
Costs Decision

Site visit made on 9 November 2015

by Sukie Tamplin DipTP Pg Dip Arch Cons IHBC MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 December 2015

**Costs application in relation to Appeal Ref: APP/X1735/X/15/3133039
109 Hulbert Road, Havant, Hampshire PO9 3TD**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr A Graham for a full award of costs against Havant Borough Council.
 - The appeal was against the refusal of a certificate of lawful use or development for the construction of dormer in side roof of house.
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Decision

1. The application by Mr A Graham for full costs is refused.

Summary of Submissions for Mr A Graham

2. The proposals are plainly for a dormer in the roof and this is permitted by Class B of Part 1 of the General Permitted Development Order (GPDO)
3. The proposals are not for a hip-to-gable extension and this should form no part of the Council's assessment. Moreover there is no evidence that the proposal would add a significant amount of new masonry. The Technical Guidance¹ (TG) says that that facing materials on a dormer should appear similar to the main roof of the house. The tile hanging would satisfy this criterion.
4. It is plain beyond peradventure that this scheme proposes a dormer within the roof and it satisfies all the criteria within Class B and therefore a Certificate should be issued. Accordingly the refusal was unreasonable

Summary of submissions for Havant Borough Council

5. The Council's statement sets out in detail as to why the proposal should be considered against Class B and its reasoning. As part of this it was necessary to consider whether the exemption in respect of hip-to-gable alterations applied.
6. In terms of the facing materials there is no evidence on the plans as to what is proposed.
7. The Council has clearly set out its reasoning and its conclusion that the development is in excess of what could reasonably be regarded as an addition to the roof and thus its actions cannot be considered unreasonable.

¹ Permitted development for householders: Technical Guidance

Reasons

8. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, in either procedural or substantive ways, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process².
9. In this appeal I have concluded the Council was wrong to rely, at least in part on Class A. But I am satisfied that its submissions did also assess the proposed works in the light of Class B. Whilst I do not agree with the Council's interpretation, this was not unreasonable in itself.
10. Moreover in a lawful development certificate appeal, the onus of proof on matters of fact is on the appellant. At the time the application for a Certificate was considered there was no detail of the facing materials before the Council and thus it was not demonstrated that the conditions of Class B could be met. This information was not submitted until a late stage in the appeal. In these circumstances, even if the Council had agreed that only Class B was relevant, it is likely that the Certificate would have been refused because of the failure to meet all the relevant conditions. Therefore I consider that an appeal was inevitable.
11. In these circumstances I have found no evidence of unreasonable behaviour by the Council or that the applicant has had to bear unnecessary expense. Accordingly this application fails.

Sukie Tamplin

INSPECTOR

² ID16-028-20140306: National Planning Practice Guidance (PPG)