
Site Address:	109 Hulbert Road, Havant, PO9 3TD		
Proposal:	Application for a Certificate of Lawful Development relating to proposed hip to gable enlargement of roof.		
Application No:	APP/14/00837	Expiry Date:	08/10/2014
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

None

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) (Amendment and Consequential Provisions) (England) Order 2014.
- 3.2 Description of development proposed by the applicant on the submitted application form is a hip to gable enlargement of the roof. 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, removing the existing cat slide roof and creating a first floor level over the garage with new pitched roof which would then link into the hipped roof of the existing dwelling.
- 3.4 The proposed alterations would see the eaves level of the existing dwelling increased

from 3.1m to 5.5m in line with the eaves level of the existing dwelling, with a new ridge height of 7.6m, some 1.1m below that of the highest part of the original dwellinghouse. The development would be confined to the area above the existing garage, which has a depth of 5.4m.

- 3.5 There has been some discrepancy surrounding the volume calculations for the roof of the proposed development' with officers' of the Council concerned that the works exceeded 50 cubic metres. Subsequently both the applicant and the Council have requested accurate calculations from their respective engineers. The applicant's engineer has stated the increase in volume would be 42.4 cubic metres whilst the Council's engineer states it is 42.7 cubic metres. These calculations are now closer to an agreed figure and would fall below the maximum 50 cubic metres allowed under Class B of the GPDO for an alteration of a roof for a detached dwelling. Given the implications for an increase above 50 cubic metres it was considered correct to ensure this issue was resolved prior to the issue of a decision.

4 Policy Considerations

National Policies

N/A

Core Strategies 2011 forming part of the HBLDF

N/A

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Council Engineer - Confirmation received that the cubic content of the proposal was 42.77 cubic metres.

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: N/A

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 It is considered that the proposed development relates more to a first floor extension

above the existing garage rather than an alteration of the roof of the existing dwelling. This is because there is a significant amount of brickwork to create a first floor, over and above what would be considered an alteration of the roof. The development is therefore more of an alteration to the dwellinghouse. A development of this description would mean that the development would fall to be determined solely within Schedule 2, Part 1, Class A of the GPDO. However, having regard to the description of the development on the application form Schedule 2, Part 1, Class B would apply.

7.3 In light of the difference in interpretation the Council has had full 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."*

7.4 The above view and interpretation has been supported at appeal (Appeal Ref: APP/T5150/X/13/2205377) a copy of which was provided to the applicant and has been appended to the application file. The relevant paragraphs are 5 and 6.

7.5 Having regard to the nature of the development, the advice contained within the Technical Guidance, April 2014 and the above appeal decision the proposal has been assessed against Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). Whilst it is maintained that Class B is not the relevant Class to consult by the nature of development proposed it is acknowledged that the volume of the addition would fall below 50 cubic metres.

7.6 Schedule 2, Part 1, Class A:

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) 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).

(b) 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.

(c) 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 proposal would not exceed the height of the eaves of the existing dwellinghouse.

(d) The enlarged part of the dwellinghouse would extend beyond a wall which –
(i) fronts a highway, and
(ii) forms either the principal elevation or a side elevation of the original dwellinghouse;

It would not

(e) 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

(f) The enlarged part of the dwellinghouse would have more than one 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

(g) 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 the dwelling extended to 5.5m in height. As such the altered dwelling would conflict with the requirements of (g) as it is within 2m of the side boundary and would have a new eaves height greater than 3m.

(h) 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 one 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

(i) It would consist of or include-
(i) the construction or provision of a veranda, 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 (i).

The dwelling is not listed and is not located on article 1(5) 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 would fail to comply with Class A (g). In so far as the alteration would be within 2m of the side boundary and the new eaves level would extend above 3 metres in height. The alteration of the dwelling with additional brickwork to create a first floor level above the existing single storey garage clearly falls within the scope of Class A and having regard to the Department for Communities and Local Government, Permitted Development for Householders, Technical Guidance, April 2014 should be assessed as such.

8 Conclusion

The failure of the development to meet all of the requirements of Class A means that

the development would not fall within permitted development allowance. Planning permission would therefore be required for the development.

The proposed development fails to comply with Schedule 2, Part 1, Class A (g) of the Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014. Having regard to the provisions of the Order it is concluded that the enlarged part of the dwellinghouse 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 development would therefore conflict with Schedule 2, Part 1, Class A, (g) of the Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014.

9 RECOMMENDATION:

Havant Borough Council, as Local Planning Authority, **REFUSES** to certify that on 06 January 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 It is considered that the proposal does not comply with the criteria outlined in Schedule 2, Part 1, Class A, (g) of the Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014, in that the enlarged part of the dwellinghouse 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.

FIRST SCHEDULE:

This certificate relates to the following development:

Hip to gable enlargement of roof, as shown on submitted drawing 'Proposed floor plans and elevations' drawing no. 04 date stamped 13 August 2014.

SECOND SCHEDULE:

109 Hulbert Road, Havant, PO9 3TD, as shown edged in red on the submitted location plan identified as Sheet 1 and date stamped 13 August 2014.