

Date: 12/02/99

Ref: 45/3/122

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 relax Requirement B3 (Internal Fire Spread (Structure)) of the Building Regulations 1991 (as amended) in respect of the fire specification of a communicating door to a newly constructed attached garage to a dwelling

The appeal

3. Your appeal relates to the fire specification of the door which has been provided between your existing kitchen and a newly constructed single storey garage which is attached to the side of your existing two storey house.

4. The proposals for the garage and inter-connecting door were the subject of a full plans application which was approved. The *approved plan (your no. 97/10969)* indicates that the new door between the kitchen and the garage is to be a 30 minute fire resisting self-closing door with intumescent strips and cold smoke seals. However, the actual door which has been fitted is a upvc door which the City Council consider will not achieve 30 minutes fire resistance in accordance with the guidance given in *Approved Document B (Fire safety)*. This variation from your approved plans was discovered by site inspection.

5. You do not wish to change the upvc door and had suggested a fire engineered solution to overcome the City Councils concern which would comprise mains operated linked smoke detectors in the house and garage. You supplied a copy of the BBA certificate and Kitemark licence for the upvc product . The City Council state that these do not indicate that the product achieves 30 minute fire resistance. They also consider that a fire alarm system does not address the need for fire containment. They were therefore not prepared to entertain your fire engineered solution.

6. However, you believe that your fire engineered solution would provide better protection to your family than a half hour fire door. You therefore applied to the City Council for a relaxation of Requirement B3 which was refused by the Council. It was against that refusal that you appealed to the Secretary of State.

The appellant's case

7. Your grounds for appeal centre on the City Council's refusal to relax Requirement B3 in order for you to secure compliance with that regulation whilst retaining your upvc door as installed - which does not meet the 30 minutes fire resistance referred to in the guidance given in *diagram 22 and Table B1 (line 8) of Approved Document B* - and adding by way of a compensatory feature your fire engineered solution. The latter would comprise a mains operated smoke detection system linking the house and garage with additional sounders provided on the ground and first floor of the house. The system would be installed by a qualified engineer and would conform to BS 5446.

8. In your opinion the occupants of your house will have better protection from the detection system since this will give immediate warning of fire and will enable persons to evacuate the premises before the fire escalates. You also point out that installation of the upvc door involved considerable cost and is reinforced with metal. You contend that the new door should therefore provide adequate protection against fire, particularly when the detection system is taken into account.

The City Council's case

9. The City Council point out that your proposals were approved on the basis of your drawing which showed a door of the correct specification in respect of fire resistance. However, a subsequent site inspection brought the contravention to light. The Council examined your documentation which purported to show that the door, as fitted, was adequate but they found no evidence to support your claim that the door would achieve 30 minutes fire resistance under the relevant British Standard method of test.

10. The City Council note that you have offered a fire engineered solution but they considered your proposal to provide mains operated linked smoke detectors in the garage and dwelling to be unacceptable in terms of achieving compliance with Requirement B3.

11. The City Council also point out that *paragraph 8.12 and diagram 22 of Approved Document B* suggest that there should be a degree of compartmentation between the house and the garage. The City Council support the use of early warning systems but do not consider them to be a suitable trade-off for fire containment.

The Department's view

12.As has been pointed out by the City Council, *Paragraphs 8.12 and diagram 22 of Approved Document B*, suggest that fire separation should be provided between the house and garage. The Department has considered your submission with regard to the new upvc door as installed and accepts the City Councils judgement that this door would not appear to have the recommended 30 minutes fire resistance.

13.The Department has also considered your proposal to provide a more comprehensive smoke detection system with linked detectors in the house and garage. However, whilst the Department supports active measures such as alarm systems to give early warning of fire, it accepts also the City Councils judgement that in this case such a system is not an adequate compensatory feature in lieu of the recommended 30 minutes fire separation.

14.The Department considers that the garage is a higher fire risk area and persons, who may be elderly or very young, are entitled to have the protection that the fire separation should provide so that they have a reasonable chance of being rescued. It is therefore the Departments opinion that 30 minutes fire separation between the house and garage, which must include the door, should be provided.

The Secretary of State's decision

15.The Secretary of State has given careful consideration to the facts of this case and the arguments put forward by both parties. Requirement B3 of Schedule 1 to the Building Regulations 1991 is a life safety matter and as such the Secretary of State does not normally consider it appropriate to relax or dispense with it.

16.In this particular case an approved plan contains a conventional and practical means of achieving compliance with Requirement B3. The Secretary of State therefore considers that there are no extenuating circumstances which would justify consideration of a relaxation of Requirement B3 in this case and has concluded that the City Council came to the correct decision in refusing to relax the Requirement. Accordingly, he dismisses your appeal.