

Wokingham Borough Council
Civic Offices
Shute End
Wokingham
Berkshire
RG40 1BN

Our ref: 4689

15 July 2026

Dear Sir / Madam

1 Mortimer Road, Grazeley, Reading, RG7 1LA

Certificate of Lawfulness (existing) for use of extension as a separate residential dwelling for independent occupation

We submit this Planning (legal) Statement with an application for a Certificate of Lawfulness to confirm that the time to enforce against the use of the extension at 1 Mortimer Road (as a self-contained dwelling) has passed and that it is now a separate, lawful dwelling.

We include with the application the following documents:

Application Documents:

- Application Form
- Planning (legal) Statement (this document)

Drawings:

- Site Location Plan (Drawing No. 10)
- Site Plan (Drawing No. 9)
- Elevations (Drawing No. 8)
- Ground Floor Plan (Drawing No. 4)
- First Floor Plan (Drawing No. 5)
- Loft Plan (Drawing No. 6)

Evidence:

- Sworn Statutory Declaration from the Applicant
- Sworn Statutory Declarations from current tenants (2 x documents)
- Assured Shorthold Tenancy Agreements (4x documents)
- Bank Statement
- Booking.com Listing and bookings (5x images)
- Airbnb Listing and bookings (2x images)



- Building Control Certificate
- Gas Safety Certificate
- Electrical Installation Certificate
- Kitchen Installation Quote
- Site Photos
- Application Form

The requisite planning application fee has been paid via the planning portal at the time of submission. This letter forms part of the formal application as the **Planning (legal) Statement**.

Planning history

Planning permission was granted in 2020 (ref. 202797) for a two storey side/rear extension following demolition of existing side extension and existing garage.

We have checked the Council's online Enforcement Register and there is no evidence that an Enforcement Notice has been served on the property.

Planning Law

Paragraph 171(B) of the Town and Country Planning Act 1990 states that:

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of—

- (a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed,

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of—

- (a) in the case of a breach of planning control in England, ten years beginning with the date of the breach

Paragraph 191(2) of the Town and Country Planning Act 1990 states that uses and operations are "lawful" if no enforcement action may be taken against them, and they are not in contravention of any enforcement notice which is in force.

In terms of the legal context, we must consider the length of time required, in breach of planning control, for a use to become lawful. Whilst, in most circumstances, a change of use must occur for 10 years for it to be considered lawful, with reference to residential development, paragraph 171B (ii) of the Town and Country Planning Act 1990 previously stated that:

"where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach".

The legislation under S171(B) was changed in 2024 to reflect the abolition (in England) of the different 4 and 10 year rules for enforcement action (first set out in the 2023 Levelling Up and Regeneration Act). This means that all breaches of planning control can only become immune from enforcement action after 10 years. This includes those breaches which were previously lawful after 4 years – such as change of use



of a building to residential and operational development. However...Section 9 of The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 states clearly that:

“The amendments made to the 1990 Act by section 120 of the 2023 Act (penalties for non-compliance) apply only in relation to offences committed after the section has come into force.” The Government Guidance¹ states that “The ten year limit for bringing enforcement action will apply where alleged operational development was substantially completed on or after 25 April 2024, or where the date of an alleged change of use to a single dwellinghouse was on or after 25 April 2024.”

Therefore, this change of use is still subject to the 4 year rule as a development that was completed before the April 2024 deadline and the change of use occurred before this date.

The Supreme Court has held in the case of *Welwyn Hatfield Borough Council v Secretary of State for Communities and Local Government and Beesley* [2011] 2 AC 304, that the four year immunity period in respect for the use of the buildings as dwellinghouses, applies only where there has been a change in use of the relevant building to use as a single dwellinghouse (as opposed to it being built as a separate dwelling).

The extension was, we understand, originally built as an extension for the house known as 1 Mortimer Road and was originally built with internal access which was sealed off after completion to facilitate the use as a separate dwelling. Therefore, this was not constructed as a separate dwelling in breach of the permission; rather, a lawfully constructed extension was subsequently converted into an independent planning unit. Given the absence of any Enforcement Notice, the period of time for taking enforcement action in respect of this breach of planning control is 4 years from the date that the breach occurred. The separation has created a new dwelling house.

The onus of proof on such an application falls firmly on the applicant. The relevant tests of the evidence on such applications is *“the balance of probability”*. This application aims to provide, on the balance of probability, that the extension has been used as a separate residential dwelling in planning terms for a considerable amount of time, most importantly for a continuous period of **over 4 years** and therefore no enforcement action is possible against the continued use.

Dwellinghouse

The first legal consideration, before assessing the evidence of occupation and use, is what constitutes a single dwelling house. Whilst acknowledging that Circular 10/97 was replaced by the National Planning Policy Guidance (NPPG), the NPPG fails to provide any advice on the matter. Therefore, in the absence of better advice to fall back on, the definition of a dwellinghouse in circular 10/97 remains of interest, if not directly relevant. Paragraph 2.81 attempts to define the term “single dwellinghouse” and makes the general point that if no reasonable person would look at a particular structure used as a dwellinghouse, and identify it as such, it is justifiable to conclude, as a matter of fact, that it is not a dwellinghouse. More to the point, if it appears to a reasonable person that it looks like (and is being used as a dwelling) then it is a reasonable conclusion. Later, the paragraph goes on, more helpfully, to state:

“... the criteria for determining use as a dwellinghouse include both the physical condition of the premises and the manner of use. Where a single, self-contained set of premises comprises a unit of occupation, which can be regarded as a separate planning unit from any other part of a building containing them; are design or adapted for residential purposes, containing the normal facilities

¹ [Enforcement appeals: Key changes under the Levelling Up and Regeneration Act - GOV.UK](#)



for cooking, eating and sleeping associated with use as a dwellinghouse; and are used as a dwelling, whether permanently or temporarily, by a single person or more than one person, living together as, or like, a single family, those premises can properly be regarded as being in use as a single dwellinghouse...". (our emphasis)

Given the separate facilities which enable the extension to be occupied independently of the main house, it could not reasonably be considered as incidental to the original dwelling at the property. Incidental uses, as described in Section 55(2) (d) of the 1990 Act do not include the provision of living accommodation which is an integral part of a dwellinghouse use and, therefore, not incidental to it. Use as kitchens and bedrooms would normally be regarded as integral and not incidental uses.

The key issue here is how the new dwelling has been used. If use was made of the cooking and other facilities in the main house and the extension was used just for overnight accommodation, then it is unlikely that the planning unit will have been subdivided and, in consequence, unlikely that there was a material change in the use of the planning unit. In that scenario, the extension would have remained dependent on the main house. This is not the case here. The extension does not rely on any facilities of the main house. It has all the pre-requisites for independent living such as a fully equipped kitchen, clothes washing facilities, bathroom, bedroom and living facilities.

Importantly, the occupiers of the extension have not been related in any way to the occupiers of the main house.

Given the nature of the accommodation provided by the extension, including its size, location, and parking, its use is evidently not incidental to the use of the main house and can only, therefore, be an independent dwelling in its own right.

Evidence

Various pieces of evidence have been submitted by the landowner in support of the application. These are set out below.

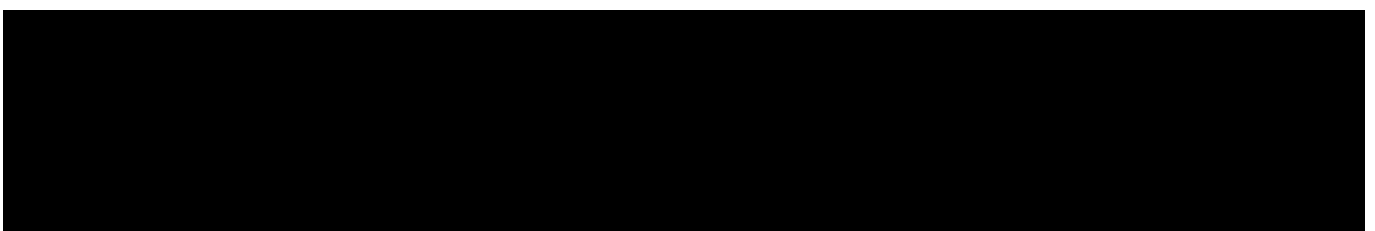
Statutory Declaration

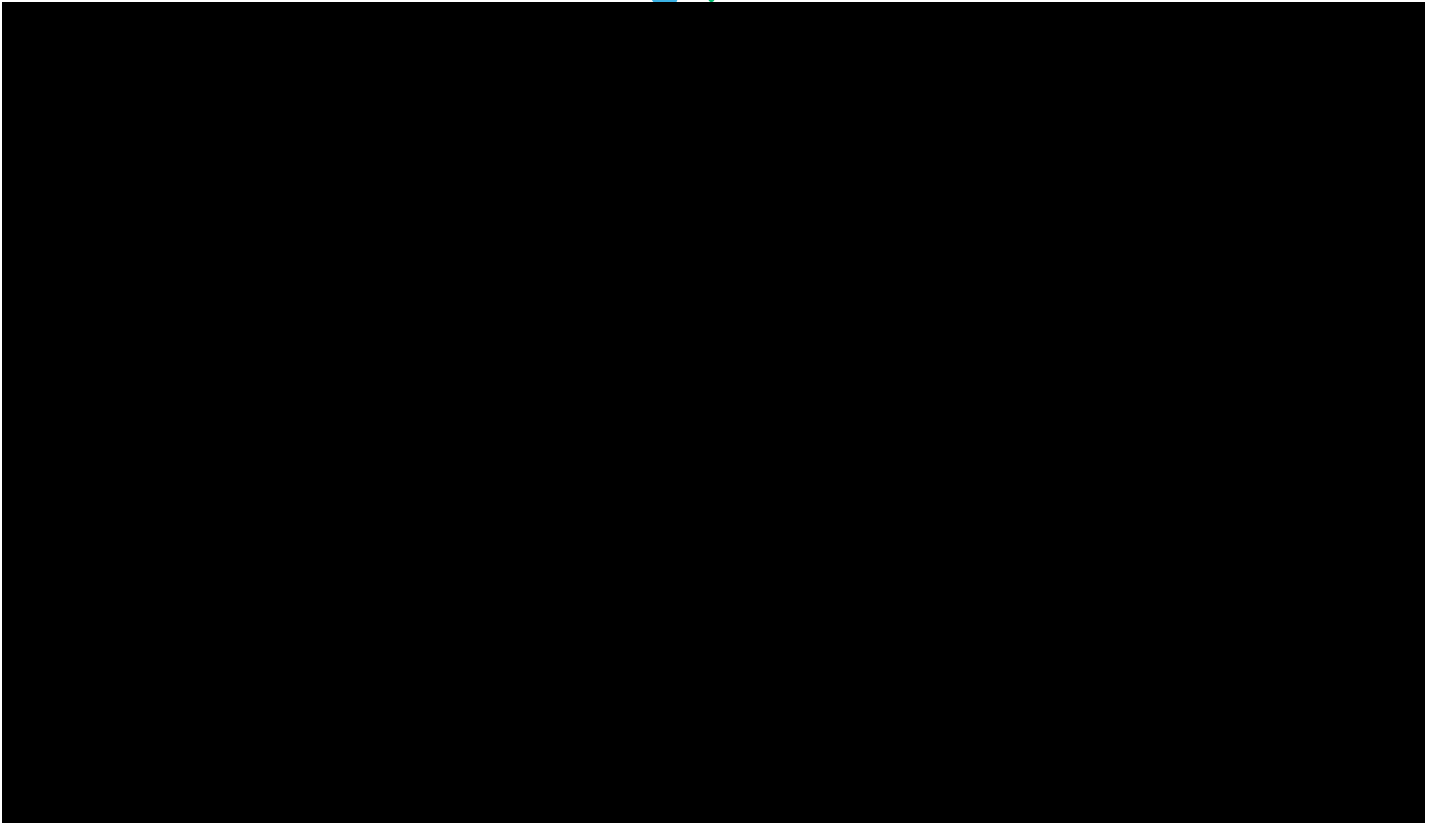
Evidence has been submitted in the form of the sworn Statutory Declaration from the landowner [REDACTED] who has owned 1 Mortimer Road since 2018. The Statutory Declaration provides some background of the property but, importantly, covers the period since 2022 when the extension was first used as a separate dwelling. The evidence then comes through to the present date.

Statutory declarations have also been provided by the current tenants, [REDACTED] and have [REDACTED]. Their tenancy agreements are also provided as evidence, as detailed below.

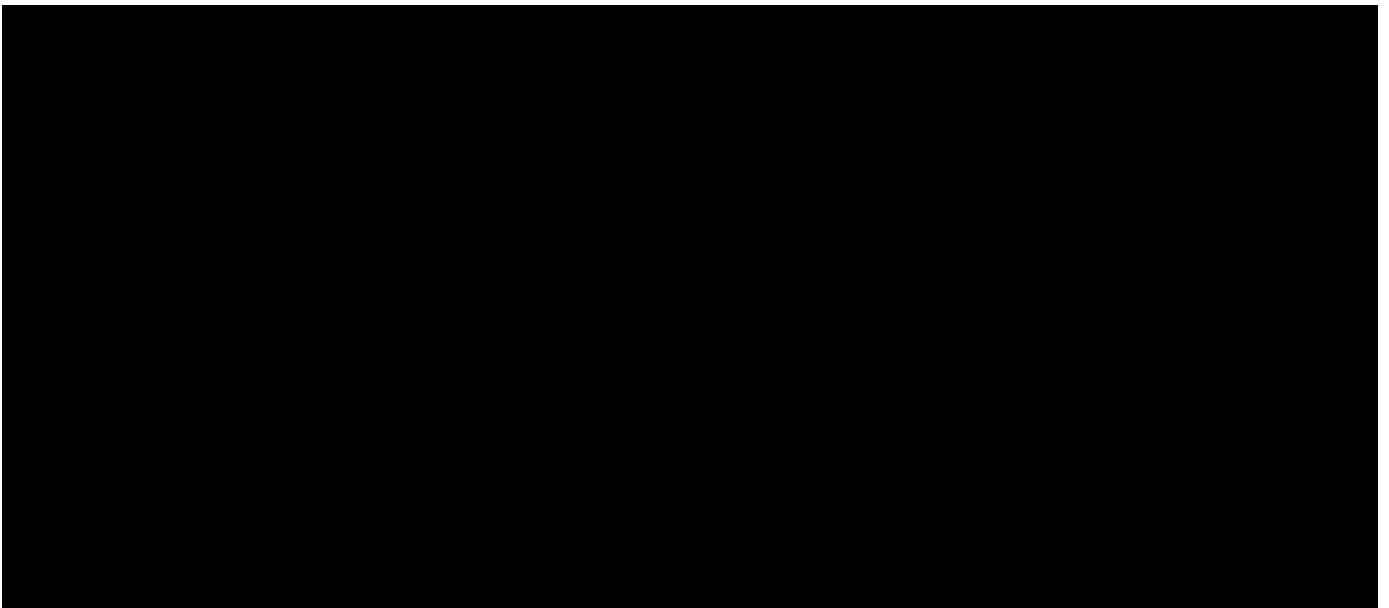
Tenancy Agreements

Four tenancy agreements are submitted as evidence the extension has been used as a separate dwellinghouse. The tenancy agreements are as follows:





Bank Statements



Airbnb and Booking.com Listings

Further evidence is submitted demonstrating the extension was listed as a standalone property for rent on holiday rental sites, Airbnb and Booking.com under the name 'Quiet Countryside Retreat' (which matches the property name on the tenancy agreements). The following pieces of evidence have been submitted:

- Airbnb Listing for 'Quiet Countryside Retreat kitchen lounge parking' within 'Entire home in Grazeley'



- Airbnb completed bookings for 'Quiet Countryside Retreat' at the following dates between 3rd August 2022 – 16th February 2023:
 - 22 night stay between 3rd August 2022 – 25th August 2022
 - 15 night stay between 11th September 2022 – 26th September 2022
 - 19 night stay between 1st October 2022 – 20th October 2022
 - 10 night stay between 6th February 2023 – 16th February 2023
- Booking.com Listing for 'Quiet Countryside Retreat' at '1 Mortimer Road, Shinfield, RG7 1LA'
- Booking.com reservation details for the following dates between 7th July 2022 – 22nd January 2023:
 - 9 night stay between 7th July 2022 – 16th July 2022
 - 22 night stay between 30th October 2022 – 21st November 2022
 - 30 night stay between 29th November 2022 – 29th December 2022
 - 21 night stay between 1st January 2023 – 22nd January 2023

The Airbnb and Booking.com listing names match the property name within the tenancy agreements above. The Airbnb listing advertises a 'private entrance' as well as 'access to a full family bathroom, full kitchen, lounge, dining area & free parking.' Similarly, the Booking.com listing matches the Airbnb listing photos as well as the tenancy agreement address. The description states the property is a 'homestay' featuring 'family rooms with private bathrooms, sofa beds and work desks' as well as lounge and kitchen. The 'host' for both matches the landlord name on the tenancy agreements and current applicant name.

The reservation details submitted demonstrate the property was being occupied for various dates between 7th July 2022 – 22nd January 2023. It is understood the property then began being let for shorthold tenancies, as set out above.

Therefore, a period of continuous occupation as a separate dwellinghouse is demonstrated for the period 7th July 2022 – the present day, which is a period of over 4 years.

Other Evidence

There are further pieces of evidence submitted which demonstrate the works were completed prior to the first use as a standalone dwellinghouse on 7th July 2022. The evidence is as follows:

- Building Control Certificate for single storey rear extension and loft conversion, dated 11th April 2022
- Building Regulations Compliance Certificate from the Gas Safety Register, dated 9th May 2022
- Electrical Installation Certificate, dated 18th May 2022
- Kitchen installation quote, dated June 2022
- Building Control Certificate for two storey side extension with a room in the roof and addition of external masonry to existing dwelling, dated 1st July 2022

The building control certificate dated 1st July 2022 confirms the works were completed in accordance with planning permission ref. 202979. The extension was then converted into a separate dwellinghouse, as confirmed by the reservation details above which commenced on 7th July 2022.

The building control certificate dated 18th May 2022 is in relation to permitted development works to the property and is included for completeness.

The remaining documents relating to the kitchen installation, gas safety and electrical installation are included for completeness and to further demonstrate the timeline in which the works took place.



Photos

The photographs below show the inside of the property, with clear evidence of a fully functioning kitchen (sink, oven and hob, oven, microwave), a separate bathroom with toilet and shower, a living and dining area (sofa, TV, dining table) and three bedrooms (upstairs).





Conclusion

The evidence demonstrates on the balance of probabilities that the extension has continuously existed as a self-contained independent planning unit used as a separate dwellinghouse for a continuous period exceeding four years. Immunity from enforcement has therefore been accrued and the dwelling is now lawful.

If you require further information, please do not hesitate to contact the author of this letter.

Yours faithfully
BELL CORNWELL LLP

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