

Date: 22/01/98

Ref: 45/1/158

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 loft
conversion to first floor self-contained flat**

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 property to which the proposed building work relates is a two storey mid-terrace house which was converted some years ago into a ground and a first floor self-contained flat linked by a single unprotected stairway. A common entrance lobby and passage leads from the front door of the building to the stairway where two internal front doors separate the two flats at ground floor level. Full fire separation exists between ground and first floors and access is available from the existing first floor living room to a balcony at the front of the house.

5. The proposed building work comprises alterations to the existing roof space to the first floor flat to form a new bedroom with en suite bathroom, thus creating an independent maisonette at first and second floor levels. It is not proposed to provide a separate external entrance at ground level, nor is it proposed to provide any alternative means of escape by way of an external staircase. You state that the fire protection to the first floor elements is being upgraded to meet current Building Regulations and that you have indicated that you would be prepared to install fully linked and hardwired smoke alarms, in accordance with BS 5446 Part 1.

6. The new second floor accommodation will incorporate an escape roof light at the rear of the building, overlooking a vehicular service road. In addition to the existing first floor living room access to the external balcony you state that the existing first floor kitchen and bedrooms either do, or will, contain casements providing minimum clear openings of 500 mm and 850 mm in height and whose bottoms are between 900 mm and 1100 mm from the finished floor.

The applicant's case

8. You consider that adequate means of escape has been provided from the new second floor habitable accommodation and make the following points in support of this:

(i) additional fire protection is planned to the first floor element as part of the proposal and in response to the Borough Councils questioning of this statement you refer to the upgrading of inner doors and partitions beyond the possible level required at the time of the original conversion to flats

(ii) escape is available from the existing first floor living room to an external balcony and escape windows of adequate size will be provided to the existing first floor kitchen and bedrooms

(iii) a roof light with a clear opening of 850mm high and 500mm wide will be provided for escape purposes from the new second floor accommodation

(v) a fully linked, hardwired smoke alarm system in accordance with BS 5446 Part 1 has been suggested as part of the proposal and could be made an actual requirement.

The Borough Council's case

9. The Borough Council have rejected the proposals on the basis that they do not show adequate means of escape and they give the following reasons in support of this:

(i) the new maisonette will not have the benefit of an independent external ground level entrance and it was considered that the guidance given in paragraph 2.15, and in particular *paragraph 2.15 (b), of Approved Document B (Fire safety)* should be followed. The sub-paragraph suggests that an alternative exit from each floor should be provided

(ii) the Borough Council were prepared to accept the existing first floor alternative escape arrangement onto the balcony but they had suggested that an alternative escape route from the loft area via external escape stairs should be provided

(iii) the provision at second floor level of an escape roof light was not considered acceptable at this higher level, and in addition the roof light faces the rear of the building which is considered unsuitable for quick or easy access.

(iv) the Borough Council are conscious that fire doors to accommodation rooms can be removed or changed, and that if this should happen then the stairs leading from the new second floor could be exposed to a fire in the first floor kitchen or living room.

The Department's view

10. In this case the roof space of an existing first floor flat is being converted to form habitable accommodation and what is at issue is the safe escape or rescue of the occupants of the new second floor. Although the proposals are similar to a standard loft conversion in that the occupants need a similar level of protection, there is the additional factor that those occupants will have no control over the ground floor flat and in this case will be using the common escape route at ground floor level.

11. The Borough Council are insisting that an alternative route from the new second floor be provided such as external escape stairs. The Department accepts that this would satisfy the recommendations given in *Approved Document B*. However the Department also accepts that the new second floor accommodation will only consist of a bedroom with en-suite facilities and that the provision of external stairs, even if permitted by the planning authority, may be onerous in this case. The Department also notes that an escape window of the type normally acceptable for loft conversions is being provided in the new second floor accommodation.

12. It is therefore the Department's view that external stairs need not necessarily be installed, provided adequate compensatory features form part of your proposals. In the Department's view such compensatory features would include the provision of a fully protected internal route of travel from the second floor to the ground floor and an adequate alarm system. You have only stated that two doors marked on the plan will be 30 minutes fire resisting and self-closing. These are the entrance doors to the ground floor flat and to the new second floor bedroom. However you have not been specific, even in response to the Borough Council's request for more information, about the upgrading or level of fire resistance provided by the existing first floor doors marked on the plan. A similar problem pertains regarding information about any proposed alarm system. You have stated that it could be made a requirement to provide an interlinked hardwired system but you have not been specific. In both instances the determination can only be based on the proposals as submitted.

13. In conclusion, although your proposals are similar in many ways to a standard loft conversion there are important differences. These differences may, in the Department's view, be addressed by the provision of a mains operated alarm system within the first and second floor accommodation installed to BS 5839; Part 6: 1995, and a fully protected internal route of travel from the new second floor to the ground floor with particular attention in this case being paid to the first floor doors.

The determination

14. The Secretary of State has given careful consideration to the particular circumstances of this case. On the basis of the proposals as presented to him he does not consider that you have made adequate provision for safe escape and therefore determines that your proposals do not comply with Requirement B1 (Safe escape) of Schedule 1 to the Building Regulations 1991 (as amended).