

# Changes To Householder Permitted Development 1 October 2008 - Informal Views From Communities And Local Government

## General Queries

Frequently Asked Questions	Response
Definition of principal elevation	<p>There is no definition of principal elevation in the GPDO.</p> <p>It would have been extremely difficult to come up with a definition that provided absolute certainty as to what the principal elevation was in all circumstances.</p> <p>However, we believe that in the vast majority of cases it would be perfectly clear what the principal elevation was ie the part of the house that fronts the highway and which usually contains the main entrance.</p> <p>In practice we accept that in a minority of cases there will have to be an assessment by the planning authority on a case by case basis as to what constitutes the principal elevation.</p>

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<p>Use of materials of a similar appearance</p>	<p>The condition at Classes A.3(a) and B.2(a) seeks to ensure that the visual impact of an extension including a loft development is minimised by requiring that the materials used are "of a similar appearance".</p> <p>The original Government proposals suggested that the condition should be in terms of materials matching the existing house. Having considered this further we decided that this could be unnecessarily onerous and changed the restriction in the legislation to provide more flexibility through a condition that required the appearance to be similar.</p> <p>The intention is that by requiring this the development is sympathetic in appearance to what is already there and that the visual impact is minimised.</p> <p>We are aware that in a number of local authority areas this condition is being interpreted in such a way that would mean, for example, that all flat-roofed dormer extensions, which typically have a felt or a fibreglass roof, would not be permitted development.</p> <p>The department recognises that this condition allows some local interpretation. However, in our view this does not mean that the <u>type</u> of material used needs to be either the same or similar to the existing building. The roof need not therefore be covered by concrete tile or slate. The condition would require the <u>appearance</u> to be similar.</p> <p>We believe that even where a different material is used it is possible that the condition could be met if, for example, a similar colour were used. While this might not always be acceptable, whether something was similar in appearance would, in our view, depend on a number of factors. We would expect that one of these factors would be the prominence or visibility of that part of the extension.</p> <p>For example, the flat roof of a dormer at, or near, ridge height will often not be visible and we would hope local planning authorities would consider this aspect.</p>
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Legal validity of 'old' CLUDs granted under the previous PD regime which remain unimplemented.

Section 192(4) of the 1990 Act states that when a Certificate of Lawfulness of Proposed Use or Development (CLPUDs) is issued, the lawfulness is conclusively presumed "unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness".

A change in the relevant PD rights would be a "material change" meaning that a CLPUD issued before that change was made would no longer be conclusive proof of the lawfulness of the proposed use or operation. If the applicant wanted conclusive proof of lawfulness he would need to apply for a new certificate.

Section 192(2) provides that an LDC is only ever proof that the proposed use or operations are lawful "if instituted or begun at the time of the application". However, given the amended regime is generally more permissive we do not see that many people would have been granted an LDC prior to 1 October, but no longer able to carry out the work under the new rules.

A number of LPAs have suggested that some sort of transitional provision should have been included in the GPDO amending Order to allow work to proceed where an LDC had been granted prior to 1 October. We think it would have been difficult to reconcile this with the provision in section 192(4), that lawfulness is not conclusively proven where there has been a material change in the matters relevant to determining lawfulness.

<p>Impact on enforcement in particular the checking of porous / non-porous surfacing.</p>	<p>We do not see why enforcement should be more difficult. Generally, it should be simpler given that restrictions are mostly in the terms of dimension etc rather than volume.</p> <p>On permeable paving, we believe that it should be relatively straightforward to determine whether something complies, for example, by tipping a bucket of water on to the surface.</p>
<p>Concerns about height restrictions of boundaries and impact on conservation areas</p>	<p>Not sure what the concern is here. The height of extensions and outbuildings is more restrictive under the new regime.</p> <p>The same rules at the back apply in conservation areas except only single storey extensions are permitted as we believe this protects against the impact on the streetscene. The new rules also prevent side extensions in conservation areas.</p>
<p>Lack of clarity and the implications arising from the new regs regarding numerous extensions to properties, relationship to restrictive policies in the rural and GB areas and any impact on listed buildings.</p>	<p>Works to a listed building will still require Listed Building Consent.</p> <p>In rural areas and the green belt the overall level of development will remain the same – a maximum of 50% of the garden area (curtilage excluding dwellinghouse).</p> <p>Given we have removed an overall volume allowance for extensions of the dwellinghouse, it is true that more development could be done to the house itself. However, the overall limit on all development within the curtilage (extensions and outbuildings) remains the same.</p>

## More Specific Comments

Frequently Asked Questions	Response
<p>A1(c)</p> <p>Does the extension need permission if it has any eaves higher than any eaves on the existing house?</p> <p>The question arises in cases where there are eaves of various heights (e.g where the existing house is both single and two storeys). Also, should eaves over dormer windows be taken into consideration?</p>	<p>We would expect that the eaves height restriction would relate to the part of the dwellinghouse being extended from ie if you had a building that was both one and two storeys and you were extending from the one storey part of it the eaves would have to be no higher than those of the one storey part of the house.</p>
<p>A1(d) and elsewhere</p> <p>Is the principal elevation any elevation fronting a highway?</p> <p>If so, there are some houses that have more than one principal elevation, for example on corner plots and in terraces which have a highway both at the front and at the back.</p>	<p>Principal elevation is not defined in terms of it fronting a highway. It's what most people would say is the main elevation at the front (see above). Therefore just because an elevation fronts a highway it doesn't mean it is a principal elevation.</p> <p>The GPDO refers to "the principal elevation" so the assumption is that there will be just one principal elevation. For most plots it should be possible to distinguish easily the principal elevation from a side elevation.</p> <p>In some corner plots it may be that more than one elevation has the character of a principal elevation (perhaps where there is more than one entrance to the property) in which case both would be covered by any restriction on the principal elevation.</p>
<p>Some houses (e.g. on backland plots, on farms or in barn conversions) do not front any highway.</p> <p>Does this mean that they have no principal elevation? In such cases does that mean there is no limit to how far they can be extended on a wall that is not a side or rear wall?</p>	<p>There could be a principal elevation that does not front a highway, but the question is largely academic given that the restrictions are in terms of a principal elevation that also fronts a highway.</p> <p>Development to a principal elevation that does not front a highway would be subject to the eaves height limit and the overall 50% limit on development within the curtilage.</p>
<p>A1(e) and (f)</p> <p>Does the reference to extending beyond the rear wall mean any rear wall?</p> <p>The issue arises in all cases where the rear of the house is not built as a single wall, but is cranked.</p>	<p>The relevant consideration here is the part of the wall that is being extended from.</p> <p>Therefore where there is an original rear addition/outrigger there will be more than one original rear wall.</p>

<p>A1(f)</p> <p>Taken literally, "opposite" appears to refer to the dwellinghouse that is opposite the rear wall of the dwellinghouse being extended, but we think the meaning is that the 7 metres is measured from the rear wall to the boundary that it faces. Are we correct?</p>	<p>We're not quite sure what the ambiguity is here, but as you suggest, the 7 metre restriction is from the rear wall to the boundary it faces.</p>
<p>A1(h)</p> <p>If the original dwellinghouse was of varying width, which width applies?</p>	<p>In our view, it would be the widest dimension that should be used.</p>
<p>B2(b)</p> <p>Interpretation for roof extension of set back not less than 20 cms from the eaves of the original roof.</p>	<p>Our view is that this measurement should be taken along the slope of the roof.</p>
<p>E2</p> <p>Is "the dwellinghouse" here the existing house or the original house?</p>	<p>As we don't refer to the original dwellinghouse it should be taken to be the existing dwellinghouse.</p>
<p>F1(b)</p> <p>Is the 5 sq.m. cumulative or not? That is, can a hard surface area be enlarged in successive extensions of less than 5 sq.m. and thus avoid the need for planning permission?</p>	<p>A hard surface could be enlarged in successive extensions, but they would have to be genuinely different developments, for example, you could not do 5sq m a day.</p>
<p>Soil vent pipes never previously been considered development and not required on drawings - PD is not now given where extensions include the alteration or installation of a soil vent pipe (in both Class A and B).</p> <p>Given that 95% of all rear extensions include an alteration/addition of a soil vent pipe to comply with BRegs, pd has been taken away for vast majority of extensions (even those previously granted pd). Dismantling the existing pipe and passing it through the internal walls would still be an alteration open to challenge by a disgruntled neighbour.</p>	<p>If they are not viewed as being development then nothing will change as they will not require planning permission (permitted development rights relate only to types of <u>development</u> that are permitted).</p> <p>However, some planning authorities in the past have viewed flues etc as being development and we therefore had representations asking for clarification as to what was permitted development – that is what we have done through the permitted development right granted by Class G.</p>
<p>A steel is often used to support upper floors and dormers. If a chimney stack is in the way to support this, it has to be removed.</p> <p>Again, this would fall foul of A.1(i) iii and B.1(d)ii. Also, how could this be ascertained by an enforcement officer after the event, when everything is boxed in?</p>	<p>Development would not be prevented just because of the restrictions at A.1(i)(iii) and B.1(d)(ii) because Class G grants permitted development rights for flues, chimneys etc.</p> <p>The restrictions mentioned above say that Classes A and B respectively do not grant planning permission for flues etc (because Class G does).</p>

<p>What constitutes a rear boundary?</p> <p>What about sites on wedge shaped or irregular shaped plots?</p> <p>At what point would the boundary be rear?</p> <p>Parallel line with flanks of house?</p>	<p>There is no reference in the Order to a "rear boundary". Class A.1(f)(ii) provides that development is not permitted where the enlarged part would have more than one storey and be within 7 metres of "any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse".</p> <p>So in the case of a triangular plot with the house at the base, development would not be permitted if it is within 7 metres of any of the sides of the triangle opposite the rear wall.</p>
<p>Class E (d) iii states that outbuildings not permitted if over 3m 'in any other case'. (e) states the height of the eaves of the building would exceed 2.5m.</p> <p>These contradict and would appear to rule out a lot of flat roof sheds and outbuildings</p>	<p>E.1(d)(iii) sets the maximum height of a building more than 2m from the boundary that does not have a dual-pitched roof at 3m. The maximum eaves height is indeed 2.5m.</p> <p>Therefore the maximum height could be 3m, but the eaves would have to be 2.5m. This was the proposal that we consulted on.</p>
<p>Are detached garages built pre 1948 to be part of the 'original dwelling house'?</p>	<p>A garage of the sort described would not be part of the original dwellinghouse.</p>
<p>Clarification sought on the enlargement of dwellinghouse - where the enlargement takes the form of an addition or alteration to the roof over the outrigger/back addition.</p>	<p>The works are considered to fall within Class B.</p>
<p>Class B. 1 (d) (i) – addition or alteration to dwellinghouse roof.</p> <p>Clarification sought on the provision of a balustrade or safety barrier set in front of French doors.</p>	<p>The provision of a balustrade where there is no external access is permitted under Class B.</p>