

DETERMINATION OF COMPLIANCE WITH REQUIREMENT B1 (MEANS OF WARNING AND ESCAPE) IN PART B (FIRE SAFETY) OF SCHEDULE 1 TO THE BUILDING REGULATIONS 2000 (AS AMENDED), IN RESPECT OF A LOFT CONVERSION

The proposed work and question arising

4. The papers submitted indicate that the building to which this determination relates is a two storey, mid terrace house with: two bedrooms and a bathroom on the first floor; a living room, kitchen and conservatory on the ground floor; with an entrance hall and a stair leading to a first floor landing.

5. The proposed building work comprises the conversion of the loft area (roof space) to form an additional en-suite bedroom and other ancillary work. Access to the new second floor is proposed from a new stair from the first floor landing leading to an open loft area/room without a door. The stair enclosure is formed by fire resisting doors and partitions at ground and first floor levels. You also state that each bedroom window will be an escape/egress window and that interlinked smoke and heat detection will be provided at each level of the house.

6. The above proposed work was the subject of a full plans application which was rejected by the Council on 21 December 2009 on the grounds that your plans do not provide for a protected stairway at second floor level and do not therefore comply with Requirement B1 (Means of warning and escape) in Part B (Fire safety) of Schedule 1 to the Building Regulations 2000 (as amended). However, your client wishes to have an open loft area/room and you consider that your proposals demonstrate compliance with Requirement B1. It is in respect of this question that you have applied for a determination.

The applicant's case

7. You take the view that the circumstances of this case are "almost precisely similar" to a previous appeal to the Secretary of State and you have enclosed a copy of the decision in that case to support your position.

8. You explain that your client wishes to provide an open loft area not only to serve as a bedroom but as an extension of her living space. However, you consider that you have taken steps to ensure that the fire safety aims of the Building Regulations can be met within the submitted proposals so that the safety of the occupants of the loft room is not compromised.

9. You believe that the main considerations in this case are the safety of the occupants of the new loft room should a fire occur elsewhere in the house and the impact of the proposed work on the safety of the occupants of the lower storeys. You point out that the escape route (stairway) from the loft room will be protected

from the accommodation at every level other than from the loft room itself. This will provide, in so far as the occupants of the loft room are concerned, the same level of safety as would be afforded by a conventional protected stairway. As such, there would be no need for a fire door to provide safe refuge for the occupants of the loft room.

10. However, you accept the effect of the proposal to omit a door to the loft room will mean that the rooms at ground and first floor levels will become 'inner rooms' and you say you have therefore provided suitable windows to allow safe escape for the occupants of such rooms in an emergency.

11. In response to the Council's comments on your determination application (below) and its concern regarding the position of the first floor escape window on the rear elevation over a conservatory, you provided a photograph and details relating to the roof of the conservatory attached to the ground floor rear wall and state that your client would - as a condition of approval of her proposals - be willing to replace the material of the roof of the conservatory with toughened glass capable of withstanding impact and increased loading likely in the event of emergency use. You also reiterated that the existing bedroom windows would each meet the criteria for egress windows described in paragraph 2.8 of the guidance in Approved Document B (Fire safety, Volume 1 - Dwellinghouses).

The Council's case

12. The Council takes the view that the lack of a protected stairway at second floor level in this case is not in accordance with the guidance in paragraphs 2.6a and 2.20b of Approved Document B.

13. The Council considers that should a fire occur within the proposed loft room the omission of a fire resisting door and enclosure to the top storey could result in smoke quickly obstructing the escape route for the occupants of the rooms at ground and first floor levels. These rooms should therefore be considered as inner rooms within the definition contained in Appendix E and paragraph 2.9 of Approved Document B. Paragraph 2.9 states that an inner room arrangement is only acceptable where rooms on a floor not more than 4.5m above ground level are provided with an emergency egress window which complies with paragraph 2.8. The drawing submitted to the Council indicates an escape window to the first floor bedroom on the rear elevation but not to the first floor bedroom on the front elevation.

14. The drawing also indicates a conservatory directly beneath the escape window on the rear elevation. The Council believes that most conservatory roofs are constructed from lightweight materials and glazing or polycarbonate sheets and are not capable of sustaining the impact of a person jumping onto them from a window at a higher level and walking across them. The Council has not received supporting information to justify the ability of the existing conservatory to support this type of impact and loading.

15. The Council concludes therefore that your plans do not comply with Requirement B1 as the egress route from the first floor bedroom window on the

rear elevation is not proven to be a safe route and an emergency egress window in accordance with paragraph 2.8 of Approved Document B has not been provided to the first floor bedroom on the front elevation.

The Secretary of State's consideration

16. The Secretary of State has given careful consideration to the particular circumstances of this case and the arguments presented by both parties. He notes that he is being asked to determine whether the plans of the proposed building work to convert a loft into a habitable room are in conformity with Requirement B1 of the Building Regulations.

17. You have acknowledged that, without an enclosure to the stair at the proposed second floor level, there is a need for escape windows from the first floor bedroom windows and have indicated that these will be provided. However, the copies of the drawings submitted to the Council and to the Secretary of State indicate an escape window in the first floor bedroom on the rear elevation but not in the first floor bedroom on the front elevation.

18. With regard to the Council's concern about the escape route from the first floor window on the rear elevation, your client has also indicated her willingness to address the detailed design of the conservatory roof to achieve compliance, but you have not submitted any detailed proposals in this respect.

19. The Secretary of State considers that your plans could easily be amended to show compliance by providing these missing details and the Council has not suggested that it has any further objections in relation to Requirement B1. He observes that the dispute in this case relates mainly to a failure to adequately communicate your proposals rather than any fundamental technical differences.

The determination

20. The Secretary of State considers that your plans relating to the loft conversion in question, do not demonstrate adequate provision for means of escape in case of fire. He has therefore concluded and hereby determines that the plans of the proposed building work do not comply with Requirement B1 (Means of warning and escape) in Part B (Fire safety) of Schedule 1 to the Building Regulations 2000 (as amended).

21. You should note that in the application of building regulations to the proposed building work, it is relevant when that work begins. Where the work - which as in your case is the subject of full plans deposited with the Council before 1 October 2010 - is started before 1 October 2011 the Building Regulations 2000 (as amended) will apply and the Secretary of State has made his determination on this basis. But if the work is started after that date, the consolidated Building Regulations 2010 will apply instead. However, although you should be aware of this, in most cases there will be no difference in practice as the substantive provisions will not have changed.

22. You should also note that the Secretary of State has no further jurisdiction in this case and that any matters that follow should be taken up with the building control body.