

Date: 01/03/00
Ref: EIN CYF

Note: This letter has had personal details edited out.

Text of National Assembly for Wales appeal letter, 1 March 2000 (Ref: EIN CYF)

Building Act 1984 - Section 39 - Relaxation of Regulation K1.

1.I am directed by the National Assembly for Wales, to refer to your appeal (made under Section 39 of the Building Act 1984) against the refusal by the County Borough Council to relax the requirements of Building Regulation K1 at the above address.

The Proposed Work

4.The case involves the refurbishment and redevelopment of the property, including the provision of a new staircase to serve the first floor living accommodation.

5.A full plans application was deposited with the Building Control Department on Work started on site on and the application was given conditional approval on

6.The area Building Control Officer visited the site on and noted the inadequate headroom to the stairs, measured vertically off the pitch line together with inadequate landing space between the door opening and the staircase. This was confirmed in a letter to the applicant dated

7.On, the applicant applied for relaxation of the headroom requirement of 2m over the staircase.

8.On the County Borough Council sent the applicant a copy of Notice of Referral of Building Regulations.

The Applicant's Case

9.In support of your request for Relaxation of Building Regulations you have indicated that the approved drawing did not take into account the existing window and consequently the pitch of the staircase had to be increased. The pitch of the roof over part of the staircase introduced a further constraint. This resulted in a pinch point with regard to the headroom on the staircase. You also state that you are aware that the staircase in part contravenes the regulations, however as the building dates back to the 19th Century and all works carried out have where possible respected the original structure. You

consider that there will always be a need for compromise in refurbishing an old structure, and suggest as a remedy, some simple signage over the stair head would be adequate in this situation.

The County Borough Council's View

10. The County Borough Council maintain that the plans clearly indicated that a portion of the original external wall has been removed to facilitate the stairs, the remaining part being within the area of new construction work. Plan Section 2-2 clearly indicates that the wall above the stairs bulkhead is new cavity construction, which would have allowed the correct positioning of the bulkhead.

11. The distance measured from the bulk head and the start of the sloping ceiling to the nosing line of the stairs measured vertically on site gave a height of 1.83m, a shortfall of 170mm. As you progress down the stairs, this distance increased to way in excess of the required 2m headroom.

12. The notes on Plan refer to the stairs having a 42 degree angle and complying with the Building Regulations. The stairs in question on section 2-2 have been drawn at 32 degree. The stairs on site have been constructed at 42 degree.

13. A person travelling down the stairs will realise that they are required to lower their head. When travelling up the stairs one would not be aware of the diminishing headroom, which could inflict injury on them. It is for this reason that K1 of the approved document requires that the headroom of 2m be maintained for the safe use of the stairs.

The National Assembly's views

14. The Department considers that the Council was reasonable in applying the criteria as defined in K1 of the approved document.

15. The purpose of the requirement of 2m minimum headroom measured vertically from the pitch line of the stairs is to ensure the safety of people moving between different levels in or about the building.

16. The plans as approved by the County Borough Council indicated compliance with the criteria of Part K1 of the Building Regulations. When it was discovered that a window would be obstructed the position and pitch of the staircase was altered without consultation with the County Borough Council. This resulted in a contravention of Building Regulations, which could have been avoided.

17. In this light it is considered that the lack of 2m headroom throughout the full length of the staircase would adversely affect the safety of persons using the staircase.

The Decision

18. The National Assembly has given careful consideration to the particular circumstances of this case and the arguments presented by both parties. On the basis of the information provided by both parties the Assembly considers that the staircase as built does not afford reasonable safety for people moving between the ground floor and the first floor. In this particular case the National Assembly considers there are no extenuating circumstances which would justify the relaxation of Requirement K1 to the Building Regulations 1991 (as amended). Accordingly, your appeal is dismissed.