

BUILDING ACT 1984 - SECTION 39

APPEAL AGAINST REFUSAL BY THE COUNCIL TO RELAX REQUIREMENT K1 (STAIRS, LADDERS AND RAMPS) IN PART K (PROTECTION FROM FALLING, COLLISION AND IMPACT) OF SCHEDULE 1 TO THE BUILDING REGULATIONS 2000 (AS AMENDED) IN RESPECT OF A NEW STAIR FROM SECOND TO THIRD FLOOR LEVEL.

The building work and appeal

3. The papers submitted indicate that the building to which this appeal relates is now a six bedroom, five storey, house which includes a basement, ground, first and second floors, with the third floor appearing to comprise a converted loft space. The building work, which was the subject of a building notice and is almost complete, comprises an extension of the existing basement and renovation/refurbishment of the other floors to accommodate the needs and requirements of your client and his family. The stairs are stacked within the existing protected stairway but, as part of the work, the flight from the basement to first floor and the spiral stair from the second to third floor have been replaced, the latter of which is the subject of this appeal.

4. You explain that it is your client's intention to primarily use the third floor as an artist studio and that the existing stair to this level did not allow him to do so, although the stair had building control approval. You accept that the new stair installed does not comply with Requirement K1 of the Building Regulations but believe that you have valid reasons for this. You therefore applied to the Council for a relaxation of Requirement K1 in relation to this stair. However, the Council took the view that the new stair is not safe to use for people moving between the different levels and refused your application. It is against this refusal that you have appealed to the Secretary of State.

The Secretary of State's consideration

5. The Secretary of State has given careful consideration to the particular circumstances of this case and the arguments presented by both parties. He notes you state that:

- the existing spiral stair to the third floor was not fit for its intended purpose of giving access to an artist's studio/atelier, the use of which will be restricted to the artist only;
- the work is at an advanced stage in its construction to date and significant capital has been expended on the new stair - a further replacement would be too onerous and disruptive;
- the existing stair did not in your view comply with Requirement K1 of the Building Regulations and it is not possible to install a compliant stair within the existing enclosure;

- the only possible alternative which would be compliant with the Building Regulations would be to block off the stair and fit a hatch with a fixed ladder thus making the room effectively redundant.

You therefore conclude that Requirement K1 is inappropriate and unreasonable in your particular circumstances and that the new stair as installed represents the best possible layout and safest way in which movement can be facilitated between the second and third floor levels.

6. However, the Council takes a differing view, noting that your original drawings indicated that the new stair would comply with Requirement K1, and that it was replacing a stair which had already received building control approval on its installation in 2001. The Council explains why the new stair does not comply with Requirement K1 and that your relaxation application was refused because the stair is considered unsafe.

7. Requirement K1 of the Building Regulations states that:

"Stairs, ladders and ramps shall be so designed, constructed and installed as to be safe for people moving between different levels in or about the building."

To assist him in reaching a decision in this case, the Secretary of State has referred to the guidance on satisfying the above requirement given in Approved Document K (Protection from falling, collision and impact), which for a private stair is that it should be designed and installed as follows:

- (a) the maximum rise and minimum going should comply with the values in Table 1 (which are a minimum rise of 220mm and going of 220mm);
- (b) the pitch should not exceed 42°;
- (c) the combination of twice the rise plus the going should be between 550mm and 700mm;
- (d) the headroom should be as set out in paragraph 1.10, which is normally 2m, but it allows a reduction for loft conversions;
- (e) where a stair consists of straight and tapered treads, the going of the tapered treads should not be less than the going of the straight flights – these treads should satisfy paragraphs 1.1 to 1.5.

8. The Secretary of State observes that the new stair as installed in this case is not a spiral or helical stair, and so is treated as a straight stair with winders. It has a rise of 225mm and going of 190mm, a pitch of 50 degrees, and the Council indicates that the required headroom is less than 2m in places. Therefore, it does not comply with the guidance in Approved Document K referred to above. However, as explained in Approved Documents, there may be alternative ways of achieving compliance with the requirements of the Building Regulations, so the Secretary of State must also consider whether the new stair might be considered safe and compliant with Requirement K1 in this particular set of circumstances.

9. The Secretary of State takes the view that the safety of a stair is determined by a number of factors, but primarily the combination of the rise and going to give an overall pitch. The going of a tread is the most important of these factors as research demonstrates that the size of the going determines the stability of a user, and the likely ability of a person to recover their balance and avoid a dangerous fall after overstepping or slipping.

10. In this case the going is particularly short, and the rise particularly high, which creates a potentially dangerous stair which would provide little chance of recovery in the instance of a trip or slip. Research shows that the risk of such an event is significantly increased where the pitch increases and goings are reduced. This is the basis of the guidance in Approved Document K.

11. You state that access to the third floor area of the property would be restricted to the artist using this upper floor only. Putting aside the safety of the artist in moving to and from the studio, a commitment to manage such a risk cannot be ensured through the building control system once approval is granted. Apart from the difficulty of the current owners having to manage the risk on a day to day basis, it is inevitable that the ownership of the property will change at some point in the future and the new occupants may not wish to exercise similar restraint or caution. The stair as currently designed poses a significant risk to future occupants or visitors.

12. It is also clear that you were aware of the need for the replacement stair to comply with the requirements of Part K, as this was noted on the original drawings submitted to the Council. Whilst the guidance in Approved Document K demonstrates some of the more common ways in which compliance can be achieved with these requirements, it is generally accepted that where the guidance is not followed, this tends to indicate non-compliance unless an alternative method of compliance (which is equal in terms of level of provision) has been demonstrated to the satisfaction of the building control body in question. It would therefore have been prudent if you had approached the Council to discuss the alternative design prior to commencing work.

13. The Secretary of State attaches great importance to stair safety and concludes that the combination of short going, high rise and consequential steep pitch do not demonstrate a safe way of moving between levels in this specific case. He is not prepared to accept your arguments for a relaxation of this safety requirement. i.e. Requirement K1, on the grounds of management (restricted access), cost, inconvenience, or that a compliant stair cannot be installed as it is the opinion of the Council that a compliant stair was removed to make way in this instance.

The Secretary of State's decision

14. The Secretary of State considers that compliance with Requirement K1 of the Building Regulations makes an essential contribution to life safety and as such he would not normally consider it appropriate to relax or dispense with it, except in exceptional circumstances which - in his view - do not apply in this particular case. He has therefore concluded that it would not be appropriate to relax Requirement K1 (Stairs, ladders and ramps) in Part K (Protection from falling, collision and

impact) of Schedule 1 to the Building Regulations 2000 (as amended) in respect of the stair from the second to the third floor in question. Accordingly, he dismisses your appeal.

15. You should note that the Secretary of State has no further jurisdiction in this case and that any matters that follow should be taken up with the building control body at the Council.