

Date: 13/08/04

Ref: 45/1/215

*Note: The following letter was issued by our former department, the Office of the Deputy Prime Minister (ODPM). ODPM became Communities and Local Government on 5 May 2006 - all references in the text to ODPM now refer to Communities and Local Government.*

## **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 a loft conversion at a Farm House**

#### **The proposed work**

4. The building work to which this determination relates comprises the erection of a bedroom and en suite bathroom in the roof space of a two storey, double fronted, three bedroom detached house (ie a loft conversion), thereby creating a second floor (third storey). Excluding the single storey extension to the rear and side, the approximate plan dimensions of the house are 8m in frontage x 7m in depth. The house has gable ends with a single ridge and pitch roof running between them. Two dormer windows are proposed for the front elevation of the loft conversion, one of which is designated as an escape window.

5. The existing ground to first floor stair rises from the hallway in a straight flight towards the rear of the house. As it was not possible to position the new stair to the second floor loft room above the existing stairway and maintain the required headroom clearance, the proposed stair is to be located within a first floor room, formerly used as a bedroom. The approximate measurements of this room are 4.5m x 3.5m and the plans indicate that it will be used as a "dressing room" (referred to as such hereafter) with fitted cupboards and drawer units. One of the two existing sliding sash windows is designated as an escape window. The existing bedroom door will be replaced by a self closing 30 minute fire resisting door.

6. The plans also indicate that doors to all other rooms in the house will be made self closing and that any glazed doors will be replaced with half hour fire doors. A mains operated inter-linked smoke detector system is to be provided with detectors located at the rear of the hallway near the stair on the first floor landing and above the new stair at the proposed second floor level.

7. These proposals formed the basis of a full plans application which was rejected by the Borough Council on the grounds of non-compliance with Requirement A1 (Loading) and Requirement B1 (Means of warning and escape) of the Building Regulations. With respect to Requirement B1, you and

the Council acknowledge that the proposed new first to second floor stair should be separated from the first floor accommodation by fire resisting construction. However, you believe that this has been achieved by the provision of the fire door to the first floor dressing room, whereas the Council considers that - due to the size of the dressing room - it should be considered part of the first floor accommodation and should therefore be separated from the new stair. It is in respect of this question that you have requested a determination from the Secretary of State.

### **The applicant's case**

8. You consider that your proposal to locate the new first to second floor stair in the first floor dressing room accords with the guidance in paragraph 2.21 and diagram 5c in *Approved Document B (Fire safety)*.

9. You comment that the new stair will be enclosed and separated from the existing stairway by the fire door that serves the first floor dressing room. You add that the dressing room will not be used as a bedroom independently of the second floor accommodation, as there will not be a door between the two levels. You also propose to "fireproof" the dressing room, the new bedroom above and the existing stairway in accordance with Part B (Fire safety) of the Building Regulations.

10. You take the view that storage in stairways is not uncommon and that, while it may be possible to split the first floor dressing room, accommodating the new stair, into a landing and dressing room, this would defeat the object of the design and create a very narrow dressing room. You conclude that your case rests on:

Whether there is a maximum size for an enclosure in which the stair may be located that has direct access to, but is independent from, the existing stairway.

Whether the provision of wardrobes or cupboards within a stairway alters the space from an enclosure to a habitable room.

### **The Borough Council's case**

11. The Borough Council indicates that it has rejected your plans on the grounds that the means of escape from the proposed second floor loft room contravenes Requirement B1. The Council considers that the proposed location of the new first to second floor stair is contrary to the guidance in sections 2.21 and 2.22 of *Approved Document B*, which advises that the new stair should be separated from any first floor accommodation by fire resisting construction.

12. The Borough Council acknowledges that there is no guidance in *Approved Document B* relating to maximum dimensions of stair enclosures or a precise definition of what constitutes a hallway or accommodation. However, the Council also notes that your proposal indicates a considerably sized first floor

room from which the new stair will rise, which is designated a dressing room on your plans.

13. The Borough Council takes the view that there is an unacceptable risk with the proposed layout, as a fire occurring within the first floor dressing room could develop rapidly due to the potential fire loading present within this space. The Council adds that, due to the lack of fire protection afforded to the new stair, this could quickly render the means of escape through this area untenable. It could also spread unchecked into the proposed second floor loft room thus giving occupants of this storey little time to make their escape.

### **The Secretary of State's consideration**

14. The Secretary of State notes that in this case a new room is proposed within the roof space of an existing two storey house. This will, in effect, create a second floor and a third storey which is more than 4.5m above ground level when measured from the lowest ground level. At this height it is not considered to be safe for people to make their own escape from windows, therefore it would normally be necessary to provide a protected escape route down through the house formed with fire resisting construction and fire resisting self closing doors.

15. The guidance in *Approved Document B* provides a strategy for means of escape in these situations specifically for loft conversions. Using this approach existing doors need not be replaced but are made self closing, providing a degree of protection for the escape route from the loft room. As the protection to the escape route may not be as effective as that provided in a new house, fire resisting construction is also necessary to separate the new accommodation from the rest of the house. This is intended to allow the occupants of the loft room to wait, in relative safety, for rescue via a ladder through a suitably placed window.

16. You take the view that you are providing adequate separation between the proposed second floor loft room and the rest of the house by way of the fire resisting door serving the dressing room at first floor level. The Borough Council takes the view that if a fire occurred in the dressing room itself, the occupants of the loft room would be at risk. The Secretary of State takes the view that what needs to be considered in this case is whether the dressing room could be regarded as part of the loft room or a separate room through which the loft room is accessed.

17. You have suggested that your case rests on whether there is a maximum size for an enclosure in which the stair may be located and whether the provision of wardrobes or cupboards within a stairway alters the space from an enclosure to a habitable room. The Secretary of State acknowledges that, in domestic situations, there will often be some form of fire loading within circulation routes. However, the risk of a fire starting increases when people are engaged in activities other than simply travelling from one room to another.

18. A judgement often needs to be made as to whether a space should be regarded as part of a protected stairway or as a room likely to be regularly used for habitable purposes by the occupants. In the Secretary of State's view there is no definitive way of deciding this. However, some guidance can be derived from the scale of the building; the number of rooms and the usability of the space; and the number and position of the doors which open off the area. In this case the dressing room is similar in size to the adjacent bedrooms at first floor level and, as a dressing room, would clearly be used for purposes other than circulation.

19. You have argued that the first floor dressing room will not be used as a bedroom independently of the second floor accommodation because there is no physical separation between these two levels. Whilst this may be true there is very little visual communication between them. The occupants of the loft room would be unlikely to become aware of a fire occurring in the dressing room until their escape route was blocked, by which time they would have no safe route of escape or temporary refuge. The Secretary of State therefore concludes that your proposals do not comply with Requirement B1.

### **The determination**

20. The Secretary of State has given careful consideration to the particular circumstances of this case and the arguments presented by both parties.

21. As indicated above, the Secretary of State considers that your proposals as submitted do not make appropriate provision for early warning and means of escape in case of fire from the proposed loft room at second floor level. He has therefore concluded and hereby determines that your proposals do not comply with Requirement B1 (Means of warning and escape) of Schedule 1 to the Building Regulations 2000 (as amended). You should note that the Secretary of State has no further jurisdiction in this case.