

Application: 20211124

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

To: **Mr Colin Smith
51 Fairview Road
Istead Rise
Kent
DA13 9DP**

REFUSAL OF CERTIFICATE OF EXISTING LAWFUL USE OR DEVELOPMENT

GRAVESHAM BOROUGH COUNCIL has considered your application dated 14 September 2021 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 Lawful Development Certificate in respect of the existing mixed use classes E(a) retail bakery and E(b) hot food cafe.

at: **Hayleys Of Higham
8 School Lane
Higham
Rochester
Kent
ME3 7AT**

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:

Therefore, by examining the limited evidence submitted as part of the application and given the Council's own findings, it is considered, as a whole and on the balance of probability, there is insufficient evidence that the whole application site has been in continuous Class E(b) since September 2011, and as such in excess of 10 years ago, and is therefore unlawful.

INFORMATIVES:-

1 DRAWINGS AND DOCUMENTS

For the avoidance of doubt, the decision to refuse;

- Existing Plan and Elevations (drawing ref 51-1); date received 01/10/2021;
- Site Location Plan (plan reference number TQRQM21256161024330), date received 14/09/2021;
- Non-Domestic Rate Bill, dated 19/03/2021, issued by Gravesham Borough Council.

2 STATEMENT OF POSITIVE AND PROACTIVE APPROACH TO DECISION-MAKING

In accordance with Article 35 (2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), and paragraph 38 of the National Planning Policy Framework (NPPF) 2021, the Local Planning Authority has approached the assessment and

determination of this application in a positive and creative way and, where appropriate, has worked pro-actively with the applicant to secure a development that is sustainable and that improves the economic, social and environmental conditions of the area, and that is in accordance with the Development Plan for the area.

In this instance the application cannot be supported.

Dated: 25 November 2021

**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.