

SOME PLANNING AND BUILDING REGULATION MYSTERIES

During the recent period of uncertainty in the property market lots of home owners have decided to enhance the value of their properties by carrying out extensions and conversions. Unfortunately not everyone has consulted the small print as to when planning permission or buildings regulation approvals are required. Often no problem will arise until the time comes for the property to be sold. Then the surveyor acting on behalf of the buyer or the mortgage lending company will point out that work has been carried out to the property for which permissions should have been obtained. The burden then passes to the solicitor acting on behalf of the buyer to find out if the rules have been complied with or should have been complied with. If not, what can be done to put matters right if there has been no compliance?

This article is designed to be a brief introduction to the subject for those who are thinking in terms of some of the more usual home improvements works such as extensions, garage conversions, loft conversions, replacing doors and windows and the provision of decking and raised platforms.

Title Limitations

Before you even set out on conversion or extension work you should first consider any limitations there may be in the title to your property. Some times there are restrictive covenants imposed particularly upon estate developments where the developer or

planning authority wish to maintain the overall look of the estate. Their aim is to avoid additions or alterations which would spoil the overall design or at worst create a sort of shanty town of additions which are out of sympathy with the original design and detract from the value and enjoyment of the neighbouring properties. Special rules apply if your property is within designated land which can include areas of outstanding natural beauty of which we are blessed with many in the West Country. Special rules apply to historic properties which are listed. The need for permission may be influenced by the type of property for example if the house is detached or attached, if there have been any previous alteration and extension work or the proximity of a highway or indeed a tree which is subject to a preservation order. If you live in a conservation area, the local Planning Authority may have already imposed specific controls to help protect the character and appearance of that area. In such cases it may not be possible even to replace doors and windows, roof materials without obtaining the required permission.

Examples

Here are some examples, remembering that if you are in a listed property or on designated land as mentioned earlier, special rules will apply:-

1. Doors and Windows

These do not normally require planning permission for repairs, fittings or replacing. You will however have to comply with building regulations - the rules having changed since the 1st April 2002 requiring replacement glazing to meet thermal performance and safety requirements such as air supply, means of escape and ventilation. A special Certificate of Compliance must be obtained and produced when you come to sell the property known as a FENSA which stands for Fenestration Self-Assessment Scheme.

2. Garage Conversions

Here planning permission is also not usually required providing the work is internal and does not involve enlargement. However you will have to comply with building regulations which may affect such matters as walls if you intend to infill the garage door with a new wall and window, floors where such matters as damp proofing and thermal insulation must be considered, and ventilation for general health reasons.

3. Loft Conversions

Here again planning permission is not normally required unless you are going to extend or alter the roof space where there are specific limitations that apply. But you may be able to enlarge your loft by 40 cubic metres for a terraced house or 50 for a semi-detached or detached house if all the rules are complied with. Once again, building regulations are applicable to make sure that the new floor is structurally sound and the stability of the property is not endangered. Such matters as fire escape, sound insulation and compliant stairs are taken into account. Even boarding out your attic for storage may require building regulation approval because the original loft will have a weighting capacity which can easily be exceeded. Just think how much a tea chest full of books would weigh.

4. Decking and Raised Platforms

No planning permission is required provided that the decking is no more than 30 cms above ground level and that when other extensions of outbuildings are taken into account the decking does not exceed more than 50% of the garden area.

5. Extensions

There are all sorts of possibilities, for example single storey side extensions or conservatory of rear extensions and two storey. Some new regulations came into force in October 2008 which are far too detailed to describe here. Planning permission and building regulations will always be required for properties within conservation areas and areas of outstanding natural beauty and of course for listed buildings. If you are not in such an area then extensions are permitted without planning permission subject to the extent of site coverage, location, height, depth etc.

Failure to get permission

If work has already been carried out to a property for which the requisite permission has not been obtained then there is a procedure available where you can apply for retrospective permission in order to give your property a clean sheet when it comes to being sold. There are certain insurance policies available on the market which are designed to compensate you in the event that the planning authority require work previously undertaken to be dismantled or put rights. The wording of such policies needs very careful consideration as there are all sorts of limitations on the circumstances in which you may make a claim or would be excluded from doing so, for example by making contact with the local planning authority.

The way ahead

The purpose of this article is to merely to provide only a sketched outline to a very complicated subject and is not intended in any way to be a detailed guide but merely to

point you in the right direction. The best advice I can give you is to consult with your planning authority before embarking on any extension or conversion work. They will provide you with all the detail and guidance you need and most importantly you will have a proper set of paperwork to enable you to demonstrate that the work you have had done does comply with all the rules and regulations and will not hold up the sale of your property or lead to a reduction in its value. Beware of the false economy of having such work done without being able to prove that the rules have been followed!

Action

If you need legal help on any property matter including leases and commercial property, please contact me on **01288 35 9000** or email me at **david.helman@busbyslaw.co.uk**. I have over 40 years experience in property law, and I can give you the benefit of my considerable experience.

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