
Appeal Decision

Site visit made on 29 January 2018

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

an Inspector appointed by the Secretary of State

Decision date: 28 February 2018

Appeal Ref: APP/G1250/X/17/3179442

8 Heron Court Road, Bournemouth BH3 7LL

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr P Rustom against the decision of Bournemouth Borough Council.
 - The application Ref 7-2017-26423-A, dated 9 May 2017, was refused by notice dated 4 July 2017
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is a proposed extension and dormer windows to dwellinghouse to include the forming of the second floor level.
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Decision

1. The appeal is dismissed.

Reasons

2. The Council has calculated the roof volume to be above the 50m³ limit allowed for the roof alteration to be permitted development. The appellant contests some of the Council's measurements and has submitted a laser based survey. A check measurement was made at the site visit of the wall along one elevation and the appellant was requested to submit a plan on paper printed so the scale of 1-100 is accurate.
3. There is some dispute about how the recess and set back of the gable wall should be handled in the calculations. Calculating whether an enlargement of the building is too large to be permitted by the restrictions, which impose limits on the cubic increase on the size of the building, is measured externally. The spaces enclosed by a structure, such as balcony parapets, have to be considered on their merits. Although the recessed gable does not provide usable space within the building, it is the effect of any change on the external appearance that is important. Even though part of the gable wall is set back in to the roof, so the 'space' of the set back is not enclosed by the wall, externally the roof is clearly seen to run well past the gable and to be covering and enclosing the whole space, including that associated with the recessed part of the gable and to my mind, in terms of the external appearance, the volume of all the recessed space covered by the roof needs to be included in the volume calculation.

4. The appellant's laser survey indicates that the additional volume of the roof alterations is 48.4 m^3 and the appellant's geometric calculations are 48.3 m^3 . The appellant notes in his analysis of the Council's calculations the lack of accounting for the recess in the rear gable, which is noted to reduce the cubic content of the structure or building by a further 3.67 m^3 . Therefore, even accepting the appellant's laser and geometric calculations of around 48.3 m^3 , adding the appellant's calculation for the volume of the recess of 3.67 m^3 makes the extension volume about 51.97 m^3 which still exceeds the permitted development tolerance. Therefore, whether or not the Council's calculation is correct the roof alteration does not come within the tolerance for permitted development.
5. However, having looked at the Council's measurements I have generally found them to be a reasonable interpretation from the application drawing. The appellant in particular found the gable width to be about 8.2m and the Council 8.5m. Careful scaling of this by me came to nearer about 8.35m. Some of the other measurements in dispute appear to arise from the recessing of the gable. I have considered the recessing of the gable above, so to my mind 8.35 would be a reasonable estimate for the gable width. Scaling from drawings is always going to lead to some minor differences. While I accept that some of the figures could be reduced by a small amount, it would not be likely to make a substantial difference to the overall figure. I consider that the volume is nearer that calculated by the Council than the appellant and over the 50 m^3 limit. It seems that the biggest reason for the difference is the approach to the recessed gable.
6. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a proposed extension and dormer windows to dwellinghouse to include the forming of the second floor level was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Graham Dudley

Inspector