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Ref: 45/1/175

*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 escape) of the Building Regulations 1991 (as amended) in respect of shop fitting building work**

3. In making the following determination, the Secretary of State has not considered whether the plans conform to any other relevant requirements.

#### **The proposed work**

4. This determination relates to the fitting out of an existing 3 storey shop and the installation of an accommodation stair between the ground and first floor. The first floor is to be used for sales but is currently used for storage. The majority of the second floor is to be left effectively un-occupied.

5. The shop is located on a corner site with a frontage of approximately 10 metres opening on to the High Street. The party wall extends back at right angles to the frontage to a depth of approximately 28 metres. The opposite, external, side wall tapers back along the line of R..... Street, resulting in a width at the rear of approximately 4.5 metres. Access to the ground floor is provided by a 2.2 metre double door entrance positioned to the party wall side of the centre of the frontage. An accommodation stair in the shop is to connect the ground to first floors and discharge into the ground floor not more than 3 metres from the High Street front entrance.

6. There is a protected stair which serves the ground, first and second floors at the rear of the shop. This stair is shared with adjacent shop premises which front on to R..... Street.

7. To improve safe escape provision on the first floor a protected enclosure is proposed extending from the rear protected stair lobby part way along the party wall so as to achieve no more than the maximum single direction travel distance point of 18 metres; and merchandising systems are fixed to maintain this defined escape route.

8. A full smoke detection system to *British Standard (BS) 5839 (Fire detection and alarm systems for buildings): Part 1: 1988 (Code of practice for system design, installation and servicing)* to L1-standard is proposed.

9. These proposals were rejected by the Borough Council on the basis of non-compliance with Requirement B1 (Means of escape) of the Building Regulations 1991. It was the Council's opinion that a wholly unprotected accommodation stair with no smoke control provided an unacceptably high risk of smoke interfering with the means of escape on the first floor. They based their judgement on guidance given in *BS 5588 (Fire precautions in the design and construction of buildings): Part 2: 1985 (Code of practice for shops)*. However, you did not accept the interpretation placed on BS 5588: Part 2: 1985 by the Borough Council and consider the open accommodation stair is acceptable and is in compliance with Requirement B1. It is in respect of that question that you applied to the Secretary of State for a determination.

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

10. You consider that the premises are a small shop, as defined in BS 5588: Part 2: 1985 and as such the guidance in clause 9 of the Standard is applicable. You state that on your plans submitted to the Borough Council you indicated specifically that it was your intention to follow the guidance in clause 9 with regard to the provision of means of escape. You also state that you have used the guidance in the British Standard for over 430 Building Regulations applications without dispute and are of the opinion that your proposals satisfy the recommendations of clause 9. With respect to the accommodation stair, which passes between the ground and first floors you state the following;

(i) the stair connects only two storeys

(ii) the stair discharges into the ground storey not more than 3 metres from the front entrance

(iii) the first storey is also served by a protected stairway, positioned to the rear of the unit, which although shared with the adjacent shop premises is under your control and within your demise.

11. You consider that the guidance for small shops given in clause 9 of BS 5588: Part 2: 1985 overrides the guidance contained in clauses 7 & 8 and as such the guidance relating to the location of accommodation stairs and escalators given in clause 8.1.2 - which states that they should be so sited that their location does not prejudice the access to the means of escape on the upper floor level(s) - can be effectively ignored in this case.

12. You have also made the point that you have modified the first floor layout so as to achieve a maximum single direction travel distance of 18 metres to the protected escape route and you have provided the shop with a fire detection and alarm system to an L1 standard in accordance with *BS 5839: Part 1: 1988*.

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

13. The Borough Council accepts that the premises are a small shop as defined in *BS 5588: Part 2: 1985* and that the first floor layout complies with the maximum travel distance allowed within Table 6 of the Standard.

14. It is the Borough Council's view that *clause 9 of BS 5588: Part 2: 1985* supersedes only those recommendations in clauses 7 and 8 which relate to the number and siting of exits and protected stairways. It is also the Borough Council's view, therefore, that the guidance relating to the siting of accommodation stairs and escalators given in clause 8.1.2 is still applicable; and as such the accommodation stair should be so sited that the location does not prejudice the access to the means of escape at the upper floor level.

15. The Borough Council's view, which they state is supported by the Fire Safety Officer, is that a rapid development of smoke within the ground floor would travel along the flat ceiling and enter the first floor through the unprotected staircase opening. As the route of travel designated at first floor level passes by the head of the accommodation stair, any smoke spillage from the lower level may rapidly interfere with the means of escape to the protected staircase positioned at the rear of the first floor accommodation. The Borough Council therefore consider that the containment of initial smoke from ground floor level by staircase enclosure, or smoke reservoir, is an essential feature to allow safe, orderly evacuation of the building following operation of the fire alarm system by smoke detection.

## **The Department's view**

16. It is the Department's view that the main issue in this case centres on the applicability or otherwise of *clause 8.1.2 of BS 5588: Part 2: 1985*, (which recommends that accommodation stairs and escalators should be so sited that their location does not prejudice the access to the means of escape on the upper floor level(s)), where a shop has been designed in accordance with the guidance in clause 9 of the standard for small shops. The Department accepts that the British Standard can be used as an alternative approach to the guidance given in *Approved Document B (Fire Safety)* and notes that you state you have used the British Standard for over 430 Building Regulations applications without dispute. However, it is not for the Department to provide an interpretation of a British Standard. The Department can only consider whether your proposals satisfy the functional requirements of the Building Regulations 1991, which in this case is Requirement B1 (Means of escape), and must consider each case on its individual merits.

17. You consider that the guidance for small shops given in *Clause 9 of BS 5588: Part 2: 1985* overrides the guidance contained in clauses 7 & 8, and as such the guidance relating to the siting of accommodation stairs and escalators given in clause 8.1.2 can be ignored in this case. Clause 9.2 of the standard states that the recommendations contained therein should be applied in place of only those recommendations of clause 7 and 8 relating to the number and siting of exits and protected stairways. The Borough Council

therefore contends that clause 8.1.2 is still applicable and that the location of the accommodation stair will prejudice the means of escape for persons on the first floor.

18. However, in the Department's view what needs to be established in this particular instance is whether the accommodation stair would in some way prejudice the access to the means of escape at the upper floor level if a fire occurred on the ground floor. The Department notes that *BS 5588: Part 2: 1985 has now been superseded by BS 5588: Part 11: 1997 (Code of practice for shops, offices, industrial, storage and other similar buildings)* but considers that this does not materially alter the arguments relating to this case.

19. The travel distance between the first floor shop and the protected escape at the rear is agreed by both parties as not exceeding the maximum single direction distance of 18 metres recommended in *Table 1 of the BS 5588: Part 2: 1985*. This in effect is the maximum single direction distance that a person should expect to have to travel in a room which may contain a fire.

20. The Department notes that an L1 standard fire detection and alarm system, in accordance with *BS 5839: Part 1: 1988*, has been installed throughout the shop unit providing early warning of any possible fire on the ground, or first, floor .

21. Therefore in view of the distance of travel involved and the provision of an automatic fire detection and alarm system, it is the Department's opinion that the risks associated with smoke spreading up through the accommodation stair opening are no greater in fact than would be presented by a product of combustion from a fire starting in one of the display units positioned between any person(s) in the first floor sales area and the rear protected escape.

### **The determination**

22. The Secretary of State has given careful consideration to the particular circumstances of this case and the arguments presented by both parties. He has concluded, and hereby determines, that your proposal to install an accommodation stair to connect the ground floor to the first floor of the shop complies with Requirement B1 (Means of escape) of Schedule 1 to the Building Regulations 1991 (as amended).