

Date: 04/02/99

Ref: 45/3/130

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 Borough Council to relax Requirement K1 (Stairs and Ramps) of the Building Regulations 1991 (as amended) in respect of the installation of a new stair to serve a new room in a roof space

The appeal

3. The building work to which this appeal relates comprises a new stair which has been installed to give access to a new loft conversion comprising one room in a 3 bedroom 2 storey terrace dwelling. The room is approximately 3m x 3.5m with headroom restricted to below 2.3m over most of its area. The stair comprises 4 winders at the top and 4 winders at the bottom with an intermediate straight section. The centre going of the winder is 180 mm. The going of the straight section is not given but is described as 'slightly larger'.

4. Your proposals were the subject of a full plans application which incorporated the dimensions of the stair well but not the design of the stair. The application was conditionally approved subject to, inter alia, deposit of a detailed plan layout and sectional drawing of the stair configuration. You state that it was not your intention to proceed without adhering to this procedure, but due to a series of events the staircase was installed without the plans being deposited and agreed with the Borough Council. Two site inspections were undertaken on at which Borough Council officials informed you that the stair was not satisfactory and should be removed.

5. You did not agree with this judgement and therefore made an application to the Borough Council for a relaxation of Requirement K1 which was refused. The Council also served you with a notice under section 36 of the Building Act 1984 to remove or alter the stair in order for it to comply with the Building Regulations. It was against the refusal to grant a relaxation that you appealed to the Secretary of State.

The Borough Council's case

6. The Borough Council consider the stair as a unit to be unsatisfactory for the following reasons:

- it has a pitch which exceeds 42 degrees;
- the going varies from step to step; and
- the going of some of the steps are considered to be inadequate- drawings from the manufacturer suggesting that the winders have a going of 180 mm.

7. The Borough Council have stated that they did not consider it appropriate in this instance to relax Requirement K1.

The appellant's case

8. In your response to the Borough Council's statement concerning the pitch of the stair you have stated that the pitch of the bottom 4 winders and that of the remainder of the stair is below 42 degrees. In respect of the variation of the going you indicate that this must inevitably be the case given that the stair incorporates winders.

9. In support of your case you state that:

- an alternative type of stair would take up a quarter of the room space, and - in your opinion - the only options are either to use a fixed ladder, or a ship's ladder - neither of which you consider would be as safe as the stair as installed
- the stair has been manufactured by a joiner and built to B.S. standards. The joiner believes the stair to be safe and has assured you that he has constructed many other such staircases which have proved satisfactory and been approved
- hand-rails have been fitted on both sides of the stair (together with additional grab rails), and you consider the stair to be safe
- the guidance on spiral stairs given in *paragraph 1.21 of Approved Document K (Protection from falling, collision and impact)* says that stairs with goings less than those shown in B.S. 5395 ('Stairs ladders and walkways' Part 2 1984 'Code of practice for the design of helical and spiral stairs') may be considered for loft conversions where space is limited and the stair does not serve more than one habitable room; although you note that the guidance does say by how much the going can be reduced.

The Department's views

10. The appropriate design and measurements for winder stairs are covered in B.S. 585: 'Wood stairs' Part 1: 1989. This recommends that the going of the straight part of the flight should be as recommended in B.S. 5395 ('Stairs, ladders and walkways' Part 1: 1977 (confirmed November 1984) 'Code of practice for the design of straight stairs'), and that the centre going of the winders should be uniform, and not less than the going of the straight part of the flight. The smallest going recommended in B.S. 5395: Part 1 is 225 mm. However, Part 2 of that B.S. deals with spiral and helical stairs and allows centre goings as small as 145 mm in situations such as this.

11. Clearly, your stair falls well short of the guidance in B.S. 585, but it is within the limits for spiral stairs. Small spiral stairs are considered to be safer than straight or winder stairs because in the event of a fall, the user is likely to fall towards the guarding/hand-rail, thus providing them with an opportunity to regain balance.

12. Although not shown in the photographs you have submitted, you state that additional features have been added to the stair including extra handrails, grab rails and handles. This would improve the safety - especially if the hand-rails are continuous.

13. In loft conversions such as this, the guidance in *Approved Document K* takes account of the limited space available and the light use - mainly by people who are familiar with the stair - and suggests provision of either a fixed ladder or an alternating-tread stair. In the Department's view the stair as proposed and installed would be as safe as these alternatives and in the context of this particular situation complies with Requirement K1.

The Secretary of State's decision

14. The Department has expressed its view directly above on the question of compliance of the staircase with Requirement K1. However your request to the Borough Council was for a relaxation of Requirement K1 which was refused and your appeal to the Secretary of State is against that decision.

15. The Secretary of State has given careful consideration to the facts of this case, and the points made by both parties. Compliance with Requirement K1 can be a matter of life safety and as such the Secretary of State would not normally consider it appropriate to relax, let alone dispense with, the requirement. In this particular case the Secretary of State considers there are no extenuating circumstances which would justify the relaxation of Requirement K1 of Schedule 1 to the Building Regulations 1991 (as amended). Accordingly, he dismisses your appeal.