

Date: 09/02/99

Ref: 45/1/172

*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 a proposed single storey dwelling unit incorporating a sleeping gallery at a former maternity hospital site**

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. The building to which the proposed building work relates consists of a single unit in a new development comprising a row of nine single storey dwelling units (each approximately 4m in frontage and 8m in depth) with sleeping galleries. You have submitted details of one unit on the basis that this will form a test case in respect of all the units.

5. The ground floor of the dwelling unit comprises a living room area with the front door opening directly into this room. A kitchen area and shower room are located at the rear. The kitchen area is open to the living room area and has its own rear external door. The sleeping gallery (designated on drawing 867/W/8 (marked No. 2) as the upper level) is located above the rear accommodation and is 4m deep. It is open to the living area below and is accessed by an open stair which discharges into that area. You state that at gallery level the maximum travel distance to the head of the stair is less than 7m and the distance from the foot of the stair to the front entrance door is less than 3m.

6. The Borough Council state that they are not satisfied that they can properly give consent because they consider that the means of escape from the sleeping gallery is unsatisfactory and does not show compliance with Part B1 of the Building Regulations 1991. However, you consider that your proposals are in compliance and it is in respect of this question that you have applied for a determination.

## **The applicant's case**

7. You consider that adequate means of escape has been provided from the sleeping gallery (upper level) and make the following points in support of this:

- i) You state that you have followed the guidance given in *BS 5588: (Fire precautions in the design, construction and use of buildings) Part 1:1990 (Code of practice for residential buildings)*. You state that you have paid particular attention to paragraphs 9.1 and 9.8 of this document which gives guidance on the internal planning of flats and recommendations for flats with galleries.
- ii) You state that your proposals comply with the relevant guidance given in the above standard in respect of travel distances to the head of the stair and from the bottom of the stair to a final exit. You also state that the direction of escape is away from the kitchen area and that a self-contained smoke alarm conforming to BS 5446 will be provided.
- iii) You consider the risk in the proposed dwelling to be no greater than if the same arrangement were to be provided in a flat and your view is that your proposal should be acceptable.

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

8. The Borough Council is not satisfied that satisfactory means of escape from fire and smoke has been provided for persons sleeping on the gallery level. They make the following points in support of their rejection of your proposals

- i) The building has been designed in accordance with *Section 3 of BS 5588: Part 1* which, in the Borough Council's opinion, is appropriate for flats and maisonettes only. In their view you should have used the guidelines given in Section 2 of the standard which is relevant to single family dwelling houses.
- ii) The gallery level is intended to be used for sleeping purposes and therefore in a fire situation the occupants are solely reliant on the early warning provided by the fire detection system. Therefore in the Borough Council's view the lack of passive protection to the open plan layout would hinder escape from the gallery level because a fire at ground floor level would produce smoke that would rise above the gallery floor level.
- iii) In the Borough Council's opinion an automatic fire detection system could not necessarily be relied on to give early warning of fire throughout the life of the building because of on-going maintenance and the location of the detectors due to the layout and content of the rooms.
- iv) The principal hazards to persons in any fire situation are the toxic gases which the Borough Council consider will be unpredictable in your proposals. It is therefore the Council's contention that the provision of an open plan layout on the ground floor, with an open access to the gallery, does not constitute a

safe means of escape in case of fire from the gallery to a place of safety outside the building.

## **The Department's view**

9. In this case the building is basically a single storey dwelling unit with an integral sleeping gallery (upper level) and what is at issue is the safe escape or rescue of the occupants from the gallery in fire. The Department notes that the layout follows the guidance given in *paragraph 9.8 of Section 3 of BS 5588: Part 1* which is applicable to flats with galleries.

10. The Borough Council appear to be insisting that in order to achieve safe means of escape the gallery or upper level should be enclosed in a manner similar to that of the traditional layout of a two storey dwelling house where bedrooms are usually comprised of separate rooms.

11. The Department accepts that there is no guidance given on galleries in dwelling houses in either *Approved Document B (Fire safety) or Section 2 of BS 5588: Part 1* which relates to single family dwelling houses. The lack of guidance in the latter is possibly because guidance on these issues tends to be of a general nature and, in general terms, dwelling houses are more usually too large to fall within the criteria given for a small open plan flat with a gallery contained in the British Standard.

12. The Department notes that in this case your proposed dwelling house, which incorporates an integral sleeping gallery, is sufficiently small to fall within the criteria given for a similarly designed small flat to the extent that travel distances comply with those given in *paragraph 9.8 (recommendations for flats with galleries) of BS 5588: Part 1*. The Department's view on this issue in the circumstances of this case, is that there is no difference in risk with regard to the safe escape from either type of accommodation, irrespective of whether the building is designated as a flat or single family dwelling house. The Department therefore considers that the means of escape from your proposed sleeping gallery is adequate.

## **The determination**

13. The Secretary of State has given careful consideration to the particular circumstances of this case and the arguments of both parties. He has concluded, and hereby determines, that your proposal with respect to the means of escape from the gallery (upper level) complies with Requirement B1 (Means of Escape) of Schedule 1 to the Building Regulations 1991 (as amended).