

Town and Country Planning Act 1990 (as amended)
Proof of evidence of Robert Tomlinson on behalf of the London Borough
of Hounslow

Relating to:

Firs Lodge, 289-291 Bath Road, Hounslow, TW3 3DB

Planning inspectorate reference: APP/F5540/X/25/3365277

LPA reference: P/2024/3105

Dated: 06/08/2025

1.0 Qualifications, experience and scope of statement

- 1.1 I am Robert Tomlinson, a town planning apprentice at London Borough of Hounslow, working across the Development Management and Spatial Planning departments. I have been in this role since 2023.
- 1.2 In Development Management, I have a mixed caseload of pre-application, planning application and appeal casework. As part of my role I make decisions on applications which are signed off via the delegated authority of area managers.
- 1.3 I am studying towards a master's degree in town planning and I am a student member of the RTPI. I have two years' experience in the planning department at the London Borough of Hounslow.
- 1.4 On 16/09/2024 a certificate of lawfulness for the use of the 289-291 Bath Road as a bed and breakfast was refused for the following reason:

The London Borough of Hounslow as the Local Planning Authority hereby certify that on 16/09/2024, the use of the property as a bed and breakfast at No. 289-291 Bath Road, TW3 3DB was not lawful within the meaning of Section 191 and 192 of the Town and Country Planning Act 1990 (as amended) for the following reason:

The applicant has failed to demonstrate that on the balance of probabilities, the building has been in use as a bed and breakfast for the continuous period of 10 years prior to the submission of the application, and evidence available to the Council demonstrates that the property was not in use as a bed and breakfast in 2018.

- 1.5 This is the application to which the current appeal pertains.

2.0 Site description and planning history

- 2.1 The site is on the northern side of Bath Road. The site contains two semi-detached properties belonging to separate pairs, although they are now seen attached following various extensions/alterations. Both properties are characterised by white render throughout with black brick quoins, with a shared forecourt for vehicular parking.
- 2.2 The property is subject to a borough-wide Article 4 Direction restricting the conversion of single-family homes to large HMOs.
- 2.3 The following are recent applications on the property:

P/2024/0069	<p>Certificate of lawfulness for the existing use of a bed & breakfast.</p> <p>Refused: 04/03/2024</p> <p>Reason: <i>The applicant has failed to demonstrate that on the balance of probabilities, the building has been in use as a bed and breakfast for the continuous period of 10 years prior to the submission of the application, and evidence available to the Council demonstrates that the property was not in use as a bed and breakfast in 2018.</i></p>
00083/289-291/LAW1	<p>Certificate of lawfulness of existing use for use of two houses as bed and breakfast accommodation.</p> <p>Withdrawn: 24/09/2010</p>
00083/289-291/P2	<p>Erection of a part single part two storey rear extension.</p> <p>Refused: 20/12/2011</p>
00083/289-291/P3	<p>Erection of a part single part two storey rear extension.</p> <p>Refused: 19/07/2012</p>
COND/2017/00525	<p>Details of suspected breach: Conversion of property into Bed and Breakfast.</p> <p>Recommendation: Closure – 13/06/2018</p> <p>Reason: The visit carried out on the 18th May 2018 found that the property is now three flats and some flats are used for shorter term tenancy, but the site is not operating as a Bed and Breakfast.</p>

3.0 The Issues

- 3.1 The test of this appeal is whether the refusal of the Lawful Certificate Application was well founded.
- 3.2 The burden of proof rests with the appellant and the standard of proof is the balance of probabilities.
- 3.3 On the basis that the appeal scheme involves the conversion of a residential unit to a bed and breakfast, 10 years, preceding the 16/09/2024, is the applicable period.
- 3.4 The National Planning Policy Guidance Note (*Lawful Development Certificates paragraph 06*) advises that:

'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.'

- 3.5 During the course of the appeal, the appellant has signalled that they consider a secondary ten-year period, from 2006-2016 can also be evidenced. They have also presented an additional argument that, even if parts of the property were in use as properties in short-term use and not bed and breakfast, that this does not constitute a change from the C1 use of the bed and breakfast.
- 3.6 Due to the volume of evidence present by the appellant, both with the original application and over the subsequent appeal process, the Council has ordered these into 6 schedules, which form Appendix 2 these proofs. I will refer to these schedules throughout the report by number.
- 3.7 Many of the documents provided have very limited relevance to the application. This is due to the link to the property being unclear, pertaining to periods outside either critical period, or having no clear connection to the use of the property as a bed and breakfast. In order to curtail the length of these proofs as much as possible, these documents are listed and briefly assessed in Schedule 6 of Appendix 2, but will not be analysed in detail in the body of the proofs.
- 3.8 As such, within my proof I shall offer a professional view of the appellant's supporting information for each of these three arguments presented in turn. Where the Council holds contradictory evidence, this will be noted in these proofs, but fully substantiated in the accompanying enforcement proofs.

- 3.9 I will then conclude why, on the balance of probability, the scheme had to be refused and the appeal should be dismissed.
- 3.10 Please note that a significant amount of information has been provided after a decision was made on the application. The Council withholds the right to challenge the introduction of this new information, but will address the evidence hereafter.

4.0 Argument 1: Lawful Certificate for the continued use of the property as a bed and breakfast between 16/09/2014 – 16/09/2024

Analysis of the appellant's evidence: 289 Bath Road

- 4.1 On the basis of the extensive additional evidence submitted over the course of the appeal, and in the absence of contradictory evidence held by the Council, it is considered that, on the balance of probabilities, the use of **289 Bath Road** as a Bed and Breakfast is lawful. As a result, evidence pertaining only to 289 across both critical periods has been separated into Schedule 5 of Appendix 2 and assessed there. It will not be assessed in detail here.

Analysis of the appellant's evidence: 291 Bath Road

- 4.2 On the basis of contradictory evidence held by the Council, the 2018 enforcement report that states that 291 was in use as four self-contained flats, the burden of proof on the appellant is higher to demonstrate the continued of 291 Bath Road as a bed and breakfast throughout the critical ten-year period. This enforcement report is found in Appendix 6 of the Enforcement Proofs of Evidence and the findings of the case discussed in detail in the Enforcement Proofs.
- 4.3 Much of the evidence submitted to substantiate the bed and breakfast use of 291 Bath Road is imprecise and ambiguous. Of the circa 500 supporting documents provided, only 15 are relevant to the original critical period and refer to either 291 or both 289 and 291 Bath Road as the address of the Firs Lodge. This evidence is listed in Schedules 1 and 2 of Appendix 2 and each item individually assessed.
- 4.4 The evidence that is relevant to 291 Bath Road in the critical period of the original application is itself imprecise and ambiguous as to usage of the property as a bed and breakfast.

Council tax records

- 4.5 The appellant has supplied non-domestic Council tax rate notices for the period 2011-2024, with the address for the Firs Lodge given as 289-291 Bath Road.

While these may evidence that the property was registered as a business during this period, they do not provide evidence that the whole property was in continuous usage as a bed and breakfast over the period, nor do they necessarily contradict the Council's own evidence.

Other documentary evidence

- 4.6 Other documents relating to 289-291 Bath Road for this period are afforded less weight and include an invoice for hotel supplies dated 30/11/2014, an energy performance certificate dated 13/08/2015, and fire alarm servicing dated 06/10/2022 and 06/04/2023. These documents do not provide evidence of actual use of the property as a bed and breakfast beyond the address.

Booking confirmations 2018

- 4.7 In response to the Council's enforcement report the appellant provided, on the 28/07/2025, booking confirmations for 2018, these are included in Schedule 4 of Appendix 2. Despite the appellant's contention that this would overcome the Council's contradictory evidence, the information they provide is, at best, limited.
- 4.8 There is no address listed on any of the bookings, so they are linked to the Firs Lodge only by their inclusion in the evidence pack, no explanation has been provided for this. Many bookings have no room attached to them, or a room is booked multiple times in a single day.
- 4.9 If these bookings do in fact relate to the Firs Lodge, they remain an incomplete testimony of the continued use of the appeal site as a bed and breakfast. Some rooms in 291 Bath Road (namely rooms 10, 20, 60, 62, 64, 66) are not represented at all in the bookings. Other rooms in 291 Bath Road (23, 23a, 24, 25) are booked, but these rooms only appear in the updated floorplans provided by the appellant over the course of the appeal. In these updated plans, room 17, which is shown in multiple bookings, does not appear. A list of room numbers at the property in the original and updated plans is provided in Appendix 1.
- 4.10 As such, due to the incompleteness and ambiguity of this evidence it is not considered sufficient to demonstrate the continued usage of the whole property as a bed and breakfast throughout the critical period. A complete list of rooms referred to in bookings is included in Schedule 4.

5.0 Argument 2: Lawful Certificate granted on the basis of continued use demonstrated 2006-2016

- 5.1 As noted above, following the additional evidence submitted during this appeal, the Council recognises that, on the balance of probabilities, 289 Bath Road functioned as a bed and breakfast for a continuous ten year period. Evidence pertaining solely to 289 Bath Road will not be assessed in detail, these documents are outlined in Schedule 5 of Appendix 2.
- 5.2 An enforcement closure report dating from 2011, (covered in detail in the corresponding enforcement Proofs of Evidence) found that 291 Bath Road was in use as four flats. As a result, the burden of proof on the appellant is higher to demonstrate the continued of 291 Bath Road as a bed and breakfast from 2006-2016.
- 5.3 In addition to the above enforcement report, the appellant has provided contradictory evidence of the use of 291 Bath Road during this period. This includes:
- A letter regarding housing benefit overpayment for 291C Bath Road, 22/01/2007-08/04/2007, listed in Schedule 1 of Appendix 2.
 - Electricity bill for Firs Lode, 291, Fl. D, Bath Road, 24/05/2006, listed in Schedule 1 of Appendix 2
 - Electricity bill for Fl B 291 Bath Road, 25/05/2006, listed in Schedule 1 of Appendix 2
 - Gas bill for 291D Bath Road, Hounslow 16/10/2009, listed in Schedule 1 of Appendix 2
 - Electricity bill for 291B Bath Road, 28/11/2008, listed in Schedule 1 of Appendix 2
 - Gas bill for 291B Bath Road, 28/11/2008, listed in Schedule 1 of Appendix 2
 - Gas bill for 291D Bath Road, 15/01/2009, listed in Schedule 1 of Appendix 2
 - Electricity bill for Fl. C 291 Bath Road, 03/03/2009, listed in Schedule 1 of Appendix 2
 - Electricity bill for 291 Fl C Bath Road, 18/11/2009, listed in Schedule 1 of Appendix 2
 - Gas bill for 291B Bath Road, 18/08/2010, listed in Schedule 1
 - Electricity bill for The Firs Lodge 291B Bath Road, 23/11/2010, listed in Schedule 1 of Appendix 2
 - Electricity bill for The Firs Lodge, 291 Fl D Bath Road, 23/11/2010, listed in Schedule 1 of Appendix 2

- Electricity bill for Fl C, 291 Bath Road, 21/02/2011, listed in Schedule 1 of Appendix 2
- Electricity bill for Fl C 291, Bath Road, 21/11/2011, listed in Schedule 1 of Appendix 2

5.4 Both the payment of housing benefit and the length of time suggest longer-term residential use. Similarly, the utilities bills addressed to multiple flats with 291 suggest that these were operating as separate units. The bills for Flats C and D in 2010-2011, especially seem to support the conclusion of the 2011 enforcement report that 291 was in use as four flats at times over the period 2006-2016.

Invoices for the Firs Lodge

5.5 The appellant has provided invoices relating to room bookings for short-term stays (Schedule 3 of Appendix 2). The address listed on these documents is 289-291 Bath Road, but no room numbers have been provided and the location of the bookings within the appeal site is unclear. These invoices do not cover a continuous ten-year period.

BACS Remittances and other invoices pertaining to Local Authorities

5.6 The appellant has supplied BACS remittances and invoices between the appellant and local authorities (Schedule 3 of Appendix 2), there is no indication of the reason for these payments. The documents cover a continuous period between January 2006 and February 2013, albeit with some years, such as 2007, appearing in very few documents.

5.7 Letters from Local Authorities addressed to 289-291 Bath Road have been submitted, making reference to bookings for short term temporary accommodation, no room numbers are included within these documents. In combination with the above BACS remittances and invoices, this evidence may suggest that the Firs Lodge was functioning as a bed and breakfast or other short term usage during this period, however there are no room numbers given within these documents. As such, it is not clear that they establish the use of 291 Bath Road as a bed and breakfast in this period, especially given the appellant's own contradictory evidence given above and the 2011 enforcement notice.

5.8 Additionally, while these are some of the most continuous documents included in the submission, they only cover the period 2006-2012 before stopping. Therefore they do not evidence continued use for the entire ten year period of 2006-2016. The accompanying letters date from 2010 and 2011 and cover an even more limited period than the invoices and BACS remittances.

Ledgers and diaries

- 5.9 Much of the evidence submitted for this period takes the form of handwritten ledgers and diary entries. While some of the ledgers are titled Firs Lodge, with no corresponding street address, their relevance to the appeal is unclear. These documents list purchases made at supermarkets and hardware stores, this is given in Schedule 6 of Appendix 2.
- 5.10 Of the remaining ledgers, listed in Schedule 4 of Appendix 2, some appear to show information that could be relevant to the appeal, such as entries related to Cardnet receipts and Local Authorities, but it is unclear what those entries relate to. Many do not list the address, or provide no evidence to support the contention that both 289 and 291 Bath Road were in use as a bed and breakfast throughout the period. No further information or explanation to clarify these transactions has been provided.
- 5.11 Similarly, insufficient supporting information has been provided to assess the relevance of the diary entries (Schedule 4 of Appendix 2). Many pages have no address and list a series of numbers without any indication of what the numbers are. Other pages are illegible. Some also have card receipts attached but there is no indication of the reason for these receipts. The address on the card receipts is the Firs Lodge, with no street address. Some card receipts have handwritten numbers added but it is unclear what these numbers are. Together they cannot be considered to demonstrate in an unambiguous manner that the whole property was in use as a bed and breakfast across the period, especially in light of the contradictory evidence above and supplied by the Council's 2011 enforcement report.

6.0 Argument 3: Lawful certificate granted on the basis that short term lets constitute C1 use

- 6.1 Notwithstanding the Council's previously stated position on 289 Bath Road, we contend that the usage of 291 Bath Road as four flats, as found by the enforcement reports in both 2011 and 2018 does constitute a material change of use from C3 to C1 usage.
- 6.2 The appellant has also provided no evidence to demonstrate why they believe a change of use has occurred.
- 6.3 In relation to planning policy regarding the change of use from C3 to C1, it is important to note the provisions set out in the Deregulation Act 2015, which, under Section 44, provides a framework for short-term lets in residential properties in the England. This Act states that properties used for short-term letting (i.e., for fewer than 90 days per calendar year) do not automatically constitute a change of use from C3 to C1, unless there is evidence of regular commercial activity. The 90-day limit is pivotal in determining whether the property is being used as a "hotel" or a "guesthouse". This suggests that, in the absence of precise and unambiguous evidence of the use of 291 Bath Road as a bed and breakfast, the possible use of the flats at the property cannot be considered a change from C3 to C1 usage.
- 6.4 Additionally, the Planning Practice Guidance (PPG) on use classes clarifies that a material change of use from C3 to C1 can only occur when the character of the use of a property change in a way that is different from its existing use. The PPG notes that a use of a residential property for a sporadic or intermittent use for short-term let does not, by itself, constitute a material change of use. In order to establish that a property should be classified under C1, there must be clear evidence of commercial activity involving accommodation for the public, on a regular basis.
- 6.5 In light of Deregulation Act 2015 and PPG guidelines, the evidence provided by both the Council and the appellant themselves is contradictory and unclear. Without clear proof of a regular, commercial operation, it cannot be concluded that 291 Bath Road has undergone a material change of use from C3 to C1. The possibility that some of the flats were let on a short-term basis does not change this.

7.0 Summary and conclusion

- 7.1 In order for a Lawful Development Certificates to have been granted it had to have been demonstrated, on the balance of probability, that both 289 and 291 Bath Road had been used as a bed and breakfast for a continuous, ten-year period from 16/09/2014 – 16/09/2024. To my mind it is clear that this was not the case.
- 7.2 Over the course of the appeal proceedings, the appellant has provided extensive new documentary evidence, attempting to demonstrate continuous bed and breakfast use at both 289 and 291 Bath Road.
- 7.3 Two further cases have been presented by the appellant. First, that a continuous period of use can be demonstrated between 2006 and 2016; and second, that the use of the 291 Bath Road as four flats, as found by enforcement investigations dating from 2011 and 2018, can be considered a C1 usage and therefore that a certificate should be granted.
- 7.4 Having reviewed the new evidence submitted since the application was decided, and in the absence of contradictory evidence, the Council agrees that, on the balance of probabilities, the use of 289 Bath Road as a bed and breakfast is lawful.
- 7.5 Nevertheless, the evidence provided by the appellant for 291 Bath Road is imprecise and ambiguous. The Council hold contradictory evidence in the form of the enforcement history, and the applicant has failed to provide sufficient evidence to overcome the findings of the enforcement reports. Additionally, the utilities bills and housing benefit records provided by the appellant and listed in Schedule 1 of Appendix 2 appear to indicate that 291 Bath Road was divided into flats for longer-term usage during the earlier critical period, thereby supporting the findings of the enforcement reports.
- 7.6 With regard to the second additional argument that the use of the property as four flats constitutes C1 usage, we contest this in principle within section 6 above. Without prejudice to this principle, it is also considered that the appellant has provided little to no evidence that the 291 Bath Road was in usage as short term lets over the period, and therefore this claim is not only flawed but unsubstantiated.
- 7.7 As such, on the balance of probability I am of the clear view that the while 289 Bath Road may have been in use as a bed and breakfast for a continuous ten-year period, it has not been demonstrated that 291 Bath Road was also in bed and breakfast use for the requisite time. I would therefore respectfully request that the appeal be dismissed.

Appendix 1: Room layouts and changes between original and updated plans

Rooms added to the update plans are highlighted in yellow for ease of understanding. Rooms 17 and 19 removed entirely from updated plans

	289 Bath Road original plans	289 Bath Road updated plans	291 Bath Road original plans	291 Bath Road updated plans
Ground floor	1, 2, 3, 5, 7	1, 2, 3, 5, 7	4, 6, 8, 9, 10	10, 18, 20, 60, 62, 64, 66
First floor	11, 12, 13, 24, 15, 16	8, 11, 12, 13, 14, 15, 16	17, 18, 19, 20, 21, 22	21, 22, 23, 23a, 24, 25

Appendix 2: Schedules of evidence – attached as separate document