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General Permitted Development Order Changes 1st October 2008

A public consultation in 2007 looked at ways of reducing bureaucracy for householders seeking to improve their homes while protecting the interests of neighbours, the wider community and the environment. The changes now introduced in the Town and Country General Permitted Development (Amendment) (No. 2) (England) Order 2008 are intended to make it easier for people to extend or alter dwellinghouses without the need to obtain planning permission although homeowners may wish to have the comfort of obtaining a Certificate of Lawfulness prior to carrying out work.

The changes which come into force on 1 October 2008 are intended to strike a balance between freeing homeowners to make improvements and limiting the size of an extension so that neighbours are protected.

World Heritage Sites

An important change to the Order is that all 17 World Heritage Sites are now included as Article 1(5) land and will therefore have the same protection levels as conservation areas, national parks and areas of outstanding natural beauty. These sites which include the City of Bath, the Tower of London, Hadrian's Wall, Westminster Palace, Maritime Greenwich and Durham Castle will now be better protected against potentially damaging development.

Rear and Side Extensions (Class A)

Unlike the previous regulations, rear and side extensions are no longer limited by volume and instead have a series of dimension based criteria, other than in relation to the area of the curtilage of the garden with extensions being restricted to no more than 50% of the total area of the curtilage (excluding the ground area of the original houses). For information, the previous volume limit was 50

cubic metres or 10% for terraced houses and 70 cubic metres or 15% for terraced and semi-detached.

The new permitted rights have restrictions relating to the height and depth of extensions with a restriction on the width of side extensions to no more than half the width of the original house.

As previously the height of any side or rear extension should not exceed the height of the original dwellinghouse. In addition to this the eaves height is now controlled and should not exceed the eaves height of the original dwellinghouse.

In terms of depth detached houses can extend up to 4 metres if single storey and no more than 4 metres in height. For more than single storey the depth beyond the rear wall is restricted to 3 metres. The GPDO amendments do not give a definition of "rear wall". Is this the main rear elevation or rear wall of an original rear extension? In addition, there is a restriction on the height of the eaves close to boundaries with adjoining properties i.e. no more than 3 metres within 2 metres of the boundary. The previous GPDO rights allowed up to 4 metres overall height within 2 metres of the boundary.

There is also a restriction on extensions of more than one storey or more than 4 metres in height. In relation to rear boundaries - these cannot extend closer than 7 metres from a rear boundary. There is no such restriction on single storey (below 4 metres) extensions although again the curtilage rule of the eaves being no more than 3 metres, 2 metres from the boundary applies.

For terraced and semi-detached houses extensions cannot exceed 3 metres in depth (single storey or multi-storey). Again there are the same restrictions in relation to boundaries with neighbouring properties (with eaves no more than 3 metres within 2 metres of the boundary of the curtilage of the dwellinghouse).

The GPDO also introduces conditions on materials. These are to be similar to those of the original houses.

Permitted development rights do not allow the provision of verandas, balconies or raised platforms. The definition of "raised" in relation to platform

means a “platform with a height greater than 300mm”.

This class excludes the installation, alteration or replacement of a chimney, flue, soil and vent pipe and the installation, alteration or replacement of a microwave antenna. However, these structures are included within separate classes (Class G and Class H).

On Article 1(5) land (including conservation areas) extensions beyond a wall forming a side elevation are not permitted and at the rear extensions of more than one storey should not extend beyond the rear wall of the original dwellinghouse. This is a major change from the previous permitted development allowance which restricted rear extensions in conservation areas to no more than 50m³ or 10% of the volume of the original house.

Cladding of any part of the exterior with stone, artificial stone, pebble dash, render, timber, plastic or tiles is not allowed on Article 1(5) land including conservation areas.

Alterations to fenestration and doors are still allowed but if new windows are inserted in side elevations they have to be fitted with obscure glazing and be non openable if more than 1.7 metres above the floor in which the window is installed.

There is also a restriction on roof pitches on new extensions of more than one storey which must be the same, as far as practicable, as the roof pitch of the original dwellinghouse.

Additions and Alterations to Roofs (Class B)

For loft extensions one of the main important changes is that, although still based on volume, this now relates to the volume of the existing roof rather than the volume of the whole house. The volume limit for loft extensions is 40 cubic metres for a terraced house and 50 cubic metres in any other case (the same as before).

There are also restrictions on design. The extension must be no less than 20 cm from the eaves of the original roof “so far as practicable”. It is not clear whether this is horizontal distance or distance along the roof plane and the inclusion of the words “so far as is practicable” provide a potential get out clause. It must not exceed the height of the highest part of the existing roof and not project beyond the principal plane of any existing roof which forms the principal elevation of the house or fronts a highway.

No dormers are allowed on Article 1(5) land (including conservation areas).

Materials must now be of similar appearance to those

used on the original house and windows on side elevations including veluxes and roof lights must be of obscure glazing and be non-openable if below 1.7 metres above the floor.

Other Alterations to Roof (Class C)

These must not protrude more than 150mm beyond the plane of the slope of the original roof.

They must not exceed the highest part of the original roof.

This class now excludes the installation, alteration or replacement of chimneys, flue or soil and vent pipes and does not include the installation, alteration or replacement of solar photovoltaics or solar thermal equipment. However, these are allowed (subject to restrictions) by other classes.

Extensions Fronting Highway and Porches (Class D)

Extensions to elevations fronting a highway whether the principal elevation or the side elevation do not fall within permitted development rights. There is a separate class for porches (Class D) restricted to 3 square metres in area and 3 metres in height. They must also not be within 2 metres of a highway.

This is unaltered from the previous permitted development rights.

Curtilage Buildings (Class E)

A major change for outbuildings (Class E) is that the restriction on distance to the dwellinghouse has been removed. Previously, to be classified as an outbuilding, any building with a volume greater than 10 cubic metres had to be at least 5 metres away from the dwellinghouse, otherwise it was classified as an extension. This raises the question of how close can the new development be to the dwellinghouse to avoid being considered as an extension to it.

Curtilage buildings include any building or enclosure, swimming or other pool required for a purpose “incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure”. This class also now includes a container for domestic heating purposes for the storage of oil or liquid petroleum gas (previously Class G).

These can as previously cover up to 50% of the total area of curtilage (excluding the ground area of the dwellinghouse) but must not be positioned forward of a wall forming the “principal elevation of the original dwellinghouse”. The previous restriction was “not between the original dwellinghouse and the highway or any point 20 metres from that highway whichever is nearer to the highway”.

Buildings are restricted to one storey and to a height of 4 metres with a dual-pitched roof or 3 metres in any other case. A new restriction has been introduced which is that any building within 2 metres of the boundary of the curtilage of the dwellinghouse must not exceed 2.5 metres.

Again there is a restriction in the design that it should not include the construction or provision of a veranda, balcony or raised platform. Development within the curtilage of listed buildings is now wholly excluded from this Class. Previously buildings of up to 10 cubic metres were allowed within the grounds of listed buildings.

Another important change is a further restriction on Class E development in World Heritage Sites, National Parks, Areas of Outstanding Beauty and the Broads. In this case any building, enclosure, pool and container situated more than 20 metres from any wall of the dwellinghouse must not exceed 10 square metres.

In addition to the above, for Article 1(5) land (including conservation areas) development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the house and the boundary of the curtilage of the dwellinghouse. Previously development within the curtilage of dwellings on article 1(5) land was restricted to no more than 10 cubic metres.

Hard Surfaces (Class F)

The provision of a hard surface within the curtilage of a dwellinghouse is still allowed but there is restriction on the type of hard surfacing on land fronting highways. If the hard surface is situated on land between a wall forming the principal elevation of the dwellinghouse and a highway and the area of land so paved exceeds 5 square metres the hard surface has to be made of porous materials or provision made to direct run-off from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse. This has been introduced to reduce potential flood risk due to surface run off.

Chimneys, Flues, Soil and Vent Pipes (Class G)

The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse now falls within Class G.

These are restricted to a height of 1 metre above the highest part of the roof. For Article 1(5) land (including conservation areas) the structure should not be installed on a wall or roof slope which fronts a highway or forms the principal elevation.

Microwave Antenna (Class H)

As previously the installation, alteration or replacement of a microwave antenna falls within Class H. There are some changes to this class with no more than two antennas now allowed and the maximum length now being 100 centimetres or 60 centimetres if installed on a chimney. There has been some relaxation to antennas on Article 1(5) land now allowing antennas on chimneys which do not face onto, or are not visible from a highway. For more details on restrictions on antennas please refer to the GPDO amendment.

Domestic Energy Production

From April 6 2008 a number of home energy generation technologies became permitted development providing certain conditions were met. These are solar panels; biomass; micro-combined heat and power; ground source and water source heat pumps.

There will be no change to the planning regime for small-scale hydro-electricity.

Wind turbines and air source heat pumps are not yet permitted development.

However, under the proposed new planning regime fitting domestic wind turbines are likely to be permitted development so long as the following limits and conditions are met:

Wind turbines on buildings:

- to be less than 3m above ridge (including blade).
- diameter of blades to be less than 2m.
- permitted development does not apply in conservation areas or World Heritage Sites.

Stand-alone wind turbines:

- to be less than 11m high including blade.
- diameter of blades to be less than 2m.
- must stand at least 12m from a boundary.
- should not be installed within boundary of a listed building.
- should not face onto and be visible from the highway in conservation areas or World Heritage Sites.

Commentary

The proposed amendments seek to reduce the number of household applications making it easier for people to extend or alter their dwellinghouses. They also seek to address problems relating to the previous permitted development rights in relation to providing greater control over the physical impact of new development including important aspects of design and materials. However, we would expect that most homeowners will wish to obtain a Certificate of Lawfulness prior to carrying out the

works or on completion of developments. As such the amendments would not significantly reduce the number of applications.

We also expect that the number of appeals and Judicial Reviews will be increased as people struggle to interpret some of the requirements and conditions. For example what is meant by “**side elevation**”? This is presumably intended to refer to the main side elevations i.e. those nearest to the boundary with an adjoining property. However, a side elevation could include the inside side elevation of an L-shaped property where the elevation faces towards a private patio at the rear of a dwellinghouse. Extension to the inside is unlikely to be visually harmful or have any impact on neighbours. However, in “extending beyond the wall of a side elevation” such extensions would not be permitted although extensions beyond the rear wall would be permitted.

The lack of definition of “**rear elevation**” is also confusing. Is this the main rear elevation or does it include the rear elevation of an original annexe? How do you define the “**principal elevation**”?

The amendments do not make specific reference to **basements** but with the volume restrictions now removed it would appear that they could be constructed as permitted development as an enlargement of a dwellinghouse subject to the restrictions set out in Class A in relation to distance from rear and side elevations.

The new Class E permitted development rights allow new curtilage buildings to be built close to existing dwellinghouses. This raises some interesting opportunities or possibly problems for the future if set close to the dwellinghouses. Planning permission would be required for a link from the main house to the outbuilding but on what grounds could it be refused. The appearance of the connecting link is unlikely to be an issue if it is not readily visible. The main consideration would be in relation to the intensification of the use but for a detached house in large grounds the intensification of use is unlikely to be harmful.

CgMs expect that the Government will soon be making some further changes to the GPDO to overcome some of the potential pitfalls of this new legislation as well as clarifying some of the terms used.

For further information please contact:

Valerie Scott
020 7832 1470
email : valerie.scott@cgms.co.uk

LONDON
Tel: 020 7583 6767
london@cgms.co.uk

CHELTENHAM
Tel: 01242 259 290
cheltenham@cgms.co.uk

NEWARK
Tel : 01636 653 060
newark@cgms.co.uk

KETTERING
Tel: 01536 790 447
kettering@cgms.co.uk

BIRMINGHAM
Tel: 0121 616 4850
birmingham@cgms.co.uk

www.cgms.co.uk