



Appeal Decision

Site visit made on 13 January 2026

by Chris Preston BA (Hons), BPI, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th January 2026

Appeal Ref: APP/M3645/X/24/3345565

Tavira Parkwood Road, Tatsfield, WESTERHAM, TN16 2LT

- 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 T Crowhurst against the decision of Tandridge District Council.
 - The application ref 2024/457, dated 22 April 2024, was refused by notice dated 31 May 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 a two-storey rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The appeal relates to an application for a certificate of lawful development, made under s192(1)(b) of the Town and Country Planning Act 1990 (CLOPUD). As with any appeal relating to a CLOPUD, the planning merits of the proposal are not relevant to my decision. The main issue is whether the Council's decision to refuse the application was well-founded based on relevant facts and judicial authority. The onus rests with an appellant to make their case, on the balance of probability.

Reasons

3. In essence, the dispute between the parties centres around whether the application documents were sufficiently clear to enable a full understanding of precisely what was proposed and subsequently, whether that was lawful.
4. The application form clearly describes the proposal as a "two storey rear extension". However, the existing floor plans and elevations are annotated "Proposed Demolition of Rear Conservatory and Replacement of Side Extension". The reason for refusal also notes that a supporting statement, submitted with the application, referred to "various extensions" and "side and rear extensions". That statement has not been submitted by either party with the respective appeal submissions. Nonetheless, it is understandable that the various annotations caused some confusion as to the nature of the application.
5. In addition, the plans depict the erection of a new L-shaped wall, immediately adjacent to the proposed side-wall of the proposed two-storey side extension to enclose the passage way which runs from front to back of the dwelling. At present

that passageway is enclosed by a wall which runs from the side elevation of the conservatory to the side of the pitched roof structure/ annex to the north.

6. The proposed L-shaped wall is shown to project further outwards than the proposed two storey extension. The proposed first floor plan, as submitted, appears to show that the roof of the enclosed passageway would be attached to the side of the proposed extension. The way the first-floor plan is drawn is very unclear because the single black line, presumably intended to show the extent of the ground floor element, depicts that the ground floor would project slightly further outwards than the upper floor.
7. In that context it is fully understandable that the Council contacted the appellant's agent to seek clarification over the nature of the proposals. In an email to the agent, the Council's validation officer noted the plans relating to the infill of the passageway and suggested that those elements should be included within the application, such that the proposal would be considered on the basis that it was for the erection of a two storey rear extension and ground floor infill extension¹.
8. The agent responded to state that "the existing conservatory is not being demolished, just having an internal supporting wall moved such that it does not touch the side wall of the permitted development extension". He then confirmed he was happy for the Council to alter the description even though he did not feel it was necessary.
9. That response does not help to clarify the nature of the proposal. Particularly the statement that the existing conservatory would not be demolished but that the internal wall would simply be moved. Having viewed the structure on site it is in an extremely dilapidated condition and the internal wall leading to the passageway appears to be of timber construction. The whole of the conservatory is of lightweight construction.
10. It seems impossible that the two-storey rear extension shown on the plans could be erected without demolishing the conservatory. Moreover, the proposed wall to the infill element would appear intended to be of masonry construction, given the thickness shown on the submitted plans. It is clearly a new wall as opposed to a repositioning or alteration of an existing wall. Without that new wall there would be no way of supporting the roof of the passageway running through the house. Thus, it is clearly new development and the Council was not unreasonable in taking it into account when considering the proposals.
11. I appreciate the general point that the agent was seeking to make, which was that the main purpose of the application was to seek a CLOPUD for a two-storey rear extension. Nonetheless, how that two-storey extension relates to the infill extension is of importance in the determination of whether it amounts to permitted development. Thus, the clarification being sought by the Council was not a minor matter.
12. Whilst the floor plans are annotated "Not touching" in respect of the side wall of the two-storey extension and the new wall in the passageway, the gap is so small as to have no practical purpose. Visually, the two elements would read as a single structure. To all intents and purposes it would be part of the same rear extension. There is also ambiguity with regard to the roof arrangement, as described above.

¹ Email trail at Appendix 1 of the Appellant's submissions

The first-floor plan appears to show the roof extending across the passageway connecting the two elements. The proposed elevations do little to clarify. Whilst annotated “Not touching existing built form” there is no visible gap between the two walls on the elevations and the roof to the passageway appears to be touching the side wall of the proposed extension.

13. The somewhat reluctantly submitted roof plans do not add much clarity, given that they are essentially line drawings at a scale of 1:200 which is not clear enough to depict how the roof would be constructed or how the passageway roof would intersect with the roof of the proposed extension.
14. In fact, given the nominal gap between the two it would make no practical sense to construct the extension in the manner proposed if the roof were not to connect because both walls would be prone to damp and water ingress without any manner of repair or repointing. It seems highly likely to me that the small gap would be bridged, with flashing or something similar to avoid that situation, such that the two elements would be joined in practical terms.
15. Looking at the submitted plans in the round the inconsistencies described and the lack of precise detail is such that it is not clear that the two-storey rear extension would be constructed independently of the new side wall to the passageway. Accordingly, it seems to me that both elements should be considered as part of the proposal. Moreover, I am not satisfied that I can simply disregard the extension to the passageway, as suggested by the appellant’s agent given that the two elements are directly linked – the rear extension requires the demolition of the existing side wall and reconstruction of the new wall to the passageway, as shown on the plans. The first-floor plan would also indicate that the two elements are linked given that the roof form is shown to wrap around the property.
16. Having regard to the above, paragraph A.1(ja) of Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) requires the proposed enlargement to be considered in its totality. The result would be that the extension, as a whole, would have more than one storey and project more than 3m from the rear elevation of the dwelling, thereby failing to comply with the limitation at paragraph A.1(h) of Class A, Part 1 of the GPDO. Similarly, the extension, as a whole, would extend beyond a side elevation of the existing dwelling and have more than a single storey, in contravention of paragraph A.1(j)(i)-(iii).
17. Accordingly, I am not satisfied on the balance of probabilities, that the proposed extension would comply with the limitations of Class A, Part 1 of Schedule 2 of the GPDO. As such, it would not benefit from planning permission granted via the GPDO and would not be lawful. For those reasons I shall dismiss the appeal.
18. I have taken account of the appeal decision submitted by the appellant in which the Inspector considered the appeal on the basis of the details submitted on the application form, notwithstanding that the Council had altered the description of development to include additional elements during the course of determining the application. However, in that case, the various elements were clearly severable and I am not satisfied that the circumstances were comparable to the proposal in this instance where the issue relates to the very specific relationship between the passageway extension and rear extension, as described.

19. I must state that I do have sympathy for the appellant that the matter needed to come to appeal at all. Without apportioning blame on either party it appears to be a situation where a degree of cooperation between the Council and the agent, perhaps a telephone call or meeting, could have led to a resolution of the issues and clarified the inconsistencies identified. However, I can only determine the appeal on the basis of the information before me which is lacking in sufficient clarity or detail. On the basis of what is before me, I cannot conclude that the proposed development would be lawful for the reasons given.
20. Therefore, I shall dismiss the appeal.

Chris Preston

INSPECTOR