

Date: 10/11/03

Ref: 45/3/162

Note: This letter has had personal details edited out.

Building Act 1984 - Section 39

Appeal against refusal by the District Council to relax or dispense with Requirement K1 (Stairs, Ladders and Ramps) and Requirement M2 (Access and Use) of the Building Regulations 2000 (as amended) in respect of the change of use of a disused cow byre for use as office accommodation with associated facilities

The appeal

3. The building work to which this appeal relates comprises material alterations to a disused cow byre, contained within your clients' property, to convert it for use as an office/study with kitchen and toilet facilities. The byre is of brick construction with gable ends and a single ridged tiled roof running between them. The plan area is approximately 13m x 4.5m. The height of the building to the eaves is approximately 2.4m, and the height to the roof ridge is approximately 4.6m.

4. Your clients' plans as approved by the District Council contain the following proposals. Two new window openings are to be provided, and four existing openings enlarged, to provide for lighting, ventilation and escape, together with four new rooflights. Following stripping out of the byre, approximately three-quarters of the plan area running from the west gable will be converted to a single office/study space. The work here will include the provision of a timber suspended floor on sleeper walls laid on a new concrete sub-floor, which will have the effect of raising the floor level 350mm above the remaining plan area at the east end of the byre. This latter area will remain at the existing, solid, floor level with a level access entrance in the east gable. It will accommodate an entrance area; a kitchen; and a wheelchair WC compartment in accordance with *Design 16 of Approved Document M (Access and facilities for disabled persons)* and as approved on plan.

5. Two steps are shown on the approved plan between the higher office/study area and the kitchen and WC compartment area; but an internal 1:12, 1m wide ramp is also shown commencing its ascent in front of the level entrance door and running up parallel with the south wall of the byre.

6. The proposals also provide for a storage area of approximately 3.0m x 4.5m on an upper floor above the kitchen, WC compartment and entrance area. The proposed access is by a thirteen tread timber stair which will rise from the office/study area at right angles to the storage balcony with three winders turning the stair through 90 degree towards the top. The minimum

going is to be 250mm with rises of 181mm. A balance flue boiler will be located in the east gable wall, and located and accessed from the storage area.

7. Following approval of your clients' plans you applied to the District Council for the relaxation or dispensation of requirements M2 and K1 as your clients took the view that implementation of the full requirements would be inappropriate at this present time. You considered that because your clients have no foreseeable intention of employing an employee, provision of the internal ramp was not necessary. Your clients also considered the proposed stair to be too intrusive in the office/study area and wish to provide instead a loft ladder. However, the Council took the view that the two requirements were not too onerous in the circumstances and refused your application for relaxation or dispensation. It is against that refusal that you then appealed to the Secretary of State.

The appellant's case

8. You make the following points in support of your appeal:

(i) with regard to Requirement M2, you explain that the 350mm elevation of the office/study floor is to better relate the window sill height and tie beam height to the floor level and to enable the provision of a timber suspended floor above the existing concrete byre floor

(ii) in response to the District Council's comment that the proposed office/study area is large and would be capable of employing several persons, you point out that your clients' intention is to use this space for an extensive library and to provide their family with a recreation/relaxation area in non-working hours. You also add that your client works alone with no expectation of employing anyone. However, if in the unlikely event he were to become an employer and the employee was a wheelchair user he would be willing to provide a 1:12 ramp, which could be installed in the area shown on the plan. Your clients are content for the "later" provision of a ramp to be made a condition in the full plans approval

(iii) you state that the premises will fully comply in respect of the toilet provision and will similarly comply in all areas for ambulatory disabled persons

(iv) with regard to Requirement K1, you consider that the proposed stair would be too intrusive and would much reduce the spacious feel of the main office/study area. You would therefore prefer to omit the stair and provide access to the private storage area, and to service the boiler, by a substantial occasional use loft ladder. The ladder would be used by tradesmen and the proprietor only.

The District Council's case

9. The District Council makes the following points to support their case for refusing to relax requirements M2 and K1:

(i) requirement M2 requires reasonable provision to be made for disabled people to gain access into a building. Although a step change already exists in the disused cow byre's floor, the floor is to be renewed throughout. There appear to be no technical difficulties in creating a level floor or providing a ramp as shown on the approved plans. The District Council considers that your argument for retaining the two different floor levels, in order to better relate the window sill and tie beam height in the office/study area, would be outweighed by the benefits of allowing access for disabled people to the remainder of the ground floor

(ii) requirement K1 requires stairs, ladders and ramps to be so designed, constructed and installed as to be safe for people moving between different levels in or about the building. You have not provided any details for the "substantial" ladder proposed to enable access to the storage area. The District Council considers that carrying files up and down a ladder to the storage area will be unsafe and does not achieve the aim of the Building Regulations. The Council therefore takes the view that a stair would be more suitable, as indicated on the approved plans, and notes that there would be adequate room remaining.

The Secretary of State's consideration

Requirement M2

10. In considering this appeal the Secretary of State has first considered what proposals in the particular circumstances of this case would, in his opinion, meet the requirements of Requirement M2. Your submission makes it clear that your clients propose to use the premises exclusively for personal office and family use, and that they have no intention at present of employing anybody on the premises. The Secretary of State also accepts that the barn is contiguous to the main house and that the proposed use of the barn is for a personal, dedicated office/study and that its location within the property is compatible with this proposed use. Given these circumstances the Secretary of State considers that the provision of a ramp between the two ground floor levels is not required in order to comply with Requirement M2; although it would be appropriate that the two steps proposed should be designed to acceptable ambulant disabled persons standards.

11. The Secretary of State has noted that the District Council has required and approved a WC compartment suitable for a wheelchair user. He therefore acknowledges that in these circumstances the Council's decision to refuse an application to relax or dispense with Requirement M2 in order to omit the ramp (as also approved in the plans) was consistent with the level of compliance with the Building Regulations which they judged to be appropriate. Notwithstanding this, the question before the Secretary of State is solely

whether it would have been appropriate in the circumstances to have relaxed or dispensed with Requirement M2.

12. The Secretary of State also notes that if at some future date your clients do employ someone with a disability it will follow that they will be obliged under Part 2 of the Disability Discrimination Act 1995 to make the building appropriately accessible and that, depending upon the circumstances, this therefore might include a ramp.

Requirement K1

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

14. *Approved Document K (Protection from falling, collision and impact)* gives guidance on stair design and the stair you originally proposed, and which was approved, conforms to this guidance. The Approved Document also suggests alternatives to conventional stairs for use in confined spaces; including loft ladders and alternating tread stairs. However, the Secretary of State considers that these alternatives provide a lower level of safety than a conventional stair, and should therefore only be used where there is insufficient room for a conventional stair, and where they will have light use by people who are familiar with them.

15. In this case you did not provide any details of the proposed ladder for the purposes of your application for a relaxation or dispensation but described it simply as "substantial". The Secretary of State has noted that one of the earlier drawings submitted with your appeal shows a ladder with a second handrail to facilitate backward descent. The Secretary of State takes the view that whatever design might be proposed, a ladder would inevitably have a steeper pitch and a smaller going than a stair, and be more difficult to use when carrying loads.

16. The Secretary of State considers that there are no major constraints on space in this particular case. Although the users of a ladder might be familiar with it, given that it would be used to serve an area for storage and maintenance, they might be carrying bulky items which could increase the risk of a fall. In view of this the Secretary of State considers that it is appropriate to provide a conventional stair and that a relaxation or dispensation of Requirement K1 to provide for a ladder would not be appropriate.

The Secretary of State's decision

17. The Secretary of State has given careful consideration to the facts of this case and the arguments put forward by both parties. He has concluded as follows:

(i) in respect of Requirement M2 (Access and use), the Secretary of State is particularly concerned that wherever feasible reasonable provision should be made to secure compliance with this requirement. In that context he has considered in the particular circumstances of this case what proposals would constitute such reasonable provision and has concluded that - notwithstanding the omission of a ramp - two steps designed for the ambulant disabled between the two ground floor levels would achieve compliance. However, you have appealed against the District Council's decision to refuse to relax or dispense with Requirement M2 and it follows that the Secretary of State has concluded that it is neither necessary nor appropriate to relax or dispense with this requirement.

(ii) in respect of Requirement K1 (Stairs, ladders and ramps), the Secretary of State considers compliance with this requirement makes an essential contribution to life safety and as such he would not normally consider it appropriate to either relax or dispense with it, except in exceptional circumstances. Paragraphs 13-16 above have considered the issues for achievement of compliance. Given that the access to the storage area will involve the carrying of items for storage, the Secretary of State has concluded that it would not be appropriate to relax or dispense with Requirement K1 in order to permit the use of any form of ladder or steps instead of a conventional stair and that the District Council therefore came to the correct decision in refusing to relax or dispense this requirement.

18. Accordingly, the Secretary of State hereby dismisses your appeal in respect of refusal by the District Council to relax or dispense with Requirement M2 and Requirement K1 of the Building Regulations 2000 (as amended).