

## **BUILDING ACT 1984 - SECTION 16(10)(a)**

### **DETERMINATION OF COMPLIANCE WITH REQUIREMENT L1 IN PART L (CONSERVATION OF FUEL AND POWER) OF SCHEDULE 1 TO THE BUILDING REGULATIONS 2000 (AS AMENDED), IN RESPECT OF THE NEED TO PROVIDE SAP 2005 CALCULATIONS**

#### **The proposed work and question arising**

4. The papers submitted indicate that the building to which this determination relates was built around 1920 and is formed of three storeys: a ground floor shop, a dwelling on the first and second floors and a small rear cellar. It has an external ground floor plan area of approximately 81m<sup>2</sup>. The proposed building work comprises: a change of use of the ground floor from retail to residential accommodation; a first floor rear extension; a loft conversion/rear roof extension; and other alterations. This will create two self-contained flats and achieve a four storey building above ground level, plus a small rear cellar.

5. The above proposed work was the subject of a full plans application which you indicate was deposited/resubmitted and rejected by the Council on five or six occasions - the most recent on 27 August 2008 - on the grounds, amongst other things, that SAP 2005 calculations were not provided with each of the plans submissions and therefore your proposals did not demonstrate compliance with Requirement L1 in Part L (Conservation of fuel and power) of the Building Regulations. However, you believe that the provision of SAP calculations is not a mandatory requirement for an existing building. It is in respect of this question that you have applied for a determination.

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

6. You say that the project involves the change of use of the shop and alterations to overhead residential accommodation to convert the property into two residential units (i.e. flats). You emphasise that the change of use involves only the shop area and that the upper floors will remain residential. As the work involves an existing building, you consider that the guidance in Approved Document (AD) L1B (Conservation of fuel and power in existing dwellings) applies and that the procedures under paragraphs 26 and 27 have been followed with the following provisions:

- (a) New elements: comply with the standards in paragraph 49-53 of ADL1B.
- (b) Existing elements: upgraded to the requirements of paragraph 56-57 of the AD.

7. However, you state that the Council insists that in order to get full plans approval the optional approach referred to in paragraph 28 of ADL1B should be

adopted with SAP calculations provided carried out by a specialist. You believe that this is against the choice given in ADL1B and stress that your client is not prepared to pay for the unnecessary expense. You add that it was also pointed out to the Council that on completion of the work a SAP energy rating would be prepared for the flats. In your view, the Council's rejection of your plans on these grounds is unreasonable because an elemental approach has been adopted (that is, to demonstrate compliance with the thermal performance standards for walls, floors, roofs, windows and doors specified in ADL1B).

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

8. The Council states that the proposed work is a material change of use of the building as defined in regulation 5(g) of the Building Regulations and therefore is subject to the applicable requirements specified in regulation 6, including Requirement L1.

9. The Council has referred to the guidance in paragraphs 56 and 57 of ADL1B in checking your plans. In this respect, the Council states that your proposals appear to upgrade the existing elements applying 50mm of Celotex on existing rear brickwork, which their calculations indicate will provide a U-value of 0.4 W/m<sup>2</sup>K at best. The Council notes that you used the elemental approach from Section 1 of AD L1B to indicate compliance with Requirement L1.

10. According to the Council the upgrading does not meet the recommendations of paragraphs 56 and 57 in that:

- (a) the recommended level of 0.35 W/m<sup>2</sup>K in Table 5 (*Table 4 referred to in a) & b) in error*) of AD L1B will not be achieved; and
- (b) not all the thermal elements are specified to be upgraded, i.e. the front elevation is to be left unaltered and would appear not to meet the threshold requirement of Table 5 of ADL1B.

11. The Council also refers to paragraph 28 of ADL1B which recommends that more design flexibility is possible utilising SAP 2005 calculations to demonstrate that the total CO<sub>2</sub> emissions from all the dwellings in the building as it will become, are no greater than if each dwelling had been improved following the guidance set out in paragraph 27. In this case the U-values of any individual element should be no worse than the values in column (b) of Table 1 of AD L1B.

12. The Council's request for SAP calculations in accordance with paragraph 28 is therefore to establish that there is reasonable provision to comply with the recommendations of ADL1B in the proposed work, taking into account the issues referred to above and the possible enhanced specification of the thermal elements of the loft extension forming part of the additional dwelling. The Council's opinion is that SAP calculations and the information they contain to derive the SAP rating are required to show compliance with the Building Regulations and the information you have deposited to date is insufficient to confirm this.

## **The Secretary of State's consideration**

13. The Secretary of State has given careful consideration to the particular circumstances of this case and the arguments presented by both parties. She considers that the question referred to her for determination is whether it is necessary that SAP 2005 calculations should be provided to the Council with the plans of the proposed building work, for the purpose of demonstrating that the plans are in compliance with Requirement L1 of the Building Regulations.

14. The use of SAP calculations, as referred to in paragraph 28 of ADL1B, to show compliance with Part L requirements when wholly or partly changing the use of, or extending, existing buildings – as in this case - is optional. It is offered as an alternative to meeting the elemental standards in Tables 2, 4 and 5 of ADL1B, following the guidance set out in paragraph 27, and is intended to provide more design flexibility. The Council therefore cannot insist that you should perform SAP calculations in accordance with paragraph 28 to show that the total CO<sub>2</sub> emissions from all the dwellings in the building as it will become are no greater than if each dwelling had been improved following the guidance in paragraph 27 of ADL1B.

15. However, although you suggest you have made reasonable provision in accordance with paragraph 27, the Secretary of State notes that the Council considers that your deposited plans do not meet the elemental standards in ADL1B and thus do not demonstrate compliance with Requirement L1 of the Building Regulations. You therefore have two options to demonstrate compliance: (a) modify your plans so that they do meet the elemental standards in Tables 2, 4 and 5 of ADL1B; or (b) use SAP to show that your plans do indeed comply, bearing in mind that you may still need to improve the U-values of some thermal elements to meet the limiting U-value standards in Table 1 of ADL1B. It should be noted that the energy rating to be prepared on completion of the work cannot be used to demonstrate compliance with Requirement L1.

## **The determination**

16. As indicated in paragraph 14 above, the Secretary of State has concluded and hereby determines that you are not required to provide SAP 2005 calculations with your plans of the proposed building work to the Council, to demonstrate compliance with Requirement L1 in Part L (Conservation of fuel and power) of Schedule 1 to the Building Regulations 2000 (as amended). However, you should note that this determination does not mean that your plans as submitted are in compliance, and paragraph 15 indicates that you have two options to demonstrate that the plans and/or completed work comply/complies with Requirement L1.

17. You should note that the Secretary of State has now determined the question referred to her in this case and any matters that follow should be taken up with the building control body. A copy of this letter is being sent to the Head of Building Control at the Council.