

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

### **APPEAL AGAINST REFUSAL BY THE BOROUGH COUNCIL TO RELAX REQUIREMENT K1 ("STAIRS, LADDERS AND RAMPS") OF THE BUILDING REGULATIONS 2000 (AS AMENDED) IN RESPECT OF THE ALTERATIONS TO A STAIR TO GIVE ACCESS TO A FIRST FLOOR EXTENSION**

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

3. The building work to which this appeal relates is completed, and comprised the erection of a first floor extension and other alterations to an existing three bedroom two storey end of terrace house, with integral side garage. The extension was built over the garage and part of the existing kitchen on the ground floor and has provided an additional bedroom, a shower room and extended an existing bedroom. The plan area of the building is approximately 7m x 7.8m.

4. The above work was the subject of a full plans application which was originally rejected on a number of grounds including the proposed alterations to the existing stair to provide access into the new bedroom/shower room. A revised application was submitted to the Council indicating a quarter landing at the top of the first flight, to replace the two existing taper treads, giving access to the existing rooms on one side and the new rooms on the other, and your plans were approved on this basis on 5 September 2002.

5. However, on final inspection of the completed work, the Council noted that the stair had not been constructed in accordance with the approved plans. Instead of the quarter landing, a winder flight had been built, which occupants had to cross when traversing from the new rooms to the existing first floor rooms. The Council considered that it did not provide a safe route of travel, in accordance with Requirement K1 of the Building Regulations, for the reasons stated under the Council's case below. As the Council also considered that your proposal to provide an additional handrail along the wall at the top of the stair would not achieve compliance, you decided to apply for a relaxation of Requirement K1, which was formally refused by the Council on 10 March 2006. It is against this refusal that you have appealed to the Secretary of State.

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

6. You advise that the final construction of the stair differed from your approved plans because you were unable to find a 'tradesperson' who would construct it in accordance with the plans. However, you state that you followed a recommended plan issued by another Council's building control department and have submitted a copy of this. You cannot understand why this design is not considered safe in your case.

7. You consider that Requirement K1 is too onerous and that the constructed stair provides a safe route of travel.

### **The Council's case**

8. As indicated above, the Council noted at final inspection of the building work that the stair had not been constructed in accordance with the approved plans and considered that it did not provide a safe route of travel. This was particularly the case when traversing from the extension at first floor level into the existing house at first floor level and from the extension down the stair to ground floor level, due to the presence of tapered treads in this location. The Council refers to the guidance in Approved Document K ("Protection from falling, collision and impact"), which advises that all tapered treads should have equal goings, and is concerned that these vary in your case.

9. The Council advises that a possible solution was put forward to provide a smaller square space landing by cropping the existing tapered treads and the provision of a newel post which could have been removable to facilitate the movement of furniture at the junction of the two new stairs. As you did not accept this proposal, the Council referred the matter to the District Surveyors Association (DSA) conciliation process who took the view that the stair as constructed with tapered treads would not comply with the provisions of the Building Regulations. But the DSA considered that the Council's proposal to provide a quarter spaced landing in its place with a dimension of 600mm x 600mm would provide a safe route of travel.

10. The Council refused your subsequent relaxation application as it does not consider it appropriate to relax a performance standard requiring a safe route of travel.

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

11. The Secretary of State notes that the matter in dispute concerns whether the stair, as constructed, complies with Requirement K1 and, if not, whether there is a case to relax the requirement. She takes the view that your earlier proposal to construct a quarter landing would have satisfied Requirement K1, but you say you were unable to find a tradesperson who would construct the stair in accordance with the plans. You do not say why this was, and the Secretary of State assumes there was some practical reason connected with the space available.

12. The Secretary of State is aware of the constraints imposed when working in existing buildings, and that in some circumstances it may not be practical to achieve the same standards as would be expected in new build. These cases usually occur when the homeowner is trying to gain extra space, and fitting a stair fully compliant with the guidance in Approved Document K would encroach excessively into the new or existing space.

13. This appeal relates to just such a situation, where it is assumed the landing design in your approved plans was not practical for reasons of space. The

Secretary of State therefore has to consider in the first instance if the design built to provide access to the new first floor extension, or the alternative solution offered by the Council in this case, satisfy Requirement K1. This requirement is:

*"K1. 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."*

14. When considering a stair in a less than ideal situation, each case must be assessed on its merits with regard to Requirement K1 - taking account of the geometry of the stair and the space available.

15. The Secretary of State considers that the information you have provided lacks detail on stair geometry and dimensions, as does the alternative proposal put forward by the Council. Because of this she cannot make a definitive decision on the issue of compliance. However, she takes the view that the recommended design issued by the other Council, which you say you have followed, does satisfy Requirement K1 when an additional handrail is fitted to provide additional safety for those users crossing the winders, as you had proposed. Assuming the stair actually built in your case closely follows this design, or is altered to do so, the Secretary of State accepts that it will satisfy Requirement K1.

16. As the alternative design proposed by the Council in this case does not include dimensions, the Secretary of State is unable to determine how it compares with the other Council's design in terms of safety.

17. In the light of the above circumstances, the Secretary of State concludes that a case for relaxing Requirement K1 has not been made.

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

18. 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.

19. 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 relax or dispense with it, except in exceptional circumstances which - in her view - do not apply in this particular case. Moreover, as indicated in paragraph 15 above, she considers that the stair in question may - or has the potential to - comply with Requirement K1. The Secretary of State has therefore concluded that it would not be appropriate to relax Requirement K1 ("Stairs, ladders and ramps") of Schedule 1 to the Building Regulations 2000 (as amended) in this case. Accordingly, she dismisses your appeal.