

Part 1 of the GPDO - The 10 Worst Permitted Development Loopholes

Last updated: **October 2014** (regular updates not required)

Note: This document will be updated (within the next few weeks) to take account of the GPDO 2015

Introduction:

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About this document:

This document highlights some of the **loopholes** within **Part 1 of the GPDO**.

This document was first produced in November 2011, with the aim of encouraging the government to rewrite this legislation. The updates to this document since November 2011 have been relatively minor.

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In ...

10th

... position:

“the unlimited front extension”

Before ...



2

... After



This one is even possible in a National Park, an Area of Outstanding Natural Beauty, a Conservation Area, or a World Heritage Site ☺

... Notes ...

Why is this possible ... ?

- It's simply a **mistake** in the drafting of the legislation. The legislation specifies limits for side extensions (which are ruled out on Article 1(5) land) and specifies limits for rear extensions. It's clear from the background consultation documents that the intention was to rule out front extensions altogether. However, the wording of the legislation only rules out front extensions where the principal elevation fronts a highway. It appears that central government simply didn't think of the scenario where the principal elevation doesn't front a highway - for example on a rural property which either faces away from the highway or is significantly set-back from the highway.

Is there really no limit to the size of such front extensions ... ?

- Well, the front extension must remain within the "curtilage" of the property (and not within 2m of the boundary if the height of its eaves exceeds 3m), it can't result in more than 50% of the original garden being covered by buildings, and its eaves and ridge-line can't be higher than the eaves and ridge-line of the main building.
- However, these are really only secondary restrictions. For many properties where the principal elevation doesn't front a highway, the legislation does not impose any meaningful restriction on the size of a front extension. For example, in the appeal decision APP/Y3615/X/10/2142515, which was allowed on 27/04/2011, the proposed front extension had forward projection 14m and would more than triple the footprint of the original house!
- It should also be noted that the DCLG "Technical Guidance" document sets out that if the roof of such a front extension doesn't contain a dormer window (or similar), then Class B does not apply, meaning that the front extension would not be subject to the 40m³ and 50m³ volume limits. Furthermore, this introduces the significant contradiction that even though it's not possible on Article 1(5) land to erect any form of Class B roof extension, it's possible to attach a massive additional roof structure to the main front roof slope (as shown by the example on the previous page).
- If the roof of such a front extension does contain a dormer window (or similar), then Class B does apply, including the volume limits and the restriction against Article 1(5) land. In such a case, it's also important to note that the front extension might be contrary to limitation B.2(b)(ii).

When was this mistake first recognised ... ?

- This was one of a number of issues that I emailed to DCLG in November 2008, 1 month after the new legislation came into force.
- The DCLG "Informal Views from Communities and Local Government", which was published in December 2008, recognised this issue. However, this document appeared to downplay the issue (rather than acknowledge that a mistake had been made) by stating that *"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"*.
- This loophole has also been highlighted by a number of appeal decisions which have been allowed by government Inspectors. More information is contained within the **"Part 1 of the GPDO - GENERAL Appeal Decisions"** document on www.planningjungle.com.

What is being done to address this loophole ... ?

- As of October 2014, this loophole was first recognised almost 6 years ago, and has still not been addressed.

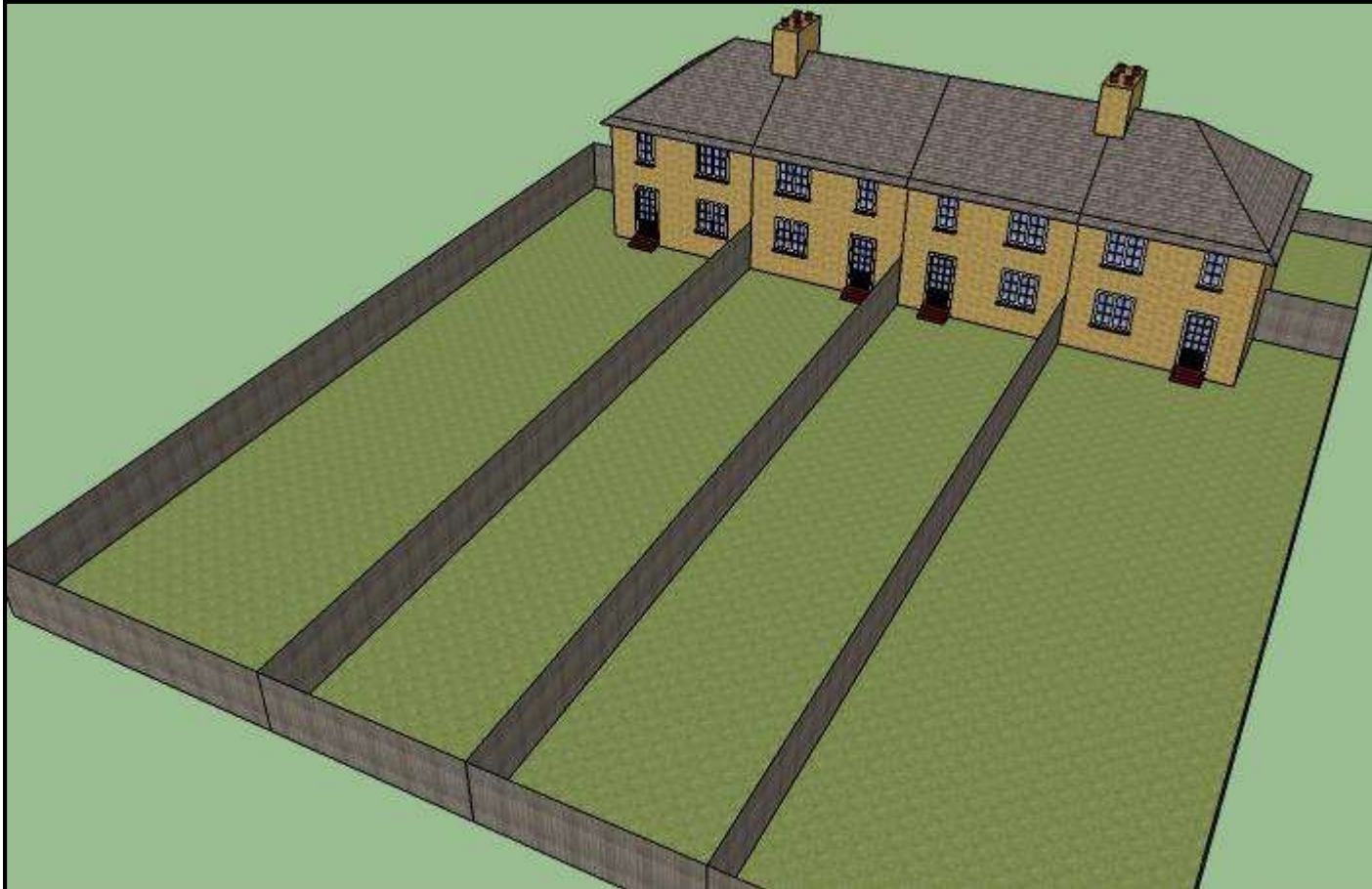
In ...

9th

... position:

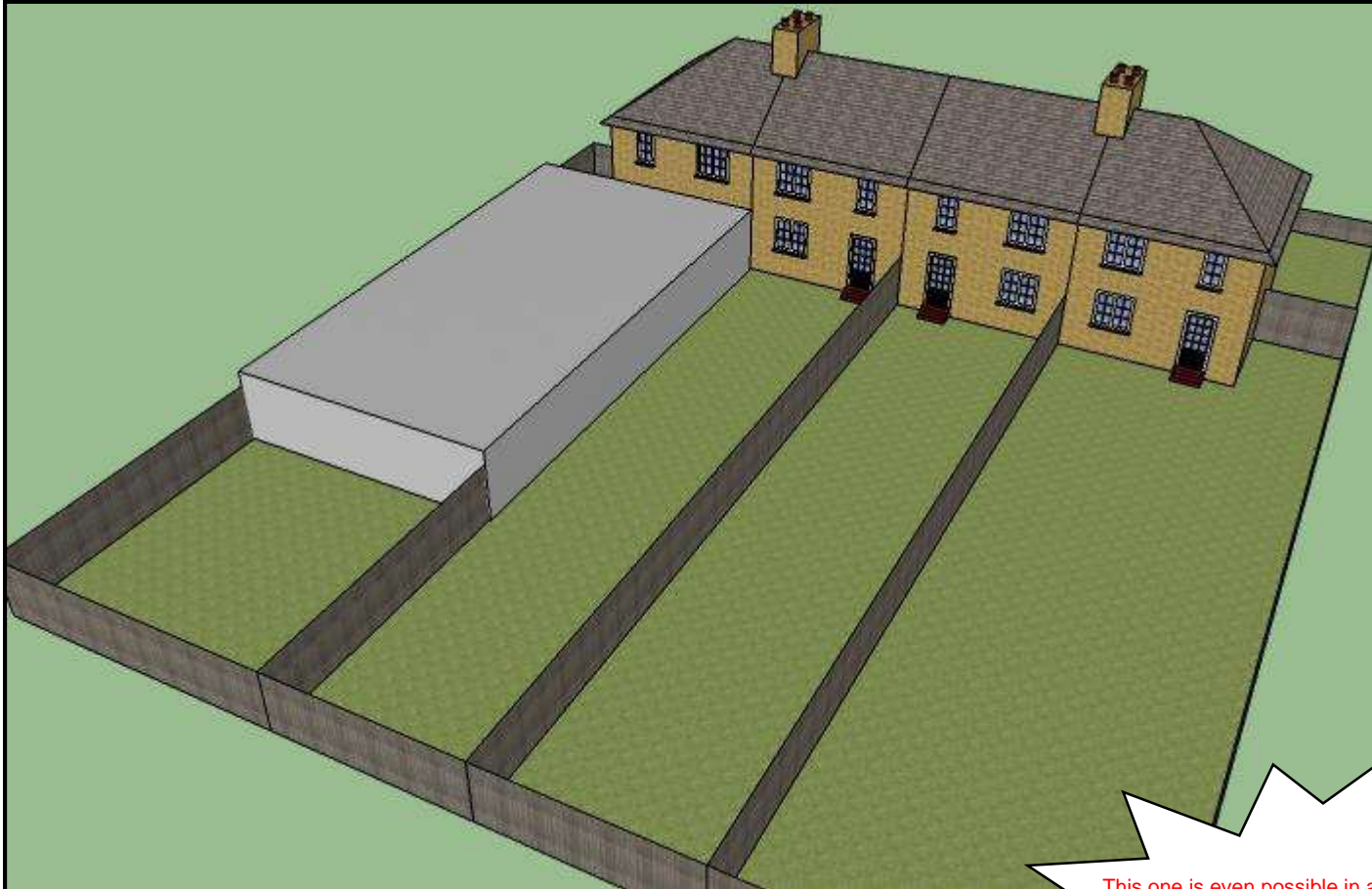
“massive outbuildings”

Before ...



2

... After



This one is even possible in a National Park, an Area of Outstanding Natural Beauty, a Conservation Area, or a World Heritage Site ☺

... Notes ...

What are the dimensions and materials of the outbuilding shown on the previous page ... ?

- The example shown has width 9.0m x length 17.5m = footprint 157.5m². It has a flat roof at height 2.5m. Its materials can be anything.

Can an outbuilding this large really be built under permitted development ... ?

- Yes, so long as the outbuilding would be *“required for a purpose incidental to the enjoyment of the dwellinghouse as such”*. A number of appeal decisions have confirmed that an outbuilding to enclose a swimming pool can be as large as (or larger than) the outbuilding shown on the previous page. For example, in the appeal decision APP/H1515/X/10/2124574, which was allowed on 19/11/2010, the proposed outbuilding had width 10.5m x length 30.0m = footprint 315m², which was exactly **twice** the footprint of the example shown on the previous page.

What about the proximity of the outbuilding to the main house ... ?

- The previous version of the legislation required outbuildings to be situated at least 5m away from the main house. This 5m requirement was removed from the current version of the legislation, and as a result there now appears to be no limit as to how close an outbuilding can be situated to the main house. For example, in the appeal decision APP/Q5300/X/10/2125856, which was allowed on 14/12/2010, the Inspector concluded that an outbuilding situated just 2.5cm away from the main house was permitted development. This introduces the significant contradiction that if a structure is attached to the rear wall of a terrace property then its rearward projection is limited to 3m to protect neighbour amenity, and yet if a structure is slightly detached from the rear wall (e.g. by 2.5cm), then it can project rearward by (say) 30m regardless of neighbour amenity.

What is the background as to why such large outbuildings are still allowed ... ?

- The DCLG “Householder Development Consents Review” (May 2007) was highly critical of large outbuildings. For example, on page 34, it showed an illustration of a large outbuilding (which was significantly smaller than the example on the previous page), and stated that *“the fact that a householder could construct such a large outbuilding on a relatively modest garden without needing planning permission is a cause for concern”*. This government review paper recommended that the proposed new legislation should limit outbuildings to a maximum footprint of 30m² for properties with a garden greater than 100m², and 20m³ for properties with a garden smaller than 100m².
- Following the above recommendation, the DCLG “Consultation Paper 2” (May 2007) undertook a public consultation for the proposed new legislation, in which the section on outbuildings was based upon these proposed 30m² and 20m² maximum footprints. The results of this public consultation are contained in the DCLG “Summary of Responses to Consultation” (November 2007), which stated that, in relation to the proposed 30m² and 20m² maximum footprints, *“a mixed response to this proposal has been received, with a balance of agreement in favour”*.
- However, when the new legislation was introduced, it did **not** contain the proposed 30m² and 20m² maximum footprints. The government letter (dated 10/09/2008) that introduced the legislation stated that this was because *“this restriction could have created a liability for compensation being payable by a local authority if they subsequently turned down ... an application for something that had previously been permitted development”*.
- In my view, this was an unjustifiable reason to not correct something that was wrong. Even worse, the new legislation was made **more** permissive than before, by removing the 5m separation requirement, and by removing the previous restriction against massive outbuildings on Article 1(5) land.

In ...

8th

... position:

“excessive front alterations”

Before ...



... After



This one is even possible in a National Park, an Area of Outstanding Natural Beauty, a Conservation Area, or a World Heritage Site ☹

... Notes ...

Which Classes of the legislation allow the front alterations shown on the previous page ... ?

- Class A: allows the replacement or insertion of windows (with no restrictions on the number, position, or size of the new windows).
- Class C: allows the re-roofing of the front roof slope (with no restrictions on materials).
- Class C: allows the insertion of front rooflights (with no restrictions on the number, position, or size of the rooflights).
- Class C: allows the removal of the front turret.
- Class D: allows the erection of the front porch (with no restrictions on materials).
- Class F: allows hardstanding in the front garden (with no restrictions on the area covered, so long as the porous requirement is met).
- Part 2 Class A: allows the erection of walls, fences, gates, etc.
- Part 2 Class C: allows the painting of any part of the existing building (including the painting of previously unpainted brickwork).

Are any other front alterations allowed (i.e. which are not shown on the previous page) ... ?

- Yes. Class G allows the installation of chimneys, flues, and SVPs on the front elevation of a property outside Article 1(5) land with no restrictions on their numbers, positions, or sizes (other than not exceeding the height of the main ridge-line by more than 1m). Class H allows the installation of up to two satellite dishes on the front elevation of a property outside Article 1(5) land.

Are the front alterations shown on the previous page really possible within a World Heritage Site ... ?

- Yes. It's hard to believe, but true.
- I think there are probably strong grounds to question whether the UK is meeting the requirements of the UN "Convention Concerning the Protection of the World Cultural and Natural Heritage" (1972), which was adopted by the UN in 1972 and ratified by the UK in 1984. Article 4 of this UN Convention requires member states to do the following:

*"Each State Party to this Convention recognizes that the duty of ensuring the identification, **protection**, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory, belongs primarily to that State. **It will do all it can to this end**, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain".*

- As shown by the examples in this document, for a house within a World Heritage Site it can be possible to erect **unlimited front extensions**, to erect **massive outbuildings** (e.g. 300m²), and to undertake **excessive front alterations** (including the painting of previously unpainted brickwork). I find it difficult to see how the current version of permitted development legislation meets the requirements of the above UN Convention.

In ...

7th

... position:

“the L-shaped rear dormer”

Before ...



2

... After



... Notes ...

Is this really a “loophole” ... ?

- I appreciate that some people will hold the view that an L-shaped rear dormer is not a loophole and **should** be permitted development, particularly because it's at the rear of the property and is unlikely to have a significant impact upon neighbour amenity.
- However, the justification that is often stated for permitted development rights is to exclude “**uncontentious**” development from full planning control - see references to “*minor and uncontentious*” in the ODPM “Review of Permitted Development Rights” (September 2003), and references to “*small-scale and uncontentious*” in the DCLG “Consultation Paper 2” (May 2007). Of the 350 (or so) local authorities in England, I would be surprised if there are many (if any) for which the example on the previous page would not be directly contrary to their adopted policies and guidance. Even people who view this type of L-shaped rear dormer as acceptable must surely agree that such dormers can hardly be described as “uncontentious”.
- A particularly valid criticism of the legislation is that the volume limitation is worded in such a way that actually encourages people to remove original features, such as chimneys, front turrets, and roof pitches (as has been done in the example on the previous page). This is because, by removing such original features, the legislation allows applicants to increase the amount of volume that they have available for their roof extension. It should also be noted that the requirement in the legislation for a roof extension to not exceed the height of the ridge-line, only applies to the main ridge-line, meaning that the part of the L-shaped rear dormer on the rear projection can exceed the height of the ridge-line of the rear projection.

How did we end up with such large roof extensions being allowed ... ?

- The DCLG “Householder Development Consents Review” (May 2007) was highly critical of large roof extensions. For example, on page 31, it showed a photograph of a full-width rear dormer (which was significantly smaller than the example on the previous page), and stated that “*whilst design judgements are necessarily subjective, and in this case there is no direct impact on a public highway, it is hard to disagree that this sort of development should not be categorised as “permitted development” in the current GPDO*”. This government review paper recommended that the proposed new legislation should require roof extensions to be set-back by a minimum of 1m from the ridge-line, eaves, and side boundaries.
- Following the above recommendation, the DCLG “Consultation Paper 2” (May 2007) undertook a public consultation for the proposed new legislation, in which the section on roof extensions was based upon these proposed 1m set-backs. The results of this public consultation are contained in the DCLG “Summary of Responses to Consultation” (November 2007), which states that overall the proposed new legislation for roof extensions was supported by the majority of “government bodies”, “public”, and “environment and community groups”, but opposed by the majority of “business”, and “professionals and academics”.
- Following the above public consultation, the DCLG “Government Response to Consultation Replies” (November 2007) stated that “*the Government has decided not to pursue the approach set out in the consultation paper*” and that “*there will be a requirement that an extension must start a minimum of 0.2 metre above the eaves*”. As a result, large roof extensions (such as the example shown on the previous page) are still allowed.
- I think there's a reasonable argument to say that the 20cm set-back from the eaves is simply a token requirement, which does very little to address the problems that were identified by the DCLG “Householder Development Consents Review” (May 2007).

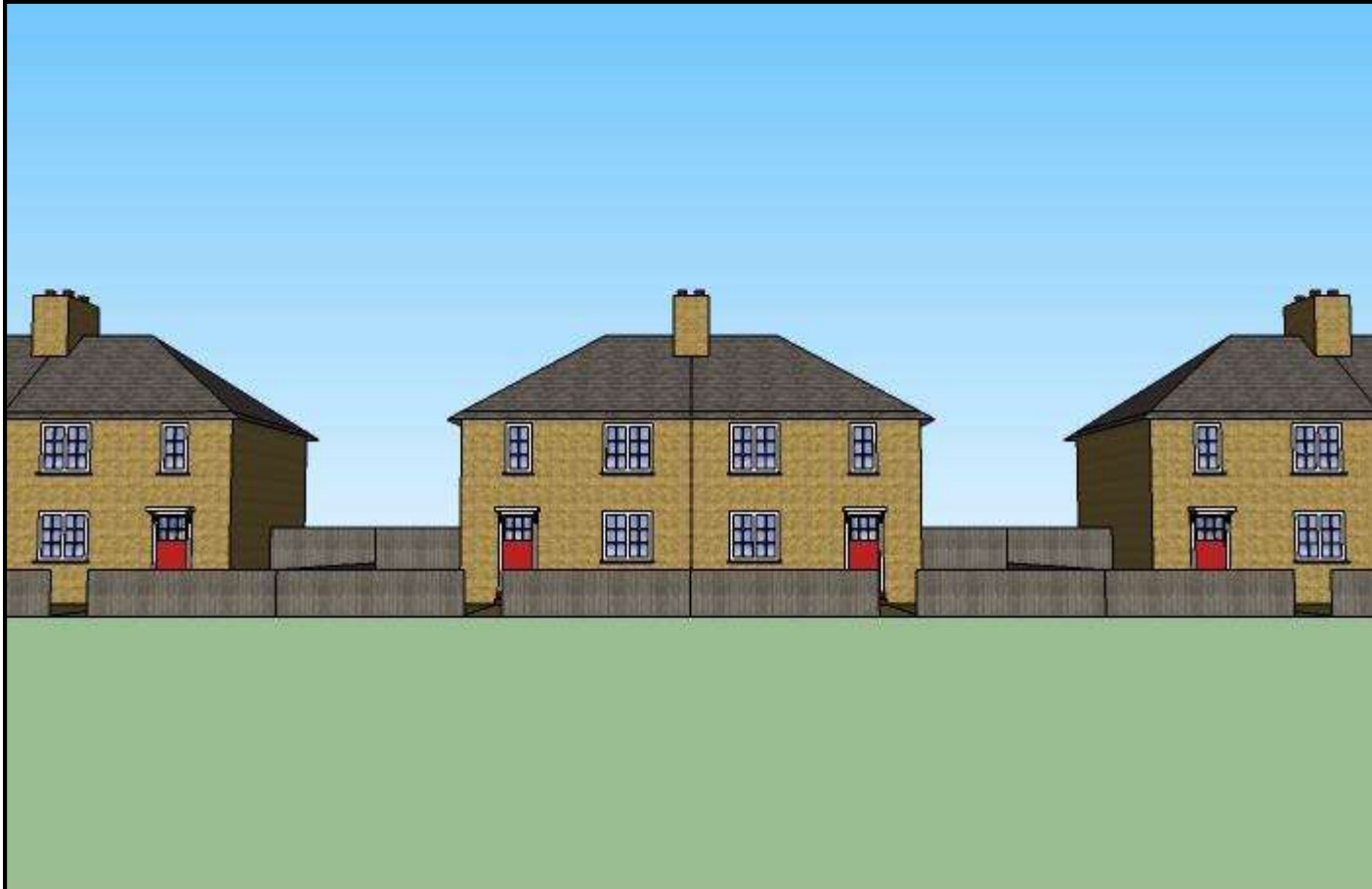
In ...

6th

... position:

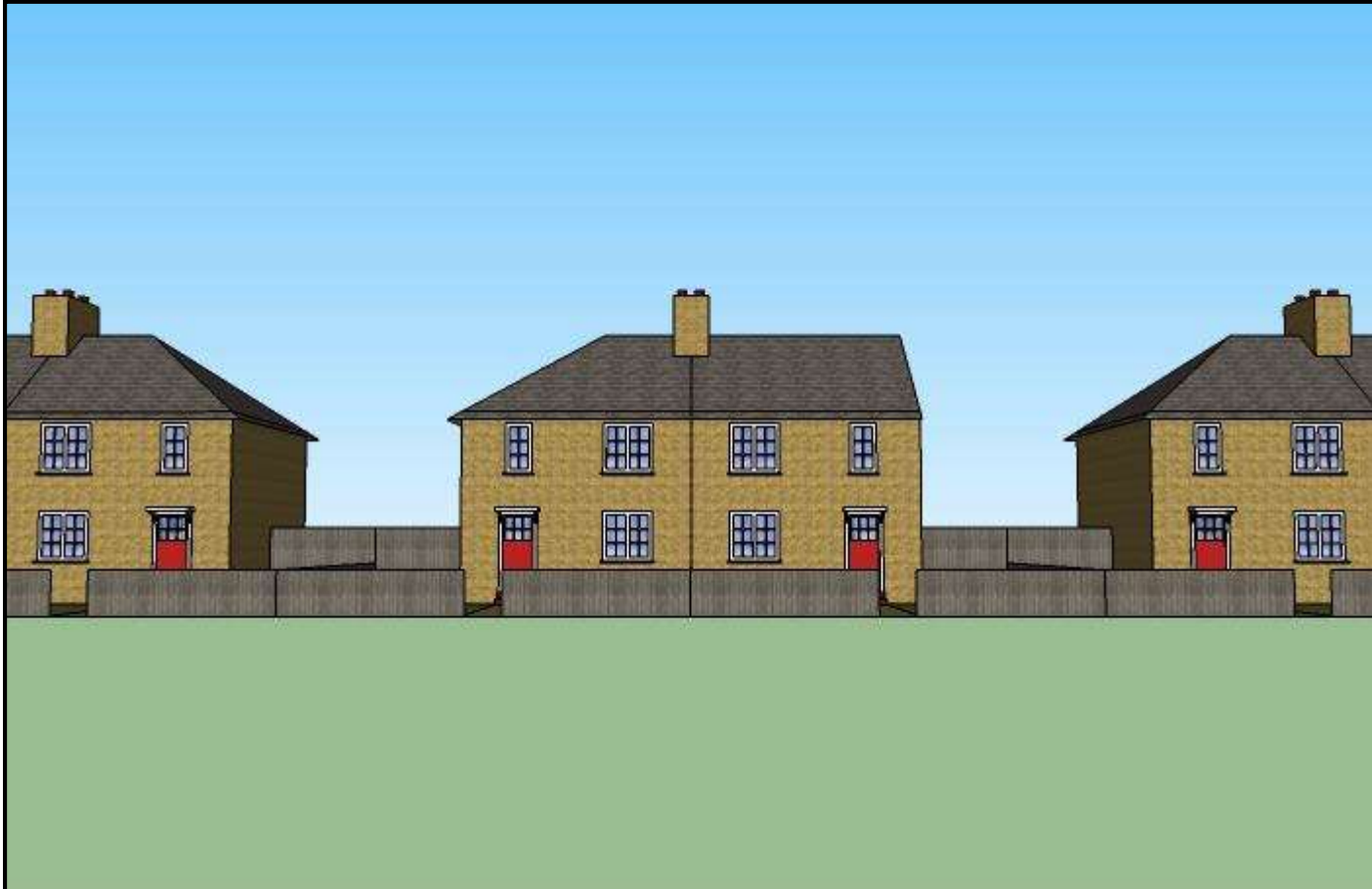
“the hip-to-gable”

Before ...



2

... After



... Notes ...

Is this really a “loophole” ... ?

- I appreciate that some people will hold the view that a hip-to-gable roof extension is not a loophole and **should** be permitted development.
- However, the justification that is often stated for permitted development rights is to exclude “**uncontentious**” development from full planning control - see references to “*minor and uncontentious*” in the ODPM “Review of Permitted Development Rights” (September 2003), and references to “*small-scale and uncontentious*” in the DCLG “Consultation Paper 2” (May 2007). Of the 350 (or so) local authorities in England, I would be surprised if there are many for which the example on the previous page would not be directly contrary to their adopted policies and guidance. Even people who view hip-to-gable roof extensions as acceptable must surely agree that such works can hardly be described as “uncontentious”.

Why are hip-to-gable roof extensions still allowed ... ?

- The DCLG “Householder Development Consents Review” (May 2007) was critical of hip-to-gable roof extensions. For example, on page 32, it showed an illustration of a hip-to-gable roof extension on a semi-detached property (which was similar to the example on the previous page), and stated that “*many local authority design guides identify it is an unacceptable form of development, because it can unbalance a pair of properties and harm the rhythm of a street scene*”. On page 96, it stated that “*this form of development can have a significant impact in the street scene and be detrimental to the character of the dwelling and its surroundings*”. This government review paper recommended that the proposed new legislation should rule out hip-to-gable roof extensions (and other side roof extensions) so that they would always require an application for planning permission.
- Following the above recommendation, the DCLG “Consultation Paper 2” (May 2007) undertook a public consultation for the proposed new legislation, in which the section on roof extensions was based upon hip-to-gable roof extensions (and other side roof extensions) being ruled out. The results of this public consultation are contained in the DCLG “Summary of Responses to Consultation” (November 2007), which states that overall the proposed new legislation for roof extensions was supported by the majority of “government bodies”, “public”, and “environment and community groups”, but opposed by the majority of “business”, and “professionals and academics”.
- Following the above public consultation, the DCLG “Government Response to Consultation Replies” (November 2007) stated that “*the Government has decided not to pursue the approach set out in the consultation paper*”. As a result, hip-to-gable roof extensions (and other side roof extensions) are still allowed. Indeed, the new legislation was made **more** permissive than before, by removing the previous restriction against hip-to-gable roof extensions on side roof slopes that front a highway.
- In my opinion, if central government believes that the design approach adopted by local authorities is generally too restrictive, and wishes to use the GPDO as a tool to override local authorities, then it should at least state that this is the case. It seems disingenuous for central government to state that the purpose of the GPDO is to allow “uncontentious” development, whilst using it as a tool to allow contentious development.

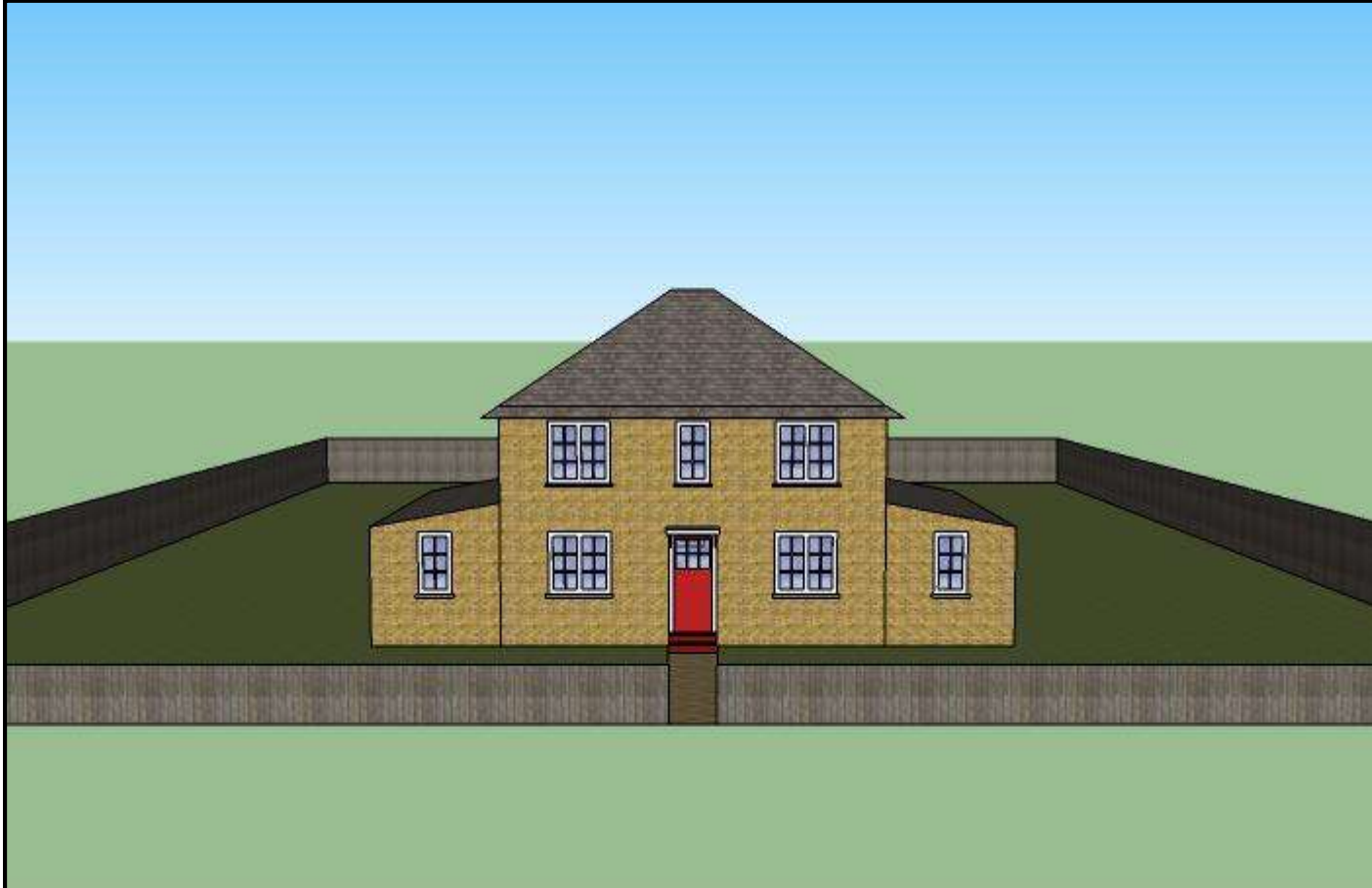
In ...

5th

... position:

“original single storey projections”

Before ...



2

... After



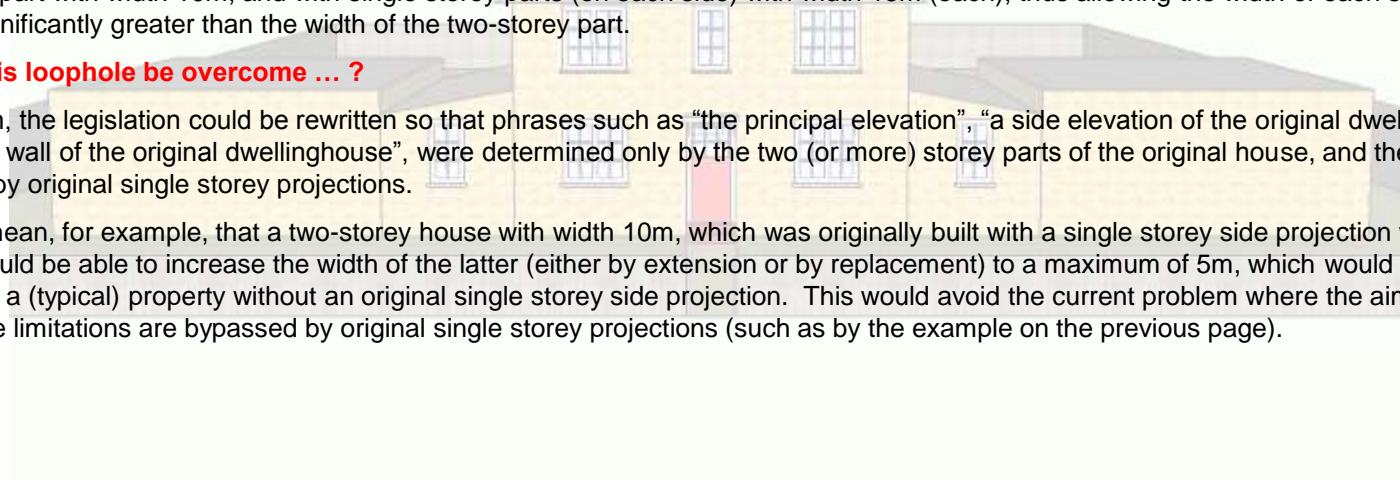
... Notes ...

What's happening here ... ?

- The legislation allows properties to add a single storey side extension (on each side) with a width up to half the width of the original house.
- So, for example, imagine a large detached two-storey house with width 10m. Such a property could add a single storey side extension on each side with width 5m. This would result in a house with a two-storey part with width 10m, and with single storey parts (on each side) with width 5m (each), thus ensuring that the width of each single storey part is significantly smaller (i.e. no more than half) than the width of the two-storey part.
- However, now imagine a large detached two-storey house with width 10m, which was originally built with a single storey side projection on each side with width 5m. In my opinion, where a property has an original single storey side projection, it would make sense if the legislation treated this as being equivalent to a property that has already been extended with a single storey side extension. However, not only does the legislation **not** do this, but the legislation actually gives a property with an original single storey side projection **more** rights to add a single storey side extension than would otherwise be the case. So, for example, a large detached two-storey house with width 10m, which was originally built with a single storey side projection on each side with width 5m, could add a single storey side extension on each side with width 10m. This would result in a house with a two-storey part with width 10m, and with single storey parts (on each side) with width 15m (each), thus allowing the width of each single storey part to be significantly greater than the width of the two-storey part.

How could this loophole be overcome ... ?

- In my opinion, the legislation could be rewritten so that phrases such as “the principal elevation”, “a side elevation of the original dwellinghouse”, and “the rear wall of the original dwellinghouse”, were determined only by the two (or more) storey parts of the original house, and therefore were not affected by original single storey projections.
- This would mean, for example, that a two-storey house with width 10m, which was originally built with a single storey side projection with width (say) 2m, would be able to increase the width of the latter (either by extension or by replacement) to a maximum of 5m, which would be the same end result as a (typical) property without an original single storey side projection. This would avoid the current problem where the aims behind several of the limitations are bypassed by original single storey projections (such as by the example on the previous page).



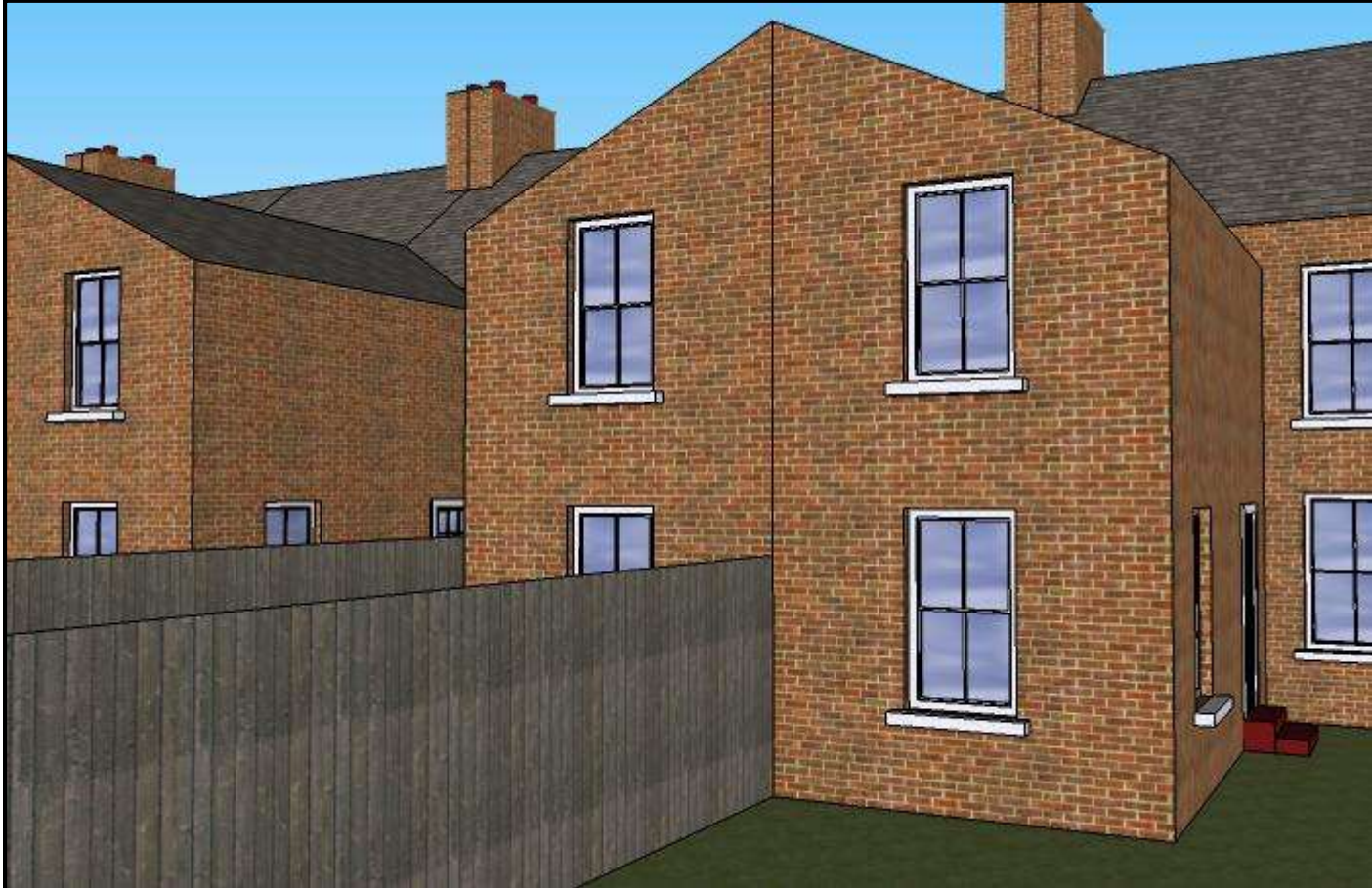
In ...

4th

... position:

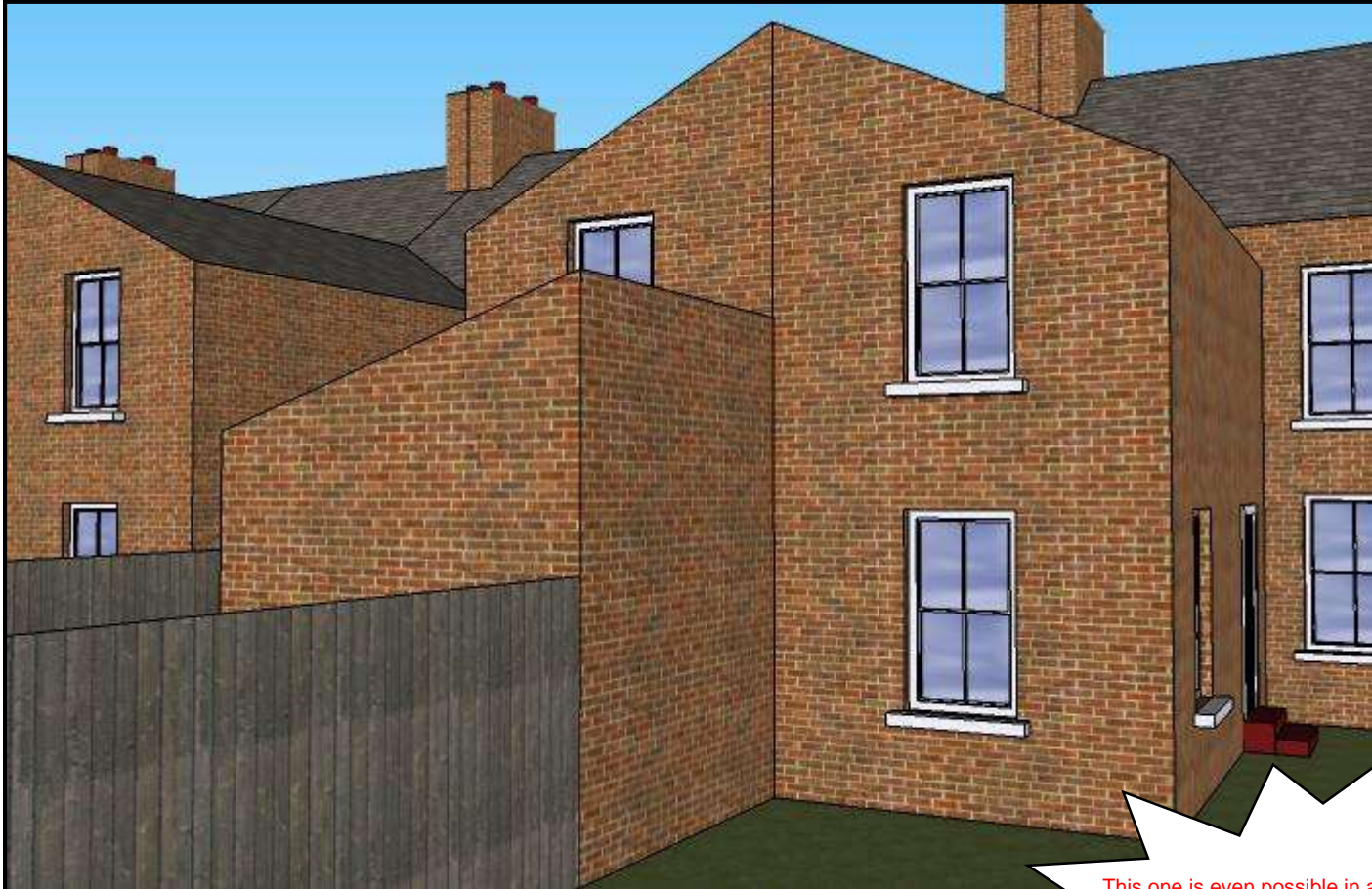
“4m high walls along boundaries”

Before ...



2

... After



This one is even possible in a National Park, an Area of Outstanding Natural Beauty, a Conservation Area, or a World Heritage Site ☺

... Notes ...

Wasn't the problem of 4m high walls along boundaries addressed by the current legislation ... ?

- It was certainly one of the aims of the new legislation to address the problem of 4m high walls along boundaries. Unfortunately, due to a lack of quality in the drafting of the new legislation, this aim wasn't properly achieved, and as a result the loophole shown on the previous page still exists.

So, what went wrong ... ?

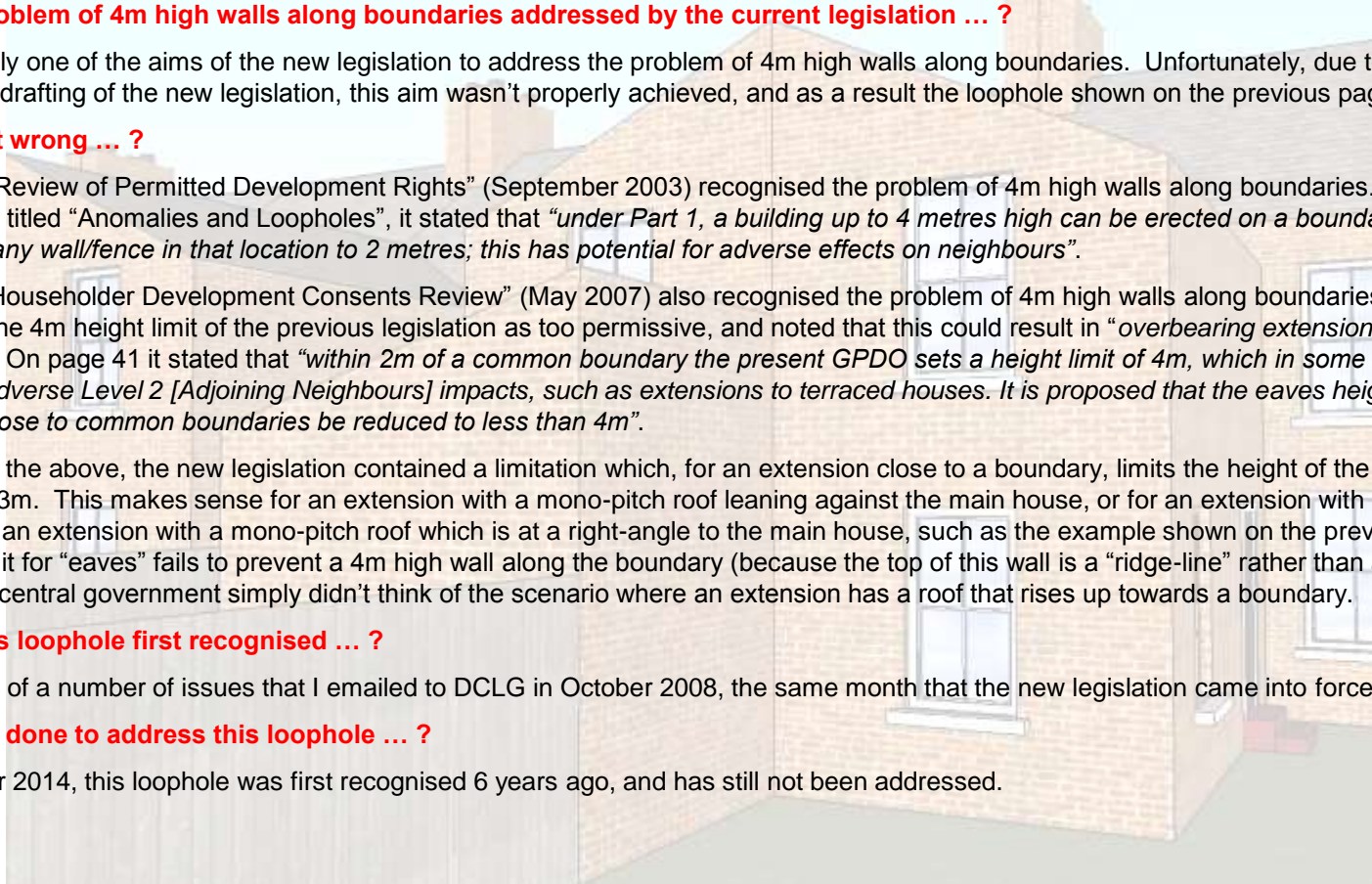
- The ODPM "Review of Permitted Development Rights" (September 2003) recognised the problem of 4m high walls along boundaries. On page 29, in the section titled "Anomalies and Loopholes", it stated that *"under Part 1, a building up to 4 metres high can be erected on a boundary wall while Part 2 limits any wall/fence in that location to 2 metres; this has potential for adverse effects on neighbours"*.
- The DCLG "Householder Development Consents Review" (May 2007) also recognised the problem of 4m high walls along boundaries. On page 36 it described the 4m height limit of the previous legislation as too permissive, and noted that this could result in *"overbearing extensions near boundaries"*. On page 41 it stated that *"within 2m of a common boundary the present GPDO sets a height limit of 4m, which in some situations can give rise to adverse Level 2 [Adjoining Neighbours] impacts, such as extensions to terraced houses. It is proposed that the eaves height of extensions close to common boundaries be reduced to less than 4m"*.
- As a result of the above, the new legislation contained a limitation which, for an extension close to a boundary, limits the height of the "eaves" to a maximum of 3m. This makes sense for an extension with a mono-pitch roof leaning against the main house, or for an extension with a hipped roof. However, for an extension with a mono-pitch roof which is at a right-angle to the main house, such as the example shown on the previous page, the 3m height limit for "eaves" fails to prevent a 4m high wall along the boundary (because the top of this wall is a "ridge-line" rather than an "eaves"). It appears that central government simply didn't think of the scenario where an extension has a roof that rises up towards a boundary.

When was this loophole first recognised ... ?

- This was one of a number of issues that I emailed to DCLG in October 2008, the same month that the new legislation came into force.

What is being done to address this loophole ... ?

- As of October 2014, this loophole was first recognised 6 years ago, and has still not been addressed.



In ...

3_{rd}

... position:

“extremely high walls along boundaries”

Before ...



2

... After



... Notes ...

Is this extension really possible ... ?

- In theory, a Council could try to argue that the edge of this extension along the (nearside) boundary constitutes an “eaves”, which would be contrary to the 3m height limit for eaves in limitation A.1(g). However, in the appeal decisions APP/Q5300/X/09/2094467 and APP/R1845/X/10/2137298, which were allowed on 04/08/2009 and 01/02/2011 (respectively), the government Inspectors concluded that the higher end of a pitched roof can **not** be taken to be “eaves”.
- In theory, a Council could also try to argue that the roof pitch of this extension would not be “the same as the roof pitch of the original dwellinghouse”, which would be contrary to condition A.3(c). However, in the appeal decisions APP/R1845/X/10/2137298 and APP/A5270/X/11/2147096, which were allowed on 01/02/2011 and 08/06/2011 (respectively), the government Inspectors concluded that where the roof of an extension would have a similar angle to the main roof, but would have a different orientation, it **is** possible for such an extension to comply with condition A.3(c).

When was this loophole first recognised ... ?

- This loophole of “extremely high walls along boundaries” is a much more extreme version of the loophole of “4m high walls along boundaries”. However, although the latter was one of a number of issues that I emailed to DCLG in October 2008, I didn’t spot this much more extreme version. The first I became aware of this loophole was when it was used by the extension that was the subject of appeal decision APP/R1845/X/10/2137298, which was allowed on 01/02/2011.

Is this the single worst loophole in the legislation ... ?

- In my opinion, “yes”. As detailed earlier in this document, the issue of “4m high walls along boundaries” was identified as a problem during the review of the previous legislation, and one of the aims of the new legislation was to address this particular problem. It’s unfortunate that, due to a lack of quality in the drafting of the new legislation, this aim wasn’t properly achieved, and that it’s still possible to erect a 4m high wall along a boundary (see the previous loophole in this document). However, it’s far worse that the changes that were made to try to **reduce** the height of walls along boundaries introduced a loophole that actually allows **much higher** walls along boundaries. For example, the extension that is shown on the previous page has height **7.28m** (!!!) along the boundary, which is much higher than the 4m maximum height that would have been allowed under the previous legislation.

What’s likely to be done about this loophole ... ?

- I very much doubt this loophole will be addressed for at least a few years. As of October 2014, some of the loopholes in this document were first recognised 6 years ago, and have still not been addressed. Some of the other loopholes in this document existed under the previous version of the legislation, and so have existed for more than 19 years. I really do not know why there does not seem to be any political motivation to address these problems. Is it the case that MPs are unaware of these loopholes, or is it the case that MPs are aware but not interested in these loopholes? Until these problems are addressed, those people who are unlucky enough to live next to someone willing to exploit the loopholes in the legislation will only be able to wonder why they’ve been so badly let down by the very poor quality of this government legislation.

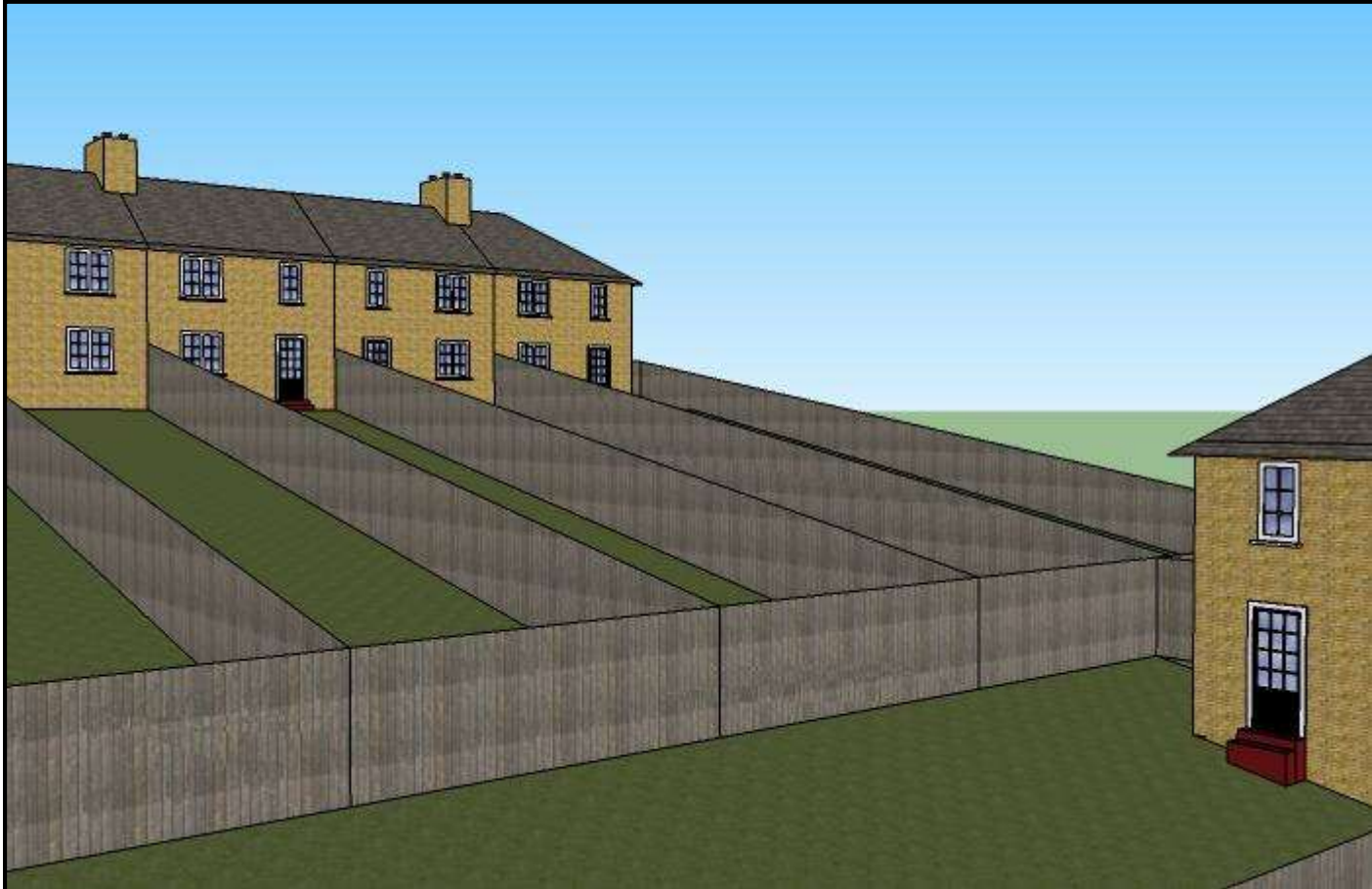
In ...

2_{nd}

... position:

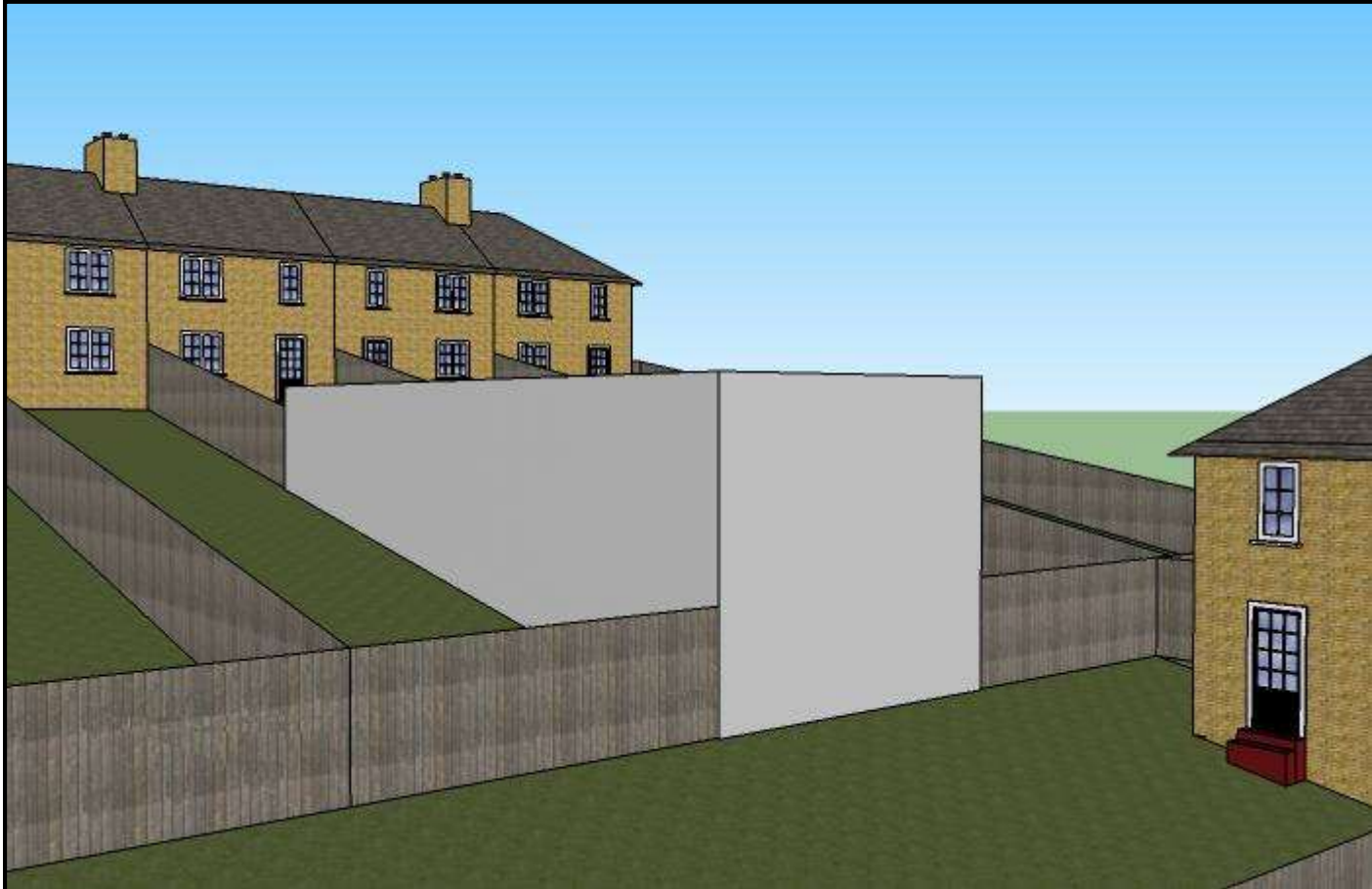
“sloping natural ground level”

Before ...



2

... After



... Notes ...

What's happening here ... ?

- The outbuilding shown on the previous page is situated on a site that has a significant slope in natural ground level. This outbuilding has a flat roof, which is 2.5m above ground level when measured on the farside of the picture, and 5.5m above ground level when measured on the nearside.
- For the reasons explained below, this outbuilding **complies** with the 2.5m maximum height limit of limitation E.1(d)(ii).

How does this outbuilding “comply” with the legislation, when its 5.5m height is greater than the 2.5m maximum height limit ... ?

- It's all due to how the term “height” is defined for the purposes of the legislation. Article 1(3) of the legislation defines “height” as follows:
*“Unless the context otherwise requires, any reference in this Order to the height of a building or of plant or machinery shall be construed as a reference to its height when measured from ground level; and for the purposes of this paragraph “ground level” means the level of the surface of the ground immediately adjacent to the building or plant or machinery in question or, where the level of the surface of the ground on which it is situated or is to be situated is not uniform, the level of **the highest part of the surface** of the ground adjacent to it”.*
- The above definition is explained by the DCLG “Technical Guidance” document as follows:
*“Where ground level is not uniform (eg if the ground is sloping), then the ground level is the **highest part of the surface of the ground next to the building**”.*
- This means that for the purposes of the legislation, the “height” of the outbuilding shown on the previous page is “2.5m”, regardless of the fact that one end of the outbuilding is 5.5m above ground level.

What is being done to address this loophole ... ?

- This loophole was exactly the same in the previous version of the legislation, and has been widely known by many planning officers for many years. The ODPM “Review of Permitted Development Rights” (September 2003) recognised this loophole, and made the following recommendation:
“Where there is a difference in natural ground level between two sites, if any part of the building proposed comes within 2 metres of the boundary of the adjoining premises, the height should be measured from the lower natural ground level”.
- The subsequent government review documents did not appear to address the above recommendation, and this loophole was therefore retained in the current version of the legislation.
- As of October 2014, this loophole has existed for **more than 19 years**, and has still not been addressed.

In ...

1st

... position:

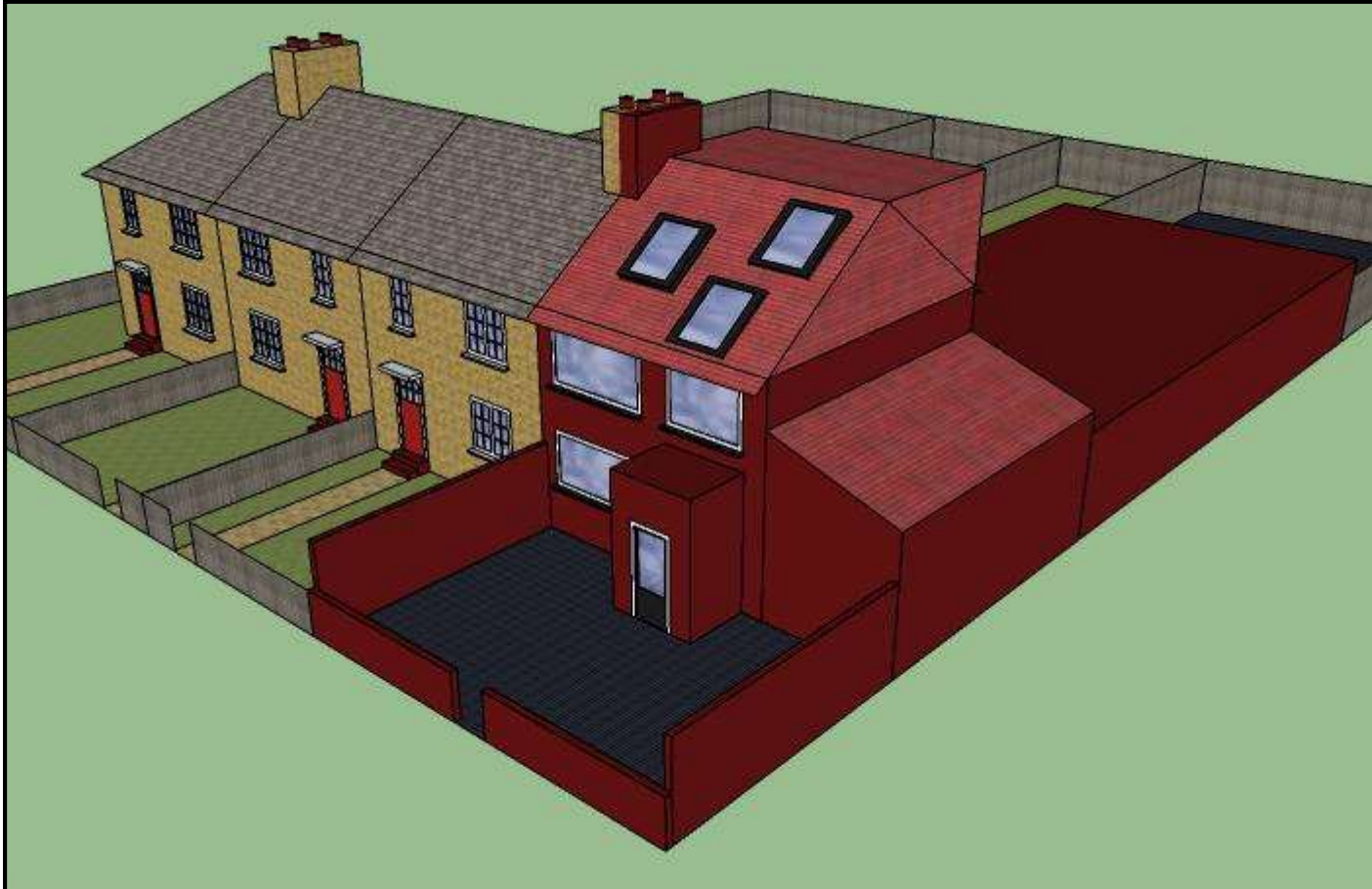
“the as-much-as-possible”

Before ...



2

... After

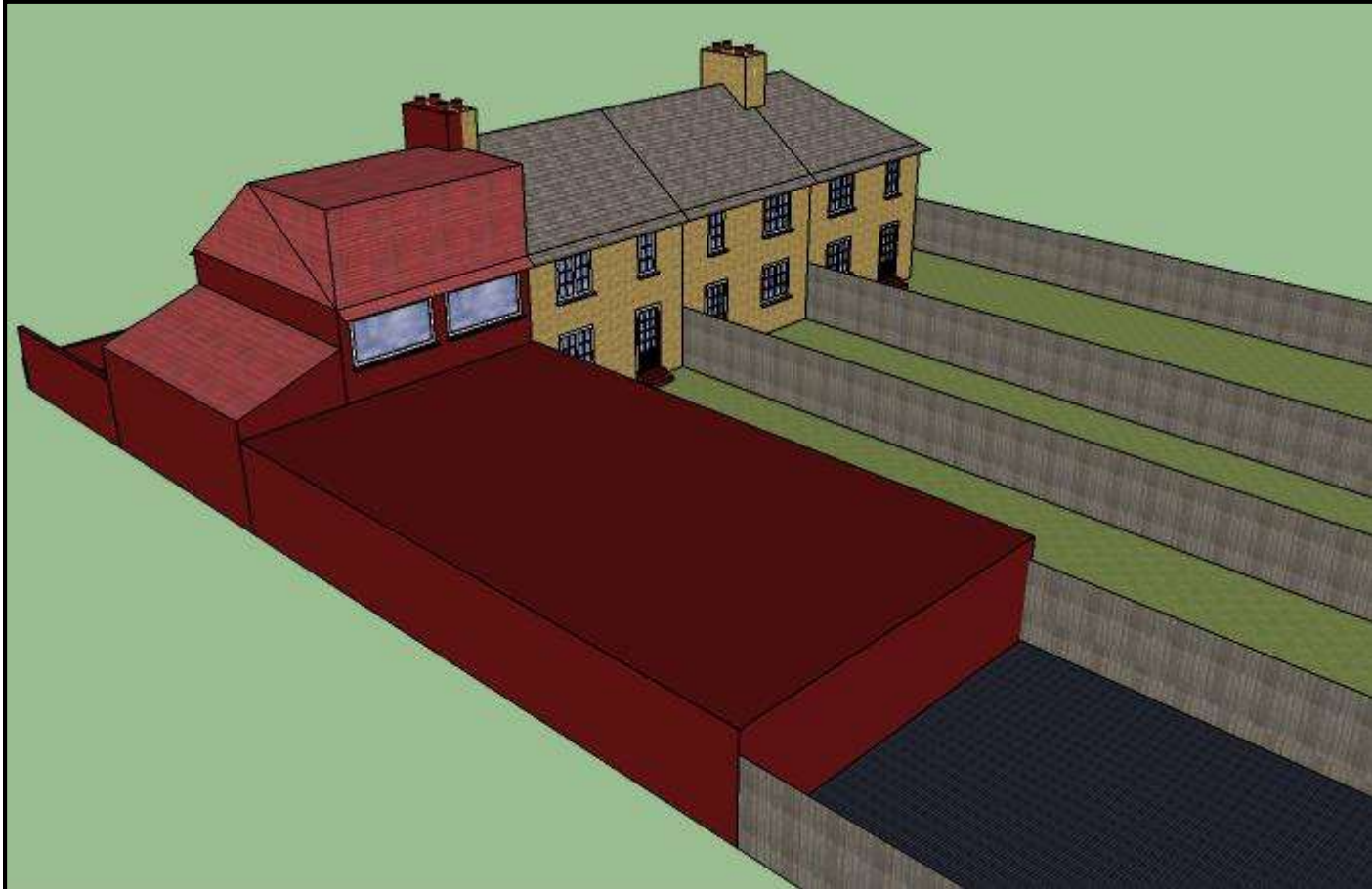


Before ...



2

... After



... Notes ...

Which Classes of the legislation allow the extensions and alterations shown on the previous page ... ?

- Class A: allows the replacement or insertion of windows (with no restrictions on the number, position, or size of the new windows).
- Class A: allows the single storey side extension.
- Class B: allows the hip-to-gable roof extension and the full-width rear dormer.
- Class C: allows the re-roofing of the front roof slope (with no restrictions on materials).
- Class C: allows the insertion of front rooflights (with no restrictions on the number, position, or size of the rooflights).
- Class D: allows the erection of the front porch (with no restrictions on materials).
- Class E: allows the erection of the outbuilding (with no proper restrictions on the size of its footprint, or on its proximity to the main house).
- Class F: allows the hardstanding in the gardens (with no restrictions on the area covered, so long as the porous requirement is met).
- Part 2 Class A: allows the erection of walls, fences, gates, etc.
- Part 2 Class C: allows the painting of any part of the existing building (including the painting of previously unpainted brickwork).

What would happen if the property shown on the previous page was flats, rather than a house ... ?

- If the property was flats, then the only government permitted development rights it would benefit from would be Part 2 Class A (erection of walls, fences, gates, etc), and Part 2 Class C (painting). This means that all of the alterations and extensions shown on the previous page, apart from the boundary walls and the painting, would require planning permission from the Council, and most of them would be refused planning permission.
- Indeed, the contrast between houses and flats illustrates that government permitted development legislation has significant problems at both extremes. At one extreme, houses have so many rights that they can be altered and extended beyond all recognition, as shown by the example on the previous page. At the other extreme, flats have so few rights that they can't even replace their windows and doors, insert a modest rooflight, or erect a small shed in their rear garden, without having to apply for planning permission from the Council.

What other significant contradictions are there ... ?

- The 350 (or so) local authorities in England spend a combined total of several hundred million pounds per year on planning policy and development management. A significant proportion of this amount is spent in an attempt to ensure (albeit with varying degrees of success) that those extensions that require planning permission from the Council are acceptable, both in terms of appearance and neighbour impact. And yet, because the majority of extensions are built under government permitted development legislation, whatever these 350 (or so) local authorities achieve is more than negated due to the very poor quality of central government legislation. It's a major contradiction that so many millions of pounds are spent trying to ensure that a minority of extensions are acceptable, whilst the majority of extensions are allowed to be unacceptable simply due to the very poor quality of central government legislation, which would cost only a comparatively tiny amount of money to correct.

**More in-depth notes about
Part 1 of the GPDO**

More in-depth notes about Part 1 of the GPDO – page 1:

Do the 10 examples in this document cover all of the problems with the legislation ... ?

- No. Indeed, the examples given by this document represent only the “tip of the iceberg” of the problems and flaws of the legislation. This document only covers some of the **loopholes** in the legislation – i.e. development that is allowed that was never intended to be allowed. A far bigger problem that is not covered by this document is all of the **ambiguities** in the legislation – i.e. phrases in the legislation that were written so badly that it's impossible for people to know how to interpret them.
- For example, the legislation was so unclear that when it came into force some Councils believed that a single storey rear extension with a flat roof could have height up to 4m (and issued certificates for extensions with height 4m) whereas other Councils believed that such an extension could have height no more than 3m (and refused certificates for extensions with height greater than 3m). As another example, some Councils believed that the legislation allowed a typical side infill extension to be erected, whereas other Councils believed the opposite. As another example, some Councils believed that the legislation allowed timber windows to be replaced by UPVC windows, whereas other Councils believed the opposite. There were many, **many** such examples.
- These ambiguities were largely resolved by the DCLG “Technical Guidance” document, which was published in August 2010 (and updated in January 2013, October 2013, and April 2014). However, for the first two years after the legislation came into force, from October 2008 until August 2010, these ambiguities caused very significant problems around the country, resulting in thousands of incorrect decisions.
- For example, using conservative estimates, I calculated that at least 26% of appeal decisions (relating to permitted development legislation) issued by government Inspectors between October 2008 and August 2010 contained a legal interpretation of the legislation that was subsequently shown to be incorrect. It's a very strong reflection of the very poor quality of this government legislation that not even government Inspectors were able to interpret various parts of it.
- For more information about the ambiguities in the legislation, please see the “**Part 1 of the GPDO - Ambiguities**” document on www.planningjungle.com. For more information about the appeal decisions relevant to the legislation, please see the “**Part 1 of the GPDO - GENERAL Appeal Decisions**” document on www.planningjungle.com.

Have I made the 10 examples in this document appear worse than they need to be ... ?

- I've obviously chosen relatively extreme examples to illustrate the loopholes in this document. However, I've tried to use realistic dimensions for all of the illustrations, and for most of the illustrations I've seen similar examples either completed in real life or allowed in appeal decisions.
- It should be noted that for most of the extensions shown in this document, I've not included windows. Whilst it could be argued that windows with a decent design would improve the appearance of some of these extensions, it could also be argued that windows with a poor design would worsen the appearance of some of these extensions. It should also be noted that for all of the extensions shown in this document I've used materials to match existing, whereas the legislation only requires materials to be “of a similar appearance” to existing – the leeway allowed by the latter would worsen the appearance of some of these extensions.

More in-depth notes about Part 1 of the GPDO – page 2:

Are most of these loopholes and ambiguities only apparent with the benefit of hindsight ... ?

- No. The majority of the main loopholes and ambiguities in the legislation were identified by the early versions of the “**Part 1 of the GPDO - Ambiguities**” document, the first version of which I produced on 3-4 October 2008. This was just 3 days after the legislation came into force, and was before any benefit of hindsight was available from seeing any applications based on the new legislation. My impression is that many other Council planning officers around the country were very quickly able to identify major problems with the legislation, again before any benefit of hindsight was available. In my opinion, there was **no good reason** why most of the main loopholes and ambiguities were not identified (and corrected) by DCLG prior to the release of the final version of the legislation.
- You would assume that something as important as national legislation would be drafted by experienced planning officers, would be thoroughly checked by other experienced planning officers, and then would be thoroughly checked by experienced legal officers. The fact that this piece of legislation contained so many very basic errors, and was such poor quality, reflects very poorly on the procedures that were used to create it.

Is the very poor quality of permitted development legislation a new problem ... ?

- This does not appear to be a new problem. Several versions of permitted development legislation have been produced and released since 1948, and in my opinion all of them have contained very significant problems and flaws.
- For example, the 1973 version of the legislation allowed people to erect very large front dormers. This appears to have been due to a failure, when drafting the legislation, to realise that the restriction in the legislation against an extension projecting beyond “*any wall ... which fronts a highway*” would not prevent front dormers (because they project beyond the front roof slope rather than beyond the front wall). As a result, a significant minority of rows of terraces throughout the country have had their appearance significantly harmed by this mistake.
- As another example, the 1995 version of the legislation allowed people to install a roof terrace on the flat roof of a single storey rear extension. As a result, a significant minority of people who live in terrace houses have had their privacy significantly harmed by this mistake.
- I find it extremely frustrating that something as important as national legislation, which affects the quality of life of millions of people, can still be so badly written after almost 60-70 years of work by so many people. Can this really not be done any better ... ? What is wrong with the process of producing this type of legislation such that all of the “boxes” can be ticked from a procedural point of view (e.g. review papers, public consultations, checking, etc), and yet still the end result is a very poor quality piece of legislation ... ?

More in-depth notes about Part 1 of the GPDO – page 3:

Is the process of producing this type of legislation any better in Northern Ireland, Scotland, or Wales ... ?

- Unfortunately, the answer is mixed. In my opinion, most of the following reflects very poorly on these other central government departments:
- **Northern Ireland:** The Northern Ireland government introduced their new system of permitted development legislation in April 2011. Despite the fact that for the previous **two and a half years** the English legislation had been highly criticised by LPAs, agents, and members of the public, the Northern Ireland government chose to **very closely** base their new legislation upon the English legislation. In my opinion, this was a very poor decision. Admittedly, the Northern Ireland government has introduced a very significant change to Class B to require roof extensions to be set-back from the ridge-lines, eaves, and side boundaries by 0.5m, and has also introduced several other relatively minor changes, including an additional restriction when there is a road to the rear of the property. However, apart from this, the new Northern Ireland legislation is a very close copy of the English legislation, and therefore contains almost all of the same loopholes. For example, with reference to the **loopholes** in this document, the new Northern Ireland legislation allows all of **10, 9, 8, 5, 4, 3, 2**, and most of **1**.
- **Scotland:** The Scottish government introduced their new system of permitted development legislation in February 2012. The good news is that the Scottish government did **not** base their new legislation upon the English legislation. The bad news is that they managed to create a piece of legislation that is **even worse**. For example, the Classes of the new Scottish legislation would allow the following:
 - Class 1A: For properties outside of a conservation area, this Class would allow unlimited front extensions (where the principal elevation doesn't front a highway), unlimited side extensions (in almost all cases), and unlimited rear extensions (where the extension isn't within 1m of a boundary).
 - Class 1B: For properties outside of a conservation area and set within significant grounds (such that the extension would not be within 10m of a boundary), this Class would allow unlimited front extensions (where the principal elevation doesn't front a highway), unlimited side extensions (in almost all cases), and unlimited rear extensions, and each of these extensions could have a flat roof as high as the ridge-line of the existing house.
 - Classes 1C and 2B: For properties outside of a conservation area, these Classes would allow loophole number 8 ("excessive front alterations").
 - Class 1D: For properties outside of a conservation area, where the principal elevation doesn't front a highway and the property has a large front garden, this Class would allow front dormers.
 - Class 3A: For properties outside of a conservation area, this Class would allow loophole number 9 ("massive outbuildings").
 - Class 3B: Despite the fact that Class 3A would require an outbuilding next to a boundary to be no higher than 2.5m, it appears that Class 6A would then unintentionally allow such an outbuilding to be as high as 3.0m.
- **Wales:** The Welsh government introduced their new system of permitted development legislation in September 2013. Although the Welsh government chose to base their new legislation upon the English legislation, the good news is that they also made a number of **significant changes**. Overall, the Welsh legislation appears to be a significant improvement over the English legislation, particularly the fact that a significant effort has been made to address some of the unintended consequences of the English legislation. However, there are also some very significant missed opportunities. In my opinion, it would have been far better if the Welsh legislation had been rewritten from first principles, rather than being based upon the English legislation. It should be noted that the resulting Welsh legislation is relatively complicated to read and understand, which in my opinion is a result of trying to adjust and fix the English legislation, rather than starting from first principles. It is also very disappointing that the Welsh legislation still contains a number of flaws from the English legislation. For example, with reference to the **loopholes** in this document, the new Welsh legislation allows all of **7, 6, 4**, most of **9, 1**, and some of **8, 5**.

More in-depth notes about Part 1 of the GPDO – page 4:

How does the very poor quality of this permitted development legislation reflect on the previous Labour government ... ?

- In my opinion, very poorly. The current version of the legislation was released on 01/10/2008, and was therefore produced under the responsibility of the Labour government (1997-2010). This was a very poor quality piece of legislation, and in my opinion there was no good reason why most of the main loopholes and ambiguities were not identified (and corrected) by DCLG prior to the release of the final version of the legislation. I also do not believe that there was any good reason why the legislation was released without any associated definitions or any associated guidance document. Even worse, despite the fact that this piece of legislation caused very significant problems around the country from the very start, it took DCLG almost two years (from October 2008 until August 2010) to produce their “Technical Guidance” document. All of these events occurred under the responsibility of the Labour government.

How does the very poor quality of this permitted development legislation reflect on the current Coalition government ... ?

- In my opinion, very poorly. Although the current version of the legislation was released prior to the Coalition government (2010-present), the latter does not appear to have shown any recognition of any of these problems, either for the first one and a half years before it was in power (from October 2008 until May 2010) or for the second four and a half years whilst it has been in power (from May 2010 until present). For example, the Conservatives “Open Source Planning Green Paper”, which was released in February 2010, failed to recognise any of the problems with the current version of the legislation, and instead simply proposed “*extending the scope of permitted development*”. Similarly, the Coalition government’s “The Plan for Growth”, which was released in March 2011, simply proposed “*bring[ing] forward proposals to extend Permitted Development rights*” without recognising any of the problems with the current legislation. Despite the fact that this piece of legislation has caused very significant problems around the country for six years (from October 2008 until present), it appears that the Coalition government is either unaware of these problems, or aware but not interested in these problems.

More in-depth notes about Part 1 of the GPDO – page 5:

Am I absolutely certain about all of the legal interpretations upon which the examples shown in this document are based ... ?

- In short, no. There are many parts of this legislation for which it is very difficult (if not impossible) to be certain of the correct legal interpretation, particularly as some of the ambiguities in the legislation have not been addressed either by the DCLG “Technical Guidance” document or by any appeal decisions. Furthermore, as shown by the **“Part 1 of the GPDO - GENERAL Appeal Decisions”** document, most of the legal interpretations supported by appeal decisions have been contradicted by at least one other appeal decision. In my opinion, all the examples shown in this document are based upon legal interpretations that are either supported by the DCLG “Technical Guidance” document or (where the latter is silent) are supported by the majority of relevant appeal decisions (which, in some cases, will just be a single appeal decision). However, it may still be possible for a Council to argue that some of the examples shown in this document are not permitted development on the basis of alternative legal interpretations, particularly because the DCLG “Technical Guidance” document is only “guidance” and appeal decisions do not set a precedent.

As the author of this document, am I anti-development ... ?

- It's true that I believe that certain aspects of permitted development legislation should be made more restrictive. For example, although I believe that permitted development legislation should allow relatively large rear dormers, I don't believe that it should allow full-width rear dormers. As another example, I believe that the 4m maximum height limit for single storey rear extensions is unnecessarily high, and can have too great an impact upon neighbour amenity. As another example, I believe that all of the loopholes shown in this document should be closed.
- However, I also believe that certain aspects of permitted development legislation should be made more permissive. For example, I believe that permitted development rights should be expanded to cover flats, so that a house converted into flats would be able to undertake most of the same types of alterations and extensions as a typical house, such as a rear dormer, a single storey rear extension, etc. As another example, I believe that the legislation should allow standard side infill extensions, subject to appropriate limitations and conditions. As another example, I believe that the legislation should allow the reinstatement of certain original features, such as a front turret that has previously been removed.
- In my opinion, arguments as to whether the legislation should be “more permissive” or “more restrictive”, as if the answer is either one or the other, miss the point. The key point is that the overall “quality” of the legislation needs to be improved. It's a secondary point that this would involve making the legislation more permissive in some parts and more restrictive in other parts.

More in-depth notes about Part 1 of the GPDO – page 6:

What do I think should be done to address the very poor quality of this permitted development legislation ... ?

- In my opinion, the only proper solution to these problems would be to **rewrite** the legislation. The current version of the legislation is so badly written that even with further government guidance it would still contain many loopholes and a number of ambiguities. For example, most (if not all) of the loopholes shown in this document are due to such fundamental flaws in the drafting of the legislation that they would still exist no matter what government guidance is released.
- It's likely to be argued that in the current economic climate it's not financially affordable to rewrite the legislation. However, in my opinion, this would be an **extremely** poor argument. I'm willing to guess that the very poor quality of the legislation has already wasted in the order of millions of pounds around the country, which is significantly more than the amount of money it would cost to correct the legislation. The very poor quality of the legislation has resulted in significant delays to development due to agents submitting applications based on certain interpretations and Councils refusing them based on different interpretations. It has resulted in Councils having to use a disproportionate amount of resources trying to interpret the legislation, including having to seek legal opinions. It has also resulted in Councils having to use significant amounts of public money taking enforcement action against members of the public who have misunderstood the legislation. I would argue that in the current economic climate it's not financially affordable **not** to rewrite the legislation.
- Besides, this is legislation that affects the quality of life of millions of people. The very poor quality of the legislation is extremely unfair and unjust on those people who are unlucky enough to live next to someone willing to exploit the loopholes in the legislation. Anyone who argues that rewriting the legislation is not justifiable should ask themselves if they would continue to hold this view if their next-door neighbour were to build some of the loopholes shown in this document.

More in-depth notes about Part 1 of the GPDO – page 7:

Where is it possible to find out more information about permitted development legislation ... ?

- For more information, please visit **the Planning Jungle website** (www.planningjungle.com), which provides **one of the most comprehensive** resources available relating to **householder permitted development** legislation. The above website includes the following:
 - The “[Free Documents](#)” page provides a list of all of the documents on the above website that are accessible by **non-members**.
 - The “[Part 1 of the GPDO - Visual Guide](#)” document provides a **visual guide** to householder permitted development legislation.
 - The “[Part 1 of the GPDO - Official Documents](#)” page provides **easy-to-use reference links** to official documents relating to householder permitted development legislation.
- The latter page on the Planning Jungle website includes links to most of the sources referred to in this document, including the legislation itself, the DCLG “Technical Guidance” document, and the government review papers. For reference, the sources referred to in this document that are **not** included on the above page are as follows:
 - The UN “Convention Concerning the Protection of the World Cultural and Natural Heritage” (1972) is available [here](#).
 - The Northern Ireland government’s adopted permitted development legislation (April 2011) is available [here](#).
 - The Scottish government’s adopted permitted development legislation (October 2011) is available [here](#).
 - The Welsh government’s adopted permitted development legislation (September 2013) is available [here](#).
 - The Coalition government’s “Plan for Growth” (March 2011) is available [here](#).