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QUESTION

Permitted Development

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Appeal Decision 212 - Certificate of Lawful Development.

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Appeal

February 2011 - Code a00212

Summary of Case (appeal allowed):

The property is a two-storey mid-terrace house. The application was for a proposed rear dormer and front rooflight, and the submitted drawings indicated that the works involved the removal of an chimney.

The key issue was whether the removal of the chimney (required for the erection of the rear dormer) would be contrary to Class B, part B.1(d), which states that "Development is not permitted by Class B if ... it would consist of or include ... (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe".

The Inspector stated the following:

*"The restrictions in Class B.1(d)(ii) seem to me to indicate that Class B does not grant planning permission for works involving chimneys, flues etc. **because planning permission may be given elsewhere** - by Class G which specifically addresses 'the installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse', subject to certain restrictions which do not apply to this case. Class G clarifies the circumstances in which the replacement or alteration of chimneys is authorised if permission were needed. This view is supported by technical guidance from the Department for Communities and Local Government, published on the Planning Portal. Under Class B on page 34 the guidance states: "Installation, alteration or replacement of chimneys, flues or soil and vent pipes will often be necessary when loft conversions are undertaken. Whilst these are not permitted development under Class B of these rules, they may be permitted development under Class G."*

Accepting what I take to be the permissive spirit of the GDPO I consider that the word 'alteration' includes the removal of chimneys and chimney supports, as if this were not the case their removal would be specifically excluded by a more precise definition of the term 'alteration'. I can see no good reason to conclude that the purpose of the reference to chimneys in B.1 is to withdraw permitted development rights that were previously available to householders, prior to the 2008 Amendment Order, in the circumstances arising in this appeal.

*To sum up, I conclude that although the work in question, if it involves development, is not permitted by Class B, **it is permitted in this case under Class G**. Therefore, the development described in the application and detailed in the drawing should not, in my view, be ruled as not permitted overall just because of the restrictions at Class B.1(d)(ii) since Class G grants permitted development rights for flues, chimneys etc."*

Main Conclusions:

- Class G **can** be used concurrently with other Classes.
[Relevant to: A.1(i), B.1(d), C.1(c), Class G].
- For example, the erection of a proposed dormer under Class B **can** involve the alteration or removal of a chimney under Class G – the latter would **not** be prevented on the basis that it would be contrary to Class B, part B.1(d).
[Relevant to: A.1(i), B.1(d), C.1(c), Class G].

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