

## Officer Report

|                 |                                                                 |
|-----------------|-----------------------------------------------------------------|
| Application No. | 25/0992/FH                                                      |
| Site Address    | 37 SEAWAY ROAD, ST MARYS BAY, ROMNEY MARSH, TN29 0RX            |
| Officer Name    | Danielle Wilkins                                                |
| Proposal        | Lawful development certificate (existing) for a rear extension. |

## Recommendation

|                      |                          |
|----------------------|--------------------------|
| Report Number        | RD-437821                |
| Recommended Decision | Recommended to be Lawful |
| Recommendation Date  | 22 July 2025             |

## Report

### SITE

The application site consists of a single storey, detached dwelling in the settlement of St Mary's Bay. The application building is finished in facing brick with a plain tiled roof and uPVC fenestration. It has a pitched roof with gables fronting the highway.

The application site is within an area of archaeological potential, Flood Zone 3,

### RELEVANT HISTORY

There is no recent or relevant planning history

### PROPOSAL

This application seeks a Lawful Development Certificate (existing) for the erection of single storey rear extension following the removal of an existing flat roofed single storey rear extension.

The extension measures approximately 5.2m in width, 3m in depth and 5m in height (2.6m to the eaves).

The extension has a hipped and pitched roof to mirror that of the main dwelling and be finished in materials to match.

### CONSULTATION RESPONSES

Not required

### REPRESENTATIONS

Not required

## **PUBLICITY**

Not required

## **APPRAISAL**

Evidence submitted with the application:

- Application form received on 27/05/2025 declaring that the extension was completed on 01/08/2012
- Existing elevations (dated March 2012)
- Proposed elevations (dated March 2012)

Council evidence:

Aerial photography spanning 2006-2021/22

The onus of proving the lawfulness of an existing use or development rests with the applicant. The relevant test of the evidence is the 'balance of probability'. The Courts have held that an applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or 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 applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate 'on the balance of probability'.

### Local Planning Authority Evidence

The NPPG sets out that the applicant is responsible for providing sufficient information to support an application, although a local planning authority may hold further information about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

Section 191 of the Town and Country Planning Act 1990 (as amended) sets out the requirements for a certificate of lawfulness of existing use or development. Paragraph 2 states "For the purposes of this Act uses and operations are lawful at any time if—(a)no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and (b)they do not constitute a contravention of any of the requirements of any enforcement notice then in force".

Section 171B of the Town and Country Planning Act 1990 (as amended) sets out the time limits for enforcement action, in the case of any other breach of planning control, including the change of use of land, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

While limited information has been submitted with the application, aerial photography has been appraised which demonstrates that the rear extension was erected some time between July 2008 and September 2012, corroborating the statements made within the application form. It is therefore concluded that the building works, in this case the erection of a single storey rear extension, were completed more than four years before the date of this application. I therefore recommend that a certificate of lawfulness should be issued.

In addition to the above, the extension has been constructed within the limitations set by Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.

## **CONCLUSION**

In light of the above, it is considered the proposal constitutes lawful development and therefore a certificate of lawfulness (existing) can be granted.

## **HUMAN RIGHTS**

I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

## **PUBLIC SECTOR EQUALITY DUTY**

In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

## **Suggested Informatives (2)**

1

The evidence submitted by the applicant, together with evidence from the Council, demonstrates that the single storey rear extension was were completed more than four years before the date of this application and that it would also conform to the criteria of Class A, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. The proposal is therefore lawful under Section 191 of the Town and Country Planning Act 1990 (as amended).

2

The plans and documents accompanying this application are as follows;

- 375-1 - plan & elevations as existing (received on 27/05/2025)
- 357-2 Rev B - plans & elevations as proposed (received on 27/05/2025)
- Site location plan (received on 27/05/2025)