

BUILDING ACT 1984 - SECTION 39

APPEAL AGAINST REFUSAL BY THE DISTRICT COUNCIL TO RELAX REQUIREMENT F1 (MEANS OF VENTILATION) IN PART F (VENTILATION) OF SCHEDULE 1 TO THE BUILDING REGULATIONS 2000 (AS AMENDED), IN RESPECT OF VENTILATION IN TWO NEW EN-SUITE BATHROOMS, FORMING PART OF A TWO STOREY EXTENSION TO A HOUSE

The building work and appeal

3. The papers submitted indicate that the building work to which this appeal relates has been completed, and comprises a two storey extension to a two storey, three bedroom house to provide primarily two additional bedrooms with en-suite bathrooms, one on the ground floor and the other on the first floor, and a living room on the ground floor. The plans indicate that a single storey extension containing a kitchen and conservatory has also been erected but this work is not relevant to your appeal.

4. The building work in question was the subject of a Building Regulations full plans application which was conditionally approved by the Council on 24 January 2006. This included a specification - which relates to the guidance in the 1995 edition of Approved Document F (Ventilation) - for the provision of extractor fans in the en-suite bathrooms. However, when the extension was subsequently built the fans were omitted from both bathrooms by the builder. As you considered that installing the fans retrospectively would be expensive and unnecessary, you asked the Council to 'waive' this requirement and issue a completion certificate. The Council indicated that as the fans had not been installed, it was not satisfied that compliance with Requirement F1 (Means of ventilation) of the Building Regulations had been achieved and it was also unable to relax the requirement. It is against this refusal to relax Requirement F1 that you have appealed to the Secretary of State.

The appellant's case

5. As the building work and decoration is finished, you are appealing against the Council's requirement for extractor fans because of the considerable disruption and expense it would cause. The en-suite bathrooms have two opening windows and trickle ventilation which you believe to be sufficient for ventilation purposes. You point out that some of you have lived in various properties for the last 60 years without this form of ventilation causing any detrimental effect to the buildings.

6. You find it "very strange" that the original bathroom in the house is not subject to the requirement for extractor fans. You also consider that to install

additional ventilation which uses electricity would be wasteful and not in line with current Government policy to save energy

The Council's case

7. The Council has referred to the guidance in Approved Document F (1995 edition) which recommends that bathrooms should have:

- (i) an opening window to provide rapid ventilation;
- (ii) background ventilation provided by an opening of area 4000 mm² – the trickle ventilators in this case;
- (iii) an extractor fan rated at 15 litres/second.

The Council says that your conditionally approved plans contained a specification with a higher rated extractor fan than was required for the ensuite bathrooms and asked for a fan rated as indicated in (iii) above. Without the installation of extractor fans, the Council considers that it has not received sufficient evidence to demonstrate that Requirement F1 of the Building Regulations has been satisfied.

8. The Council understands your concern about the cost of installing the extractor fans, but takes the view that this is not a factor that can be taken into consideration.

9. In response to your comments about Government policy on saving energy, the Council has suggested that you may wish to consider using Passive Stack Ventilation (PSV) which does not use any electricity.

The Secretary of State's consideration

10. The Secretary of State observes that buildings are ventilated partly by air infiltrating through gaps and cracks in the building envelope and partly by air coming through the ventilation system. As the volume of the infiltrating air cannot be controlled it can lead to over-ventilation, and as all the air has to be heated in cold weather, infiltration can result in waste of energy. Because of this, the Building Regulations now encourage builders to make the building envelope *tight* to reduce gaps and cracks and therefore reduce infiltration. This makes it more important that the ventilation system is installed and used correctly in modern buildings. This includes new extensions, which should be built to higher thermal standards and be more airtight than the original part of the house, and so need more sophisticated ventilation systems to ensure good indoor air quality.

11. As the Council indicates, Part F of the Building Regulations deals with ventilation and the guidance in Approved Document F (1995 edition) advocates providing extract ventilation, in addition to other types of ventilation, in rooms where moisture is produced – such as bathrooms and kitchens – to remove the moisture before it can condense on cold surfaces and possibly support mould growth. This is why extract ventilation is important in modern buildings.

12. The Secretary of State notes that although extractor fans were shown on your original plans for the ensuite bathrooms, they were not installed. She appreciates that the cost of fitting the fans retrospectively will be higher than if they had been installed as part of the building work, but does not consider this sufficient reason to relax Requirement F1. For the reasons described above, she feels it is important to provide some form of extract ventilation in the ensuite bathrooms.

The Secretary of State's decision

13. 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

14. The Secretary of State considers that compliance with Requirement F1 is an important matter as it helps address problems with air infiltration and reduces the amount of energy used. As indicated above, she considers that the provision of extract ventilation is important in modern buildings, including extensions and takes the view that a sufficient case has not been made to relax this requirement in your case. She has therefore concluded that it would not be appropriate to relax Requirement F1 (Means of Ventilation) in Part F (Ventilation) of Schedule 1 to the Building Regulations 2000 (as amended) in relation to the omission of extract ventilation in the en-suite bathrooms in your extension. Accordingly, she dismisses your appeal.