

BUILDING ACT 1984 - SECTION 16(10) (a)

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 PROPOSED GALLERY

The proposed work and question arising

4. The papers submitted indicate that the existing building to which this determination relates is a two storey semi-detached dwelling with a living and dining room, kitchen and garage on the ground floor and three bedrooms and a bathroom at first floor level.

5. The proposed building work comprises the remodelling of the house including a two storey side extension in place of the existing garage. This extension creates a fourth bedroom (bedroom 4) at first floor level and the loft area over the existing two storey house is to be converted to form a gallery space accessed from and overlooking the bedroom. Bedroom 4 is approximately 7m x 2.5m on plan, some of which is taken up by a landing space from the existing stairway and by the new stair leading up to the gallery. The gallery area is approximately 3.3m x 5.6m.

6. The proposed work was the subject of a full plans application which was approved by the Council on 26 March 2009. However, this was on the basis that the conversion of the loft area would be used for storage purposes only. The Council received amended plans on 29 May 2009 indicating a change in the classification of the loft area from being used for storage purposes only to a gallery. Following further deliberations, the Council decided that there was insufficient evidence to determine that the gallery, if used for habitable purposes, would comply with Requirement B1 (Means of warning and escape) in Part B (Fire safety) of Schedule 1 to the Building Regulations 2000 (as amended). As you consider that the increased measures you have provided demonstrate compliance with Requirement B1 you have applied for a determination in respect of this question.

The applicant's case

7. You take the view that the means of escape from the proposed gallery meets the guidance in paragraph 2.12 of Approved Document B (Fire safety, Volume 1 - Dwellinghouses), (ADB1) for galleries. You argue that: the gallery overlooks 100 per cent of the room below; the travel distance between the foot of the gallery access stair and the door to the room is 2.6m; and that the maximum distance from head of the stair to any point on the gallery is 6.3m. You also state that there will be an emergency escape window to the front of bedroom 4 which can be used should a fire occur elsewhere in the house.

8. You have also provided additional fire protection and warning measures as follows:

- Optical smoke detection will be provided to the gallery, bedroom 4 from which the gallery is accessed, and the stair enclosure of the existing dwelling.
- A fire door will be provided to the entrance to bedroom 4 to separate the existing stair enclosure from the bedroom from which the gallery is accessed.
- The gallery is to be used as a playroom and will not be permitted to be used for sleeping accommodation.

9. In your opinion paragraph 2.12 of ADB1 allows designers to create a limited floor space for a gallery without an alternative means of escape. Adhering to items a-d of this guidance ensures that escape can be safely made through the main body of the room and you believe that you have met all of these requirements and that the work therefore complies with Requirement B1 of the Building Regulations. Furthermore, you take the view that you have proposed additional safety precautions beyond the compliance requirements of a gallery as noted in paragraph 8 above.

The Council's case

10. The Council does not share your opinion that the proposed gallery overlooks 100% of the room below. Due to the nature of the gallery within the triangular roof space and the narrowing of the opening through which the gallery is accessed from the room below, the Council considers that the gallery does not overlook the minimum 50% of the room below as recommended by paragraph 2.12a and Diagram 5 of ADB1. The Council acknowledges that this is a matter of opinion and not fact.

11. The Council takes the view that the definition of what constitutes a gallery space contained in current guidance in ADB1 is not clear. In the wider context, the Council considers that the proposed gallery in this case is in effect a loft conversion over an existing two storey house, albeit one that is ancillary to a new first floor bedroom. The Council believes that creating a habitable gallery within the loft represents a greater level of risk than that for which guidance is provided in ADB1 in relation to galleries. In recognising that ADB1 provides methods of compliance only for the more common design arrangements, the Council considers that on this occasion to apply the guidance of ADB1 in respect of galleries is not appropriate to the specific circumstances of your proposal.

12. The Council concludes with its view that the matter on which a determination from the Secretary of State is sought is whether it is appropriate to define the converted loft area in this case as a 'gallery' within the terms of Appendix E in ADB1. If so, the question arises as to whether the proposed gallery does or does not overlook at least 50% of the room below, to the extent that the guidance in paragraph 2.12 of ADB1 can be used as evidence that the proposal meets with Requirement B1 of the Building Regulations.

The Secretary of State's consideration

13. The Secretary of State has given careful consideration to the particular circumstances of this case and the arguments presented by both parties. He notes he has been asked to make a determination in respect of Requirement B1 of the Building Regulations relating to the means of escape from the proposed gallery. You consider that your fire safety precautions relating to the gallery exceed the guidance in ADB1, whereas the Council questions in particular whether the gallery should be regarded as a loft conversion therefore requiring different provisions for means of escape.

14. The Secretary of State takes the view that a judgement must be made in respect of gallery arrangements as to whether it is reasonable to regard the gallery and its access room as being effectively one (split level) space with two interacting areas, or whether they should be regarded as two independent rooms.

15. In the first instance it would be reasonable to expect a person on the gallery to be aware of anything happening in the access room, whereas in the latter a person in what would be an inner room would be less likely to be aware of and be able to respond to, a fire in the access room. A key factor in this judgement is the visibility between the two areas and how the two areas physically connect with one another.

16. In your case, you consider that the proposed gallery overlooks 100% of its access room. The Council, however, does not share this view due to the nature of the gallery within the triangular roof space and the narrowing of the opening through which the gallery is accessed, although it is acknowledged that this is a matter of opinion.

17. In addition you have also proposed the provision of a smoke alarm in bedroom 4 and a fire resisting door at the entrance to the room which is also served by an escape window. Whilst the use of a smoke alarm is not considered to be equivalent to a visual connection between the two spaces, the Secretary of State considers that such an alarm would provide some valuable benefit in this case. The door and window would also provide some benefit but this would not be directly relevant to the question of escape from the gallery should a fire occur in bedroom 4, which is central to this case.

18. You have indicated that the gallery is to be used as a playroom in conjunction with bedroom 4, but not as sleeping accommodation. The Secretary of State takes the view that it is unrealistic to attempt to restrict the use of any particular space in a dwelling and that the gallery may well be used for sleeping and this should be a material consideration.

19. The Secretary of State recognises that, in this case, the degree of visibility from the proposed gallery into bedroom 4 is to some extent restricted. However, taking into account the relatively small size of the bedroom below and their inter-relationship to each other, the two levels would, most likely, be used in conjunction with one another. Therefore, given this inter-relationship between the gallery and bedroom, and the provision of a smoke alarm to the gallery, the bedroom from which the gallery is accessed and the stair enclosure of the existing dwelling, it would be reasonable to treat both levels as being part of the same bedroom. As such, the Secretary of State considers that your proposals relating to the provision of a gallery, as submitted, make adequate provision for means of escape in case of fire.

The determination

20. The Secretary of State has concluded and hereby determines that the plans of your proposed building work, relating to the provision of a gallery, 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 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.