

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

DETERMINATION OF COMPLIANCE WITH REQUIREMENT B1 (“MEANS OF WARNING AND ESCAPE”) OF THE BUILDING REGULATIONS 2000 (AS AMENDED) IN RESPECT OF BUILDING WORK TO CONVERT A RETAIL SHOP AND ANCILLARY RESIDENTIAL ACCOMMODATION TO TWO THREE STOREY HOUSES

The proposed work and question arising

4. The papers submitted indicate that the proposed building work in this case comprises work associated with the material change of use of a retail shop with ancillary residential accommodation into a pair of two, three storey, four bedroom, semi-detached houses. On plan the entire building (i.e. the two houses) is approximately 9m by 15m.

5. The existing building was itself, it would appear, formed by the conversion of two houses. The separating wall between the respective front rooms had been removed and a shop front had been installed, the original layout elsewhere in the houses had remained essentially unchanged. You advise that the only part of the building that will be altered from this existing layout by your proposed work is the replacement of the shop front with a masonry wall, the fitting of windows in this wall and the provision of a separating wall between the houses.

6. Each house will have a single stairway which delivers into the middle of the ground floor adjacent to the external flank walls. Any person using the stairway to escape from the upper floors would have to pass through the ground floor accommodation in order to reach a place of safety outside the building. The plans of the proposed work showed new doors, including new openings in the external walls, arranged to provide a protected route from the upper floors to the outside. Your full plans application was approved by the Council on this basis.

7. Following commencement of the work, it was established that the provision of external doors at the bottom of the stairs in both houses, as included in the approved plans, was either not your intention or was not feasible. In order to comply with Requirement B1 (“Means of warning and escape”) of the Building Regulations, the Council drew your attention to Diagram 3 (“Alternative arrangements for final exits”) in Approved Document B (“Fire safety” – 2000 edition). This Diagram illustrates an arrangement of doors and walls such that a stairway gives access to two escape routes each delivering to a final exit and separated from each other by fire-resisting construction.

8. However, you consider that the Council's requirement for self-closing FD20 fire doors at the bottom of the stairs and in the walls between the ground floor front and rear rooms in each house, as shown in Diagram 3(b) of the Approved Document, is excessive for the location in your case and that you have made sufficient provision for fire safety. It is in respect of this question that you have applied for a determination.

The applicant's case

9. You comment that you are trying to restore the building to its original use, i.e. two houses, and fire doors or additional doorways have never been fitted. The building is over a hundred years old and there have not been any problems. You are therefore concerned about having to comply with the latest Building Regulations for new homes. You point out that there are many other houses nearby of a similar age and appearance which have similar internal arrangements as you propose in your case.

10. However, you stress that you are fully aware of the risks of fire and that is why you are installing a mains powered and inter-linked smoke detection system on all floors in both houses. You add that all the windows will be fire escape windows and the stairs will be protected with a solid door at the base of the stairways, which is how it was originally. You have proposed fire protection to the undersides of the stairs and the removal of glazed panels in the stairway walls. You will also be creating alternative routes of travel at the foot of each flight of stairs, so that an escapee could turn either left or right to each alternative exit doors leading to a place of safety, and will be providing 30 minute fire doors at the front of the houses.

11. You conclude that you are concerned about the cost of having to renovate these properties which you understand only need planning permission and building control approval because of the work to convert the front of the building to residential accommodation. You suggest that it would have been more cost effective to demolish the properties and rebuild them, but the Council's planning department preferred to see them remain, as they are in part of the town conservation area and the original town centre.

The Council's case

12. The Council acknowledges your statement that there are many other houses nearby, of a similar age and appearance, having similar internal arrangements to your houses as originally built. These have second floor (loft) bedrooms and a single route of travel from the foot of the stairs, invariably into a rear living room, which communicates with the kitchen. Although these arrangements are considered unfortunate for means of escape in case of fire, the Council accepts that these are commonly found in similar houses in all towns and many villages throughout your part of the country.

13. The Council also acknowledges that the fire safety provisions you propose, referred to in paragraph 10 above, will improve the fire safety characteristics of each of the houses.

14. However, the Council states that your proposals amount to a material change of use of a building, as described in regulation 5(a) of the Building Regulations, and that Requirement B1 is applicable under regulation 6. The Council therefore draws attention to the guidance in Diagram 3 of Approved Document B which is applicable to your circumstances and recommends the provision of fire doors at each side of the landing on the ground floor of the houses, and in the walls between the front and rear rooms.

The Secretary of State's consideration

15. Where there is a material change of use, regulation 6 of the Building Regulations requires that the building, or the relevant part of it, should be upgraded to meet the applicable requirements of Schedule 1 as set out in that regulation, which includes Requirement B1. A local authority does, however, have the discretion to decide what is reasonable to achieve compliance in relation to a particular case and, where appropriate, can also relax or dispense with a requirement on application where they consider it to be unreasonable. In your case, the Council indicated that it was not prepared to relax Requirement B1 and you decided to apply to the Secretary of State for a determination as to whether your proposals comply with this requirement.

16. You propose to return a previously converted pair of houses to their original state and you have argued that, whilst your proposals incorporate many improvements to the standard of fire safety in these houses, it would be unreasonable to impose the latest standards for fire safety in their entirety.

17. The Secretary of State has noted your arguments and acknowledges that your fire safety proposals would represent an improvement on the original design of the houses. However, your proposals are not considered to be adequate in terms of current standards because the stairs will not give access to two escape routes separated by fire resisting construction.

18. Therefore, what needs to be considered is whether the imposition of current standards for fire safety would be unreasonable in the particular circumstances of this case, as you suggest. The Secretary of State takes the view that the work that would be necessary to achieve an adequate standard of means of escape as indicated in Diagram 3(b) of Approved Document B - and thus comply with Requirement B1 - would not be disproportionate to the work that is necessary to return the houses to their original use.

The determination

19. As indicated above, in coming to her decision, the Secretary of State has given careful consideration to the particular circumstances of this case and the arguments presented by both parties.

20. The Secretary of State considers that your proposals, as submitted, do not make appropriate provision for means of escape in case of fire. She has therefore concluded and hereby determines that the plans of your proposed work do not comply with Requirement B1 ("Means of warning and escape") of Schedule 1 to the Building Regulations 2000 (as amended).