

**TOWN AND COUNTRY PLANNING
ACT 1990 (AS AMENDED)**

Section 191 Appeal

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

109 Hulbert Road, Havant, Hampshire, PO9 3TD

**Local Planning Authority Reference:
APP/15/00733**

**Planning Inspectorate Reference:
APP/X1735/X/15/3133039**



Site Address:	109 Hulbert Road, Havant, PO9 3TD		
Proposal:	Application for Lawful Development Certificate relating to dormer in side roof. (Second re-submission).		
Application No:	APP/15/00733	Expiry Date:	26/08/2015
Applicant:	Mr Graham	Team:	Team 1
Agent:	Mr Jupp	Case Officer:	Stephen Andrews
	Stephen Jupp MRTPI		
Ward:	Bedhampton		

Recommendation: **REFUSE A CERTIFICATE OF LAWFUL USE**

1 Site Description

- 1.1 The application site comprises a two storey detached dwelling with two storey front projection with hipped roof. There is an integral garage to the side with cat slide roof linking it to the main roof form of the dwellinghouse. The site benefits from on site parking to the front with vehicle access onto Hulbert Road; the frontage featuring little in the way of natural screening such that the dwelling is clearly visible from the public domain.
- 1.2 The immediate area is predominantly residential in nature with this section of Hulbert Road (i.e. the south side leading from its junction with Newbarn Road) characterised by similar style and design detached dwellings. To the north of the site, on the opposite side of Hulbert Road, is a small woodland area, beyond which are residential dwellings. To the south of the site lie detached bungalows in Chestnut Avenue. These lie on rising ground with consequent views over the rear elevations of Hulbert Road properties.

2 Planning History

- 2.1 APP/15/00094 - Application for Lawful Development Certificate relating to alterations to roof. (Resubmission of Application APP/14/00837). Refused - 24/03/2015. Currently at appeal - Ref: APP/X1735/X/15/3017616.
- 2.2 APP/14/00837 - Lawful Development Certificate - Hip to gable enlargement of roof. Refused 09/01/2015. Currently at appeal - Ref: APP/X1735/X/15/3017604.

3 Proposal

- 3.1 Section 192 application for a Lawful Development Certificate to establish whether the proposed development outlined in paragraph 3.2 is considered to be classed as permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 3.2 Description of development proposed by the applicant on the submitted application form is construction of dormer in side roof of house. However, it is considered that a more accurate description would be a first floor addition above the existing single storey garage.

- 3.3 The works proposed would see the dwelling altered above the existing single storey garage, creating a first floor level over the garage with new pitched roof which would then link into the hipped roof of the existing dwelling. It is noted that the first floor accommodation would be set in by 20cm from the existing side elevation of the garage.
- 3.4 The proposed alterations would see the eaves level of the existing garage retained, with the introduction of a new eaves level for the first floor addition. The newly created eaves level above the garage would be 5.5m in line with the eaves level of the existing dwelling, with a new ridge height of 7.4m, some 1.3m below that of the highest part of the original dwellinghouse. The development would be largely confined to the area above the existing garage, which has a depth of 5.4m.
- 3.5 Having regard to the planning history of the site and previous volume calculations it is considered that the additional volume proposed would still fall under 50 cubic metres.

4 Policy Considerations

National Planning Policy Framework

Havant Borough Local Plan (Core Strategy) March 2011

Havant Borough Local Plan (Allocations) July 2014

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

None

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 0

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 1

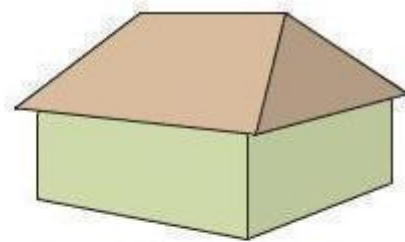
7 Planning Considerations

- 7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Whether planning permission is required

- 7.2 Schedule 2, Part 1, Class B of the GPDO allows for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. In consideration of this, it is noted that the volume of the addition would fall below 50 cubic metres. However a significant amount of brickwork is required to create the proposed first floor, albeit marginally set in from the existing front, rear and side elevation. This adds a significant amount of new masonry below the main roof level of the dwelling and creates a new eaves line approximately 2.3m higher than those at the front and rear of the attached garage. These changes are considered to be in excess of what could reasonably be determined an addition to or alteration of the roof. It is not considered that the set back of 20cm from the side, front and rear, at first floor level, (the applicant's reference to the 'Waltham' Court ruling) alters this conclusion. Therefore it falls outside the scope of Class B.
- 7.3 Whilst it is also noted that Class B also includes a provision for hip-to-gable enlargement (under Condition B2 b i), this does not apply in this case, because the existing catslide design does not constitute a hip, the defining characteristics of which are illustrated below. (the existing roof is only a single slope rather than a series of slopes which meet, two sides of the existing roof - the front and rear - are formed by vertical faces). The proposal would not retain the eaves at the front and rear (a requirement under Condition B2 b i aa).

Hip roof, also called **hipped roof**, **roof** that slopes upward from all sides of a structure, having no vertical ends. The hip is the external angle at which adjacent sloping sides of a roof meet. The degree of such an angle is referred to as the hip bevel. The triangular sloping surface formed by hips that meet at a roof's ridge is called a hip end. A pyramidal hipped roof, also known as a **pavilion roof**, is hipped equally at all corners and the hips meet at a single peak, but the more common form of hip roof is above a rectangular structure, where a roof ridge meets two hips at either end.



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A variant is the half-hipped or jerkin head roof, which has **gable** ends truncated by the eaves of a small hip end (or jerkin head) that descends a short distance from the roof ridge. On an irregularly shaped structure, there may be more than four hips, which then may alternate with valleys to form a hip-and-valley roof.

Hipped Roof. From Encyclopedia Britannica: <http://www.britannica.com/EBchecked/topic/266553/hipped-roof>

- 7.4 The development is therefore not an alteration to the roof but an enlargement and alteration to the dwellinghouse. In light of the difference in interpretation the Council has had regard to the Department for Communities and Local Government, Permitted Development for Householders, Technical Guidance, April 2014, pages 5 and 6. This provides clear guidance on how the GPDO should be interpreted and clearly states: "In order to be permitted development, a proposal must meet all the limitations and conditions under the Classes relevant to the proposal." It goes on to say "It is therefore

essential that any proposed household development is considered in the context of the permitted development rules as a whole in order to determine whether it benefits from permitted development rights and therefore does not require an application for planning permission."

- 7.5 The above view and interpretation has been supported at appeal (Appeal Ref: APP/T5150/X/13/2205377 126 Herbert Gardens, Kensal Rise, London 30 April 2014, a copy of which was provided to the applicant in the determination of the previous Lawful Development Certificate submission (APP/14/00837) and has been appended to this application file. The relevant paragraphs are 5 and 6. Mindful of this consideration, full regard has been given as to whether the proposal could benefit from the provisions of Class A of Schedule 2, Part 1, of the GPDO.
- 7.6 The following paragraph lists the criteria of Schedule 2, Part 1, Class A, with officer comments in respect of this case in bold italic font

Permitted Development

A. The enlargement, improvement or other alteration of a dwellinghouse

Development not permitted

A.1. Development is not permitted by Class A 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);

N/A

(b) As a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

The proposal would not exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse).

(c) The height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;

The proposal would not exceed the height of the highest part of the roof of the existing dwellinghouse.

(d) The height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;

The DCLG Technical Guidance document 2014, pg 10 confirms that it is the highest part of the existing eaves which is relevant for this Class. The proposal accords with this.

(e) The enlarged part of the dwellinghouse would extend beyond a wall which –

(i) forms the principal elevation of the original dwellinghouse; or

(ii) fronts a highway and forms a side elevation of the original dwellinghouse;

The proposal would not

(f) Subject to paragraph

(g), the enlarged part of the dwellinghouse would have a single storey and-

(i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or

(ii) exceed 4 metres in height;

N/A

(g) Until 30th May 2019, for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and -

(i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or

(ii) exceed 4 metres in height;

N/A

(h) The enlarged part of the dwellinghouse would have more than a single storey and-

(i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or

(ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse;

N/A

(i) The enlarged part of the dwelling house would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres.

The proposed enlargement and alteration of the dwelling would be within 2 metres of the side boundary of the site, shared with 111 Hulbert Road. The alteration would also see the eaves level of this part of the dwelling extended from 2.5m up to 5.5m in height. As such the altered dwelling would conflict with the requirements of (i) as it is within 2m of the side boundary and would have a new eaves height greater than 3m.

(j) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would-

(i) exceed 4 metres in height

(ii) have more than a single storey, or

(iii) have a width greater than half the width of the original dwellinghouse; or

The proposal would not extend beyond a wall forming a side elevation

(k) It would consist of or include-

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

(ii) the installation, alteration or replacement of a microwave antenna,

(iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe,

or

(iv) an alteration to any part of the roof of the dwellinghouse.

The proposal would not consist of any of the above listed in criteria (k).

The dwelling is not listed and is not located on article 2(3) land.

- 7.7 Having regard to the assessment of the proposal against Schedule 2, Part 1, Class A it is contended that the alteration of the dwellinghouse with additional brickwork to create a first floor level above the existing single storey garage, would fail to comply with Class A (i). This is because the alteration would be within 2m of the side boundary and the new eaves level would extend above 3 metres in height.

8 Conclusion

The failure of the development to meet all requirements of Classes A and B means that the development would not fall within the scope of current Permitted Development. Accordingly, the carrying out of this proposal without the benefit of express planning permission would not be lawful, a planning application would be required.

9 RECOMMENDATION:

Havant Borough Council, as Local Planning Authority, **REFUSES** to certify that on 1st July 2015 the development described in the First Schedule to this certificate in respect of land described in the Second Schedule and edged black on the plan attached to this certificate would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended) for the following reason:

- 1 The proposal does not comply with Schedule 2, Part 1, Classes B or A (i) of the Town and Country Planning (General Permitted Development) (England) Order 2015. The enlarged part of the dwellinghouse would exceed the scope of Class B, being more than an addition to or enlargement of its roof. Furthermore the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage and the height of the eaves of the enlarged part would exceed 3 metres; this would exceed the limitations of clause (i) of Class A. As such the proposal could not be carried out as a Permitted Development under the aforementioned Order.

FIRST SCHEDULE:

This certificate relates to the following development:

Dormer in side roof, as shown on submitted drawing 'Proposed floor plans and elevations' drawing no. 04B dated 29 June 2015.

SECOND SCHEDULE:

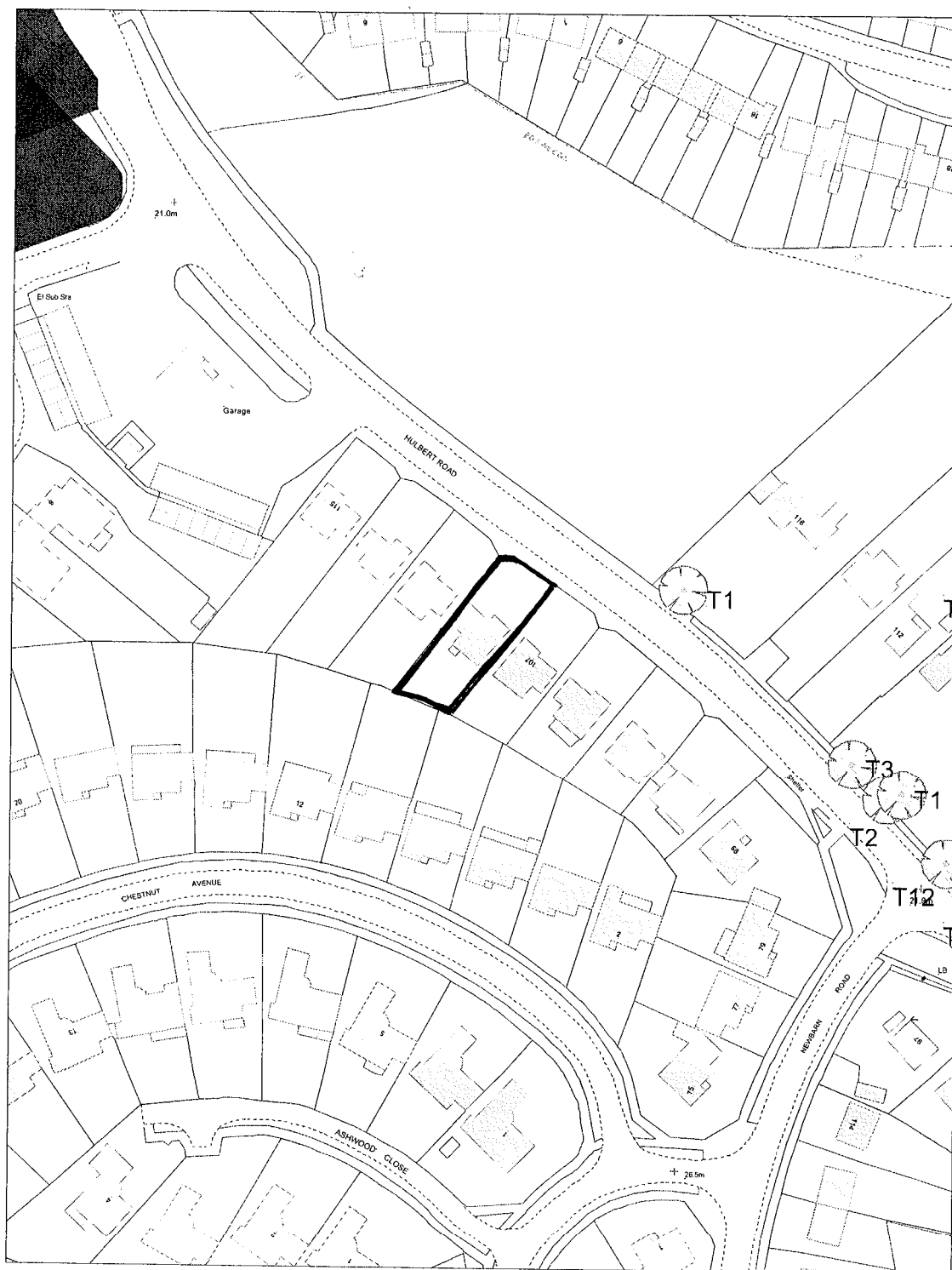
109 Hulbert Road, Havant, PO9 3TD, as shown edged in red on the submitted location plan identified as Sheet 1 - Location Plan.

- 1 The proposal does not comply with Schedule 2, Part 1, Classes A (i) or B of the Town and Country Planning (General Permitted Development) (England) Order 2015. The enlarged part of the dwellinghouse would exceed the scope of Class B, being more than an addition to or enlargement of its roof. Furthermore the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage and the height of the eaves of the enlarged part would exceed 3 metres; this would exceed the limitations of clause (i) of Class A. As such the proposal could not be carried out as a Permitted Development under the aforementioned Order.

Borough of Havant



- Main Retail/Commercial/Office Areas
- Urban Areas
- Industrial Areas
- Open Space/Recreation
- Borough Boundary



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Havant
BOROUGH COUNCIL

Title:

109 Hulbert Road Havant

Drawn By:

Scale:

1:1250

Drawing No:

Cleaner, Safer, More Prosperous

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