

HEARING APPEAL STATEMENT

For 289–291 Bath Road – Application for Existing Certificate of Lawfulness

We respectfully request that this appeal be considered by way of a hearing, due to the complexity of the planning history, volume of evidence, and legal interpretation required under Section 191 of the Town and Country Planning Act 1990 (as amended).

The properties at 289 and 291 Bath Road have operated continuously as a bed and breakfast (B&B) for more than 10 years prior to the application date (16/09/2024). Extensive documentary evidence was submitted to demonstrate this, including:

- **Financial accounts and trading records** dating back to 2000 for Firs Guest House and Firs Lodge.
- **Non-domestic business rate notices** jointly addressed to 289 & 291 Bath Road as "The Firs Bed and Breakfast" from 2010 to 2024.
- **Continuous VAT returns** filed with HMRC under "Firs Lodge Ltd" for these premises.
- **Supporting statements** from the building manager, business director, and professional accountants confirming continuous B&B operations.
- Energy Performance Certificates, safety records, guest registries, and Airbnb documentation confirming actual use.
- Gas Safety Records and documents referencing internal units at 291 Bath Road used for accommodation purposes.

Despite this, the Council refused the application, stating insufficient proof of B&B use in 2018. However, evidence submitted includes multiple forms of documentation—financial, tax-related, regulatory, and testimonial—directly referencing B&B use during 2018. Under Section 191(2), if no enforcement action may be taken and the time limit has expired, then the use is lawful.

Further, **Annex 8 of the LDC** guidance clearly establishes that:

- The test is **the balance of probabilities** (para 8.15) – not criminal proof.
- The applicant's own evidence does not need to be independently corroborated if it is clear and uncontradicted.
- The burden of proof lies with the applicant, but where the Council has no compelling contrary evidence, and the applicant's documentation is precise, the LDC should not be refused.
- The planning merits, neighbour opinions, or unrelated complaints are irrelevant to legal determinations of lawfulness (paras 8.3, 8.15, 8.45).

Additionally, enforcement history from 2011 and 2018 supports that the properties have long functioned as multi-unit accommodation, and no enforcement notices were issued in respect of B&B operations within the 10-year immunity period, as described under section 171B of the Act and acknowledged in the delegated report.

Given the legal interpretation involved, the volume of detailed documentary material, and the importance of oral testimony from parties with long-standing knowledge of the property's use, a hearing is the most appropriate forum for this appeal. It will enable the Planning Inspector to:

- Hear oral clarification of documents and timelines.
- Test the evidence via cross-examination.
- Examine the integration of 289 and 291 as a single B&B enterprise.
- Address inconsistencies or omissions in the Council's decision-making process.

In light of the above, and pursuant to both Annex 8 guidance and the principles of procedural fairness, we strongly assert that this matter warrants resolution through a hearing.