

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20260528
Location	The Peacock Public House 78 Peacock Change of use of 1x flat from dwelling within Class C3 to form 1x HMO within Class C4. Street Gravesend Kent
Proposal:	Application for a Proposed Lawful Development Certificate;
Applicant:	Al-Haqq Academy
Site Visit	15 th July 2026

Plans & Documents

Application Form
Cover Letter
Site Location Plan
PA-644-205 – Proposed Block Plan
PA-644-103 – Existing First Floor Plan
PA-644-104 – Existing Second Floor Plan

Property Type

The application form states that the property is currently in use as a Class C3 dwellinghouse. A Class C3 dwellinghouse is defined as sole or main residence by:

- (a) A single person or by people to be regarded as forming a single household;
- (b) Not more than six residents living together as a single household where care is provided for residents;
or
- (c) Not more than six residents living together as a single household where no care is provided.

However, the LPA considers that a material change of use has already occurred and that the property is operating as a House in Multiple Occupation (C4). This issue is considered in greater detail later in this report.

The property originally comprised a public house with a flat above. Planning permission was granted in 2007 to subdivide the flat into two self-contained flats. In 2024, planning permission was granted for the change of use of one of those flats from a four-bedroom dwellinghouse (Class C3) to a five bedroom HMO (Class C4). The applicant considers that the 2024 planning permission has not been implemented.

Material Consideration

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Relevant Planning History

Reference	Description	Decision	Decision Date
20240200	Conversion of the first and second floor 4 bedroom flat into a 5 bedroom HMO.	Permitted	27.09.2024
20070921	Conversion of first and second floors into two, two bedroom self contained flats.	Permitted	12.12.2007
19950570	Erection of a single storey rear extension to form an enlarged saloon bar, demolition of the existing first floor rear extension, construction of a new flat roof at the rear and alterations to the St. Andrews Road elevation.	Permitted	15.12.1995

Officer Assessment

Permitted Developments Rights Restrictions

Article 2 (3) Land (AONB, Conservation Area)	N
Article 4 Direction	N
Permitted Development Rights Removed/Restricted	N

C3 Dwellinghouses can be converted to a C4 House of Multiple Occupation (HMO) for no more than six (unrelated) people who share amenities, provided it meets the criteria set out in Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

L.	Development consisting of a change of use of a building -	Y/N
(a)	~~from a use falling within Class C4 (house of multiple occupation) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule;~~	N/A
(b)	from a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, to a use falling within Class C4 (houses in multiple occupation) of that Schedule	N
L.1	Development is not permitted by Class L if it would result in the use -	
(a)	~~as two or more separate dwellinghouses falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order of any building previously used as a single dwellinghouse falling within Class C4 (houses in multiple occupation) of that Schedule; or~~	N/A
(b)	~~as two or more separate dwellinghouses falling within Class C4 (houses in multiple occupation) of that Schedule of any building previously used as a single dwellinghouse falling within Class C3 (dwellinghouses) of that Schedule.~~	N

During the consideration of the application, it became apparent that the unit is already operating as a C4 HMO, and not as a C3 single family dwelling. A site visit took place on 15th July 2026 to establish the facts of the case.

It was viewed that there were 2 lounges, which appeared to be being used for storage, a kitchen, 2 bathrooms. At the second floor, 4 bedroom doors with individual locks were observed. This would be expected of a HMO

and not a C3 dwelling. During the site visit it was noted that the first-floor plan does not show the existing lounges correctly as the plans show only one larger singular lounge rather than two as view during the visit.

In addition, as you enter the flat there was tenant information on the wall referencing the '*HMO Manager and Responsible Person*' along with other regulatory details on the HMO management.

These observations clearly indicate that the site is already operating as a HMO, and not a C3 dwelling.

At the site visit, the applicant confirmed the following points;

- In their view the use is as a flat as the conditions have not been discharged.
- They are proposing to turn the 2 lounges on the first floor, into bedrooms making 6 rooms total.
- The first tenant moved in in September/October 2025, and the room are **currently let separately**.
- The reason they are submitting this application is because it would not be feasible to discharge the conditions on the previous approval.

In addition, Gravesham Borough Council's Private Sector Housing Team were contacted for further clarification on whether they consider the property to be operating as a HMO. They informed that they had been involved with the property since 2024 and provided the following timeline:

- 20th May 2024 - the property was offered as a 4 bedroom property to be let,
- 7th July 2025 - received a procurement consultation request, the request stated... *"Please note that this is a 6 bed HMO property which requires some refurbishment to bring in line with our Home Office contract requirements. We are expecting the property to be occupied from September 2025."* Property later withdrawn
- 25th September 2025 - received a request for a property check as they had a client who was wanting to rent one of the rooms
- November 2025 - Open rent tenancy agreement provided for one of the rooms, tenancy dated 25th September 2025, for 6 months.
- 15th December 2025 - the property met the standard HMO test Section 254 Housing Act 2004
- 20th May 2026 - HMO licence application received for 6 bed HMO

The Private Sector Housing Team concluded that they are satisfied that the property has been operating as a small HMO since December 2025.

Paragraph 005 of the National Planning Policy Guidance on Lawful Development Certificate is as follows:

'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.'

The application seeks a certificate under Section 192 of the Town and Country Planning Act 1990 for a proposed change of use from a Class C3 dwellinghouse to a Class C4 HMO under Schedule 2, Part 3, Class L of the GPDO. However, the evidence available to the LPA indicates that the property is already in use as a Class C4 HMO. Accordingly, the proposal described in the application does not reflect the existing operation. As such there is no proposed change of use from Class C3 to Class C4 for the LPA to assess, as this has already taken place.

The application put forward is for *Change of use of 1x flat from dwelling within Class C3 to form 1x HMO within Class C4*. Whilst Class L would permit such a change of use, the property fails to meet the mandatory requirements of Class L as the starting point is not a Class C3 dwelling.

In Planning appeal reference APP/T5150/X/15/3138588, the inspector held that the existing use at the date of the application is highly relevant because it determines whether the proposed use can benefit from the permitted development rights under Class L. The inspector concluded that where the property was not in the relevant use on the application date, it could not benefit from Class L rights.

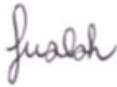
In this case and based on the evidence indicated above, the property is already in Class C4 use and as such the proposal cannot be considered under Class L of the GPDO to comprise a change of use from Class C3 to Class C4.

Prior to determination, the planning agent was informed of the LPA's position on this matter and offered the opportunity to withdraw the application, which they declined to do. As such the only course of action available to the LPA, is to Refuse the Lawful Development Certificate as the development would be unlawful under Section 192 of the Town and Country Planning Act.

Conclusion

The proposed change of use would not constitute permitted development under Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) to change the use of a building from a use falling within Class C3 (dwellinghouse) of the Schedule to the Use Classes Order, to a use falling within Class C4 (HMO) of that Schedule, as the property is no longer operating within Class C3. The property is already in Class C4 use and the proposal therefore cannot be lawful and pursuant to section 192(2) of the Town and Country Planning Act 1990 (as amended), a Certificate of Proposed Lawful Development/Use cannot be granted.

Recommendation: <u>Refuse</u> Lawful Development Certificate

Case Officer:	Mrs Lisa Fisher	Team Leader:	Mrs Faye Walsh
Signed:		Signed:	
Dated:	31 st July 2026	Dated:	03 August 2026