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Note: The following letter was issued by our former department, the Department for Environment, Transport and the Regions (DETR). DETR is now Communities and Local Government - all references in the text to DETR 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 in respect of the need to enclose two external stairs as part of building work at a farm building

The proposed work

4. The proposed building work comprises material alterations to, refurbishment and change of use of, a two storey derelict farm building on a Nature Reserve. The proposals are to provide a one bedroom flat for a warden and an office at first floor level, with garage storage at ground level. The building is approximately 10m x 6.5m in plan and the first floor is approximately 2.5m above the ground floor concrete slab. The roof is of a ridged clay tile construction with gable ends

5. The first floor is presently a disused hayloft. The proposed work will involve dividing this area into approximately half with a concrete block wall to create the one bedroom flat on the right hand side (which will have the slightly larger area) and the office on the left hand side. The latter will contain three workstations, toilet facilities, and a tea point and sink. Existing first floor windows are to be blocked up and three new openings made in the front elevation and two in the rear. This will result in one escape window (of minimum dimensions of 850mm in height and 500mm in width) being available at front and rear in both the flat and the office. A mains operated smoke alarm is to be installed in the flat.

6. The flat and office are to be accessed by external stairs only, constructed on the respective sides of the building. The stair to the flat is to have risers of a maximum of 220mm and goings of 240mm, and will ascend to a quarter landing formed within a newly built brick lobby with a front door opening to the left. The stair to the office is to have risers of a maximum of 190mm and goings of 250mm, and will ascend to a landing which will extend down the side of the building to the rear to form a viewing platform. The total rise of the stairs from ground to landing level is approximately 2.5m. The door to the office is to be on the right immediately at the head of the stair. The construction of both stairs is to be of mild steel with open mesh tread and metal balustrades and handrail, with a further handrail fixed to the respective

walls. It is not proposed to provide any covering or weather protection to either stair.

7. The ground floor garage storage is to comprise three equally divided garage areas separated by walls which will support the beam and block first floor above. The garages will have timber doors and are designated separately on the plan for storage of trailers, materials and a tractor.

8. These proposals were the subject of a full plans application which was conditionally approved by the District Council. The condition required details of at least partial weather protection by construction of a roof over both stairs. However, you do not consider that the weather conditions in the area and the type of use to be made of the first floor accommodation warrant any form of weather protection. You therefore believe that your proposals comply with Requirement B1 of the Building Regulations and it is in respect of this question that you therefore applied to the Secretary of State for a determination.

The applicant's case

9. You do not consider it necessary to provide any weather protection to either of the stairs and you believe that the provision of a single external access stair to the office and similarly to the flat would not conflict with Requirement B1 in the circumstances of this case.

10. In support of your claim that a reasonable level of fire safety will be provided in terms of the means of escape from the office and the flat you have stated the following:

(i) the office is for a warden and two assistants. These would be active conservationists and, as such, will be fully active and used to working in adverse weather conditions

(ii) the access stair to the office would be in continuous use during the day and particularly in adverse weather. The warden or assistants would therefore be aware of any build up of snow on either stair

(iii) the flat would not be for lettable use and is only for single person occupancy, and in normal circumstances the flat would be vacant when the office is in use and vice versa

(iv) alternative means of escape have been included in the proposal by way of escape windows from both the flat and the office

(v) the weather conditions in the part of the country in question are relatively mild. Heavy snows and frosts are not common and seldom last more than a few days

(vi) the stairs are partially sheltered by their location along an outside wall and in the case of the flat the stair is further protected by a building projection

(vii) the provision of an additional handrail and the use of open mesh steel treads for the stairs have addressed any hazards that may present themselves as a result of adverse weather conditions

(viii) the suggestion by the District Council for the provision of a canopy roof over both stairs is unlikely to provide any significant benefit, as this would not protect from rain or snow which for the majority of the time would blow in horizontally. You believe that the Council has had regard to a previous determination decision in reaching their decision which, in your view, is not relevant.

The District Council's case

11. In responding to your proposals the District Council referred to the basic requirement of Requirement B1 to provide means of escape from the building to a place of safety outside the building, capable of being safely and effectively used at all material times. It was the District Council's view that your proposals did not satisfy this requirement and they commented as follows:

(i) *paragraphs 2.45 and 4.35 of Approved Document B (1992 edition)* in respect of the flat and office respectively, indicate that external stairs are only acceptable where an internal stair is also available

(ii) even with open mesh tread stairs ice could still form, and a moderate snowfall could leave a layer on the top surface of the mesh

(iii) because of the inner room situation in the flat the proposed escape window from the flat would be necessary regardless of whether or not the access stair to the flat was covered

(iv) because of the low occupancy of the building the District Council was willing to accept partial weather protection to the stairs in the form of a canopy roof but the Council was not prepared to allow entirely open stairs.

12. Subsequent to the District Council's response to your full plans application, the Council received a copy of the *2000 edition of Approved Document B* and has accepted that it would be reasonable to accept the new guidance in paragraph 3.45 which they state now clearly suggests that a single external access stair to flats and maisonettes not more than 6m high is acceptable without the need for weather protection.

13. However, with respect to the office stair, the District Council is still of the opinion that at least partial weather protection in the form of a canopy roof should be provided in order to ensure a means of escape is available, and which is safe to use at all material times. In particular they refer to *paragraph 5.33a of Approved Document B (2000 edition)* which states "for an external escape stair to be acceptable there must be at least one internal escape stair from every part of each storey". They consider this to be the over-riding consideration when considering the acceptability of an unprotected external stair serving a building other than a dwelling.

The Secretary of State's consideration

14. The Secretary of State notes that the building work in question involves the modification of an existing building to form what might reasonably be described as an unusual or specialist facility. The guidance offered in *Approved Document B* may therefore not be totally appropriate. He also notes that having considered the *2000 edition of Approved Document B*, the District Council has taken the view that the access stair to the flat need not be protected but that the Council has retained the view that some form of additional weather protection should be provided to the access stair to the office.

15. The Secretary of State takes the view that external exit stairs may be generally less desirable than similar internal routes as the risks associated with adverse weather conditions may make them less safe. The route of a means of escape from a building must, however, inevitably lead to some place beyond the confines of the building and this will often involve changes in level and exposure to the elements. A particular example are the many buildings which are accessed via a podium served by an independent access stair which may itself invariably not be weather protected.

16. When considering if it is acceptable, in this context, to use an unprotected external stair, a partially protected external stair, or a fully protected (internal) stair it is necessary to consider the height of the stair, the familiarity of the occupants with the building, and the likelihood of the stair becoming impassable as a consequence of adverse weather conditions.

17. In the particular circumstances of this case the height of the stairs is approximately 2.5m, which is considerably less than the 6m at which weather protection would normally be considered necessary. Moreover the Secretary of State accepts that the occupants of the building will be familiar with its layout and, because of their occupations, will be intimately aware of the prevailing weather conditions. In addition the stairs will constitute the only access route to the respective parts of the building and as such it is extremely unlikely that the stairs would become impassable without it being apparent to the users of the building whom, it would not be unreasonable to assume, will take some appropriate corrective action.

18. Having taken these factors into account and the specialist nature of the building, the Secretary of State takes the view that in the circumstances of this case the proposed provision of an additional handrail and open mesh treads for both stairs constitutes adequate precautions and that no additional weather protection is necessary to either of the stairs in order to satisfy 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. On the basis of the proposals as submitted and the unique circumstances of the case, he considers that they make adequate provision for safe escape. He has therefore concluded and hereby determines that your proposal to install the two unprotected stairs as specified complies with Requirement B1 (Means of warning and escape) of Schedule 1 to the Building Regulations 2000.