

Application: 20230625

**TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2015 (AS AMENDED)**

To: **Mr Anthony Clayton
Higham Grange
Hermitage Road
Higham
Rochester
Kent
ME3 7NE**

REFUSAL OF CERTIFICATE OF EXISTING LAWFUL USE OR DEVELOPMENT

GRAVESHAM BOROUGH COUNCIL has considered your application dated 13 June 2023 under the provisions of Section 191 of the above mentioned Act and has determined the operations, use or matter set out therein being:-

Application for a Lawful Development Certificate in respect of the continued use of previous stable building as a 3 bedroom residential dwelling.

at: **Higham Grange
Hermitage Road
Higham
Rochester
Kent
ME3 7NE**

WOULD NOT HAVE BEEN LAWFUL within the meaning of the said Act and, thus, application for planning permission in respect thereof must be made and planning permission obtained in order to regularise the use or development.

The grounds for this determination are as follows:-

- 1 Insufficient evidence has been presented to satisfy the council that the proposal would be lawful by virtue of Section 192 (2) of the Town and Country Planning Act 1990 (as amended) and within the defined time limits of The Planning and Compensation Act 1991. The existing use of the converted stable building related to Higham Grange has not clearly been demonstrated as having been in independent residential use for more than four years. Having had regard to all the facts, the proposed change amounts to a material change of use as detailed by Section 55 of the Town and Country Planning Act 1990 (as amended) and would be considered development under this legislation. This application for a Lawful Development Certificate is therefore refused.

INFORMATIVES:-

1 USE OF MAIN PROPERTY

The applicant is advised to seek planning consent or a Lawful Development Certificate for the retrospective material change of use of the main dwellinghouse (C3) to commercial holiday accommodation (Sui Generis). They should note also that this matter has been raised to the Planning Enforcement team.

2 DECISION PLANS

For the avoidance of doubt, the forms, plans and documents upon which this decision is made comprise:

Application Form;
Site Location Plan;
Floor Plans and Elevations;
Photo 1;
Photo 2; and
6 Affidavits.

Dated: 21 August 2023

Civic Centre
Windmill Street
Gravesend
Kent
DA12 1AU

Wendy Lane MRTPI
Assistant Director (Planning)
Planning Service

Your attention is drawn to the following notes.

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, operation or matter specified in the First Schedule taking place on the land described in the Second Schedule was not lawful, on the specified date and, thus, is otherwise liable to enforcement action under Section 172 of the 1990 Act on that date.

This certificate applies only to the use, operation or matter described in the First Schedule and identified on the attached plan. Any use, operation or matter which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.

The effect of the certificate is also qualified by the proviso in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use, operation or matter is only conclusively presumed where there has been no material change, before the use is instituted or the operation begun, in any of the other matters relevant to determining such lawfulness.

APPEALS

If an application for a Lawful Development Certificate is wholly or partly refused, or is granted in a different form from the application, or is deemed to have been refused (because the local planning authority (LPA) has not determined the application within the time-limit of eight weeks of receiving the completed application), you can appeal to the Planning Inspectorate. Appeals can be made online at [Planning Inspectorate](#). You should note that the Planning Inspectorate will turn away an LDC appeal if an effective Enforcement Notice is in force. This is because if such a notice is in force, the legislation does not allow a Lawful Development Certificate to be granted.