



An
Bord
Pleanála

Board Direction
BD-015509-24
ABP-315136-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 21/02/2024.

The Board decided to allow the appeal and to direct the Building Control Authority to grant a Disability Access Certificate, in accordance with the said plans and particulars, based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the provisions of the Building Regulations 1997, as amended, including Part M of the second schedule attached to the regulations, to the nature and layout of the proposed works and the submissions made in connection with the Disability Access Certificate application and appeal and to the guidance set out in Technical Guidance Document M (Access and Use) 2010, it is considered that the works to which the application and appeal relates, would if constructed in accordance with the plans, calculations, specifications and particulars submitted, and subject to compliance with the conditions set out below, comply with the requirements of Part M of the Second Schedule to the Building Regulations 1997, as amended. In arriving at its decision, the Board also took into account the guidance set out in Section 0.7 (Determination of practicability) and 0.8 (Existing Buildings) of TGD Part M 2010 in respect of material alterations of an existing building as relevant considerations including the physical and site constraints that apply and that the site is within the curtilage of a protected structure.

Conditions

1. The proposed works and material alterations shall be carried out in accordance with the plans, specifications and details submitted with the application to the Building Control Authority as amended by the further information received by the Building Control Authority on 8th day of October 2022 and as further amended by the information received by An Bord Pleanála on the 14th day of November 2022 and as amended by conditions hereunder.

Reason: In the interest of clarity.

2. A Platform lift in accordance with BS 6400: 1999 in conjunction with EN 81-40, and in accordance with the details received by An Bord Pleanála on the 14th day of November 2022, shall be provided.

Reason: To provide adequate vertical circulation and means of access to the full range of services and facilities to all users and to comply with Section 2.3 of TGD Part M 2010.

3. One approach route to the accessible entrance shall be in accordance with the guidance set out in Sections 1.1.2 and 1.1.3 of TGD Part M 2010.

Reason: To provide and independently accessible means of approach to the accessible entrance.

4. The stepped access routes north of the gym to the outdoor space shall comply with Section 1.1.3.5 of TGD Part M 2010.

Reason: To provide suitable access for ambulant disabled users to access the outdoor sunken lawn area.

5. Accessible shower/changing facilities shall be in accordance with the details submitted with the application to the Building Control Authority.

Reason: To comply with the requirements set out in Section 1.4.3.5 (a) of TGD Part M 2010 with respect to provisions for changing and/or showering facilities.

Note:

In deciding not to accept the inspector's recommendation not to allow the appeal and to refuse to direct the Building Control Authority to grant a Disability Access Certificate (subject to conditions), the Board was satisfied, having regard to the details submitted to the Building Control authority during its consideration of the application and to An Bord Pleanála at appeal stage, that the works to which the application relates, would, if constructed in accordance with the plans, calculations, specifications and particulars submitted, and subject to compliance with the conditions it directs to be attached, comply with the guidance contained in Technical Guidance Document M 2022 and would in turn prima facie indicate compliance with Part M of the Second Schedule of the Building Regulations 1997, as amended. Accordingly the Board arrived at a different conclusion to the inspector.

Accordingly, the Board did not share the inspector's findings in relation to recommended overarching **reason number 1**.

Furthermore, the Board did not share the view of the inspector in its recommended reasons 2,3 and 4 on the basis that, subject to conditions, the works to which the application and appeal relate would comply with the applicable guidance in TGD M 2010 and therefore comply with the requirements of Part M of the Second Schedule of the Building Regulations 1997, as amended, for the following specific reasons:

With regard to **recommended reason number 2** set out in the inspector's report, the proposal for the platform lift as provided at appeal stage, as would be secured by Condition 2 hereby attached would adequately address the inspector's concern

regarding the provision of horizontal and vertical means of access to the full range of services.

With regard to the inspector's **recommended reason number 3**, the Board was satisfied that adequate details were provided on the accessible approach and entrance to and circulation around the existing building and therefore did not share the view of the inspector.

With regard to the inspector's **recommended reason number 4**, the Board was satisfied that the layout and location of the accessible shower / changing facility meets the requirements of Section 1.4.3.5 of TGD Part M 2010, particularly as it is to be provided in the communal area by subdividing the area.

Board Member



Patricia Calleary

Date: 21/02/2024