

Date: 10/05/05

Ref: 45/1/216

Note: The following letter which has had personal details edited out was issued by our former department, the Office of the Deputy Prime Minister (ODPM). ODPM became Communities and Local Government on 5 May 2006 - all references in the text to ODPM now refer to Communities and Local Government.

Building At 1984 - Section 16(10)(a)

Determination of compliance with Requirement L1 (conservation of fuel and power - dwellings) of the Building Regulations 2000 (as amended) in respect of the proposed glazing within the new windows and doors, forming part of building work comprising two extensions.

The proposed work

4. The building to which this determination relates is one half of a pair of semi-detached houses dating from 1911 and is located in an Conservation Area. It is considered to be an 'historic building' and consists of two storeys with an area of approximately 90m².

5. The proposed building work comprises the provision of: a two storey side extension to provide a 'sun lounge' reception room at ground floor level and a new third bedroom and hallway at first floor level; a single storey rear kitchen extension; and other internal alterations. The additional floor area in the extensions will amount to around 40m². Your proposals incorporated the provision of single glazing within the windows and doors in the new extensions and it is this element of your proposals that is at issue.

6. The above proposals were the subject of a full plans application which the District Council advises was formally rejected on the grounds that further information was required to demonstrate compliance with the Building Regulations. The Council had requested further information in an earlier letter including that relating to the proposed glazing in the extensions. The Council stated that, with regard to compliance with Requirement L1 and the guidance in *Approved Document L1 (Conservation of fuel and power in dwellings)* relating to historic buildings, in its view double glazed units were available to match your existing windows which would provide a U value of 2.0 w/m²K and that would not prejudice the character of your property. This performance is indicated in *Approved Document L1* as reasonable provision in ordinary circumstances.

7. However, as your property is an historic building and you consider that you have made "compensatory energy conservation savings" in the other building fabric, you believe that single glazing within the windows and doors in the extensions (which would provide poorer U-values) is sufficient for the purpose of compliance with Requirement L1. Although the District Council has subsequently agreed to the use of single glazing, you consider that the further energy saving measures the Council has requested in addition to your proposals (as indicated below) are unreasonable. It is in respect of this question that you have applied to the Secretary of State for a determination.

The applicant's case

8. You refer to *paragraph 2.10 of Approved Document L1* and assert that the District Council's building control department did not take into account the views of the Council's (ie the local planning authority's) conservation officer before issuing its full plans rejection notice. You have contacted the conservation officer directly and have provided evidence indicating that he "would prefer to see single glazed units". You suggest that you amended your drawings to show double glazing to avoid delaying the building work, but that it was your intention to revisit the issue.

9. You also give your views on the function of a south facing sun lounge, as proposed, and following consultation with the Building Research Establishment (BRE), you conclude that the imposition of double glazing would make the room "intolerably" hot during much of the summer.

10. You further assert that the District Council has not taken into account the 'compensatory' steps in the design of the building fabric you have taken to improve energy efficiency, ie the thermal insulation provided in the ground floors, walls and roofs of the extensions (you would appear to be referring to both extensions) to levels above those stated in *Approved Document L1* as reasonable provision in ordinary circumstances.

11. Although the District Council subsequently agreed to the provision of single glazing to the extensions, you consider that the additional measures the Council has requested are not reasonable and cost effective and go beyond what is required to comply with Requirement L1. You believe that, in the event of your property being sold to new owners, these measures would be uncontrollable and their continued use cannot be guaranteed.

12. You indicate that you have commissioned consultants to carry out a SAP rating for the building as built to your proposals. This showed that with the proposed single glazed extensions, your property would achieve a "Good" SAP rating of 61.

13. You draw attention to *paragraph 8.1 of the English Heritage publication titled "Building Regulations and Historic Buildings"* relating to "The importance of windows", which you consider supports your case.

14. In response to the District Council's representations to the Secretary of State, you subsequently commented further and raised what you consider to be two key and sequential questions as follows:

(i) Were the original proposals deposited with the District Council (ie single glazing only within the windows and doors in the extensions, partially off-set by additional thermal insulation in the other building fabric) sufficient to satisfy the guidance in the paragraphs relating to historic buildings in *Approved Document L1 (ie paragraphs 2.9 to 2.11)*, and thus achieve a reasonable balance between energy conservation and the special character of your property?

(ii) If not, what other measures might be undertaken to satisfy the requirement of the above paragraphs and are they reasonable and effective?

The District Council's case

15. The District Council has indicated that, although it is still of the opinion that the "narrow gap" double glazing, as specified on your drawing, would not prejudice the character of your property, the Council is prepared to accept your proposals incorporating single glazing, if the following further measures to provide additional insulation are also provided - as suggested in the *English Heritage publication "Building Regulations and Historic Buildings"*:

(i) fully draught proofed single glazed timber frames for all new windows and glazed doors.

(ii) secondary glazing to all new windows and glazed doors.

(iii) thermally lined curtains to all new windows and glazed doors with the exception of the kitchen window.

The Secretary of State's consideration

16. The Secretary of State takes the view that the issue to be determined is whether there is a sufficient case for accepting that your proposal to fit single glazed windows and doors in the new extensions, together with the compensatory thermal insulation measures in the other building fabric (ie the ground floors, walls and roofs), is reasonable provision for compliance with Requirement L1.

17. The Secretary of State considers that compliance with the requirements of Part L (Conservation of fuel and power) of the Building Regulations is an important element of the Government's climate change policy. The aim of Part L is to oblige people to make reasonable provision for the conservation of fuel and power whenever building work is carried out. *Paragraph 1.3 in the English Heritage Interim Guidance Note*, relating to the application of Part L (the document referred to by both parties), indicates that English Heritage and other building conservation bodies support this aim provided that it does not

compromise the special interest, character and appearance of historic buildings. The Secretary of State welcomes this balanced approach.

18. *Paragraphs 2.9 - 2.11 of Approved Document L1* address the alteration of historic buildings and indicate that it would be appropriate to take into account the advice of local planning authority conservation officers in the matter of prejudicing or otherwise the character of a historic building. It is clear that inappropriate extension works can be prejudicial to character.

19. *Paragraph 6.7 of the English Heritage Interim Guidance Note* also deals with the application of Part L to extensions to historic buildings. It indicates that extensions will normally be able to accommodate a higher standard of thermal performance than the host building. As exceptions to this it identifies cases where the extension is intended to be a true facsimile of a previous structure and where certain planning requirements apply. However, it appears that the proposals in this case are not intended to achieve a true facsimile and there is no planning requirement.

20. The Secretary of State notes that the local planning authority's conservation officer in this case has signalled his preference for the windows and doors in the new extensions to be single glazed to enable matching with the host building. However, there is no evidence provided that consideration has been given to the District Council's assertion that a reasonable match could be achieved using double glazing. It would also appear that no consideration has been given to the risks of excessive condensation forming on single glazed panes.

21. There has also been some debate in the documentation submitted about the possibility of overheating in the proposed sun lounge. The BRE has attested that double glazing would tend to exacerbate this problem, however, there do not seem to be any proposals for external shading so it is perhaps likely that the sun lounge will overheat in summer whether the windows are single or double glazed.

22. You have commissioned authorised SAP Assessors, to calculate the SAP rating of the building as it will become after the proposed building work. The Secretary of State notes that the result is "Good" at 61, but he considers that this does not in itself indicate that reasonable provision for energy conservation has been made in the proposed work, in the absence of a comparison with calculations of performance before the work was carried out.

23. The District Council has subsequently accepted that single glazing would be acceptable if, in addition to the proposed compensatory thermal insulation in the other building fabric, the windows and doors in the extensions are reasonably well draught-stripped, secondary glazing units are fitted and thermally lined curtains are provided. It should be noted that thermally lined curtains are recommended by English Heritage and the advice is useful, but curtains cannot be considered as part of the 'building work', as defined in the Building Regulations, and therefore cannot play a part in achieving compliance with the regulations.

24. You have raised two sequential questions (see paragraph 14). Taking the above considerations into account, the Secretary of State has concluded that your original proposals do not demonstrate compliance with Requirement L1 and that additional measures are therefore necessary. In his view, with due regard to the historic character of your property, your proposals have the potential to achieve compliance with Requirement L1 by a combination of your proposed additional thermal insulation in the building fabric of the extensions, together with the provision of either:

- timber framed windows and doors with double glazing as specified on your drawing, and providing reasonable draught-resistance; OR
- timber framed windows and doors with single glazing providing reasonable draught-resistance, together with secondary glazing.

The determination

25. The Secretary of State has given careful consideration to the particular circumstances of this case and the arguments presented by both parties.

26. As indicated above, the Secretary of State considers that your proposals, as submitted for determination, do not make reasonable provision for the conservation of fuel and power. He has therefore concluded and hereby determines that your proposals do not comply with Requirement L1 (Conservation of fuel and power - Dwellings) of Schedule 1 to the Building Regulations 2000 (as amended).