

Wokingham Borough Council
PO Box 157
Civic Offices
Shute End
Wokingham RG40 1WR

By Email: development.control@wokingham.gov.uk
Copy to: Marcus.Watts@wokingham.gov.uk

12 January 2026

Dear Sirs

Application for Certificate of lawfulness for existing use of the land known as Secundus, Wargrave Road, Henley-On-Thames (RG9 3JD) ('the Land')

We are submitting this application on behalf of our client George Rydzinski who is the registered owner of the above Land, being HMLR title number BK231749 and known as 'Secundus'.

The Land borders the Thames and has been used by the Rydzinski family as a leisure plot which could accommodate overnight stays since their purchase of it December 2013. Over the years improvements have been made to the Land to support its use and culminating in renovations finished in 2015 which completed the utilities and accommodation available to users of the Land including beds, bathroom, kitchen, electricity and showers. See the enclosed statutory declaration of George Rydzinski dated 8 January 2026 and exhibits to this.

We have considered previous PINS appeal decision relating to the neighbouring plot known as 'Atlanta' encompassing appeals APP/X0360/C/22/3313844, APP/X0360/X/22/3303555 and APP/X0360/W/22/3310598 and resulting in planning permissions reference 233172 and 233117. Taking note of the inspector's consideration of *Gravesham* that in order for a dwellinghouse to arise there need to be 'the facilities required for day-to-day private existence.' In common with the deemed lawful dwellinghouse in this decision the chalet at Secundus has:

- kitchen
- bathroom
- living area
- bedroom

The inspector in the *Atlanta* appeal also considered the further cases of *Impey* and *Hatfield* as authority that a physical use as a residence needn't have occurred in order to give rise to a material change of use to residential.

We consider that the Land is therefore in lawful use as a use class C3 dwellinghouse and has been used as such since at least 2009. *London Borough of Islington v SoS & Maxwell Estates limited [2019] EWHC 2691 (Admin)* reconfirmed the tests set out in *Thurrock* and *Swale* considering the level of continuity required for residential use to be established, which centres around enforceability and which in this case would have been easily apparent and enforceable by Wokingham Borough Council.

We are therefore seeking a certificate of lawfulness for its existing use as a use class C3 dwellinghouse.

The basis for making the decision on the certificate application is set out (as you will be aware) in The National Planning Practice Guidance ("NPPG") provides as follows (insofar as is material to this application):

'How is a lawful development certificate obtained and what does it mean?

Anyone can apply to the local planning authority to obtain a decision on whether an existing use or development, or a proposed use or development, is lawful for planning purposes or not.

If the local planning authority is satisfied that the appropriate legal tests have been met, it will grant a lawful development certificate. Where an application has been made 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.

The key statutory framework for such applications and their determination is set out in sections 191-193 of the Town and Country Planning Act 1990 ("the Act").

[...]

Paragraph: 002 Reference ID: 17c-002-20140306

Revision date: 06 03 2014

'What information must accompany an application for a lawful development certificate?

Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 specifies the contents of an application and how it must be submitted. There is a different application form for each type of certificate, but either type must be accompanied by sufficient factual information/evidence for a local planning authority to decide the application, along with the relevant application fee. Application forms can be obtained from the local planning authority and can be completed by the applicant or someone working on their behalf.

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. This does not preclude another application being submitted later on, if more information can be produced.'

Paragraph: 005 Reference ID: 17c-005-20140306

Revision date: 06 03 2014

'Who is responsible for providing sufficient information to support an application?

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.
[...]

Paragraph: 006 Reference ID: 17c-006-20140306

Revision date: 06 03 2014

The onus of proving the lawfulness of an existing use rests with the Applicant. The Courts have held that the relevant evidential test is 'the balance of probability' (see, for example *Gabbitas v Secretary of State for the Environment* [1985] *JPL* 630) i.e., as to the application, that it is more likely than not that the lawful use is the use stated in the application. This is the legal basis upon which the application must be determined by the Council.

It is submitted that the applicant's evidence as set out in the statutory declaration of George Rydzinski is sufficiently precise and unambiguous to show a change of use to residential in excess of 10 years ago and that the lawful use is now as a Class C3 dwellinghouse.

Accordingly, the certificate is requested to be granted without delay.

Yours faithfully

Sebastian Charles

For and on behalf of Aardvark Planning Law

sebastian.charles@aardvarkplanninglaw.co.uk

D: 01604 43 90 92

T: 01604 43 90 90

M: 07710 783 154

Enclosures

Statutory Declaration of George J Rydzinski [dated 8 January 2026] with Exhibits:

Atlanta Appeal decisions reference APP/X0360/C/22/3313844, APP/X0360/X/22/3303555 and APP/X0360/W/22/3310598

Atlanta Planning Permission approvals, reference 233172 and 233117