
Appeal Decision

Site visit made on 7 April 2026

by **T C King BA(Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 May 2026

Appeal Ref: APP/G2245/X/24/3357911

28 Victoria Hill Road, Hextable, Kent, BR8 7LL

- 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 D Hillier against the decision of Sevenoaks District Council.
 - The application ref 24/02066/LDCEX dated 5 August 2024, was refused by notice dated 16 October 2024.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is the installation of an air source heat pump..
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This decision is issued in accordance with section 56(2) of the Planning and Compulsory Purchase Act 2004, as amended, and supersedes that issued on 29 April 2026.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision not to issue a LDC was well founded.

Reasons

3. In an appeal under s195 of the Act against the refusal of a LDC the planning merits and/or impacts of the development applied for do not fall to be considered. Instead, the decision is based strictly on the evidential facts and on relevant planning law, where applicable. The burden of proof is on the appellant, and I shall reach my decision on the various evidence before me.
4. The matter to be decided upon is whether the development, if carried out at the date of the application (ie 5 August 2024) would have been lawful. The determination is to be made against the Town and Country Planning (General Permitted Development) Order 2015, as amended (GPDO) as subsisted at the time of the application.
5. An air source heat pump (ASHP) is permitted under Schedule 2, Part 14, Class G on a dwellinghouse subject to certain limitations and provisos. In the first instance, the ASHP apparatus has to comply with the Microgeneration Certificate Scheme planning standards (MCS). It also needs to be demonstrated that such developments, so far as is practicable, are sited to minimise its effect on the

external appearance of the building and, again so far as is practicable, are sited so as to minimise its effect on the amenity of the area.

6. An additional requirement, as set out in paragraph G.2(d)(i) of Class G, is that the volume of the ASHP's outdoor compressor unit (including its housing) should not, in the case of a dwellinghouse, exceed 1.5 cubic metres. In this particular instance the apparatus is enclosed within a timber cabinet, the height of which alone is some 1.8m. Obviously, when factoring in the housing's depth and width, the development fails to satisfy this proviso.
7. At the application stage, an Environmental Noise Assessment (ENA) put together by specialist consultants was submitted. This concluded that the noise levels from the apparatus marginally exceeded the MCS required level. However, it also said that the ASHP and its housing – notwithstanding that the latter clearly exceeds the stated volume limitation – is compliant with the MCS requirement of noise pressure at the assessment point, when considering background noise levels required by MCS.
8. In response, the immediate neighbour at no 26 also commissioned specialist consultants to analyse the report's findings and comment, accordingly. It concluded, amongst other things, that plant noise would be noticeable, not only at no 26, but at no 33, opposite.
9. Pending determination of the application, the Council's Environmental Health team was consulted as to the considered effects of the said development. The response highlighted the likelihood that the ENA was undertaken as a desk top study which, of course, would necessitate accurate data being used, yet the proximity of a nearby window was inaccurately presented. The response throws doubt on the ENA's findings as to whether the location of the ASHP is acceptable in terms of safeguarding the living conditions of nearby residential occupiers. If so, the development will need to be relocated elsewhere within the dwelling's curtilage.
10. Relating to the above point the appellant's representations say that the current siting is necessary in order to connect to the existing pipework but, that said, it does not then follow that the degree of noise disturbance becomes a secondary factor when considering the development's effects. Moreover, I am not satisfied that the ENA's readings were fully accurate, especially if, as has been claimed, the report's author did not actually carry out a site visit.
11. As mentioned, for the ASHP and its housing to fall within the parameters of Class G all provisos must be met, otherwise a LDC cannot be issued. I have already shown that the development fails the limitation set out in paragraph G.2(d)(i), and this is compounded, fundamentally, due to the likelihood that the ASHP and its timber cabinet will need to be relocated in order to comply with paragraph G.1. Accordingly, the appeal cannot succeed.
12. For the reasons given above I conclude that, on the evidence available, the Council's refusal to grant a certificate of lawful use or development in respect of the installation, was well founded, and that the appeal should be dismissed. I shall exercise the powers transferred to me under section 195(3) of the 1990 Act, as amended.

Timothy C King

INSPECTOR