

SIZE MATTERS

You would think that there was a simple answer to the question “By how much can I extend my house without applying for planning permission ?” Unfortunately you would be wrong. The answer will depend on several things namely:-

1. How old is the house?
2. Have there been any other extensions?
3. How big is the proposed extension?
4. Is the property situated in a conservation area, an area of outstanding natural beauty, a national park or the Broads?
5. Is the property a listed building?
6. What are you going to use the extension for?
7. Are there any restrictions in my deeds which prevent me extending the property?

The general law as set out in the Town and Country Planning Act 1990 is that you cannot carry out any works which materially affect the external appearance of the dwellinghouse (Section 55). However, the Town and Country Planning (General Permitted Development Order) of 1995 enables you to carry out certain alterations and extensions to a property. These notes are only of a very general nature and it must be emphasized right from the beginning that you must:-

1. Measure very carefully your existing dwellinghouse and any additions which have been made to it.
2. Very carefully measure the proposed extension
3. Check all the limitation set out in the General Permitted Development Order and any restrictions which affect your property by way of deeds or other planning permissions which you have received. Only then should you instruct a builder!

In general the following rules apply:-

1. You can extend or enlarge or improve a dwellinghouse provided that the cubic content of the new building does not exceed the cubic content of the original building by more than 70 cubic metres or 15% whichever is the greater.
2. However, in the case of a terraced house or a dwellinghouse in a conservation area, national park, area of outstanding natural beauty or the Broads, the limitations are 10% or 50 cubic metres whichever is the greater.
3. In no case can the increase be more than 115 cubic metres.
4. In addition the height cannot be higher than the roof of the original dwellinghouse nor closer than 20 metres to a highway or within two metres of the boundary of the curtilage of the dwellinghouse. Nor can the total area of ground covered by buildings within the curtilage other than the original dwellinghouse exceed 50% of the total area of the curtilage.

5. If the original dwellinghouse was built prior to 1948, then the dwellinghouse as it existed on the 1st July 1948 (the appointed day) is the starting point. In other words, if any extensions were added prior to 1948, these now form part of the original dwellinghouse and are not taken into account when calculating the amount of the extension which you can build. Any extensions which you add (whether or not you have received planning permission or they are constructed under Permitted Development Rights) have to be taken into account when calculating what further extensions you can add.

6. With regard to listed buildings (and you can check whether your house is listed by asking the Local Planning Authority) any alteration to a building whether internal or external which affects the building as a building or architectural or historic interest will require Listed Building Consent under the Listed Building Act of 1990. This is a separate control to planning permission. In other words, you may not need planning permission because the extension is too small but you will need Listed Building Consent. In other cases, you may need both planning permission and Listed Building Consent.

7. If you have extended your property without planning permission and are now worried as to whether you needed it, you will be pleased to hear that once the extension has been completed for more than four years, no enforcement action can be taken by the Local Planning Authority to ask you to remove it. You can also apply for what is called a Certificate of Lawfulness from the Local Planning Authority to prove that it has been erected for more than four years and no action can now be taken.

Again it should be noted that this does not apply to listed buildings and action can be taken by the Local Planning Authority to require removal to alterations or extensions to listed buildings without any limitation.

Apart from the above planning controls, there are of course building regulation consents to be taken into account. You will almost inevitably require building regulation consent for any work which you intend to carry out of a structural nature. If you do not obtain building regulation consent, due to a recent case, it has been held that it is technically possible for a local authority to take enforcement action at any time.

Therefore any purchaser from you will require either building regulation consent or in the absence of that an indemnity insurance from an approved insurer. The best method therefore must be to obtain building regulation consent.

Finally, there may well be covenants which prevent you from carrying out certain alterations or extensions to the property which are set out in your title deeds. You should obtain copies of these and check these are well before you start any work.

The whole of this area is a minefield of complex legislation. The government in its planning Green Paper is proposing some form of reform to the General Permitted Development Order. However, it is not anticipated that this will make a great deal of difference to the complex requirements for extending houses and a large health warning must be given for you to check measurements, previous extensions, previous planning permissions, covenants and other matters before proceeding with that longed for extension.

These notes have been prepared by David Forbes who is a partner with Pickworths Solicitors, 6 Victoria Street, St Albans, Herts. AL1 3JB.

Tel (01727) 844511

E-Mail: stalbans@pickworths.co.uk

Website: www.pickworths.co.uk

