

Requirement B1: Determination of compliance in respect of a loft conversion (Ref 45/1/231)

Text of Communities and Local Government 'determination' letter dated 09 October 2007 (Reference 45/1/231)

BUILDING ACT 1984 – SECTION 16(10)(a)

DETERMINATION OF COMPLIANCE WITH 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 A LOFT CONVERSION

The proposed work and question arising

4. The papers submitted indicate that the building to which this determination relates is a two storey, four bedroom, detached house with a plan area of approximately 80m². The proposed building work involves the conversion of the roof space (i.e. the loft) to form a further bedroom with en-suite shower room with a total floor area of approximately 40m². Access to the loft room on the new second floor will be provided via a traditional softwood stair sited above the existing stairway.

5. The above proposed work was the subject of a full plans application which the Council rejected on 15 May 2007 on the grounds of non compliance with a number of requirements of the Building Regulations, including Requirement B1 (Means of warning and escape). As you consider that your proposals comply with Requirement B1, you have applied to the Secretary of State for a determination in respect of this question.

The applicant's case

6. You comment that the project was designed to comply with the Building Regulations and guidance in existence prior to the current guidance in the latest 2006 edition of Approved Document B (Fire safety), that is, a primary means of escape internally down through the house to the front door plus a secondary means of escape by way of an 'escape window' from the loft room meeting the requirements in siting and aperture size, and with clear ground space below for ladder access. The existing doors to habitable rooms are to be made self-closing and an early warning system - interlinked mains-powered smoke alarms – will be installed on each level in common areas. In addition, it is expected that all existing internal walls are capable of providing 30 minutes fire resistance.

7. However, you explain that the issue in contention is your clients' (the occupants) wish to retain the existing doors in their house. Although they are happy for the doors to be made self-closing, they are not willing to change them for FD20 standard fire doors as specified by the guidance in the latest edition of Approved Document B.

8. You state your case for the above by stressing that Requirement B1 requires an "...appropriate means of escape in case of fire from the building to a place of safety outside the building..." and that the basic standard for means of escape to

which the loft conversion in question has been designed has been in place since 1985. You consider that, whilst the design deviates from the guidance in the latest edition of Approved Document B, it is adequate as an alternative design. If not, you suggest that this raises serious issues about the fire safety of other loft conversions designed and constructed to this standard since 1985.

The Council's case

9. The Council confirms that your proposals detail the means of escape provisions in accordance with Approved Document B, 2000 edition and, as such, do not follow the current guidance in the latest 2006 edition.

10. The Council rejected your proposals for the following reasons:

- (i) Requirement B1 requires adequate means of escape in case of fire and the Council considers that it is not acceptable to relax this requirement.
- (ii) Your drawings do not show adequate fire resistant door separation between habitable rooms and kitchens and the stairwell and associated areas.
- (iii) The drawings also do not show that the existing floor will achieve 30 minutes fire resistance which is the period required for a three storey dwelling.

The Secretary of State's consideration

11. The Secretary of State takes the view that she is being asked to determine whether the means of escape from the proposed loft room on the new second floor is adequate. Her main consideration in this case is the safety of the occupants of the loft room should they become trapped if a fire were to occur at a lower level.

12. Your proposed provision for means of escape consists of a secondary assisted escape route via an emergency egress window from the new loft room, in conjunction with the provision of self-closing devices on the existing doors to the stairway. You have argued that this is in accordance with earlier editions of Approved Document B and that this was considered to be adequate in the past.

13. The Council rejected your proposals on the grounds that these provide inadequate means of escape. This decision was based on the current guidance given in the latest 2006 edition of the Approved Document. However, you go on to argue that rejecting your proposals suggests that the means of escape from loft conversions carried out in the past would no longer be considered adequate.

14. The Secretary of State comments that Building Regulations only apply at the time when building work, or a change of use, takes place. The fact that an approach was considered reasonable in the past is not, in regulatory terms, sufficient in itself as a justification for it to remain acceptable. An Approved Document is essentially a statement of what is considered to be reasonable at the time it is issued and it is inevitable that what is considered reasonable will change with time.

15. In this case you are proposing an approach for means of escape in case of fire which relies, in part, on external rescue. The Secretary of State considers that where a two storey house is converted into a three storey house then the same level of protection should be afforded to the occupants of the new storey as would be provided in a new three storey house. As such a design which relies on external rescue is not considered to be adequate.

16. Depending on the nature and condition of the existing doors and associated frames in question, it may be possible to upgrade (i.e. modify) or simply retain them as they are, to enable your proposals to achieve compliance with Requirement B1. However, as you have made no representations as to the likely performance of the doors in the event of a fire the Secretary of State has not been able to consider this. You may therefore wish to discuss this further with the Council.

17. The Council has also stated that your plans do not show that the existing floor will achieve 30 minutes fire resistance which is the period required for a three storey dwelling. However, the Secretary of State notes that the plans do include a note to ensure that the existing first floor will achieve modified half hour fire resistance. This would be in accordance with the guidance for loft conversions given in paragraph 4.7 of the latest edition of Approved Document B.

The determination

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. As indicated above, the Secretary of State has considered that your proposals, as submitted, do not make appropriate provision for means of escape in the case of fire. She has therefore concluded and hereby determines that the plans of your proposed building work do not comply with Requirement B1 (Means of warning and escape) in Part B (Fire Safety) of Schedule 1 to the Building Regulations 2000 (as amended).