

Date: 31/03/99

Ref: 45/3/111

Note: The following letter which has had personal details edited out was issued by our former department, the Department for Environment, Transport and the Regions (DETR). DETR is now Communities and Local Government - all references in the text to DETR now refer to Communities and Local Government.

Building Act 1984 - Section 39

Appeal against refusal by the City Council to dispense with Requirement B1 (Means of escape) of the Building Regulations 1991 (as amended) in respect of a canopy over ground to first floor staircase

The appeal/ the building work

3. The building work to which this appeal relates is now completed and comprises a new 5 storey halls of residence building. The building contains 33 student rooms on the ground, first, second, and third floors (inclusive of one room in the attic on the west side accessed by a separate stair from the middle of the third floor corridor). The rooms on the first, second and third floors are accessed by a corridor running from end to end of the building which is divided at approximately its centre by a fire door. These three corridors give access to:

- (i) a main circulation stair at the south end (Stair No. 1) which is internal to the building and rises from the first floor to the third floor; and
- (ii) an escape stair (Stair No. 2) on the west side at the north end of the building.

The escape stair is external to the building and extends up to the attic floor. Access from ground level to the first floor, at the point where Stair No.1 is located, is via a flight of external stairs leading up to a landing and the access door.

4. The ground floor of the building contains 7 bedrooms served by a similar corridor to the upper floors save that access is achieved from the north end only. There is no access at ground level on the south end of the building adjacent to or underneath the external stair.

5. These proposals were the subject of a full plans application which was approved subject to the condition that the flight of external stairs at the south end should be protected from the weather. However, you believe that the requirement for a canopy to cover this stair is unreasonable and you therefore applied to the City Council for a dispensation from Requirement B1 (Means of escape). The Council refused your application and it is in respect of their refusal that you have appealed to the Secretary of State.

The appellant's case

6. You state that in previous phases of the University development you have built four similar stairs all of which are open from ground to first floor. The new Stair No.1, which is the subject of this appeal, is designed in the same style as those on the previous phases. You state that there have not been any accidents on these other stairs over the last 32 years despite constant and regular use by students and college staff. You consider that a canopy over Stair No.1 would look bulky; be detrimental to the appearance of this building in relation to other buildings; and would cause unnecessary expense in a project under tight budgetary restraints.

7. You consider that the development is not similar to a hotel stair which could be used by guests unfamiliar with the building on a daily basis. This is a student residence and persons will be familiar with the arrangement because of having to use the stair on a daily basis as the main entrance to the building. You also consider that the stair is in a very sheltered position with buildings located all around it. You contend therefore that the provision of a canopy to Stair No. 1 is not necessary.

The City Council's case

8. The City Council refused to dispense with Requirement B1 of the Building Regulations on the basis that if Stair No.1 was totally unprotected from the weather between ground and first floor then there would not be a satisfactory means of escape from the building to a place of safety outside the building, which was capable of being safely and effectively used at all material times.

9. The City Council do not dispute that other buildings on the site have open stairs, but do not necessarily agree that these stairs provide a safe route of travel. Indeed the City Council contends from its own experience that unprotected stairs regularly give rise to accidents.

10. The City Council are of the opinion that to permit the external flight of Stair No.1 to remain unprotected could give rise to an unacceptable risk of injury, particularly in the event of the evacuation of the building following a fire alarm in poor weather conditions. In support of this the City Council make reference to *paragraph 4.35 of Approved Document B (Fire safety)* which indicates that one of the escape routes in a building can be via an external stair.

11. The City Council considers that the design of Stair No.1, which is the principal circulation stair and hence the preferred route of travel, should not be vulnerable to adverse weather conditions. However the City Council is not insisting on full enclosure to the stair but would be prepared to consider a partial enclosure sufficient to offer protection from the effects of snow and ice. The local Fire Authority were consulted and support the City Councils rejection of the proposals.

The Department's view

12. The Department takes the view that it is being asked to decide on whether it is necessary to provide partial protection from the elements to Stair No.1 between ground and first floor. In considering this case the primary concern of the Department is the safety of the buildings occupants who may have to use the stair in an emergency evacuation - not the cost of providing a canopy or whether other buildings in the vicinity also have open stairs.

13. The Department accepts the City Councils interpretation of *paragraph 4.35 of Approved Document B* but also notes that the remainder of Stair No.1 from the first floor upwards will be fully enclosed. Having the stair open to the elements from the ground to first floor could prejudice safe escape if there were to be a large number of persons suddenly moving from an enclosed stair to a completely open stair, even if only at first floor level. However the Department does not consider that there will be a mass exodus of persons in sufficient numbers to make escape via an open stair unsafe. There are only 26 student rooms which will potentially rely upon the stair as an escape stair; and because of the degree of fire separation that will be provided the Department considers it highly unlikely that there will be a panic situation on the first floor because of the interchange between the internal stair serving the upper floors and the external stair discharging from the first floor to ground level. The Department also accepts your statement that, in general, persons resident in the building will be familiar with the stair.

14. Finally, from the arguments advanced by both parties the Department notes that there is a conceptual difference which has led, at least in part, to the difference of view taken by the City Council and yourself. This concerns what can reasonably be regarded as an independent access stair to a building. In this particular case access to the ground floor accommodation is at the opposite end of the building to the external access stair and is completely separate from the upper floors. In the Departments view it is therefore reasonable to regard the external stair as an independent one to a final exit door at the south end of the building which happens, in this instance, to be at first floor level. Although perhaps a rather small scale example, it is in fact similar to many buildings which are accessed via a podium which is served by an independent access stair and which is invariably not weather protected.

The Secretary of State's decision

15. Paragraphs 13 and 14 above have considered the issue of compliance of the completed external stair at the south end of the building in respect of Requirement B1 of Schedule 1 to the Building Regulations 1991 (as amended). However, you have applied to the Secretary of State in respect of the refusal by the City Council to dispense with Requirement B1.

16. The Secretary of State considers the requirements in Part B of Schedule 1 to the Building Regulations 1991 to be life safety matters and as such would not normally consider it appropriate to relax, let alone dispense with, any of those requirements. He has given careful consideration to the facts of this case and the arguments put forward by both parties. He has also taken note of his Departments advice regarding the compliance of your building work. In all the circumstances he does not consider there are any extenuating circumstances which would justify either a relaxation or a dispensation of Requirement B1. Accordingly, he dismisses your appeal.