…: the change relied on has to result in a material change of the use of the land, and it can only do that by bringing about a definable change in the character of the use made of the land."

The court considered the extent to which environmental effects can be taken into account in Paragraphs 41 and 42:

"41. I have no difficulty in seeing that significant environmental effects, experienced on or off-site, may support the contention that a material change of use of land by intensification has occurred. There are plenty of authorities to that effect. But I do not see how effects, whether on or off-site, can themselves constitute a material change in the use of the land. The concept focuses on the use made of a particular piece of land. I do not see how an increase in lorries, for example, arriving in the road at unsocial hours, or creating problems at a junction a mile away, or an increase in noise or dust experienced off-site from activities on-site, is capable of itself or themselves, whatever the degree of increase, of constituting a material change of use on a particular site. It may be very relevant to the argument that there has been a material change in the character and use of land. For example, a specialist gas bottle disposal facility might be treated as a materially different use from a general scrapyard because of its noise impacts. But of itself, an increase in noise impact, however severe, cannot be a material change in the use of the land."

42. The relevance of impacts comes in evidencing a material change of use of the land, a definable change in its character, but one which is defined by a material change in use, not by a change however severe or minimal, in the effects of a use."

It is clear, therefore, that the starting point in considering whether there has been a material change of use must not be the off-site effects. It is deciding whether there is a definable change in the character of the use itself.

Conversely, this case also examined the extent to which intensification alone can cause a material change of use. Ousley J adds at Paragraphs 43 and 44:

"43.…Although authorities, in the Court of Appeal for example in Fidler v the First Secretary of State [2004] EWCA Civ 1295 at paragraph 28, and earlier in, for example, Lilo Blum v the Secretary of State for the Environment [1987] JPL2 78 per Simon Brown J, treat the principle of a material change of use by intensification as well established, the fact remains that no decided case has been shown to me in which a material change of use by intensification has been found to have occurred."

"44. In Brooks and Burton Limited v the Secretary of State for the Environment [1977] 1 WLR 1294 , Megaw LJ pointed out on page 1306E-J that experienced planning counsel had found no reported case in which an intensification in existing use had been found to be a material change of use. That remained the position in front of me. Although earlier cases, mentioned in the authorities cited above say that the existence of a material change in use by intensification is well recognised, they do no more themselves than recognise that material change of use by intensification may exist. They have never actually found one."

It is equally clear therefore that the intensification of a site cannot, of itself, create a material change of use. Neither can its off-site effects on their own. In conclusion, on the point of change in the definable character of the use and off-site effects, Ousley J states (Paragraph 45):

"…But for all that, the cases have all emphasised the need to identify a material change in the definable character of the use of the land. None of them has suggested that this could be done simply by reference to examining impacts alone, relevant though they are to that crucial issue in a material change of use by intensification case."

As such, any planning consequences arising from the proposed development can be considered to be contributing material factors in determining whether any change in the definable character of the use is material. However, if there is no identified change to the on-site character of the use, then the planning consequences, no matter how severe, could not on their own change the definable character of the use. On this basis, it is a precondition that there must have been a change in the on-site character of the use for there to be a material change of use. Once it is accepted that there is a change in the definable character of the use, in deciding whether such a change is material, it is relevant to then look at the effects.

The High Court has also provided guidance on how to assess the change in on-site character. It states from Paragraph 35:

"In any event, I am not persuaded that the factors she excluded were material considerations, however, the case had been presented. The concept of a material change of use by intensification requires, as a necessary but not sufficient condition, an increase in the scale of all or some of the activities on-site, leaving aside how or where that has to manifest itself. It is that increase which has to cause the change of use. To the extent that effects are relevant, it is the effect from that increase which matter. A change in the nature of activities on the site, or a change in the relative proportions of mixed uses on the site may give rise to some material change of use as was the case here, the activities as varied can be carried on as part of the existing or permitted use. Their effects are permitted effects.

36. Similarly, in judging whether an increase in activity has led to an intensification of such a nature or degree as it necessary to constitute a material change of use, the level at which that activity did or could occur without giving rise to a material 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.

37.I do not doubt that a combination of intensification and other changes in activities can constitute a material change of use; but what could be done without the need for permission would still have to be ascertained… 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 clear that any potential effects which do not need planning permission but would also be lawful must be discounted from the assessment of the change in on-site character as being 'permitted effects'.

In addition, Reed v The Secretary of State for Communities and Local Government and Another [2014] *EWCA Civ 241* (**Appendix 2**) takes the Hertfordshire principles and relate them to a caravan site. This forms part of an overall mixed-use site. In particular, in Paragraph 21, the Court of Appeal confirmed that although intensification of the use can point towards a change of use, if there has been no change to the definable character of the land, then it would be difficult to argue a change of use has taken place. Sullivan J states:

"If the inspector did consider whether there had been a change in the character of the mixed use on the site, then it would seem that the sole basis on which he concluded that there had been a material change of use was the simple fact that the additional caravan amounted to a 'doubling of the number of caravans'. A caravan site with four caravans rather than two caravans upon it still has the character of a caravan site, that is the very reason for the imposition of conditions relating to the numbers of caravans such as were imposed on the 2007 permission granted on appeal. Thus, the only express reasoning in the decision is consistent

with the inspector having adopted an erroneous approach: that "mere intensification" could amount to a material change of use.

…the only matter to which the inspector had regard when deciding whether there was or was not a material change of use was the number of caravans. That would suggest that the inspector was adopting the erroneous - mere intensification amounts to a material change of use - approach.

If one then turns to paragraph 89 of the judgment, in which Mr Greatorex's submission that materiality was a matter of judgment for the inspector was accepted, there is no dispute with that proposition so far as it goes but in deciding the issue of materiality as a matter of planning judgment, the inspector had to correctly direct himself. The question was not simply whether the number of caravans had increased, it was whether the definable character of the mixed use had materially changed."

The *Reed* case related to an enforcement notice which alleged a change of use from mixed-use equestrian purposes and the stationing of one static mobile home and one touring caravan to mixed-use for equestrian purpose and stationing of two static mobile homes, touring caravans and one storage container had occurred. In the judgement, the Court of Appeal was clear that it is the character of the use of the land which must be assessed. The use of the land was mixed-use for a caravan site and another use. It remained as such, according to the Court of Appeal, despite the increase in the number of caravans. Indeed, it is clear that a caravan site with four caravans would be the same as with two caravans: it remained a caravan site.

A previous case, that predates both *Hertfordshire* and *Reed* cases referred to above, is John Childs v the First Secretary of State and Test Valley Borough Council [2005] EWHC 2368 (Admin) .In 2005, the High Court confirmed that it was lawful for the LPA/Inspector to determine that there would be a material change of use by intensification arising from a proposed increase from 4 caravans to 8 caravans within the same existing caravan site (then known as Leckford Hutt, but now known as Valley Field Park). Whilst all cases need to be treated on their own merits, the owner then adopted a piecemeal approach to increase numbers over time. After several years and a few more CLEUDs and CLOPUDs relating to incremental increases in the number of caravans which would be lawful on site, the owner was recently successful at obtaining a CLOPUD to confirm that 9 residential mobile homes would be lawful on site, an increase of 2 units over the then current 7 units baseline. This amounts to an increase of 225% over the original baseline identified in 2005 and almost certainly means that the decision in the *Childs* case should be set aside. This is because the number of caravans now lawful on site exceeds the amount which the Court indicated was a material change of use.

It serves to demonstrate that it is necessary to apply caution in determining that an increase in caravans might cause a material change of use by altering the definable character of the use, as a series of smaller applications might result in the same or more caravans becoming lawful. It demonstrates the point raised in *Hertfordshire*, which requires the LPA to consider all other potential development that might be lawful and discount the effects of those permitted developments, to avoid having a piecemeal approach to increasing the number of units within the caravan site via a series of applications.

Indeed, it also goes to the point raised by the Court of Appeal at Reed, which at Paragraph 21, Sullivan J stated: *"A caravan site with four caravans rather than two caravans upon it still has the character of a caravan site."*

Appeal cases have also looked at the question of whether intensification of the use of a site can generate a material change of use. Relevant cases for the current proposal include those at: Cannisland Park (Appeal Ref. APP/B6855/X/18/3213425 **Appendix 3**); The Smithy, Bridgnorth (Appeal Ref: APP/J3205/X/09/2099134, **Appendix 4**); Greenacres, Suffolk (Appeal Ref: APP/W3520/X/07/2039698, **Appendix 5**); and, Kings Copse Mobile Home Garsington (Appeal Ref. APP/Q3115/X/18/3199426, **Appendix 6**).

In the case of Cannisland Park, the Appellant sought to station 15 additional caravans (going from 45 to 60 caravans) within an existing caravan site. The Inspector allowed the Appeal on 20th February 2019, stating at Paragraph 11 that:

"Indeed, the development would not result in materially different planning circumstances to that currently, or potentially, found at Cannisland Park and, as a matter of fact and degree, the development would not result in such a change to the definable character of the use or area that it would result in a material change of use. In coming to this conclusion I have had full regard to the impact of the development on other uses and premises, including those relating to amenity and traffic. I am also satisfied that such a finding is consistent

with the principles established in the judgements referred within the evidence, including the Reed, Metal and Waste Recycling and Childs cases"

The LPA also accepted this principle that there would be no material change of use.

When looking at the Smithy decision, it can be summarised that the application sought was for the use as a residential caravan site accommodating 6 caravans. The existing caravan site had a planning permission for one mobile home. The proposal sought to increase the number by 5 units. In Paragraph 14, the Inspector quotes the key line from *Lilo Blum v Secretary of State for the Environment & the London Borough of Richmond upon Thames Council [1986] JPL 278,* and this confirms that:

"a proposal simply to increase the scale at which a use operates is unlikely by itself to amount to a material change of use. Rather, what needs to be considered is whether the proposed increase in scale would change the character of the land and its use sufficiently for it to be concluded there is a material difference between the existing use and the proposed use."

At Paragraph 15, the Inspector noted that the mobile home on site is visually prominent and highlights that what is permitted is a 'caravan site', although what exists is a low-key site. Following on, at Paragraph 16, the Inspector indicated that with the increase in units, the site would change, in that there would be more hard surfacing, activity, traffic and paraphernalia, but then concludes:

"But there is no substantial evidence before me to demonstrate that the essential character of the use made of the land would change. The land currently has the character of a caravan site and, in my view, that is the character it would have with the additional caravans there… It would simply be more of the same use."

In the Greenacres Park appeal the application sought an increase in the number of caravans on a lawful caravan site from 6 to 12. At Paragraph 3, the Inspector referred to *Brooks and Burton Ltd v Secretary of State for the Environment [1977] EWCA Civ J0728-5* and held that in assessing whether there was a material change of use, account had to be taken of the existing character of use, including consideration for the planning consequences and environmental impact of a particular use. The Inspector emphasised that the change must be material as a matter of fact and degree for there to be a material change of use.

In line with *Hertfordshire* and *Reed,* it is first necessary to decide if there will be a change in the character of the use of the land. If there will not be a change in the character of the use, then there is no need to assess if that change would be material. If there is a change in the character of the use, then we would need to consider whether that generates a material change of use. As part of that exercise, we can consider the extent to which offsite effects could contribute to there being a material change of use.

At King's Copse Park, Oxfordshire, an Inspector's decision (Ref: APP/Q3115/X/18/3199426) was overturned by the High Court Order (Ref CO/281/2021) where an Inspector dismissed an Appeal for the proposed stationing of 145 caravans in place of 116 caravans on the basis that the increase would cause a material change of use. The LPA (South Oxfordshire District) subsequently issued an LDC to confirm that it was lawful to station 145 static caravans in place of 129 caravans (which was then the increased baseline, as the Appellant already obtained an LDC confirming an increase from 116 to 129 static caravans was lawful whilst waiting for the Appeal to be determined).

Summary of Case Law Regarding Material Change of Use

The courts have held that a material change of use can only occur where there would be both a change to the definable character of the use of the site and a recognition that this change is material. Off-site effects may be considered when assessing whether the change is material, but off-site effects do not form part of the consideration of whether there is a change in the character of the use. Mere intensification cannot itself amount to a material change of use.

Finally, recent appeal cases indicate that an increase in the number of caravans within an established caravan site is unlikely to cause a change to the definable character, and if any change occurs, it is not material. This includes increases of 600% in the number of units. It is therefore concluded that an increase in caravans within the site is unlikely to cause a material change of use which requires planning permission.

Would the Proposal result in a change in the Character of the Use of the Site?

The Oxford English Dictionary defines 'character' as "*The distinctive nature of something" and makes reference to the phrase 'in character' as "In keeping with someone's usual pattern of behaviour and motives"*.

On this basis, it can be said that for a use of land to change its character, the ‘distinctive nature’ of the use, as well as its ‘pattern of behaviour’, would need to materially change when compared to the lawful use of the land.

The current use of the planning unit is a caravan site with 12 no residential mobile homes used for residential purposes. The proposed use seeks to increase the number of residential mobile homes by 3 no by filling in available plots within the existing site. The site would remain a caravan site for residential mobile homes (static caravans), albeit with more caravans.

In this scenario, the use of the land would remain the same, i.e. a caravan site for residential purposes and servicing areas. Its definable character would not change as the form of the change is 'mere intensification'. This is best described in the *Reed* case (as referred to above) states: *“A caravan site with four caravans rather than two caravans upon it still has the character of a caravan site, that is the very reason for the imposition of conditions relating to the numbers of caravans such as were imposed on the 2007 permission granted on appeal.”* The appeal cases provided with this Statement confirm that proposed increases are unlikely to cause a material change of use.

Indeed, the LPA had already confirmed that an increase of 300% within the existing caravan site was lawful when it issued a CLOPUD for 6 residential mobile homes when the baseline was 2 residential mobile homes (LDC ref 200637). Following receipt of legal advice, the officer's report related to that decision stated:

"The additional 4 caravans will be sited upon land that forms part of the planning unit with lawful use of land for stationing of unrestricted number of residential mobile homes. The aerial photograph above shows the nature of the site. As can be seen, the front section of the site is in use in connection of the existing mobile home. Whilst the southern section is of different character, it is considered that by siting 4 additional mobile homes within any section of this site would not have material planning consequences resulting in a material change in character of the use. The site is well screened by mature hedging and existing vegetation and additional 4 mobile homes will not have detrimental impact on the visual amenity due to their limited scale (maximum 3.05m of internal height). Similarly, an additional 4 mobile homes will not have highway safety issues in terms of additional traffic to and from the site."

The Council also accepted a 100% increase as being lawful in granting the 2024 CLOPUD, with the Officer’s report noting:

“The proposed use of the land for siting of 12 caravans would, as a matter of fact and degree, not result in a material change in the definable character of the land and its use when compared with the actual existing lawful use (siting of 6 caravans). The proposal would be lawful within the meaning of sections 192 of the Town and Country Planning Act 1990.

In summary, the officer found that there would be no material change to the definable on-site character with the additional caravans that were proposed, as the site is an unrestricted caravan site. Whilst off-site effects on their own cannot cause a material change of use, these were found to be insignificant in any event, in the officer's view.

There is no reason to draw differing conclusions with this proposal as the LPA had concluded with the April 2020 CLOPUD and the 2024 CLOPUD. The scale of change is smaller than what the LPA already agreed was lawful, and the boundaries of the site and its conditions would remain the same. Applying consistency to the LPA's approach, the question of whether the stationing of 15 no. residential mobile homes in an unrestricted caravan site is lawful should be answered in the affirmative as any change to the on-site definable character is immaterial and the planning unit's character as a caravan site will remain the same.

It has been acknowledged already that there are no planning conditions controlling the number of caravans that can be sited on the application site. The above cases confirm that mere intensification of itself is not enough to trigger a material change of use if it does not change the definable ‘character’ of the use. In this case, the definable ‘character’ of the use remains a caravan site. In line with the history of *Childs*, a series of smaller LDC applications would eventually bring about a lawful change to the same number, and it is desirable to avoid taking a piecemeal approach.

In line with the *Hertfordshire* and *Reed* cases, no further assessment of off-site effects is necessary because if the character of the use is the same, then any changes to off-site effects cannot alone be material nor change the definable character of the use of the specific parcel of land. The proposed use is therefore lawful and the certificate should be issued.

Without prejudice to this, we have, however, provided a brief review of off-site effects below.

Would the Proposal Affect Neighbouring Uses and the Locality?

The *Hertfordshire* case established that only when there is an identifiable change in the character of the use can external effects of the proposal be assessed to assist with determining if that change is material. Whilst we have already established that there would be no change in the character of the use of the application site, for completeness, we consider external impacts and neighbouring uses. We are assessing here whether the increase in caravans (by 8 units) would have different off-site impacts.

Neighbourhood Amenity

The neighbouring amenity would remain unaffected by the proposed use. Site licensing requirements would mean that the proposed caravans would remain at appropriate distances from neighbouring units. So adjoining occupants of residential caravans would remain unaffected by the occupation of additional units, in their privacy and amenity would be retained as is. There are no changes to the boundaries of the site, and so there would be no further effects on neighbouring properties.

As such, the proposal is unlikely to amount to any perceivable change to what is already permitted and is highly unlikely to lead to a material change, to the extent that it would change the off-site and impacts on neighbouring properties would be limited or negligible.

Visual Amenity and Landscape

With regards to landscape and visual amenity, the site already comprises 6no residential mobile homes scattered throughout the site, and it is surrounded by extensive vegetation, as noted by the officer in their reports regarding the April 2020 CLOPUD and 2024 CLOPUD. The site already has the appearance of a caravan site, and it would still be perceived as a caravan site from all external vantage points with the proposed use. There would be no material change to the appearance of the site. It would present no material change to the character and appearance of the site and wider area. Thus, the proposed use of the site would not result in material off-site impacts regarding visual amenity and impacts on the landscape.

Traffic

Whilst the site is relatively remote and in a countryside location, its access has sufficient capacity. There are no known highway safety issues in terms of its existing traffic, and there are unlikely to be any additional ones arising. The change in activity would be limited, and it is not considered that there would be a perceptible difference. This is the same conclusion as the officer made with the April 2020 CLOPUD and 2024 CLOPUD.

In the case of *Hertfordshire*, a large increase in lorries accessing that site was considered (a doubling), and it was held that any increase in off-site noise from the increased passage of lorries did not mean there had been a material change of use of the land. Such an approach is also in line with the Inspector's findings under the Greenacres Park appeal. Therefore, it is apparent that matters of traffic are unlikely to be material in planning terms, as existing or proposed.

In summary, there are no external effects which could be classified as being materially different to the existing situation by way of traffic, noise or landscape impacts. The changes would all fall within the 'permitted effects' (according to case law), and these effects would remain largely indistinguishable from the planning unit in its current form.

There are no changes in off-site effects that would have made any change to the definable character of the use material (if we had identified any such change).

There are no other potential off-site effects arising from the proposed use that are worth considering further.

As such, it is considered there would be no material change of use to introduce more static caravans for permanent residential purposes within the existing lawful caravan site.

Summary and Conclusion

A certificate is sought under Section 192 of the Town and Country Planning Act 1990 (as amended) for a Certificate of Lawfulness of Proposed Use or Development (CLOPUD) for "Caravan Site with 15 no residential mobile homes (static caravans)."

In order for the Certificate to be issued, it must be evidenced that the proposed increase in the number of caravans used for residential purposes would not amount to a material change of use compared to the existing use, and it would thus be lawful for planning purposes. The documents presented alongside this application provide overwhelming evidence that this would be the case.

The site is subject to a 2023 CLEUD, which confirmed that the caravan site presently has 12 no. residential mobile homes (static caravans). That is the definable character of the use, and there are no conditions restricting the overall number of caravans or the nature of the occupancy.

The question for the LPA is, therefore, does the proposal amount to a material change of use which would fall within the statutory definitions of 'development' that requires planning permission? The process for examining this is prescribed in law, and for there to be a material change of use, there must be a change in the definable character of the use of the land itself.

Case law examines that intensification alone cannot cause a material change of use. Where there is no identified change to the on-site character of the use then there cannot be a material change of use. Case law also shows that an increase in the number of units within a site is unlikely to amount to a material change of use, rather forming 'mere intensification' which does not normally require planning permission.

The proposals seek to station 15no residential mobile homes (static caravans), an increase of three units overall. In *Reed*, the Court of Appeal overturned a High Court Decision to allow a doubling of units, which would not be a material change of use.

In the Smithy Appeal case, an increase from 1 unit to 6 units was confirmed as lawful, as it would not change the definable character of the use. In its simplest form, the proposed use is no different to what is already the existing use, given that an increase in numbers cannot on its own amount to a material change of use.

The LPA had already concluded that the site forms an unrestricted caravan site, and it also has confirmed that an increase of 300% of units, from 2 no to 6 no, and from 6 to 12 would not be a material change of use. The April 200 CLOPUD was 'implemented' prior to the 2023 CLEUD being issued. The scale of change now proposed is smaller than what the LPA already agreed would not be a material change of use.

Case law is equally clear that off-site effects cannot on their own cause a material change of use as the change has to be seen within the context of the use of the land itself. In any event, no material off-site effects exist that would potentially influence whether a material change of use might occur with the proposed use.

In summary, the existing use of the site is a caravan site with 6no residential mobile homes. As there would be no change in the definable character of the use as a result of the proposal (there would only be 'mere intensification'), there would not be a material change of use with a proposal to add 6no more residential mobile homes (static caravans) within the same site. The proposal therefore does not constitute development.

As such, the proposed use is lawful, and the CLOPUD should be issued without delay.

Yours faithfully,
for RPS Consulting Services Ltd

[redacted]

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