

DETERMINATION OF COMPLIANCE WITH REQUIREMENT K1 (STAIRS, LADDERS AND RAMPS) IN PART K (PROTECTION FROM FALLING, COLLISION AND IMPACT) OF SCHEDULE 1 TO THE BUILDING REGULATIONS 2000 (AS AMENDED), IN RESPECT OF A PROPOSED SPIRAL STAIR, FORMING PART OF A LOFT CONVERSION

The proposed work and question arising

4. The papers submitted indicate that the building work to which this determination relates forms part of the conversion of a roof space, i.e. the loft, of a two storey two bedroom terraced house to form an additional bedroom and en-suite facilities, which is virtually complete. The matter in dispute relates to your proposal to install a spiral stair to provide a sole means of access from the first floor to the loft room on the new second floor.

5. The Council had previously rejected your full plans applications relating to the above building work on 10 January and 22 March 2005. You subsequently applied for a relaxation or dispensation of Requirement K1 (Stairs ladders and ramps) in Part K (Protection from falling, collision and impact) in Schedule 1 to the Building Regulations 2000 (as amended) in relation to the proposed stair, which was refused by the Council on 18 September 2007. It was against this refusal that you previously appealed to the Secretary of State, who concluded that it would not be appropriate to either relax or dispense with Requirement K1 and dismissed your appeal on 28 April 2008. However, an opinion was offered on possible ways of achieving compliance with the particular requirement of the Building Regulations.

6. Following receipt of the appeal decision letter you resubmitted your plans to the Council relating to the proposed stair, including a new specification for a continuous handrail and non-slip nosings. However, your resubmitted plans were also rejected by the Council on 29 June 2009 on the grounds that they do not comply with Requirement K1 of the Building Regulations. You have now applied to the Secretary of State for a determination of Requirement K1 in respect of the proposed stair.

The applicant's case

7. You refer to an opinion offered by the Secretary of State in paragraph 18 of the appeal decision dated 28 April 2008, a copy of which you have submitted, which stated that:

“.... the proposed stair in this particular case could offer an acceptable level of safety, and achieve compliance with Requirement K1, if a continuous handrail and slip resistant nosings were to be fitted”.

8. You state that you took note of the Secretary of State's opinion as to possible compliance and resubmitted your full plans application to the Council, including a specification for a handrail 900mm above the pitch line and non-slip nosings to the treads of the proposed spiral stair. However, the Council rejected your amended plans.

9. In response to the latest comments made by the Council to the Secretary of State, you added that you support other statements relating to the proposed stair made in paragraph 17 of the Secretary of State's appeal decision and that, in your opinion, paragraph 1.21 of the guidance in Approved Document K (Protection from falling, collision and impact) exists to relax the requirements of Part K due to the familiarity of the user when using a stair to access one room in a loft.

10. You also argue that the Council accepts in its latest letter that adding the handrail and non-slip nosings would result in a stair satisfying the requirement for people to be safe when moving between different levels of the house, but then contradicts this by referring to reasons why it is unsafe.

The Council's case

11. The Council is of the opinion that the additional measures you have proposed do not render the proposed spiral stair safe in normal use and are unlikely to reduce the probability of a fall. On the contrary, the Council considers that the inclusion of such additions appears to be an acceptance of the significantly increased likelihood of a fall, and is an attempt to put in place some means of arresting a user who falls whilst using the stair.

12. The Council accepts that your proposed approach could satisfy Requirement K1 of the Building Regulations, but only where there is a clear and substantial reduction in the probability of an injury being sustained. The Council is concerned about the following in this case:

- due to the very narrow goings on the proposed stair, the Council contends that the provision of non-slip nosings are not likely to significantly reduce the probability or consequences of a slip or fall. The Council feels that by virtue of design, any slip or fall on the stair could be considerably worse than on a compliant stair as it would involve a steeper descent over what is likely to be a larger number of treads;
- assuming that it is possible to fix, the Council contends that a handrail to the centre of the stair will be too steep to provide an adequate means of self arrest for a user when falling, and that in these circumstances an attempt to self arrest by any but the fittest individual carries an unacceptably high risk of consequential or alternative injury.

13. The Council takes the view that by previously applying for a relaxation or dispensation of Requirement K1 and then appealing against refusal, you have stated that the basic design of the proposed stair is not compliant with the requirements of Part K. The Council also refers to the detailed statements provided in response to your previous appeal to support its position.

The Secretary of State's consideration

14. The Secretary of State notes that you consider that the Council's rejection of your resubmitted full plans application relating to the proposed stair does not take into consideration an opinion given by the Secretary of State in the appeal decision dated 28 April 2008.

15. The Secretary of State feels it pertinent to first clarify that when an opinion that relates to possible ways of achieving compliance with a particular requirement of the Building Regulations is offered in an appeal decision relating to a Council's refusal to relax or dispense with a requirement, it is an informal opinion offered only to help facilitate compliance and does not form part of the decision.

16. The Secretary of State considers that compliance with Requirement K1 of the Building Regulations is a fundamental health and safety issue and makes an essential contribution to life safety. In coming to a decision on your appeal, the Secretary of State considered the safety of the proposed spiral stair and how it compared to the other stair types described in Approved Document K. He takes the view that the fundamental issue is whether or not the proposed stair offers a reasonable level of safety for people moving between different levels in or about the building. He acknowledges that the stair may not be as easy to use as a more conventional stair. However, the guidance in Approved Document K allows for alternative approaches such as spiral stairs, where appropriate.

17. As indicated in the appeal decision and reflected in paragraph 1.21 of Approved Document K, in situations where a more conventional stair could not easily be accommodated, the Secretary of State believes that a lower standard of geometric design could be acceptable where a stair does not serve more than one habitable room and the users are generally familiar with the stair. In his view, on approach to a stair, a person would normally take appropriate measures to ascend/descend and, where the design differs from a conventional configuration greater care would be taken by the individual. The user therefore compensates for its deficiencies in the way they use it.

18. As noted above, the Secretary of State's informal opinion, included in the appeal decision was that an arrangement such as you now propose may be an appropriate solution in your case. However, you have now applied for a determination under section 16(10)(a) of the Building Act 1984, and it is the Secretary of State's duty under that section to determine whether or not your proposal is in conformity with building regulations. He has therefore given further consideration to the circumstances of this case and the arguments presented by both parties.

19. It is not clear from the papers submitted where you propose to fit a continuous handrail, but the Secretary of State considers that an outer handrail should be fitted to the wall around the stair where the treads are wider and the user will tend towards. If feasible, and where dimensional constraints allow, an internal handrail should also be provided around the centre column of the stair. The Secretary of State takes the view that if an outer handrail and - if feasible - an inner handrail are provided, together with slip resistant nosings on the treads, these would help the user to avoid losing balance on the proposed stair or to regain balance in the event of a misstep and generally provide for safe movement between the different levels in the building. The Secretary of State considers that the stair would then satisfy the functional requirements of Part K of the Building Regulations in this particular case.

The determination

20. Assuming that one or two continuous handrails and slip resistant nosings are provided as indicated in paragraph 19 above, the Secretary of State concludes and hereby determines that the plans of the building work relating to the proposed stair in question will comply with Requirement K1 (Stairs, ladders and ramps) in Part K (Protection from falling, collision and impact) of Schedule 1 to the Building Regulations 2000 (as amended).

21. You should note that in the application of building regulations to the proposed building work in question, it is relevant when that work begins. Where the work - which as in your case is the subject of full plans deposited with the Council before 1 October 2010 - is started before 1 October 2011 the Building Regulations 2000 (as amended) will apply and the Secretary of State has made his determination on this basis. But if the work is started after that date, the consolidated Building Regulations 2010 will apply instead. However, although you should be aware of this, in most cases there will be no difference in practice as the substantive provisions will not have changed.

22. You should note that the Secretary of State has no further jurisdiction in this case and that any matters that follow should be taken up with the building control body.