

## APPEAL STATEMENT

Appeal by Mr & Mrs Taylor

4 Yateley Close, Havant, Hampshire, PO9 4DH

## INTRODUCTION

The application, dated 1<sup>st</sup> November 2017, was for a certificate of lawfulness for the proposed alteration and addition at the above address.

The Council issued its decision on 11<sup>th</sup> December 2017 (23 days prior to the normal 56 day determination period for this type of application and 6 working days after requesting additional information from us relating to the application, information provided on 12<sup>th</sup> December 2017 with a response that the application had been refused the day before), the Council refused to issue a certificate for the following reasons:

- 1. The development falls within the limitations imposed by Schedule 2, Part 1, Class A, A.1 (k) (iv) criteria and is therefore not able to be carried out under Permitted Development and would require formal planning permission.*

***A.1 (k) (iv) Development is not permitted if it would consist of or include an alteration to any part of the roof of the dwellinghouse.*** *The proposed extension has been designed so that it forms an attachment to the roof of the main dwelling which would require an alteration to the roof of the dwellinghouse. The General Permitted Development Order does not provide any provision for allowing small alterations to the roof as part of a larger extension. It would therefore not be consistent with the requirements of Class A to suggest that the proposed extension does not include or contain an alteration to any part of the roof of the dwellinghouse. Unless the applicant is able to demonstrate that there is a mechanism by which no alteration would be required to the roof, then the proposed extension could not be considered to be Permitted Development under Schedule 2, Part 1, Class A of the*

*Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Having communicated this to the agent, no further information has been submitted and as such no evidence has been provided to demonstrate that the proposed extension would not consist of or include an alteration to any part of the roof of the dwellinghouse.*

*The development does not meet the condition imposed by Schedule 2, Part 1, Class*

*A as follows:*

***A.3 (a) 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. The***  
*information/plans provided as part of this application do not indicate what the proposed materials are in respect of the proposed extension. Having requested this information from the agent, no further information has been submitted and as such the Local Planning Authority is required to determine without further evidence that the proposed extension would not satisfy this condition.*

*It is therefore considered that the rear extension would not meet the requirements of Class A by virtue of the alteration to the roof of the main dwellinghouse under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and the works proposed would require formal planning permission.*

In all other respects the decision acknowledges that the proposed extension complies with the criteria within Class A and that the application has not been considered under any other Permitted Development Classes.

## SUBMISSION

Department for Communities and Local Government – Permitted development rights for house holders – Technical guidance – April 2017.

Email to Havant Borough Council 12<sup>th</sup> December 2017.

### **It is our submission that**

- 1. The alteration to the roof in question is not permitted under the limits and conditions set out in Class A, the alterations to the roof would be permitted under the limits and conditions set out within Class B.**

The Technical Guidance provides further interpretation with regards to the limits and conditions set out under Class A.1 (k) – page 30.

With reference to A.1 (k) (iv) the guidance states:

*Although the items set out in (i), (ii), (iii) and (iv) are not permitted development under Class A of the rules, some may be permitted development under other Classes subject to the limitations and conditions set out in those classes:*

- Where an extension to a house under Class A includes works that would require an alteration to the existing roof of the house (for example where the roof of the extension joins the existing roof), the alterations to the existing roof of the house will need to meet the requirements of Class B or C (as appropriate) in order to be permitted development.*

We have assessed the proposal against the requirements set out in Class B – addition etc to the roof of a dwellinghouse, a summary of the findings are set out in blue below:

*B. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.*

*Development not permitted*

*B.1 Development is not permitted by Class B if —*

*(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);*

Not Applicable to this proposal

*(b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;*

The proposed roof will not exceed the highest part of the existing roof as defined within the Technical Guidance, that states:

*‘Additions and alterations made to a roof to enlarge a house (for example a loft conversion or the replacement of an existing flat roof with a pitched roof) will only be permitted development if no part of the house once enlarged exceeds the height of the highest part of the roof of the existing house. If it does, planning permission will be required.*

*The highest part of the roof of the existing house will be the height of the ridge line of the main roof (even though there may be other ridge lines at a lower level) or the height of the highest roof where roofs on a building are flat.’*

*(c) any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;*

This proposal is for a rear extension.

*(d) the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than —*

- (i) 40 cubic metres in the case of a terrace house, or*
- (ii) 50 cubic metres in any other case;*

This is a terraced house and the additional cubic content provided by the proposal is 14 cubic metres.

*(e) it would consist of or include —*

- (i) the construction or provision of a verandah, balcony or raised platform, or*

No verandah, balcony or raised platform proposed.

- (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe; or*

Not Applicable to this proposal

*(f) the dwellinghouse is on article 2(3) land.*

Not Applicable to this proposal

#### *Conditions*

*B.2 Development is permitted by Class B subject to the following conditions —*

*(a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;*

Material to be used will be similar to those on the existing dwellinghouse, see our submission relating to the second reason for refusal.

*(b) the enlargement must be constructed so that —*

- (i) other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension —*

This proposal is for a rear extension and therefore items (aa) & (bb) below are not applicable.

*(aa) the eaves of the original roof are maintained or reinstated;  
and*

Not applicable

*(bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and*

Not applicable

*(ii) other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse; and*

This proposal is for a rear extension and therefore the above is not applicable.

*(c) any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be —*

*(i) obscure-glazed, and*

There are no side elevation windows proposed.

*(ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.*

There are no side elevation windows proposed.

Our subsequent discussions with the council highlighted that they have only considered the application under Class A and stated that in their opinion the application does not fall under any other class, this would be contrary to the above guidance. When considering the roof alteration under Class B the proposal meets all the requirements for permitted development.

- 2. The materials proposed for the addition would be as detailed in the information provided to the Council on 12<sup>th</sup> December 2017, these materials will be similar in appearance to those used in the construction of the exterior to the existing house.**

As detailed in our email to the Council on 12<sup>th</sup> December 2017, the following information regarding proposed material was provided:

*Wall: Brickwork - brick to match existing, Tile Hanging - tiles to be concrete and or similar colour to tiles on existing house.*

*Roof: Tiles – Concrete tiles to match existing*

*Windows: PVCu – white to match existing*

*Fascia & Soffits: PVCu – white to match existing*

## CONCLUSION

The Council's assertion that the proposal should only be considered under Class A is wholly unsupported and with foundation. We submit that the Council has not looked beyond Class A although the Technical Guidance states that the roof alteration should be considered under Class B. The materials proposed were provided to the Council with the application determination period and if not for the premature decision made by the Council would have satisfied this reason for refusal.

Accordingly, we respectfully request the Inspector to issue a certificate to the effect the proposed rear extension would be lawful.