



Appeal Decision

Site visit made on 25 November 2025

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2025

Appeal Ref: APP/A1910/X/24/3350407

Little Champneys, Shootersway, Berkhamsted, Hertfordshire HP23 6JA

- 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 Mr and Mrs John and Leslie Lewis against the decision of Dacorum Borough Council.
 - The application ref 23/02868/LDP, dated 7 December 2023, was refused by notice dated 16 March 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is replacement of existing rear extensions with a new single storey rear extension.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is found to be lawful.

Main Issue

2. The main issue in this appeal is whether the Council's refusal to grant an LDC was well-founded. This turns on whether it has been shown that planning permission is granted for the proposal by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) at Article 3(1), Schedule 2, Part 1, Class A.

Reasons

3. The proposal involves erecting a single storey extension to a detached single storey dwelling. Located within the Chilterns Area of Outstanding Natural Beauty (AONB), the dwelling is accessed via a private drive which leads from the public highway. The burden is firmly on the appellant to show that an LDC should be issued for the proposal, the relevant test of the evidence being on the balance of probability.
4. The GPDO at Article 3(1), Schedule 2, Part 1, Class A, grants planning permission for the enlargement, improvement or other alteration of a dwelling. This is subject to the specified limitations and conditions of that Class being met, where relevant. Paragraph A.1(e)(i) provides that an extension should not protrude beyond a wall which forms the principal elevation of the original dwelling. Paragraph A.1(j)(iii) provides that an extension which would protrude beyond a wall forming the side elevation of the original dwelling should have a width no greater than half that of the original dwelling. Paragraph A.2(b) provides that in an AONB an extension should not protrude beyond a wall which forms a side elevation of the original dwelling.

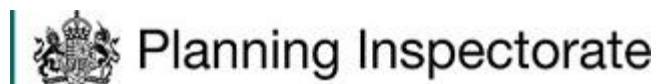
5. To ascertain whether the proposal would be in breach of the above limitations, as the Council claimed, it is necessary to establish which elevation is the principal elevation of the original dwelling. No statutory definition of the term 'principal elevation' exists. However, generally this will be the part of the dwelling which fronts the main highway serving it and would usually contain the main architectural features such as main bay windows or a porch serving the main entrance. Usually, but not exclusively, the principal elevation would be what is understood to be the front of the dwelling. Since the GPDO definition of 'original' includes in relation to a building which existed on 1 July 1948, as existing on that date, or if built after that date, as so built, what constitutes the principal elevation of the original dwelling cannot change.
6. The main pedestrian entrance to the dwelling is currently in the south elevation and is framed by an open sided porch. However, the appellant's evidence included a title document showing that at or around 1947, prior to the erection of 'Forest Hill', the neighbouring property, the east elevation of the dwelling fronted the public highway. Their evidence also included a copy of a planning application drawing dated March 1984, which showed the east elevation of the dwelling with a pedestrian entrance door framed by a substantial open-sided gabled roof structure. Furthermore, the appellant supplied an undated photograph, which showed the east elevation of the dwelling with a decorative door containing a letter box in the pedestrian entrance and the substantial gabled roof. On the other hand, the earliest evidence for the current entrance door and porch in the south elevation is the planning application drawing supplied by the appellant, dated March 2007.
7. Taken together, the appellant's evidence strongly suggests that the east elevation fronted the main highway serving the dwelling prior to 1 July 1948 and that at or around March 1984 and around the time the above photograph was taken, the east elevation contained the main architectural features, being what was understood as the front of the dwelling. Moreover, this evidence shows that as part of a subsequent extension to the dwelling, the current entrance door and porch in the south elevation did not exist in March 1984 or around the time the above photograph was taken. Therefore, to my mind there is persuasive evidence that the east elevation forms the principal elevation of the original dwelling.
8. The extension would protrude from the west elevation of the dwelling. This elevation must logically form the original rear wall, being opposite the wall which the evidence shows forms the principal elevation of the original dwelling. Only a wall which could not be identified as a front or rear wall of a dwelling would form a side elevation. As the extension would not protrude from the side elevation of the original dwelling, there would be no breach of the limitations in paragraph A.1(j)(iii) and paragraph A.2(b). Also, as the extension would not protrude beyond the principal elevation of the original dwelling, there would be no breach of the limitation in paragraph A.1(e)(i). There is no dispute that the extension would not be in breach of the other limitations and conditions in paragraphs A.1, A.2 and A.3, insofar as they are relevant. Having undertaken my own assessment, I concur.
9. Therefore, based on the available evidence, on the balance of probability and in the light of the particular circumstances before me, the appellant has shown that the proposal is granted planning permission by the GPDO at Article 3(1), Schedule 2, Part 1, Class A and so is lawful for planning purposes.

Conclusion

10. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for the replacement of existing rear extensions with a new single storey rear extension at Little Champneys, Shootersway, Berkhamsted, Hertfordshire HP23 6JA was not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

Stephen Hawkins

INSPECTOR



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

IT IS HEREBY CERTIFIED that on 7 December 2023 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

On the balance of probability, planning permission is granted for the proposal, as shown on drawing references MD 1969 01 LDC & MD 1969 02 LDC, by Article 3(1), Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended),

Signed

Stephen Hawkins

Inspector

Date: **28 November 2025**

Reference: APP/A1910/X/24/3350407

First Schedule

Replacement of existing rear extensions with a new single storey rear extension

Second Schedule

Land at Little Champneys, Shootersway, Berkhamsted, Hertfordshire HP23 6JA

IMPORTANT NOTES – SEE OVER

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 /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation 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: **28 November 2025**

by **Stephen Hawkins**

Land at: Little Champneys, Shootersway, Berkhamsted, Hertfordshire HP23 6JA

Reference: APP/A1910/X/24/3350407

Scale: Not to Scale

