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## Appeal Decision

**by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 December 2025

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**Appeal Ref: APP/T0355/X/24/3351848**

**Good Shelter, Spade Oak Reach, Cookham, Maidenhead SL6 9RQ**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mrs Fionnuala Oomen against the decision of Royal Borough of Windsor and Maidenhead.
  - The application ref 24/01053, dated 7 May 2024, was refused by notice dated 23 July 2024.
  - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended).
  - The use for which an LDC is sought is proposed use of a single unit of floating residential accommodation.
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### Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed use which is found to be lawful.

### Preliminary Matters

2. Determination of the appeal requires an assessment of documentary evidence. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.
3. An application for an award of costs has been made by the Appellant against the Council. This application is the subject of a separate Decision.

### Reasons

4. Good Shelter is a houseboat moored at Spade Oak Reach on the River Thames. On 11 January 1993 LDC 92/00148/CLU (1993 LDC) was issued for 'the use of land and land covered by water for the mooring of a single residential houseboat'. The 1993 LDC established as lawful the residential use of the land and the mooring of a single houseboat. The Appellant is seeking to replace the existing houseboat with a replacement houseboat. The Council refused the application because they consider the replacement houseboat to be materially different in character to the existing houseboat and, consequently, that the character of the proposed use would therefore be materially different to the character of the existing use.
5. The main issue is whether the character of the proposed use would be materially different to the character of the existing use.
6. The Council's concerns are articulated in an Officer Delegated Report; "The hull is distinct from the superstructure that is built upon it with the character and nature of it being primary living accommodation, and visually having the effect of a dwellinghouse on a floating platform" and "It is considered the structure proposed would fall under a use which is materially different from that described in the 1992 (sic) certificate". .

7. Both parties have referred to the Court of Appeal case *Sussex Investments v SSE & Spelthorne BC* [1996] EWHC Admin 156. It was put to the Court that "...it is reasonable to expect that the superstructure may well resemble a house in appearance" but the Court found that this "...might be met by the counter-argument that the more a houseboat looks like a house, the less it looks like a boat". It would appear that this finding contributed to the conclusion of the Council that the proposal would visually be a dwellinghouse on a floating platform, and not on a boat.

8. The circumstances in *Sussex Investments* were different to the circumstances in this case and it is, in any event, necessary to determine this appeal on a fact and degree basis. The proposed 'structure' would have a hull that would look like a hull; straight sides with a semi-circular bow and a slightly curved stern. The hull would have a distinct bow and stern, unlike a floating platform which has no need for such features, and like any boat it is the hull that would keep the 'structure' afloat. A houseboat, by definition, is a 'structure' that is stationary and lived in, so it would be unsurprising if its superstructure looks like primary living accommodation. A houseboat is a house on a boat and the proposed 'structure' would be a house on a boat, a houseboat.

9. Good Shelter is, in accordance with the 1993 LDC, a single residential houseboat. Its replacement would be a single residential houseboat. The character of the proposed use would be no different to the character of the existing use. The proposed use of the land would not, as a matter of fact and degree, be materially different to that which it would replace.

10. For this reason, and on all evidence now available, the Council's refusal to grant an LDC for use of a single unit of floating residential accommodation at Good Shelter, Spade Oak Reach, Cookham, Maidenhead was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

***John Braithwaite***

Inspector



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## Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

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**IT IS HEREBY CERTIFIED** that on 7 May 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed replacement houseboat would not be materially different to the existing houseboat.

Signed

*John Braithwaite*

Inspector

Date: 01 December 2025

Reference: APP/T0355/X/24/3351848

### ***First Schedule***

Use of a single unit of floating residential accommodation

### ***Second Schedule***

Land at Good Shelter, Spade Oak Reach, Cookham, Maidenhead SL6 9RQ

### IMPORTANT NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

## Plan

This is the plan referred to in the Lawful Development Certificate dated: 01 December 2025

by John Braithwaite BSc(Arch) BA(Hons) RIBA MRTPI

Land at: Good Shelter, Spade Oak Reach, Cookham, Maidenhead SL6 9RQ

Reference: APP/T0355/X/24/3351848

Scale: Not to Scale

