



Delegated Report

Lawful Development Certificate (Existing Use)

Application no:	20211339
Location	Willow Platt, Hermitage Road, Higham, Rochester, ME3 7NF
Proposal:	Application for a Lawful Development Certificate in respect of the existing use as a residential dwelling without an agricultural condition.
Applicant:	Mr Trevor Sinclair
Site Visit	N/A Desktop Assessment

Plans & Documents

Application Form - dated 08/11/2021;
Covering Letter (Sara Binning Solicitors) - dated 25/10/2021;
Ordnance Survey Site Location Plan (scale 1:1250) - received 01/04/2022;
Supplementary Information - Signed Affidavit (dated 22/03/2022);
Supplementary Information - Death Certificate and Grant of Probate (Mr A Sinclair);
Supplementary Information - Death Certificate and Grant of Probate (Mrs G Sinclair).

Policies & Representations

Not applicable, this is an application for a lawful development certificate under Section 192 of the Town & Country Planning Act 1990 (as amended).

Material Consideration

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

Relevant Planning History

Application No.	Description	Status	Decision
19590225	Erection of bungalow for agricultural worker	PERMITTED	04.08.1959
19590216	Erection of a bungalow for agricultural worker	PERMITTED	04.08.1959
19560221	Site for erection of an agricultural bungalow	PERMITTED	26.10.1956

Consultations, Publicity and Representations

This is an application for a Lawful Development Certificate that is considered on its facts and relevant planning law. As confirmed in national planning guidance, views expressed by third parties on the planning

merits of such cases are irrelevant. Accordingly, unlike planning applications, there is no statutory requirement to undertake publicity or consultation.

An error was made for this application and fourteen neighbouring properties were consulted. One comment was received from the Parish Council and a neighbouring property respectively. The representations registered objection to the application. Due to the nature of the application the comments received are not relevant to the determination of this Lawful Development Certificate, however the neighbour representation commented on the inaccurate Site Location Plan that included land not in the ownership of Willow Platt. The agent was contacted regarding this matter and a revised plan was received with a reduced boundary, which accords with the plotting on the Council's system.

Procedure for determination

National planning guidance on determining applications of Lawful Development Certificates for existing uses or development is clear in stating that the onus is on the applicant to provide sufficient information to demonstrate that the use of development is lawful beyond any reasonable doubt. Furthermore, in the case of an application for exiting uses, 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 applicants evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Officer Assessment

This application is for a LDC and not a full planning application. As such, the planning merits of the case are not relevant. The determination must be based on the facts of the case and the interpretation of any relevant planning law or judicial authority. The burden of proof relevant facts rests with the applicant and the evidence submitted must be sufficiently precise and unambiguous to enable the local planning authority to understand exactly what is involved. The decision must be made on the balance of probability.

There are no planning conditions attached to the permissions granted for 'the erection of a bungalow for an agricultural worker' (refs. 19590216 / 19590225), that restrict the occupation of the property to an agricultural worker. Nevertheless, the applicant has provided evidence of ownership and a signed affidavit detailing the timeline of occupation. This evidence is considered sufficient proof that the property was purchased and occupied for a period of time, as referenced in the application form. As such, the Local Planning Authority is satisfied with the ownership of the property and its occupation not for an agricultural worker.

Conclusion

There are no conditions restricting the occupation of the property for an agricultural worker. It is considered that on the balance of probabilities, sufficient evidence has been submitted to demonstrate that the application site has occupied in excess of 10 years by a non-agricultural worker and a Lawful Development Certificate can be granted, by reason of Section 171B (3) of the Town and Country Planning Act 1990, as amended.

The use is therefore lawful by reason of Section 191(2) (a) of the Act and Certificate of Existing Use is duly issued.

Recommendation

Grant Lawful Development Certificate

	Name/Signature	Date
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Planning Officer	Ethan Bonthron.	1 st April 2022
Team Leader	Michael	04 April 2022