

Mark Leedale Planning

Chartered Town Planning Consultants

The Head of Planning,
Wokingham Borough Council,
Council Offices,
Shute End, Wokingham RG40 1WR

Our Ref: BR/14/188
8th October 2025

Dear Sir,

Copper Beeches, Bath Road, Knowl Hill, Reading RG10 9UT

I enclose on behalf of my Clients, The Gorecki family, an application under s.191 which establishes the following as being lawful under the meaning expressed in the Act.

1. The formation of 8 flats
2. The occupation of the flats as independent living accommodation (dwellings)

This application establishes the lawful position for the identified flats with the exclusion of “flat 11” as this is not lawful under the meaning expressed in the Act. This is by reason of relatively recent subdivision from flat 100. This position has been agreed in pre-application discussions.

You will be aware that paragraph 8.12 of Annex A to the superseded Circular 10/97 states: *In many cases, the applicant for a certificate will be best placed to produce information about the present, and any previous, activities taking place on the land, including a copy of any planning permission he may hold. Some information, especially about the history of any unauthorised activity on the land, will be peculiarly within the applicant's knowledge.*

In this case, the site is secure and not subject to any public access. Indeed, views into the land are restricted as are access to the individual flats. As such, and the applicant's evidence must be treated accordingly, unless another party has an alternative version of events, which would cast doubt on these submissions. We will respond to any such matters which arise.

The Circular details the test of the evidence as follows:

8.15 *In appeals to the Secretary of State which raise "legal issues" (for example, enforcement appeals on grounds (b) to (e) in section 174(2)), where the burden of proof is on the appellant, the Courts have held that the relevant test of the evidence on such matters is "the balance of probability". As this test will accordingly be applied by the Secretary of State in any appeal against their decision, a LPA should not refuse a certificate because the applicant has failed to discharge the stricter, criminal burden of proof, namely "beyond reasonable doubt". Moreover, the Court has held (see F W Gabbitas v SSE and Newham*

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LBC [1985] JPL 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate "on the balance of probability".

The PPG Note which replaces the Circular sets out and adopts similar guidance as follows.

The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land.

A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

As such, there is no requirement for the evidence to be wholly definitive and the local authority must issue a Certificate, unless it has contrary evidence of its own which would contradict the applicant's version of events. We respectfully suggest that the "balance of probability test" is well founded and made.

In this case there has been extensive history and various incomplete enforcement investigations over many years. I present below extracts from two Planning Officer reports which indicates that the use as flats has longevity.

Main House: From the site history it is unclear what the use of the building is, however planning reference 36927 in 1991 approved the use of the site as a Guest House. The 2017 appeal decision states that the appellant argued that the main property was converted into self-contained flats in 2006, however no certificate has been applied for. (Officer report 200436)

The planning history for the main building on site and the use of the land as a whole is complex and has been subject to several enforcement investigations. In short, the whole site was initially a single dwellinghouse with various ancillary outbuildings until 1991 when consent was granted for a change of use from a dwelling to a guest house. Following this, the main building has been converted, without planning permission, to 2 x 1-bed flats and 6 x studio flats. This is noted in the Officer's Report for application ref 200436 and reaffirmed recently in enforcement investigation ref RFS/2021/086714. While a Certificate of Existing Lawful Development application has not been submitted to confirm that this change in use is lawful, recent enforcement investigations have concluded that the flats are immune from enforcement action due to the length of time since they were established (well over four years). Officer report 230133.

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Clearly the 10-year rule now applies, and this is reflected in this application. Nevertheless, the longevity of use has been known to the local authority for some time, and this further verifies the applicants claim.

Each flat contains a kitchen, bathroom and facilities for sleeping. As such they are each capable of independent occupation. They satisfy the legal test as a dwelling.

Turning to the evidence I detail below the separate occupation of the flats as shown on the drawings and in relation to the statutory declarations (SD's), as well as the extensive papers relating to tenancies.

Flat	Dates	Tenant(s)
3	24.9.2013 - 1.7.2018	
	1.7.2018-7.2.2018	
	7.2.2018-1.2.2019	
	1.2.2019-1.6.2019	
	1.6.2019-1.3.2021	
	1.3.2021-27.5.21	
	27.5.2021-1.11.2021	
	1.11.2021-29.04.2022	
	29.4.2022-present	
4	12.2.2014-10.12.2015	
	10.12.2015-27.3.2016	
	31.3.2016-31.10.2016	
	31.10.2016-1.1.2017	
	1.1.2017-1.4.2018	
	6.4.2018-1.8.2018	
	8.8.2018-7.1.2023	
	15.1.2023-presnet	
5	26.8.11-4.11.2016	
	4.11.2016-31.3.2017	
	31.3.2017-17.6.2019	
	17.6.2019-6.6.2020	
	17.6.2020-1.12.2020	
	11.12.2020-27.5.2021	
	27.5.2021-9.4.2024	
	9.4.2024-12.9.2024	
	13.9.2024-3.11.2024	
	12.11.2024-1.7.2025	
	1.7.2025-present	
6	24.4.2014-15.7.2014	
	15.7.2014-25.10.2015	

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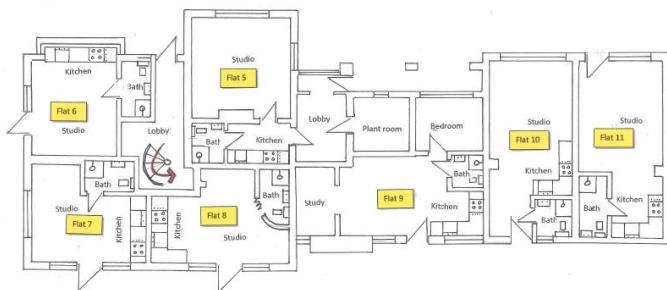
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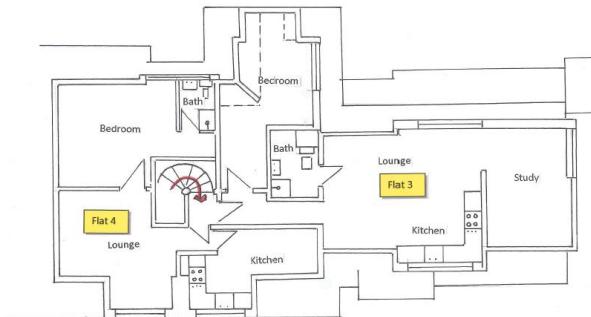
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	25.10.2015-25.7.2016	
	25.7.2016-22.3.2017	
	25.3.2017-1.8.2017	
	1.8.2017-30.9.2017	
	30.9.2017-27.9.2018	
	27.9.2018-12.6.2020	
	12.6.2020-9.7.2023	
	17.3.2023-12.1.2024	
	12.1.2024-27.8.2024	
	27.8.2024-current	
7	30.9.2011-1.11.2021	
	1.11.2021-2.5.2023	
	2.5.2023-27.9.2024	
	27.2.2024-present	
8	4.7.2011-5.2.2024	
	5.2.2024-2.11.2025	
	12.2.2025-5.8.2025	
	5.8.2025-present	
9	10.8.2013-16.5.2025	
	16.5.2025-9.7.2025	
	21.8.2025	
10	1.8.2024-present	
10&11	22.8.2015-31.12.2019	
	31.12.2019-27.5.2021	
	27.5.2021-8.4.2024	
11	23.8.2024-10.4.2025	
	10.4.2025-present	



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The occupation has been continuous save for limited period of decoration and refurbishment. This is the case more recently with the upper floor (Flats 3 and 4) which has been witnessed by the Officer on a recent site visit. It has been agreed in pre-application discussions that this may be submitted as being lawful under the terms of this application.

In regard to flats 10 and 11, it has also been agreed that this cannot be claimed as being lawful in so far as the occupation of 11 is less than 10 years. This is accepted and the original flat 10 was sub-divided more recently. In light of this, it is intended to revert to the original position as one flat with the necessary works being scheduled when the tenant for 11 vacates in December 2025.

There are a few matters on which clarification may be required, and I set out the following in regard to the submitted tenancy papers:

- Flat 3 is referred to as “small studio or small flat upstairs” in relation to the period 24.9.2013-1.7.2018. This is an expression which refers to the smaller upstairs flat.
- In respect of flat 3 the tenant has agreed an AST for the period from 29.4.2022 and vacated, by agreement, to allow refurbishment.
- Flat 4 12.2.2014-31.10.20015. We will obtain a clearer copy.
- As with flat 3 [REDACTED] has vacated flat 4, by agreement, to allow refurbishment. He retains the AST.
- Flat 5 is described as “Room 1” for the period 31.3.2017-17.6.2019. This is flat 5.
- [REDACTED] is shown for Flat 3 in 2021 and on vacation moved from flat 5. The dates are consistent.
- Flat 5 is described on the AST as “front flat” and this is in fact flat 5 as per the drawings.
- Flat 8 is described as “the bar room” and 8. Bar flat” on the AST’s for 4.7.2011-5.2.2024 and 5.2.2024-2.11.2025. This reference is to the previous use of the premises as a B&B where this was the communal bar.
- [REDACTED] appears in flat 10/11 between 27.5.2021 and 8.4.2024, as well as in flat 5 from 9.4.2024 to 12.9.2024. He relocated and the periods are consistent.

It is clear from this evidence that the flats have existed and have been occupied based on AST’s for a period more than 10 years and are lawful as such.

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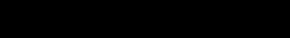
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Based on the foregoing and submitted evidence I trust that a Certificate will be issued and if I can be of further assistance, please let me know.

Yours faithfully,



Mark Leedale.

cc Client

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