

## **BUILDING ACT 1984 - SECTION 39**

### **APPEAL AGAINST REFUSAL BY THE DISTRICT COUNCIL TO RELAX REQUIREMENT K1 ("STAIRS, LADDERS AND RAMPS") OF THE BUILDING REGULATIONS 2000 (AS AMENDED) IN RESPECT OF THE HEADROOM OVER THE STAIR, FORMING PART OF COMPLETED BUILDING WORK COMPRISING THE CONVERSION OF LISTED BARNs INTO DWELLINGS**

#### **The building work and appeal**

3. The building work in this case is completed and involved the conversion of listed barns into three two-storey dwelling Units, each with four bedrooms. Building Regulations full plans approval was originally received on 6 October 2003 covering four Units, but you revised the scheme to provide for three Units. Planning permission and listed building consent for the revised scheme was received on 24 March 2005. Unit 1, to which this appeal relates, was completed in April 2005 and has a ground floor plan area of approximately 76m<sup>2</sup>.

4. You advise that sale and completion of Unit 1 was set for 25 November 2005 and to provide the purchaser with a Building Regulations Completion Certificate, you arranged for the Council to carry out a final inspection of the work on this date. During the inspection the Council indicated that the headroom over the upper landing of the completed stair did not comply with Requirement K1 of the Building Regulations and suggested that you seek a relaxation of the requirement. You therefore applied to the Council for a relaxation on 12 December 2005, which was refused on 4 January 2006 as the Council was of the opinion that headroom of only 1600mm at the side of the landing due to the slope of the roof was unacceptable. It is against this refusal that you have appealed to the Secretary of State.

#### **The appellant's case**

5. You state that the stair as installed gives headroom at the centre of the upper landing of 1950mm, but this reduces to around 1600mm at the side of the landing due to the slope of the ceiling. You accept that the completed stair has a different layout to that shown on your drawings due to the presence of the two existing oak beams which cross the building parallel to the landing and perpendicular to the upper part of the stair. You have lowered the floor level of the upper landing to give more headroom under these beams and the oak trusses above.

6. You emphasise that you have had to work within the constraints of the existing structure as it is a listed building, which has provided difficulty in locating the stair and there was little that could be done to gain more headroom. You and your stair manufacturer have considered alternative layouts without success.

7. You comment that the Council did not mention the headroom issue in eleven months prior to the completion of the sale of the property and that there have not been any problems with the use of the stair since it has been occupied. You refer to a letter from your Architects to the Council, a copy of which you have submitted, which takes the view that the guidance the Council has referred to in paragraph 1.10 of Approved Document K (“Protection from falling, collision and impact”) is not relevant to your case due to the listed building status of the building. The local authority conservation officer requires the retention of existing structural members and this restricts the space available for the stair and landings. With reference to Requirement K1 and Approved Document K, the letter also gives your Architect’s opinion “that the available headroom does not present an unreasonable hazard and consequential risk to the safety of the occupiers”.

8. You commented further in response to the Council’s representations to the Secretary of State (see below) explaining the practical reasons why the completed stair differed from the original plans/drawings and reiterating much of your case. You concluded that you feel you have achieved the best possible solution given the constraints of the listed building and believe that as the building has been lived in without incident for several months this suggests that it is fit for purpose and safe.

### **The Council’s case**

9. The Council makes the following points to support its case for refusing to relax Requirement K1 in this case:

- (i) Requirement K1 states that stairs shall be designed, constructed and installed as to be safe for people moving between different levels in or about the building. The guidance in paragraph 1.10 of Approved Document K is that headroom of 2m is adequate.
- (ii) The headroom in question in your case, taking into account the lowered landing floor, will achieve 1950mm beneath the purlin and 1600mm at the lowest level.
- (iii) The original approved Building Regulations drawings and subsequent amended plans comply with Requirement K1.
- (iv) The final inspection was carried out by the Council on 25 November 2005 - the date you requested. The stair was not in place during previous inspections and access to the first floor was provided by a ladder.
- (v) The Council is of the opinion that the stair could have been located to provide greater headroom and comply with Requirement K1. The Council therefore concludes that a relaxation is neither appropriate nor safe in this case.

### **The Secretary of State’s consideration**

10. The Secretary of State is aware that falls on stairs in dwellings are a very common type of accident resulting in about 500 deaths per year and many thousands of injuries. She therefore, considers that good stair design makes an essential contribution to life safety.

11. In considering this appeal against the Council's refusal to relax Requirement K1, the Secretary of State has first considered to what degree the stair in question may fall short of compliance with Requirement K1, which states:

*"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."*

12. As the Council states, the guidance given in Approved Document K (paragraph 1.10) is that headroom of 2m is adequate on access between levels. The Approved Document guidance recognises that it is not always practical to achieve this headroom in conversions, and suggests that 1900mm is satisfactory at the centre of the stair, and may be reduced to 1800mm at the side of the stair. This assumes that the walking line passes under the 1900mm region, so only the walker's shoulder will be in the 1800mm region.

13. In this case, you state that the headroom over the centre-line of the upper landing of the stair, under the parallel beam, is 1950mm and at the side of the landing the headroom is reduced to 1600mm. The landing is about 720mm wide.

14. The Secretary of State recognises the difficulty of carrying out building work in existing buildings, particularly listed buildings as in this case, although she notes that in the Council's opinion the original design of the stair avoided the current headroom problem. However, in considering your appeal, she has to assess the safety of what has been done, not what could have been achieved.

15. The Secretary of State notes that the headroom on the landing under the beams is below the 2m recommended in Approved Document K, but that is above the 1900mm the Approved Document suggests is acceptable in conversion work.

16. The headroom at the side of the landing is only 1600mm, which is below the 1800mm suggested in the Approved Document for conversion work. However, the Secretary of State does not consider that this poses an unacceptable risk in this situation. This is because the reduced headroom occurs on the landing, not on the flight of the stair, so a possible collision of the walker's head with the sloping ceiling is unlikely to result in a fall down the stair. Furthermore, as the landing is about 720mm wide, it is not necessary for the walker to be very close to the low side of the landing and the Secretary of State notes that you say there have been no problems with the stair since the building has been occupied.

17. Regulation 8 of the Building Regulations requires building work, subject to Part K (and certain other Parts), to be carried out for the purpose of securing reasonable standards of health and safety. Taking account of the above factors,

the Secretary of State concludes that the stair and landing offer a 'reasonable' level of safety for the purpose of compliance with Requirement K1, in the circumstances of this case, although the design falls short of the ideal situation. The occupants of the property may wish to ensure that the landing is well lit so that the potential hazard can be seen easily.

18. In these circumstances, it therefore follows that it is not necessary for the Secretary of State to give further consideration to the case for relaxing Requirement K1.

### **The Secretary of State's decision**

19. 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.

20. You have appealed to the Secretary of State in respect of the refusal by the District Council to relax Requirement K1 of the Building Regulations. The Secretary of State considers that compliance with Requirement K1 makes an essential contribution to life safety and as such she would not normally consider it appropriate to either relax or dispense with it, except in exceptional circumstances. Moreover, as indicated in paragraph 17 above, she considers that the stair and landing in question demonstrate compliance with Requirement K1 ("Stairs, ladders and ramps") of Schedule 1 to the Building Regulations 2000 (as amended) and that it is therefore neither necessary nor appropriate to relax the requirement. Accordingly, she dismisses your appeal.