

Date: 15/09/04

Ref: 45/1/214

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.

Text of ODPM 'determination' letter dated 15 September 2004 (Reference 45/1/214)

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 comprising the erection of a rear two storey extension, a loft conversion, and internal alterations to a two storey house

The proposed work

4. The proposed building work comprises alterations to, and the extension of, an existing two storey house including the conversion of its roof space to a bedroom, ie a loft conversion, thereby creating a second floor (third storey). The existing plan dimensions of the house are approximately 4.5m (frontage) x 7m.
5. The extension will provide a new kitchen (approximately 2.5m x 4.25m) at ground floor level and a new bedroom (approximately 2.5m x 2.25m) at first floor level provided with a window suitable for escape. Existing partition walls at ground level floor are also to be removed to create a single 'open plan' living room running from the front door to the new kitchen and opening onto a small courtyard at the rear. At first floor level a remodelled layout will also provide a new en-suite bathroom for the master bedroom and a separate bathroom.
6. The new bedroom on the second floor is approximately 4m x 3.5m. It is to be created by breaking open the rear pitch of the roof and the installation of a wide dormer window of 2.7m in width. The room will also be served by three roof windows in the front elevation, one of which is annotated as suitable for escape.
7. A new stair serving each floor is to be provided starting from the rear of the living room adjacent to the kitchen door. All doors leading on to the stairway from the first and second floors and the kitchen door are to be fire doors.

8. The plans also indicate that two mains operated interlinked smoke alarms are proposed in the living room area and one on each of the first and second floor landings; and that a heat alarm is proposed for the kitchen.

9. These proposals were the subject of a full plans application which was rejected by the Borough Council. Two subsequent re-submissions of the full plans were also considered but these too were rejected on the grounds of failure, amongst other things, to comply with Requirement B1. The Council took the view that your proposals were not a suitable substitute for providing a protected escape route at ground floor level for the stair. However, you contend that your proposals do comply with Requirement B1 and it is in respect of that question that you have applied to the Secretary of State for a determination.

The applicant's case

10. You indicate that the guidance in *Approved Document B (Fire safety)* only provides examples of how compliance with Requirement B1 can be achieved and that these are not exclusive.

11. You refer to the following proposed provisions which you consider will provide prompt, safe and adequate means of escape in the event of fire:

(i) a mains operated system of interlinked smoke alarms at each floor level plus a heat alarm in the kitchen to give early warning of fire.

(ii) the stair will be protected at first and second floors with 30 minute fire resisting construction. All doors are to be self-closing fire doors with smoke seals.

(iii) a self-closing fire door will also be provided to the kitchen on the ground floor, thus protecting the stair from a possible fire from the kitchen.

(iv) there are two alternative exits from the house at ground level.

(v) escape windows will be provided at first and second floor levels as an alternative means of escape, as recommended in *Approved Document B*.

12. You conclude with your view that the building is not particularly high - the second floor level is 5.125m above ground floor level - and that 'open plan' arrangements, such as that proposed on the ground floor, are a common feature in small terraced houses.

The Borough Council's case

13. The Borough Council takes the view that your proposals do not comply with Requirement B1 because they do not meet the criteria recommended in paragraph 2.18 of *Approved Document B*, relating to loft conversions in an existing two storey house.

14. The Borough Council considers that the provision of smoke detection at all levels and a rescue window at second floor level are already part of a set of minimum provisions for loft conversions. The Council contends that your proposals are not a suitable substitute for providing a protected route at ground floor level whereby the stair at first and second floor levels - as the principle means of escape - could be prejudiced by smoke and fire at ground floor level, as the stair will discharge directly into the living accommodation.

The Secretary of State's consideration

15. 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 has, in effect, created an additional 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.

16. *Approved Document B* provides an alternative strategy for means of escape in these situations specifically for loft conversions in two storey houses. Using this approach, existing doors need not always be replaced but are just made self-closing, providing a degree of protection for the escape route from the loft room to the final exit. Because the protection to the escape route may not be as effective as that provided in a new house, however, 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 new floor to wait, in relative safety, for rescue via a ladder through a suitably sized and positioned window.

17. The Secretary of State takes the view that escape via a stairway protected in this manner would, in the majority of cases, be possible and that waiting for rescue from the window in the loft room should be a last resort. However, in this case, the escape route for the occupants of the loft room is not protected at ground floor level and the likelihood that they might need to be rescued is greatly increased.

18. You have, however, argued that the provision of fire detection at each floor level, escape windows at first and second floor levels and a fire resisting enclosure of the stairway at the upper levels of the house provide an adequate level of safety. The Secretary of State considers that these provisions are essentially what would normally be provided if the escape route was protected throughout its length. As such, these provisions could not be considered as mitigating the absence of protection at ground floor level and your proposals do not therefore demonstrate compliance with Requirement B1.

The determination

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

20. 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.