

Our Ref: APP/007/002/017

Your Ref:

5 August 2015

BUILDING ACT 1984 - SECTION 39

APPEAL AGAINST REFUSAL TO RELAX OR DISPENSE WITH REQUIREMENT K1 (STAIRS, LADDERS, RAMPS) IN PART K (PROTECTION FROM FALLING, COLLISION AND IMPACT) OF SCHEDULE 1 TO THE BUILDING REGULATIONS 2010 IN RESPECT OF NEW DETACHED BUNGALOW REPLACING EXISTING PRIVATE DWELLING

I am directed by the Secretary of State for Communities and Local Government to refer to the appeal made by you under section 39 of the Building Act 1984, against the decision by the Council to refuse to relax requirement K1 (Stairs, Ladders, Ramps) in Part K (Protection from falling, collision and impact) of Schedule 1 to the Building Regulations 2010 in respect of the above building work.

Details of the appeal are set out in an appeal form received on 12 May 2015 (with enclosures). The building control body, (hereafter referred to as "the Council"), provided representations in its letter to the appellant on 30 April 2015. The enclosures submitted include copies of plans/drawings of the building work.

The building work and appeal

The papers submitted state the works consist of a new detached bungalow, replacing an existing private dwelling, with three bedrooms, open plan lounge and kitchen and set into sloping ground with landscaped decking. The dwelling has no storage space, so a retrospective planning application was granted to use the loft space for storage and boiler controls. The developer fitted a small stair to access the loft and the Council indicated that requirement K1 would apply to this stair.

The issue with the Council is that the appellant considers the amount of headroom of 1.8 metres on the stairway leading to the loft is adequate. The Council does not agree with this view and has rejected the application for relaxation of requirement K1 on the minimum amount of headroom (2 metres). It is against this refusal that the appellant has appealed to the Secretary of State.

The appellant's case

In the application, the appellant mentioned that the loft area is very small, just 1,950 mm high. It is ideal for storage and plant room but not for habitable use. A 620 mm wide stair has been installed to provide a safe and easy access (in place of a pull down loft ladder). Headroom over the stairs is 1.8 metres; this is less than the requirement K1 of 2 metres for a habitable space.

In support of the case, on 5 November 2014, the appellant sent an e-mail to the builder stating:

“I understand that a final inspection has been made signing off the property, (the site agent) has informed that he is fitting an extract fan to the kitchen area, he has also informed me that you still have an issue with the small loft access stair, as you are aware the developers have received planning permission for use of the loft space as storage and plant room, the wooden stair gives access to this area, it is a far better alternative to a pull down aluminium loft ladder which are not always easy to use.

This space is not classed as habitable, we would not be able to obtain planning consent or building regulations as the space is just so small, therefore it should be classed as what it has planning permission for, which is storage space. Therefore we would appreciate if we can get this project signed off as soon as possible.”

On 9 April the appellant wrote to the Council:

“I have enclosed the section to show the stair dimensions, the headroom is 1.8 metres over the winder, the stair provides reasonable headroom to the loft attic, this has planning consent to be used as a boiler plant room and storage, this dwelling due to the design has no storage space, therefore the use of the attic for this purpose makes good sense.

The use of a small traditional stair to gain access is a far safer option than a pull down ladder, especially when access needs to be made on a regular occurrence to use the boiler controls. The available roof space is the best we can achieve and the headroom over the stair does not compromise the use in any way.”

In addition the appellant made a handwritten comment on the Council’s e-mail of 30 April 2015:

“It should be noted that The Council’s Planning Department would not grant permission for any dormers or raised roof line contrary to statement above. Planning granted for use with storage with roof windows.”

The Council’s case

The Council wrote to the appellant on 25 March and 30 April 2015.

E-mail on 25 March 2015:

“I have received your request and I can take this as a formal application request for relaxation/varying the provisions of the requirement of Building Regulation K1.

However, for me to fully consider this application you will need to supply a detailed drawing of the “as built” stairway construction, dimensioning all aspects of the requirements of part K in order to check compliance. If the only aspect of this application relates to headroom please fully indicate the areas of non-compliance and the extent to which you require the regulations to be relaxed. Details will also be required of the intended use of the stairway in relation to the proposed use of the first floor.”

E-mail on 30 April 2015:

“I have received your additional drawings to support your application for relaxation/varying the provisions of Regulation K1. Having examined the Building

Regulation files, I would summarise the main points of consideration for this application as follows-

Background:

1. An application was made to the council for a new "Detached single storey 4 bedroom dwelling" under the Building Notice procedure on the 29th July 2013.
2. A letter was sent on the 30th July 2013, requesting plans and details of the proposed works.
3. Work commenced on the excavations on the 31 July 2013.
4. Works progressed on the development through November 2013 without any requested plans and details being given to us.
5. A visit made by the inspector on the area on the 11 November 2013 noted that the stairway had been installed to an upper level thus creating a two storey building. It was at this visit that the inspector pointed out to the carpenter on site that there was inadequate headroom to the stairway and over the top landing area. This was followed up by a letter on the 14th November 2013 confirming that these contraventions as well as again requesting outstanding plans and details previously asked for in July 2013.
6. Works continued without any request for further inspections until a completion inspection request was made on the 4th November 2014. On this inspection it was noticed that the main stairway contraventions previously noted had not been corrected.
7. This has resulted in you requesting relaxation/varying of the provisions of Building Regulations K1 on the 25th March 2015 to the extent of the non-complying headroom to the stairway.

Precise detailing of the as built stairway has not been fully given but from the details supplied it appears that the extent of non compliance of K1 is as follows:

The minimum required head room of 2m has not been achieved over any of the new applicable stairway flight. Approximately 38% to 40% of the top section of the stairway flight only achieves 1.8m headroom across the full width of the flight and the top landing only achieves 1.95m over only 36% of the landing area with the headroom of the remaining landing area reducing with the sloping roof rafters down to approximately 1.5m. The clearance as measured at right angles to the pitch line, is also well below the minimum British Standard requirement of 1.5m.

No prior discussions were entered into before this stairway was installed and if it had been these matters could have been addressed, being over a new build and provisions made to the roof construction, dormers etc. so that at least a minimum headroom of 1.95m could have been fully achieved over the stairway and landing area without the need to raise the existing ridge line. This would have resulted in a more acceptable provision for access and egress with only a minor reduction of 50mm being made, from the minimum requirement of 2m, which relaxation could have been more reasonably considered. Also, being a new dwelling, where full compliance of the regulations is expected, consideration not only needs to be given to the present occupants, but

future occupants of the property who may have a wide range of ability for which reducing the minimum standards to this extent could be problematical.

Therefore, taking all these matters into consideration and the fact that the vast majority of accidents in the home are stairway related the Council does not agree that the stairway as constructed forms a safe route of travel between the floor levels of the dwelling and refuses your application for relaxation / varying the provisions of Building Regulations K1”

The Council sent the Department further views on 22 May, including a plan from the agent:

“In response to the applicant’s case, I have the following additional comments to make:-

- For information, I attach a plan submitted by the agent showing the full extent of the upper floor area in question.
- The newly created first floor is required to have an acceptable level of safety for access and use and this depends on the circumstances. A lower standard may be acceptable where access is required only for maintenance but this would not normally be associated with the main stairway within a dwelling house. This will be for operational use by the occupants and therefore cannot be classed as use for maintenance only but must be classed as a general access stairway.
- To illustrate the point further the constructional standard of the first floor would suggest that this area would be used for first floor occupation, as confirmed by the building control officers site inspection on the 4th November 2014 where it was observed that the construction of this floor level meets the current Building Regulation Schedule 1 requirements regarding a structural floor, electrical and thermal elements. The first floor area was also decorated and carpeted with the addition of sanitary facilities being installed. The building control officer’s last recorded visit to the site was on the 3rd March 2015 where the situation regarding these issues remained unaltered.
- Reduced headroom can be considered under loft conversion work in existing buildings where the roof slope interferes with the headroom as shown in AD Part K1. This application proposes an even worse reduced headroom not only ascending the stairs but additionally over the top landing area and this is a new build property.
- The amendment to the Planning Permission granted retrospective permission for the installation of four new rooflights. The provision for storage use had already been provided by the construction of the original pitched roof with a ceiling which automatically created a loft storage space.
- The positioning and construction of the stairway would encourage usage and indicates that it will be a general route of travel between floor levels and should therefore comply fully with Part K1.”

The Secretary of State's consideration

The appellant made an application on 9 April 2015 for a relaxation of requirement K1 in respect of the amount of headroom provided for the staircase from the ground to the first floor of the property. The Council refused the application on 30 April. The appellant has appealed to the Secretary of State against that refusal.

The Secretary of State has given careful consideration to the particular circumstances of this case and the arguments presented by both parties. In considering the application under section 8 of the Building Act 1984 he would need to be satisfied that compliance with requirement K1 would be unreasonable in relation to the circumstances of this particular case before supporting your appeal against the refusal of the Council to grant a relaxation of that requirement.

Requirement K1 of the Building Regulations states:

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.

The statutory guidance given in paragraph 1.11 and diagram 1.3 of Approved Document K sets out that one way of complying with Requirement K1 is to have a minimum 2 metres clear headroom above the pitch line of stairs. This is intended to make it reasonably unlikely that a person ascending or descending the stairs will bang their head on an obstruction. In itself such an impact could cause injury.

However, the risk of serious injury when hitting an obstruction whilst moving up or down stairs is significantly increased by the likelihood of also suffering a fall (in reaction to or as a result of the collision), and which could be from the top of the stair. Falls on stairs in domestic properties pose a serious risk to the health and safety of current or subsequent occupants of a property and are often fatal.

Where new stairs are constructed to provide access to a loft extension, and the roof form of the dwelling may impinge on the headroom available for these new stairs, paragraph 1.13 and Diagram 1.4 of Approved Document K suggest that one way of complying with requirement K1 would be to have a minimum headroom of 1.9 metres at the centreline of the stairs and an absolute minimum of 1.8 metres on one side of the stairs. This is in recognition that in undertaking building work in a confined space, headroom of two metres is not always achievable. This reduced level of provision is deemed reasonable on the basis that the frequency of people moving up and down the stairs to a loft conversion will be lower than for stairs linking a ground and first floor (or other storey with a number of habitable rooms); that these stairs are most likely to be used by people who are familiar with the property and who will be able to manage the increased risk; and that access to this additional space is discretionary in relation to the overall use of the property.

In this case, the stairs have been installed with a clear headroom of less than the 2 metres recommended for safe ground to first floor stairs and, according to the Council's

measurements, less than the recommended safe headroom for stairs to a loft conversion, with as little as 1.5 metres in places.

The average height for a male in the United Kingdom is 1.78 metres, meaning that the likelihood of colliding with an obstruction is much higher than if the stairs were to comply with the guidance set out in Approved Document K.

The drawings indicate that the first floor contains a bathroom and a study, as well as a utility room. The Council's inspection confirmed that sanitary facilities had been installed and the area was decorated and carpeted. This indicates that the first floor will be used as a habitable area

Given the significant risk to current and future occupants of injury or death as a result of collision and/or falling where the stair does not comply with the requirements of K1, the Secretary of State has concluded that it would be reasonable to require compliance with requirement K1 in this instance.

The Secretary of State's decision

The Secretary of State considers that compliance with requirement K1 could be a life-safety matter and, as such, he would normally only consider it appropriate to relax or dispense with it in exceptional circumstances which in his opinion do not apply in this case. He has therefore concluded that it would not be appropriate to relax or dispense with requirement K1 (Stairs, ladders and ramps) in Part K (Protection from falling, collision or impact) of Schedule 1 to the Building Regulations 2010 and accordingly dismisses the appeal.

The Secretary of State has no further jurisdiction in this case and that any matters that follow relating to the building work should be taken up with the Council. A copy of this letter is being sent for information to the Council.