

## **Requirement B1: Appeal against refusal in respect of a loft conversion (Ref 45/3/190)**

**Text of Communities and Local Government 'appeal' letter dated 28 October 2007 (Reference 45/3/190)**

### **BUILDING ACT 1984 - SECTION 39**

#### **APPEAL AGAINST REFUSAL BY THE COUNCIL TO RELAX REQUIREMENT B1 (MEANS OF WARNING AND ESCAPE) IN PART B (FIRE SAFETY) OF SCHEDULE 1 TO THE BUILDING REGULATIONS 2000 (AS AMENDED), IN RESPECT OF A LOFT CONVERSION**

#### **The building work and appeal**

3. The papers submitted indicate that the building work to which this appeal relates is completed and involved the conversion of the roof space (i.e. the loft) of a two storey, three bedroom, semi-detached house, with a plan area of approximately 15m<sup>2</sup>, to form an additional bedroom. Access to the loft room on the new second floor has been provided by a new stair located above the existing stairway, which leads to an open room without a door.

4. The building work was subject to a full plans application which detailed the means of escape provisions in accordance with Approved Document B (Fire safety - 2000 edition) and was approved on 28 April 2006. Your plans included the provision of a fire resisting stair enclosure and self-closing fire door to the loft room, with the new floor constructed to 30 minute fire resisting standard. All doors to habitable rooms opening onto the stairwell were to be fitted with self-closing devices with a mains operated interlinked smoke alarm system provided at ground, first and second floor landing levels. Escape windows have also been provided from the loft room. The new second floor is approximately 5.5m above existing ground level.

5. However, at the point of the new stairway being completed, you asked the Council if you could omit the stair enclosure at second floor level leaving the loft room open to the stairway with only a balustrade around the opening. You say you were informed that you could do this provided that each habitable room on the ground and first floors had 30 minutes fire doors and each ceiling was double plaster boarded to provide fire protection. But, following the commencement of this work, you were subsequently informed by the Council that the new ceilings were unnecessary and that a doorway was in fact required at the top or bottom of the area leading to the loft room to provide fire separation, as specified in the guidance in Approved Document B (2000 edition).

6. As you did not wish to enclose the stairway at second floor level, you applied to the Council to relax Requirement B1 of the Building Regulations which was refused on 23 March 2007 (dated 2006 in error). The Council stated that no supporting evidence had been obtained or provided to demonstrate adequate provision for means of escape from the open loft room and that the removal of the 30 minute fire separation between the stairwell and the loft room would deprive

the occupants of that room of a safe refuge whilst awaiting rescue. It is against this refusal that you have appealed to the Secretary of State.

### **The appellant's case**

7. You state that the first floor landing and the stairway leading to the new loft room in your house is light, airy and spacious. The loft room is an ideal space as a family room/bedroom/study etc and looks more attractive open with the balustrades on show – almost like a galleried landing. In your view, a doorway would ruin the look and restrict space. You feel that the Council has handled your Building Regulations application unprofessionally at your expense.

8. You also make the following points to support your case and have submitted photographs to demonstrate these:

- (i) There are smoke alarms on every floor level; should the ground floor alarms be set off this would activate all the alarms.
- (ii) The ground floor rooms off the main entrance hall, to which the stair also leads off to the first floor and the three bedrooms on the first floor are all fire proofed, i.e. the ceilings are double boarded and re-skimmed and the doors are fire doors.
- (iii) There are three exit windows in the loft room, all which open fully and allow exit if needed. You say that the front of the house is a chalet and that the first floor front bedroom is a large dormer which extends across the house next door. Above the dormer is a velux window in the loft room, which can be used as an exit - the drop onto the roof of the dormer is only a few feet to safety where one can walk across to the next house and exit or wait for rescue. There is also a loft dormer at the rear of the property which is another adequate means of escape and also a side access window which can provide exit to the side of the house.

9. You conclude that you believe that the safety of the occupant of the loft room has not been compromised by the omission of a doorway and do not agree with the Council's refusal to accept this.

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

10. With reference to your request that the door to the new loft room be omitted, the Council explains that at the time of your request Approved Document B was being reviewed and the Council's Building Control Officer sought general advice from this Department as to whether this would affect the requirements relating to loft conversions. The Department confirmed that the guidance on loft conversions was being reconsidered and in the light of this advice, the Council initially took the view that there could be an acceptable solution which allowed the omission of the loft room door in your case.

11. However, the Council states that the modified guidance provided in the latest 2006 edition of Approved Document B indicates that the loft room in your case should be served by a protected stairway at all levels. The Council therefore considers that, although the building work in your case appears to accord with all other requirements in the new guidance, as no written guidance can be found to support your proposal to omit a fire door to the loft room it does not appear to meet the minimum fire safety standard required.

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

12. The Secretary of State wishes to make it clear that the fact that written guidance, such as that contained in an Approved Document, does not support a particular approach as in this case is not, in itself, evidence of non-compliance with the Building Regulations. Approved Documents provide guidance on common building situations; this guidance should be applied intelligently and the principles of the provisions set out in Approved Documents can often be applied in ways to individual cases which are not specifically illustrated therein.

13. The Secretary of State takes the view that what needs to be considered in this case is the safety of the occupants of the new loft room should a fire occur elsewhere in the house and also the impact of the work on the safety of the occupants of the lower storeys. The common solution to this situation in a new three storey house (given that most habitable rooms, particularly bedrooms, will be provided with a door) is the provision of a protected stairway with doors and fire resisting construction at all levels.

14. With respect to escape from the loft room in this case, the escape route (ie the stairway) is protected from the accommodation at every level other than from the loft room itself. This provides, in so far as the occupants of the loft room are concerned, the same level of safety as would be afforded by a conventional protected stairway. As such, there would be no need for a fire door to provide safe refuge for the occupants of the loft room. However, should a fire occur within the loft room, smoke could quickly obstruct the escape route for the occupants of the rooms on the lower levels. As such, the rooms at ground and first floor levels have effectively become inner rooms.

15. Accordingly, where a fire in an access room could obstruct the means of escape from an inner room, steps need to be taken to provide an alternative exit such as an egress window. The Secretary of State notes that the Council has confirmed that windows, suitable for escape purposes, are provided to each of the habitable rooms on the ground and first floor. She therefore considers that the arrangements for means of escape are acceptable in this case to achieve compliance with Requirement B1 without the need for a door and partition at the new second floor level. In these circumstances, it follows that it is not necessary to give further consideration to the case for relaxing Requirement B1.

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

16. In coming to her decision, the Secretary of State has given careful consideration to the particular circumstances of this case and the arguments presented by both parties.

17. You have appealed to the Secretary of State against the Council's refusal to relax Requirement B1 of the Building Regulations. The Secretary of State considers that compliance with Requirement B1 is a life safety matter, and, as such, she would not normally consider it appropriate to either relax or dispense with it, except in exceptional circumstances. Moreover, as indicated above, the Secretary of State considers that the building work in this case demonstrates compliance with Requirement B1. She has therefore concluded that it would not be necessary nor appropriate to relax Requirement B1 (Means of warning and escape) in Part B (Fire Safety) of Schedule 1 to the Building Regulations 2000 (as amended). Accordingly, she dismisses your appeal.