

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) AND REQUIREMENT B1 (MEANS OF WARNING AND ESCAPE) IN PART B (FIRE SAFETY), OF SCHEDULE 1 TO THE BUILDING REGULATIONS 2000 (AS AMENDED), IN RESPECT OF THE CONSTRUCTION OF A STAIR CASE.

The building work and appeal

3. The papers submitted indicate that the building work to which this appeal relates is the construction of a new divisional headquarters comprising a single storey assembly hall and two storey office building, which was nearing completion at the time you submitted your appeal. The matter in dispute forming part of this work relates to the construction of a timber open stair providing access from the ground floor entrance hall to the first floor.

4. You state that the area used is confined to the ground floor accommodation except for the entrance hall to the first floor. The area of the first floor is 150 m² (15m x 10m) and access to the floor has been provided by the stair and a lift, which has been designed for people with mobility difficulties and is immediately adjacent to the stair from the common entrance hall.

5. As the new building has been designed with a timber framed structure, you advise that the stair has been constructed using laminated timber, with twin strings, 50mm thick laminated treads 256mm wide and 1m long with open risers of 185mm. A timber handrail, bottom rail and balusters are supported by twin timber newels.

6. In order to accommodate toilet facilities on the ground floor the male toilet is located under the half landing. The stair is constructed in two parts: a long flight of 12 risers from ground floor level to the half landing and a short flight of 3 risers from the half landing to first floor level. You indicate that the effective going for a person climbing the stair from ground to first floor is 256mm, but for a person coming down the stair the dimension nosing to nosing is 205mm. As the Council considered this to be inadequate for the purposes of compliance with Requirements K1 and B1 of the Building Regulations, you applied for a relaxation of these requirements in relation to the stair which was refused by the Council. It is against this refusal that you have appealed to the Secretary of State.

The appellant's case

7. You have referred to the guidance in Approved Document K (Protection from falling, collision and impact) which classifies stairs into three categories (paragraph 1.2): *Private; Institutional and assembly; and Other.*

8. You say that the building is not a public building and suggest that the stair in question should be considered as a private stair as it serves the first floor offices only, which have been designed to provide space for 12 people. The first floor occupant has taken a lease of 125 years and is involved in hotel management worldwide; the present number of staff is five. If the stair was accepted as private, the minimum size of the going recommended in Approved Document K would be 220mm. This would mean that the present nosing to nosing going of 205mm is only 15mm below the recommended minimum size.

9. To strengthen your case that the stair should be treated as private and is acceptable in this case you also state that you are required to install security provisions which prevent members of the public entering the building without permission. A wireless intercom has been installed to enable staff on the first floor to release the entry lock for visitors, which you believe will significantly reduce the number of members of the public gaining access to the building and stair. You add that the passenger lift installed will also reduce the number of people using the stair.

The Council's case

10. The Council notes that the stair in question is the only stair serving the first floor office accommodation of a two storey new build. The Council states that, although the rise of each step is considered to be adequate, the installed stair has a tread of approximately 250mm which only achieves a 205mm nosing to nosing going. In the Council's view, the latter is well below the normal standard for a domestic stair (i.e. 220mm), let alone one in a commercial setting. The Council considers that it is only safe to move down such a stair by walking sideways and is inadequate to perform the task of a fire escape stair.

11. The Council therefore took the view that the stair was non compliant with Requirement K1 (in Part K) of the Building Regulations in its construction and Requirement B1 (in Part B) in its use. As these two requirements are matters of health and safety the Council does not consider that they should be relaxed or dispensed with.

12. However, following consultation with the Fire Officer, the Council says that it has agreed with you/your client that as the occupancy of the building is low, a stair with a lower standard than that shown in the guidance in Approved Document K would be acceptable in this case to achieve compliance. The Council has advised that should the stair be altered to achieve a minimum going of 230mm, it would deem the construction to be compliant with Requirement K1, and by implication, Requirement B1 of the Building Regulations. The Council acknowledges that this will result in some loss of headroom to the WC compartment located below the stair and/or the possible need to relocate the steel member trimming the stairwell.

The Secretary of State's consideration

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

- You consider that the stair in question should be treated as a private stair as occupancy of the office area accessed by the stair is low and the door entry security system and the passenger lift will restrict the number of users.
- The Council's case is that the stair has acceptable rises (of 185mm) but an insufficient going of 205mm (measured nosing to nosing), which does not comply with Requirements K1 and B1 of the Building Regulations and means that descent is both difficult and dangerous. However, although not prepared to relax the requirements, the Council has indicated that it will accept a lower standard in this case than that recommended in the guidance in Approved Document K.

14. The Secretary of State has had regard to 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”.

He takes the view that compliance with Requirement K1 is vital in ensuring the health, safety and wellbeing of people using the built environment. This also applies to compliance with Requirement B1, in relation to the need for appropriate means of escape in case of fire. Whilst it may be possible to demonstrate that these requirements have been met by means other than the guidance given in Approved Documents K and B (Fire safety), the Secretary of State observes that you have not made a case which seeks to demonstrate the safety of the stair in question.

15. Your case relies on the stair being close to the requirements for a private stair recommended in Approved Document K. However, a private stair is clearly defined within the Approved Document as that used for a single dwelling which is not the case in this instance. In any event, the stair installed still does not even meet this level of provision permitted within dwellings. In the Secretary of State's view a stair in such a location should comply with the requirements for 'Other stairs', i.e. maximum rise of 190mm and minimum going of 250mm. The provisions for non-dwelling stairs are more demanding than those for stairs in dwellings because people are not as familiar with their work environment as they are at home, and because they are asked to perform different tasks and activities on and around such stairs.

16. The Secretary of State considers 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.

17. In this case, whilst the rise may be acceptable, the going is particularly short, which creates a potentially dangerous stair with a reduced chance of recovery in the event of a trip or slip, particularly when descending. Research shows that the risk of such an event is significantly increased where pitch increases and goings are reduced. This is the basis of the guidance in Approved Document K.

18. As a result, the Secretary of State concludes that the stair in question does not comply with Requirements K1 and B1 of the Building Regulations, and that you have not made a case to demonstrate that the level of provision is equivalent through other means nor to justify a relaxation of the requirements. As such the stair poses an unacceptable risk to health and safety for current and future building users. The Council has indicated that it is willing to consider the options open to you to achieve compliance which you may wish to explore.

The Secretary of State's decision

19. As indicated above, the Secretary of State considers that compliance with Requirements K1 and B1 of the Building Regulations is vital to maintain the health, safety and well being of building users and, as such, he would not normally consider it appropriate to either relax or dispense with the requirements, 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), or Requirement B1 (Means of warning and escape) in Part B (Fire safety), of Schedule 1 to the Building Regulations 2000 (as amended), in respect of the stair from the ground to first floor in this case. Accordingly, he dismisses your appeal.

20. You should note that the Secretary of State has no further jurisdiction in this case and that any matters that follow, including the work needed to achieve compliance, should be taken up with the building control body at the Council.