Can my neighbour stop me building an extension?

Wednesday 11 December, 2019

Are you planning on extending your home and worried that your neighbours might stop it from happening? You are not alone! This is something that many people worry about when they decide to extend their home.

Why do some neighbours want to stop a house extension?

What rights do they have?

What rights do you have?

What is the best way to deal with a difficult neighbour?

Let's explore the answers to these questions.

Why do some neighbours object to home extensions?

There are many reasons why a neighbour might object to a home extension but the most common complaints are:

- Fear of damage to their property
- Disruption from the builders
- Loss of natural light
- Loss of privacy
- Accessibility issues
- Environmentally unfriendly
- Issues with the design

Only some of these reasons hold any weight with the planning office, if you need planning permission at all, so firstly let's look at if you need planning permission.

Do I need planning permission for my home extension?

Not all extensions require planning permission. If your home extension falls within certain guidelines on the planning portal then it can fall under permitted development, also known as lawful development.

A terrace and semi-detached house can be extended up to 3 metres and a detached house up to 4 metres in depth from the rear wall of the original house.

A property in a conservation area can build an extension under Permitted Development providing it complies with the following guidelines:

- It does not have an article 4 direction
- Single storey
- Not a side extension
- Matching style of the existing property
- Depth of three metres if an attached property
- Depth of four metres if a detached property
- Meets all the other permitted development requirements

There is a scheme that was due to run out end of May 2019 called the neighbour consultation scheme or larger home extension scheme which has now been made permanent. This makes it possible to DOUBLE the amount you can extend.

What is the Neighbour Consultation Scheme?

The Neighbour Consultation Scheme allows homeowners to build a single-storey extension and extend out up to 6 metres if it is a terraced house or semi-detached house and a detached house up to 8 metres from the original house.

However, your neighbours do have the right to object to this. They have a 21 day period in which they

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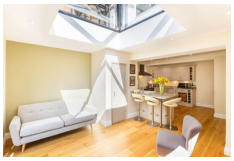
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can give valid reasons as to why they believe the extension should not be built.

The local authority then has a further 21 days to grant this, prior approval.

There is no fee for a Prior Notification application, however, once the statutory 42 day period is over, a fee will be payable for a lawful development certificate, it takes eight weeks to receive a decision.

What happens if I do require planning permission?

If you apply for planning permission, a letter will be sent to the adjoining neighbours and a notice will go up outside which will give the public a chance to make comments (objection or support) if they feel they are somehow affected by the proposed design.

They can contact the council on the planning application and make their comments. They have 21 days to do this, known as the public consultation period.

How long does planning permission normally take?

The council have 8 weeks to issue a decision on a planning application. You also must factor in the time to prepare the necessary documents such as drawings and planning statements.

What reasons might the local authority not give planning permission?

There are several reasons why the local authority might refuse planning permission. The main reason is size and bulk in comparison to the surrounding area and the impact on the neighbouring properties (mainly light, but also privacy).

The local authorities have a whole suite of documents that must be complied with in terms of design. Also, if the property is within a conservation area, the local authority may restrict certain alterations, but this mainly applies to the exposed, front elevation, as opposed to the rear.

The local authorities usually allow minor changes to the proposed plans such as roof height/ wall positions, prior to issuing the decision as it's better to receive some form of planning permission rather than a straight rejection.

If planning permission is rejected what can I do?

If you think they have made the wrong decision you can appeal and state your reasons or you can amend the plans bearing in mind the reasons for rejection and resubmit the application.

If planning permission is granted or if my extension falls under permitted development, does that mean my neighbours must accept my home extension?

Not so fast, there could possibly still be an issue with the party wall agreement or if you have a neighbour with a real bee in their bonnet, they could take legal action against the council for their planning permission decision which can be a real headache (but very rare).

What is a party wall agreement and how does this affect me?

The first thing you need to do is determine whether the Party Wall etc. Act 1996 applies to your project. This isn't always an easy task; the three main things to look out for when building an extension in terms of party wall are:

- Notice 1- Are you looking to build a new wall astride or on the face of the boundary between your property and your neighbours? (Section 1)
- Notice 2- Are you proposing to insert any steel beams that cut into the wall that divides yours and your neighbour's property? (Section 2)
- Notice 3- Are you building within 3 meters of any part of the neighbouring properties external walls/ structure? (Section 6)

One, two, or all three types of notices may need to be served on any applicable adjoining owner. A knowledgeable surveyor will be able to advise and serve the correct notice(s) for the works.

Your neighbour has 14 days to respond to the notice. Try and make it as hassle-free as possible for your neighbour by creating a form they can respond with, as many people will not know how to formally reply.

You must have the confirmation **IN WRITING within the 14 days** or you automatically go into a dispute.

If any adjoining owner disputes the notices or does not reply within the 14 days, it means they have dissented to the notice and as a result, surveyors will need to be appointed and a party wall award will need to be made.

The owner of the building proposing to do the works will almost always be responsible for not just their surveyor fee's but also any neighbour contesting.

To save costs it can be beneficial to get one surveyor to create the agreement, however, the neighbour is well within their rights to choose their own.

The cost of each surveyor can be as much as £1500 per party so be prepared for costs of around £3000 per adjoining owner and if they cannot come to an agreement, on rare occasions, a third surveyor is appointed to make the final decision.

The surveyor(s) will firstly carry out a condition survey of the party wall and its surrounding area, taking note of all current finishes and defects that are present.

This protects both parties, as it will be clear if any damage was already there or if it has been caused by the building works.

The surveyors will then produce a party wall award laying out specific terms such as positioning of the wall, provision for the protection of the neighbouring property and rights to access etc.

The important thing is to serve a party wall notice as early in the project as possible. This is not usually possible until the drawings have been produced and the structural engineer has done his work as you will be unaware of the extent of the works until then.

Once the award is signed and served to all parties, both the adjoining owner and building owner have 14 days to appeal the award in the county court.

Communication with your neighbour

The best thing to do is to go and see your neighbour right at the beginning and explain to them what you plan on doing and put their mind at ease to save the hassle of a party wall agreement if at all possible. Listen to their concerns and raise them with your builder. Remember the works will be an inconvenience for them with no benefit so try and imagine being in their position. If you can get them on your side from the start things will be much easier.

Conclusion

In most instances the neighbours cannot stop you having a home extension, however, they can delay the process and add hassle so try and deal with it right from the start to avoid any conflict.

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