

PLANNING REPORT



**Brandywell, Spring Lane,
Swallowfield. Reading. RG7
1SU.**



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On behalf of:

Mr. Evan Lindsell.

March 2026

VERIFICATION OF EVIDENCE PLANNING REPORT

**Brandywell, Spring Lane, Swallowfield. Reading. RG7
1SU.**

**EXISTING LAWFUL USE C3 Residential (Full extent of
garden use since 2016) [CLEUD]**

**On the basis of over 10 years previous use as garden
land.**



DATE ISSUED: 21/03/2026

JOB NUMBER: ABP/0681

**PREPARED and
APPROVED BY:**

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Exhibit 1 –

1. INTRODUCTION

- 1.1. This Planning Statement has been prepared to support a CLEUD lawful use application for the full use of the site at Brandywell as residential/domestic garden.
- 1.2. [REDACTED] purchased the property on **29th October 2015**.
- 1.3. In all the previous 10+ years the family has used the **whole site as house and garden**.
- 1.4. The presence of trees within the garden does not preclude garden use, indeed it is a very valued feature of the garden by the family who have used the whole site for garden enjoyment.
- 1.5. No concerns were raised in previous applications to develop a replacement house on the site in reference to domestic curtilage and it was only in 2025 that a concern was raised by the then case officer for an outbuilding; based on presumption and speculation without detailed assessment or factual basis; that the rear area of the site was not garden.
- 1.6. This application is therefore submitted to correct this inaccuracy and regularise for the avoidance of doubt in future planning dealings on the site.
- 1.7. The application concerns fact as to determine lawfulness and not planning 'merit'.
- 1.8. The application is submitted via Planning Portal ref – **PP-14799153** and a fee of £681 for the rear 0.2ha in dispute (see Location Plan red & blue land)
- 1.9. The application comprises –
 - CLEUD application forms. (Portal)
 - Site Location Plan (Portal)
- 1.10. The verification evidence comprises -
 - Planning Statement Report
 - Exhibits comprising –
 1. Historic Evidence

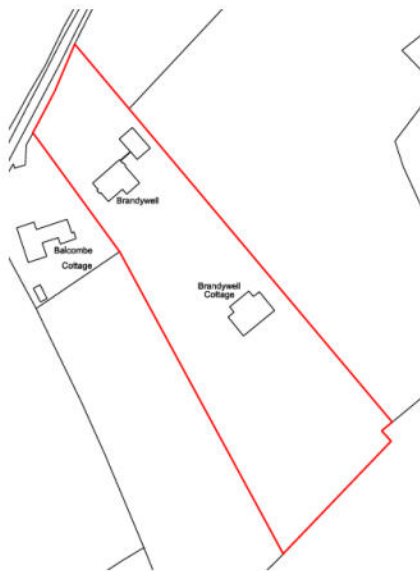
2. [REDACTED] statutory declaration.

3. [REDACTED] statement.

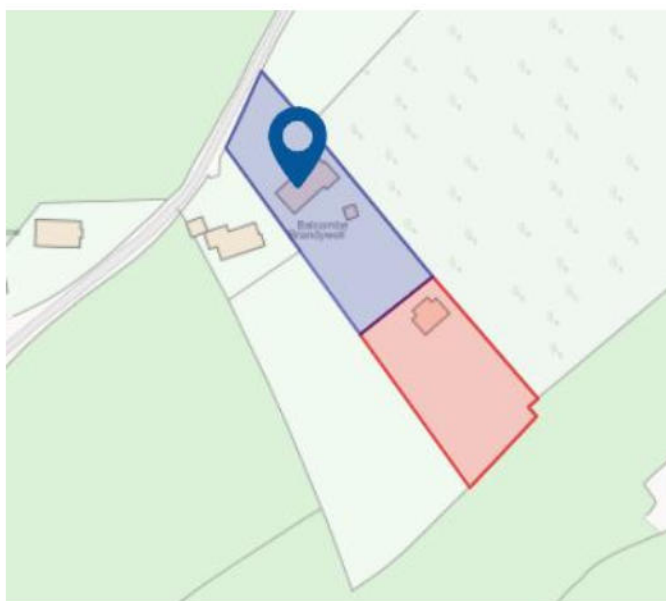
4. [REDACTED] tatement.

1.7 This report shows on the balance of probabilities and evidence that the whole site has always been used as rear garden for the property.

1.8 The whole certificate red line area is shown below, but it is only the far end element that has been disputed by the Council



Whole site.



Area in dispute (see 4.31)

2. SITE LOCATION & DESCRIPTION

2.1 The site is located on Spring Lane to the west of Swallowfield.

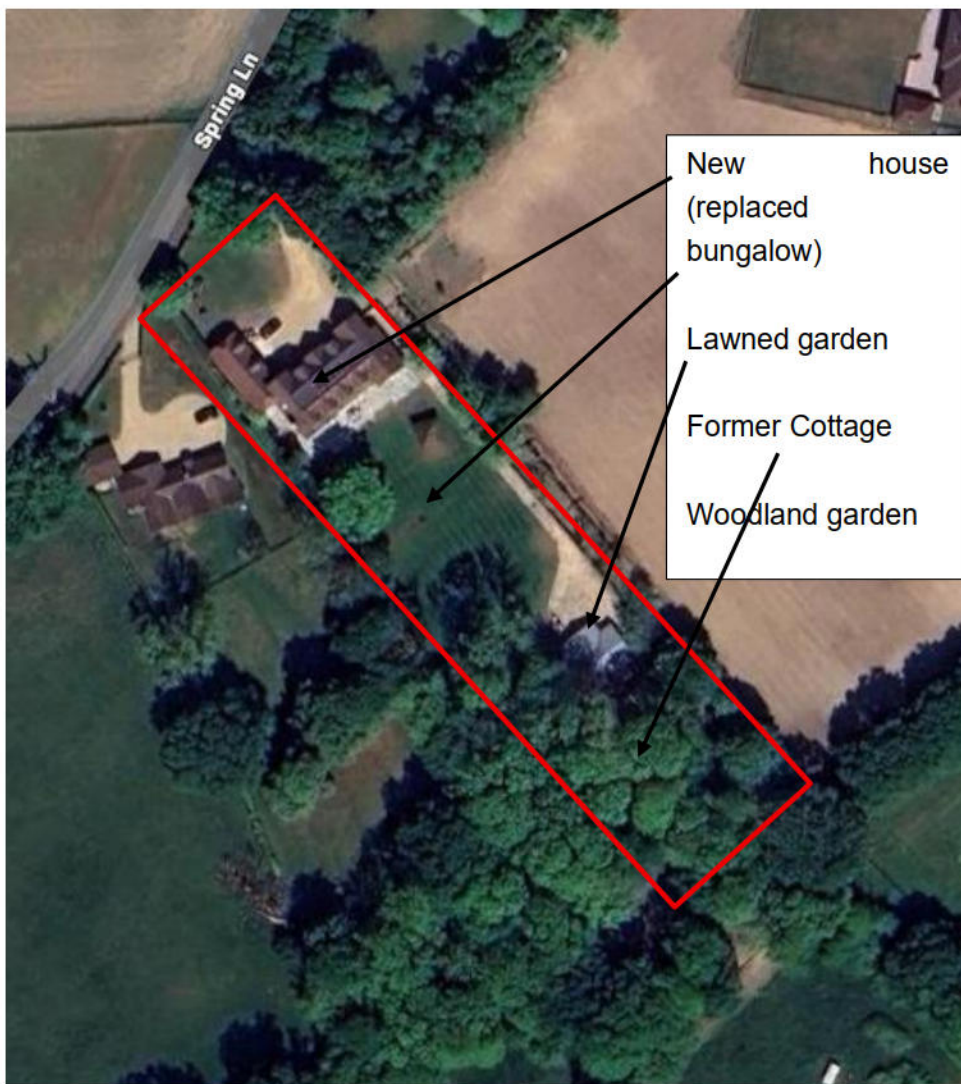


2.2 The site previously had two dwellings on it; a bungalow to the front; and a cottage in the middle of the site. The previous cottage is still on site as an outbuilding within the full site area as garden.

2.3 Application **160290** was approved for – “Full planning application for the demolition of existing dwelling, double garage/workshop and cottage to rear plus erection of replacement chalet bungalow.”

2.4 [REDACTED] submitted the application on 2nd February 2016 and it was approved on 11th April 2016.

2.5 The existing site as it is today is shown below.



- 2.6 Whilst the aerial photographs give the impression of dense woodland, that is not the case. The trees are well spaced out and used as a woodland garden with many paths through and around the site.



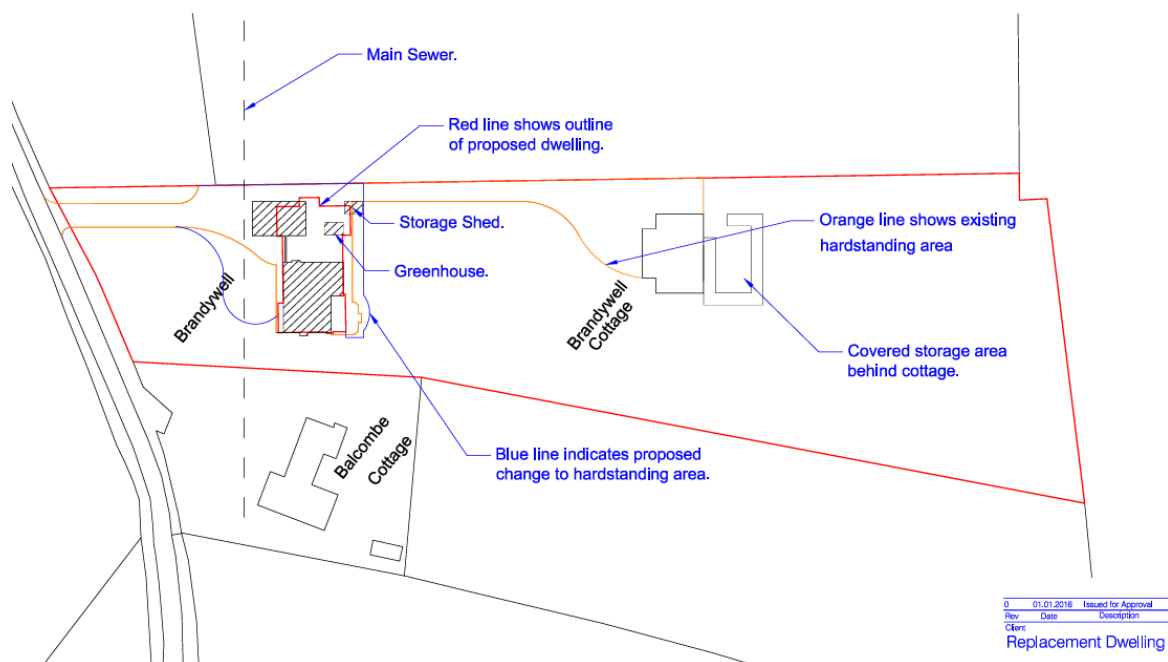


3. VERIFICATION OF EVIDENCE OF COMMENCEMENT CASE

- 3.1 There are 2 types of lawful development certificate.
- 3.2 This application is made under section 191.
- 3.3 Under section 191, the statement in a lawful development certificate of what is lawful relates only to the state of affairs on the land at the date of the certificate application.
- 3.4 The site is currently (and has been since late 2015) been used as full garden land used and enjoyed by the family residing at Brandywell.
- 3.5 The statutory framework covering “lawfulness” for lawful development certificates is set out in [section 191\(2\) of the Act](#). In summary, 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](#).
- 3.6 The time limit for enforcement action is set out in section 171B(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 ten years beginning with the date of the breach.**
- 3.7 The case is that no breach has occurred at the site, it has always been garden and used as such by the [REDACTED] since 2015..
- 3.8 At the transition arrangements date of 26th April 2024 (where the rules changed from 4 years to 10) the site had been fully used as garden for the previous 9 years.
- 3.9 As at the date of this submission March 2026, there has now been a previous past 11 years of garden use by [REDACTED]

4. DETAILED EVIDENCE

- 4.1 The site has always been used by [REDACTED] since 29th October 2015 as garden land.
- 4.2 Upon occupation and after purchase in October 2015 there has never been any fencing or subdivision of the land, it has operated and been used as one curtilage and plot.
- 4.3 In 2015 there were 2 dwellings on the site. The cottage in the middle of the site had a large front garden and then a rear garden with trees.
- 4.4 **The 2016 application 160290 showed the whole site within the red line as one curtilage.**



- 4.5 The design and access statement refers to the whole site with no reference to a separate woodland outside the site.

Brandywell House and Cottage has been recently purchased on the open market and is currently unoccupied. Both properties are in need of major repairs and upgrades so the current owner is looking to demolish all existing buildings and rebuild one replacement dwelling to provide a family home for himself. The details of this planning application is explained in more detail in this document and on the submitted drawings attached.

This document is prepared in support of the planning application for a replacement chalet bungalow on the existing site. The present site has three separate buildings as seen on the plans. To the front of the site is a three bedroom chalet bungalow (Brandywell House), to the left hand side of the bungalow is a large double garage and workshop building. Brandywell Cottage is another large three bedroom detached bungalow to the rear of the site which is currently accessed by a driveway down the left hand side of the property.

The site is about 600 hundred yards up Spring Lane on the North West side. The plot is just over 2 acres and Brandywell House and Garage are set about 60 yards back from the front boundary. The property is around 30 yards wide at the front and Brandywell House and Garage buildings sit central on the plot with a clear access to the rear of the property on both sides. The rear of the property is mainly laid to lawn for the first 120 feet going into woodland towards the back of the property.

- 4.9 Effectively there were two dwellings and two rear gardens in 2016. The application co-joined both gardens into one and has been used for 10 years now as private garden area to the new build house, with the former cottage still in place as an outbuilding.

2.2 Site Photos (Brandywell House and Garage Building)



Brandywell House and Garage - Front View



Brandywell House and Garage - Rear View



View of back garden and Brandywell Cottage looking from the back of the house

- 4.10 In 2016 rear workshops were in the rear of the garden of Brandywell Cottage further supporting that the whole garden had been used as a garden as the ancillary workshops were within the trees.

2.2 Site Photos (Brandywell Cottage)



Brandywell Cottage - Front View



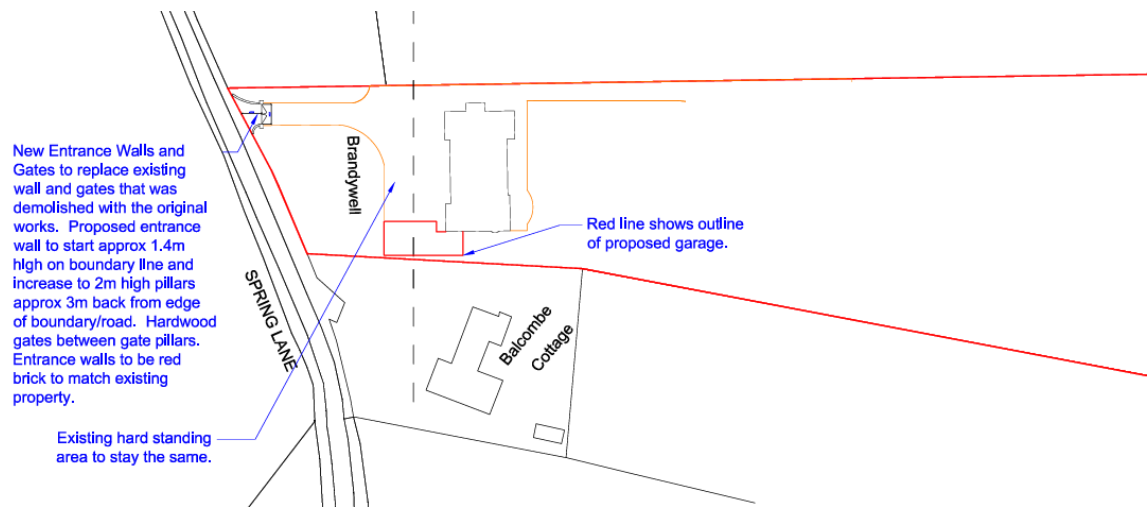
Large Storage sheds and sheltered area behind Cottage

- 4.11 There was no intention in this application to reduce the overall site garden extent just the building areas.
- *The overall proposed property will reduce the current surface and volume area that the current three buildings on the site cover.*
- 4.12 The decision notice for the scheme, does not include any reference to reduction of the site area, or highlight any difference of curtilage.
- 4.13 There was also no express condition to remove the existing cottage.
- 4.14 Condition 5 required protection of trees **within the site**, the site was a whole single red line as C3 domestic use.
- 4.15 There was never any request to reduce the site and identify blue land, it was all accepted as curtilage by the Council.
- 4.16 [REDACTED] used the whole site as one planning unit and garden area right down to the back fence.
- 4.17 In 2024 he was implementing garden paths and outbuildings as permitted development following on its garden use.

- 4.18 When it became apparent that the outbuilding would be >2.5m within 2m of the boundary a retrospective application was submitted as the base had already been laid.
- 4.19 It was at this point that the case officer challenged the curtilage without any evidence whatsoever and erroneously concluded that curtilage by definition was a small area linked to a property. This is only general guidance and seeks to exclude obvious paddocks and not assume all land is included and can be other uses. However, in this case it has always been used consistently as garden with trees but not a separate woodland.
- 4.20 Due to the clear errors of assessment and the refusal, this CLEUD is now submitted to establish the previous full use as garden for over 10 years.
- 4.21 Application **190051** was approved in March 2019 for Householder application for the proposed erection of a single storey two bay garage and store room with two dormers linked to the main dwelling, and erection of new entrance walls and gates.
- 4.22 Again this application included the whole site



- 4.22 There was no exclusion of the rear of the site. The red line is left open ended.



4.23 The application red line was for the whole site and the decision informative refers to -

2. Whilst it would appear from the application that the proposed development is to be entirely within the curtilage of the application site, the granting of planning permission does not authorise you to gain access or carry out any works on, over or under your neighbour's land or property without first obtaining their consent, and does not obviate the need for compliance with the requirements of the Party Wall etc. Act 1996.

4.24 On that basis, the LPA except the whole curtilage as submitted. There was never any previous suggestion that the site was not wholly residential curtilage.

4.25 The officer's delegated report dated 6.3.19 makes no challenge or reference to the view that the curtilage was not the whole site as submitted by full red line.

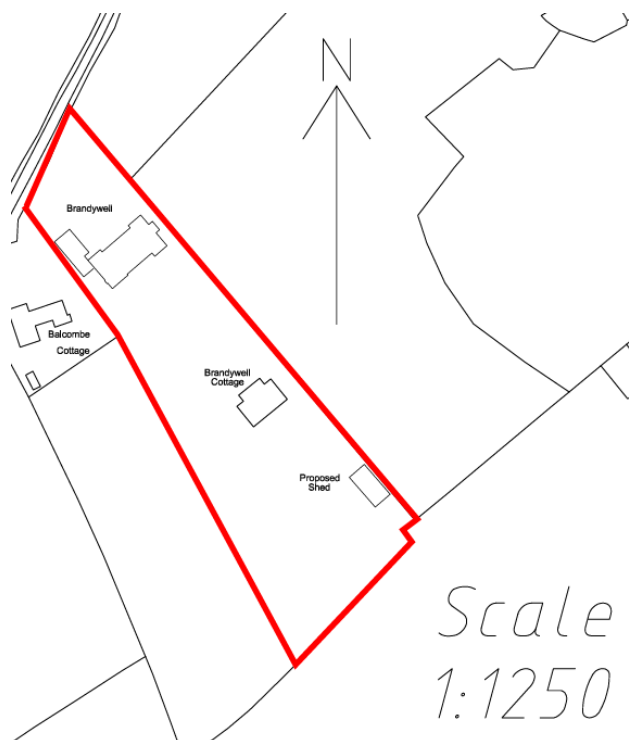
4.27 On the contrary, it states that it does not lead to excessive encroachment or expansion of development away from the original buildings. At no point in the extract below is the full curtilage challenged.

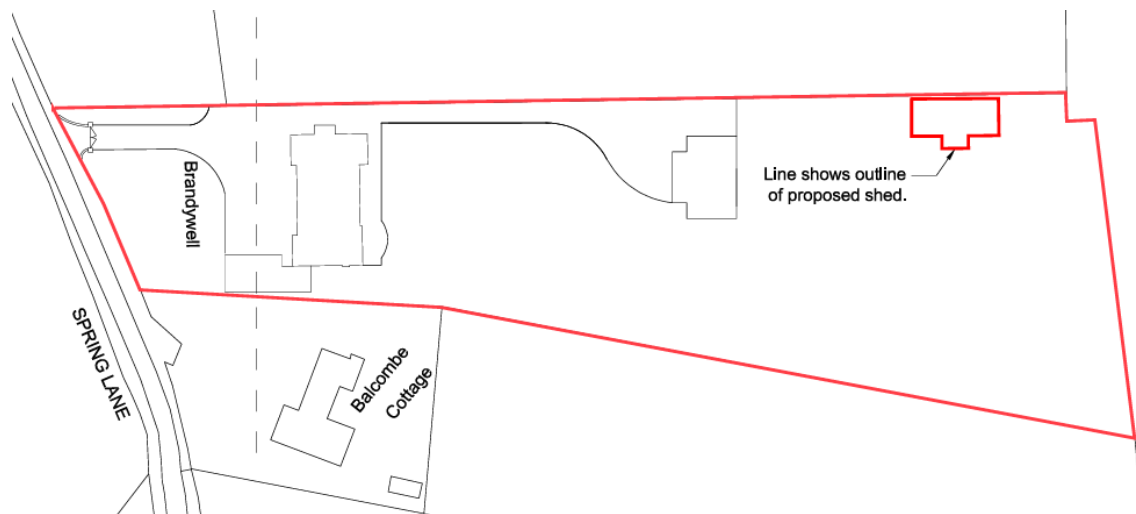
2. It does not lead to excessive encroachment or expansion of development away from the original buildings; and
3. It is contained within suitably located buildings which are appropriate for conversion, or in the case of replacement buildings would bring about environmental improvements; or
4. In the case of residential extensions, does not result in inappropriate increases in the scale, form or footprint of the original building;
5. In the case of replacement dwellings the proposal must: (i) Bring about environmental improvements (ii) Not result in inappropriate increases in the scale, form or footprint of the original building 3
6. Essential community facilities cannot be accommodated within development limits or through the reuse/replacement of an existing building;
7. Affordable housing on rural exception sites in line with CP9.

Criteria 3, 5 and 6 are not relevant to this proposal, nor is criterion 7 relevant as the proposal is not for affordable housing. Additionally, criterion 1, the proposal would not contribute to rural enterprises within the Borough as the proposal is for the extension to a residential dwelling. As such it would not contribute or promote recreation in and would therefore not have a harmful impact on the enjoyment of the countryside. The application is considered to meet criteria 2 and 4 as the extensions would appear to be a modest addition to the host dwelling.

Due to the single storey nature, modest size and design of the proposal, it would not have any harmful impact or does not inappropriately encroach the surrounding countryside. Furthermore the proposal is considered to comply with policies CP1 and CP3 of the Core Strategy and the Borough Design Guide SPD which are also relevant to the application.

- 4.28 It is only in 2025 that the curtilage is challenged, but the redline was consistent since 2016 in all applications and the full site had been used as a garden.





- 4.29 The red line is consistent with applications in 2016 and 2019 and never previously challenged by the Council.

Reasons

1. The proposed development would result in an inappropriate increase of development away from the existing dwelling and its lawful curtilage resulting in an urbanising encroachment that would harm the countryside character and appearance of the area. The proposal is contrary to policy CP1, CP3 and CP11 of the Core Strategy, CC01, CC02, CC03 and TB21 of the MDD Local Plan and sections 12 and 15 of the NPPF.

- 4.30 The LPA has no evidence for its reason of refusal above and is solely personal erroneous opinion that flies in the face of the previous history of dealing with the site as one planning unit and one curtilage as set out above.
- 4.31 There are serious flaws in the officers' report –

The proposed siting of the outbuilding is in a part of the site that does not appear to be within the lawful residential curtilage and is within an area dominated by woodland. Sinclair-Lockhart's Trustees v Central Land Board [1950] 1 P&CR 195 stated that where to fall within the curtilage of a building, land should serve the purpose of the building in some reasonably useful or necessary manner. Methuen-Campbell v Walters [1979] requires land to have an intimate association with, and forms part and parcel of, the building. There is clear separation between the main garden space of the dwelling which extends up to the existing detached outbuilding (measuring approximately 60m in length), and the rear section of wooded grassland. The site visit made by the Case Officer on 13/06/2025 observed the

*area of the proposed siting for the outbuilding did not appear to form maintained lawn that had been recently mown or form part of the domestic garden. The below aerial photograph from 2025 **shows the end of the residential curtilage demarcated by the end of the manicured lawn (red line).***



The image also shows the woodland to the rear of the site (between the red line and the approximate rear of the site shown in green). The woodland area where the outbuilding would be located also forms part of the Riseley Woods Valued Landscape. The Riseley Woods Valed Landscape is the smallest of the valued landscapes in the borough. The Riseley Woods Valued Landscape falls almost entirely within the L3 'Stanford End Wooded Sands and Gravel Hills' Landscape Character Area (LCA) and centres on a block of ancient woodland within that LCA.

- 4.32 To say that garden has to be manicured lawn is naïve in the extreme. The whole site is garden and the aerial view does not show the space between trees.
- 4.33 To say that a garden cannot have wilder elements, long grass, wildlife areas, trees is factually flawed.
- 4.34 The report gives a biased slanted view without any factual evidence, that this CLEUD refutes.
- 4.35 This new view bears no relationship with the previous stance of the Council where it was always treated as one curtilage.

4.36 I submit that this officer opinion is incorrect and not valid.

4.37 [REDACTED] own evidence relates to –

Initial sale of site showed rear garden to the cottage.

[3 bedroom detached house for sale in Swallowfield, Reading, RG7](#)

Pictures taken 01/12/2014 As taken from 3rd (Party website see link above)

This also shows “Brandywell Cottage ” a Building half way down the garden on the edge of the trees was being used as living accommodation in 2014 further supporting the fact that the whole plot was being used as a garden.

Picture from the back of the garden towards the main house, you can see a clear path through the trees.



4.38 The site has always been used as a garden with paths through, areas for bonfires, play. Just because there are trees in it doesn't not make it a garden.

Picture at the end of the garden showing bonfire area which is still in the same place.
Wheelbarrow show the area was being used as a garden.



Another picture taken looking into the garden and trees, as can be seen from the picture the garden was well maintained, grass being cut and a path through the trees in order for the family at that time to enjoy the complete garden.



- 4.39 2015 – clearly a garden with nice trees in it and relating to the back of the original cottage.

Pictures taken 30.10.2015 showing the rear of the garden well maintained and being used as a garden for the main house.



- 4.40 The family for 10 years has used the whole site as garden and for play, events, BBQ's – see below bonfire night when first moved in

Picture taken On November 5th 2016 of a bonfire being enjoyed by the family at the back of the garden.



- 4.41 Consistent use has taken place as garden leading up to 2025 and its current use contrary to officers' opinion.

Pictures taken October 2025, showing what it looks like at the moment.

From the back of the garden looking towards the house.



Path through the trees with children camp to the right hand side of the picture. The proposed sheed in previous application is where the fence panel is missing in the picture.



GARDEN

Picture from the back of the garden looking towards the house. Garden fire pit



- 4.42 Finally, [REDACTED] is supplying evidence from friends confirming full garden use by the family
- 4.43 All this therefore confirms the following use and timeline beyond the balance of probabilities.



TIMELINE

29th October 2015	2016
House and land purchased by Mr Lindsell	Application 160290 with one single whole red lien curtilage.

2016 - 2019	March 2019
Site works and use of whole site as garden by the Lindsell family.	Application 190051 dealt with site as one whole unit.

2019 - 2025	March 2026
Ongoing use of whole site as garden by the Lindsell family. 2025 application erroneously assessed by officer	Continuous use as whole site as garden and rear garden area used for family leisure purposes as a treed garden. One full curtilage site as one whole unit. Site a large garden, no separate planning use



10 years and 4 months continuous use as garden by Lindsell family.



2016 – 2026. Ten years garden use so thus immune from any challenge of its lawfulness.

5. CONCLUSIONS

- 5.1 In 2015 the property was purchased and in effect it comprises two dwellings and two gardens.
- 5.2 [REDACTED] has used the site consistently for 10 years as one curtilage and one dwelling with garden.
- 5.3 A new house has been erected to the front and the former cottage is retained as an outbuilding.
- 5.4 The whole length of the site has been used as garden, with a mix of formal lawns, planting, outbuildings and tree rear garden with interwoven paths and spaces for domestic garden uses, such as ply, bonfires, BBQ's etc.
- 5.5 The Council's own evidence from past history of applications has consistently shown one full site and the curtilage has never been questioned from 2016 to 2025.
- 5.6 This application submits family evidence of use and photos etc. to verify the family use of the whole site.
- 5.7 A CLEUD certificate of lawfulness should thus be issued for a C3 dwelling house and garden for the whole site with the following boundary extent as submitted application plan

