



Appeal Decision

Site visit made on 24 June 2026

by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th July 2026

Appeal Ref: APP/Y0435/X/24/3345661

8 Tippet Close, Browns Wood, MILTON KEYNES, MK7 8EJ

- 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 J Skackauskas against the decision of Milton Keynes Council.
 - The application ref 24/00171/CLUP, dated 25 January 2024, was refused by notice dated 20 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 the erection of a rear, single storey extension, loft conversion with rear dormer and rooflights, construction of outbuilding in rear garden and replacement of windows on the front elevation.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for an award of costs has been made by Milton Keynes Council against the appellant. That application is the subject of a separate decision.

Procedural Matters

3. I have determined two appeals in relation to the site, one made against the decision to issue an enforcement notice in respect of works carried out and this appeal in respect of the refusal of an application for a Certificate of Lawfulness for a Proposed Use or Development (CLOPUD). Given that the issues involved are different I have issued separate letters in respect of each decision.
4. For clarity I should stress that the proposed development, as put forward in the plans submitted with the application in respect of the CLOPUD appeal, is not identical to the development as has been constructed in respect of the enforcement appeal. There are differences in proposed materials and the design of the fenestration.
5. The appellant sought to submit amended plans in relation to the CLOPUD appeal. Those plans are different to those considered by the Council at the application stage¹. The plans were notably different in respect of materials, window details, the fenestration in the dormer, cladding materials for the dormer, the addition of a car port to the side of the house and the addition of a side wall and entrance gate.
6. The appellant put that down to the evolution of the scheme which has been constructed differently on the ground to details in the initial plans. However, where

¹ Plans submitted with the application were referenced: 1750-23 – Proposal Elevations and 1750-22 – Proposal. Plans submitted with appeal referenced: 1750 - 35 Proposal Elevations and 1750 – 34 – Proposal

an application for a CLOPUD for a proposed development is submitted it relates to the details proposed in the plans at the time the application was made. If the appellant no longer wishes to carry out that development and to ascertain whether a different scheme would be lawful he may withdraw the initial application and submit a revised application to the Council.

7. It is not the purpose of the appeal process to evolve a scheme. The application was considered and determined based on the plans initially submitted and I shall consider the appeal on the basis of those plans. Given that the application was for a proposed development and that is different to what has been constructed I have used the future tense to describe it within my decision below.

Reasons

8. An application for a CLOPUD is not an application for planning permission. As such my decision makes no comment on the planning merits of the development. The main issue is whether the Council's decision to refuse to grant a CLOPUD was well-founded. The onus rests with an appellant to make their case, on the balance of probability.
9. A single reason for refusal was given on the decision notice but that covers three distinct areas. Firstly, the Council contend that the rear extension and replacement windows do not comply with relevant criteria of Class A, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO), particularly in respect of the size and shape of the windows in the extension and the proposed materials.
10. The second strand relates to the proposed dormer window, which the Council contends would not comply with relevant conditions and limitations of Class B, Part 1 of Schedule 2 of the GPDO on account of materials and the design of fenestration. Lastly, the Council contends that it is not possible to determine whether the outbuilding and canopy would be lawful on the basis of a lack of information. I shall address each in turn.

Single Storey Rear Extension and Windows

11. There is no suggestion that the extension would contravene the size or height requirements of Class A and I see no reason to take a different view. The dispute relates purely to the design of the windows and proposed materials.
12. Class A of Part 1 permits the enlargement, improvement or other alteration of a dwellinghouse. That broad heading of what is permitted by the GPDO is subject to a number of limitations and conditions. The condition at paragraph A.3(a) stipulates that the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.
13. No definition of the word "similar" is provided within the GPDO. However, the Government has provided advice on how that should be interpreted within the *Permitted Development Rights for Householders – Technical Guidance* (2019) (the Technical Guidance). That states that the condition 'is intended to ensure that any works to enlarge, alter or improve a house result in an appearance that minimises visual impact and is sympathetic to existing development. This means that the

materials used should be of similar visual appearance to those in the existing house but does not mean that they need to be the same materials.'

14. In other words, there is some flexibility and a precise match is not necessary. However, the Technical Guidance goes on to qualify that materials should provide a similar visual appearance in terms of the colour and style of brick used to the materials on the existing house. New windows should have a similar visual appearance to those in the existing house in terms of overall shape and the colour and size of the frames.
15. It is important to note that an assessment of whether a material is visually similar does not necessarily imply any judgement on the architectural or aesthetic merits of the proposed material. It is simply an assessment of whether it would fit within the regulatory code of the GPDO. The proposed material for the walls and part of the roof of the extension is zinc sheeting. The existing dwelling is constructed from buff coloured brick with russet-brown imitation pantiles on the roof.
16. The zinc sheeting would be markedly different in both profile and colour, being much darker and much smoother in finish than the comparatively rough surface pattern of bricks and mortar. Whilst the appellant's agent contends that the aim of the GPDO is to avoid the use of garish or strident colours and restrict the palette to more discrete and sensitive options, I am not satisfied that is correct. The aim of paragraph A3(a) is not to infer subjective judgements about whether a material is garish or restrained, the aim is to ensure it is of similar appearance to the original property. If the original was built from a garish colour then a garish colour would be needed to comply with the condition. The zinc cladding is not similar in colour or form to the original dwelling and does not comply with the terms of the condition.
17. The appellant has made various comments about the material being commonly used in extensions and regarding the lightweight nature of it which assists in construction. However, neither of those matters are relevant to the question of whether the material is of similar appearance.
18. Nor do I accept that the rear extension is a conservatory, notwithstanding the extent of glazing proposed – conservatories being exempt from the stipulation relating to similar materials. A conservatory is generally a separate room, with glass walls and a glass roof, designed for sitting in and enjoying the sunlight/daylight. It has a distinct function. In this case, the floorplans clearly show the extension as an addition to the open plan kitchen and lounge area, with the rear wall removed such that the space is a single entity. It is clearly intended as an extension to the main living space as opposed to a conservatory.
19. The proposed windows and doors are to consist of aluminium frames, with full width bi-fold doors across the ground floor and a wide span of roof lights within the lean-to roof. The shape and width of the windows is much more expansive than the original arrangement of the rear elevation which contained a pair of French doors and two modest windows. That would be contrary to the Technical Guidance referred to above.
20. However, I am slightly cautious about relying on that guidance because I cannot see any stipulation relating to the shape of windows within the text of paragraph A.3(a) of the GPDO itself, or elsewhere within the conditions and limitations. Paragraph A.3(a) requires that the materials used are of similar appearance to the

existing dwelling. It seems to me that a window is more than just a material, it is a fundamental design feature of any residential building. Had the intention of the GPDO been to ensure that windows need to be of a similar shape to those in the original dwelling it could easily have stated so within the conditions but it does not do so in clear terms.

21. However, I also note that the colour of the windows is not defined within the application documents and it is therefore difficult to ascertain whether it would be of similar appearance to the window frames in the original dwelling which are of a dark brown shade. That uncertainty adds to my conclusion that the cladding material would not be of similar visual appearance to the original dwelling and it follows that the proposed ground floor extension would not comply with the conditions of Class A, Part 1 of Schedule 2 of the GPDO and would not benefit from permitted development rights. In the absence of planning permission granted by the GPDO or through a planning application, the extension would not be lawful.

The Dormer

22. Class B of Part 1, Schedule 2 of the GPDO permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. Condition B.2(a) essentially mirrors condition A.3(a) in requiring the materials used in any exterior work to be of similar appearance to those used in the exterior of the existing dwellinghouse. The Technical Guidance also gives similar advice on interpretation to that in respect of Class A, noting that the facing materials for any dormer should be of similar colour and design when viewed from ground level and that window frames should be like those in the existing house in terms of their colour and overall shape.
23. Given that the same zinc cladding is proposed on the facing cheeks and rear facing elevation of the dormer the same conclusions apply. It is not a material that would be of similar appearance to the existing brickwork or roof tiles, being markedly different in colour and profile.
24. The proposed windows are also significantly larger than the modest windows of the existing dwelling and would take up much of the rear elevation. That would clearly be contrary to the advice in the Technical Guidance, albeit that I repeat my reservations set out above. However, it is the case that the onus rests with an appellant to demonstrate their case in respect of CLOPUD appeals and no caselaw or any comparable decisions are before me in respect of the interplay between the Technical Guidance and paragraphs A.3(a) and B.2(a) in respect of window size.
25. In any event, the issue is not determinative because the proposed cladding material would clearly contravene the terms of condition B.2(a) which means that the proposed dormer would not amount to permitted development.

The Outbuilding

26. The submitted floor plan depicts a sauna building with a canopy shown to extend from it. However, the elevations do not show the canopy at all. The reason for refusal suggests that not enough information was available to determine if the canopy would comply with paragraph E.1(h) of Class E, Part 1, Schedule 2 of the GPDO.

27. Under that limitation, an outbuilding is not permitted if it would include a veranda, balcony or raised platform. In the absence of any plans showing details of the canopy it seems to me that the Council was entitled to reach that conclusion. The application simply didn't provide enough detail and it could easily have been the intention to include some sort of veranda or platform as part of the construction.
28. Within the appeal documentation the appellant refers to what has actually been constructed since the application was refused. As I was able to see on site, the canopy next to the sauna building has not been constructed with a raised platform. However, as noted, an application for a CLOPUD is based upon the specific plans and information submitted with it. It is not the purpose of the present appeal to determine if what has been constructed on site is lawful but to determine whether the Council's decision to refuse the application, as submitted, was well-founded.
29. Based upon the information available to it at the time the Council could not have been satisfied that the canopy was lawful and their concerns regarding the lack of information still stand.

Other Matters

30. The appellant's agent has made various points which give the impression that he feels the Council was being deliberately obstructive in the way the application was assessed. However, it seems to me that some of those comments may be borne out of a misunderstanding of the way in which the "permitted development" regime of the GPDO operates. It is a regulatory code and a proposal either meets the limitations and conditions or it does not.
31. It is fundamentally different to a planning application where judgement over the aesthetical quality or design of a scheme is required and where amendments may be sought to overcome concerns. In the case of a CLOPUD application, the appellant is asking a simple question as to whether what is shown on the submitted plans would be lawful. The Council is required to do no more than assess whether that would be the case.

Conclusion

32. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the erection of a rear, single storey extension, loft conversion with rear dormer and rooflights, construction of outbuilding in rear garden and replacement of windows on the front elevation was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

Chris Preston

INSPECTOR