

Date: 10/10/05

Ref: 45/3/174

*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 Act 1984 - Section 39**

### **Appeal against refusal by the City Council to relax or dispense with Requirement B1 (means of warning and escape) of the Building Regulations 2000 (as amended) in respect of proposed building work to install a platform stair lift on the second floor of a polytechnic**

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

3. The building to which this appeal relates, was opened in 1951 as a club and was originally used as hotel type accommodation for naval officers. The building is L shaped on plan, each wing being approximately 30m long by 10m wide. A stairway is located at the end of each wing with a third accommodation stairway located at the junction between the two wings. It comprises four storeys the second and third floors both built as split level with further connecting stairways linking the two wings.

4. The building was purchased by the Polytechnic in the late 1970s and, following elevation to the status of a University in 2001, was extensively refurbished. A new passenger lift was installed, compliant with the standards required for wheelchair access, serving the lower levels of the second and third floors. The existing goods lift which served the upper levels of these floors was also converted to passenger use but it is not considered suitable for wheelchair users.

5. You advise that the building is currently principally used by support services for students, one of which involves counselling. The head of the counselling service has requested the installation of a platform stair lift on the second floor to enable wheelchair users to gain access to the suite of around 12 counselling interview rooms on the upper level of the floor, having come up to the lower level from the ground floor in the appropriate lift. The alteration work proposed would involve enlarging the area containing the stairway to facilitate access to the platform stair lift, in addition to the installation of the lift itself.

6. However, you considered that a Building Regulations application for the proposed building work was likely to be rejected because a similar proposal had previously been rejected on the third floor of the building on the grounds of non-compliance with Requirement B1 of the Building Regulations. You therefore requested a relaxation or dispensation of Requirement B1 which was formally refused by the City Council on 9 May 2005. It is against this refusal that you have appealed to the Secretary of State.

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

7. You comment that the refusal by the City Council appears to be based on the possibility that a person in a wheelchair, attempting to use the platform stair lift in an emergency situation, could obstruct the means of escape in the event of a fire. You state that the proposed lift would be of a type where the platform folds up against the wall when not in use.

8. In any event, you consider that the requirements of the Disabled Discrimination Act 1995 (DDA) should take precedence over Requirement B1 of the Building Regulations relating to means of escape. You are concerned that the University could become involved in litigation over the failure to provide access for a wheelchair user to a facility that is available to other students in a particular location.

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

9. The City Council comments that your application involves the proposed installation of a platform stair lift in a primary escape route on the second floor of the building. The central stairway is an accommodation stair and cannot be considered for means of escape. Consequently, the Council considers that the corridor in question is the primary route between the escape stairs at the end of each wing.

10. The City Council states that the corridor is 1500mm wide and that the platform stair lift will project 940mm when in use, which will leave a remaining width of only 560mm. Having consulted with the Fire and Rescue Service, the Council takes the view the type of lift proposed will form an unacceptable obstruction to the width of this route for the purpose of means of escape in case of fire, and this would be aggravated by the fairly high occupancy of the second floor - approximately 40 offices are shown on your plans. It appears to the Council that there is sufficient accommodation on the lower level of the second floor to cater for wheelchair users, subject to the efficient management of the floor. The Council is not aware of any unique facilities at the higher level of the second floor that would require wheelchair access and, even if there were, it would seem feasible to relocate these to the lower level, thus addressing the issues relating to the DDA.

11. The City Council therefore concludes that your proposal for a platform stair lift on the second floor of the building does not comply with Requirement B1 and that a relaxation or dispensation of the requirement would not be appropriate.

## The Secretary of State's consideration

12. You comment that the requirements of the DDA should take precedence over Requirement B1 of the Building Regulations relating to means of escape. The Secretary of State takes the view that neither of these provisions has precedence over the other and, as such, solutions must be found that satisfy both of them equally.

13. The City Council has stated that the central stairway is an accommodation stair and cannot be considered for means of escape. The Secretary of State considers that there are circumstances where stairs that are not fully protected can contribute to the means of escape from a building. However, it is not possible, from the plans provided, to establish if this stairway could be considered as an escape route and as such it may be necessary for the population of one wing to pass the platform stair lift in order to reach the escape stair in the other wing.

14. The guidance on this issue given in *Approved Document B (Fire safety)* states that "*The rails used for guiding a stair lift may be ignored when considering the width of a stair. However, it is important that the chair or carriage is able to be parked in a position that does not cause an obstruction to either the stair or landing*" (see paragraph B1.xxviii c. Note 2). What must be considered in this case, therefore, is whether the platform in its parked position is likely to cause an unacceptable obstruction to persons making their escape in the event of a fire.

15. The details of the proposed platform stair lift you have submitted to the City Council indicate that in its parked position the platform would project 280mm into what is a 1500mm wide corridor on the second floor. This would leave a clear route of more than 1200mm in width with an exit capacity in excess of 220 people (*see Table 5 of Approved Document B*). The Secretary of State takes the view that this would be more than adequate to cater for the number of people who may need to use this route, which is unlikely to exceed 50 given the available floor space, and as such the proposal would be acceptable for the purpose of compliance with Requirement B1. It therefore follows that the need to relax or dispense with Requirement B1 does not arise in this case.

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

16. 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 in respect of the refusal by the City Council to relax or dispense with Requirement B1 of the Building Regulations. The Secretary of State considers that compliance with Requirement B1 is a life safety matter and as such he would not normally consider it appropriate to either relax or dispense with it, except in exceptional circumstances. Moreover, as indicated in paragraph 15 above, the Secretary of State considers that your proposal to install a platform stair lift on the second floor of the building demonstrates compliance with Requirement B1 (Means of warning and escape) of Schedule 1 to the Building Regulations 2000 (as amended) and it is therefore neither necessary or appropriate to relax or dispense with the requirement. Accordingly, he dismisses your appeal.