



An
Bord
Pleanála

Board Direction

BD-019263-25

ABP-320933-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 24/03/2025.

The Board decided to allow the appeal on the basis of a split decision and to direct the Building Control Authority to issue the Revised Disability Access Certificate in accordance with the relevant plans and particulars for the reasons and considerations marked (1) under and subject to the conditions set out below, and refuse permission for alterations as proposed comprising the removal of Lift no. 4 from Stair Core no. 1 for the reasons and considerations marked (2) under.

Reasons and Considerations (1)

Having regard to the Building Regulations 1997, as amended, including the Second Schedule, Part M attached to the regulations, to the nature and layout of the proposed works and material alterations and to the submissions made in connection with the revised Disability Access Certificate application and appeal by both the appellant and the Building Control Authority, and to the guidance set out in the relevant Technical Guidance Document Part M (Access and Use) 2010, it is considered that the works and material alterations 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 as set out below, comply with the requirements of Part M of the Second Schedule to the Building Regulations 1997, as amended. In carrying out a *de novo* assessment and arriving at its decision, the Board concluded that the relevant matters that required assessment at appeal stage are those of vertical features, specifically lift and stairs

access, which the Board assessed against the requirements set out in Section 1.3.4 (Vertical Features) within Section 1.3 (Circulation within buildings other than dwellings) of Technical Guidance Document, Part M (2010). The Board was satisfied that all other matters pertaining to Part M of the Building Regulations were adequately addressed by the applicant through the documentation submitted with the application and in response to the requests by the Building Control Authority during the course of its assessment. The Board also noted that the Building Control Authority did not raise any other matters in its reason for refusal or in correspondence submitted to the Board at appeal stage.

Conditions

1. The proposed works (extension) and material alterations shall be carried out in accordance with the plans, specifications and other relevant information submitted with the application to the Building Control Authority with the application and further information received by the Building Control Authority on the 14th day of August 2024 and 27th day of September 2024 as amended by conditions hereunder.

Reason: In the interest of clarity.

2. Passenger lifts No.s 1 and 2 as indicated in Drawing No. 04-08 received by the Board on the 27th day of September 2024 shall comply with Section 1.3.4.2 (Passenger lift details) of Technical Guidance Document Part M 2010 and shall include the specific requirements:
 - (i) Lift 1 shall have minimum internal car dimensions of not less than 2000mm wide x 1400mm deep.
 - (ii) Lift 2 (proposed to be used exclusively by staff for goods and services only) shall have minimum internal car dimensions of not less than 1100mm wide x 1400mm deep.

Reason: To comply with Part M1 (Access and Use) of Part M of the Second Schedule to the Building Regulations 1997, as amended.

3. Stairs No.s 01, 02 and 03 shall be ambulant accessible stairways in compliance with Section 1.3.4.3 (Internal Stairs suitable for ambulant disabled people) of TGD Part M (2010).

Reason: To comply with of Part M1 (Access and Use) of Part M of the Second Schedule to the Building Regulations 1997, as amended.

Reasons and Considerations (2)

Having regard to the provisions of Part M of the Second Schedule to the Building Regulations 1997, as amended, Second Schedule, Part M, to the nature and layout of the proposed works and to the submission made in connection with the application and appeal, it is considered that the applicant failed to demonstrate that the Removal of Lift from Stairs 01 enclosure would make adequate provision for people to access and use the building, its facilities and its environs because it results in a layout that increases travel distances and additional way finding and does not promote inclusive design.

In deciding not to accept the Inspector's recommendation which was not to allow the appeal and to direct the Building Control Authority to refuse the Revised Disability Access Certificate, the Board was satisfied that, having regard to the details submitted to the Building Control Authority during its consideration of the application and to the Board at appeal stage, the works to which the application relates (except in relation to the removal of Lift number 4 from Stair core number 1), would if constructed in accordance with the details presented, adequately meet the requirements of Part M of the Second Schedule to the Building Regulations 1997, as amended. Accordingly the Board reached a different conclusion to the inspector, in which it decided to allow the appeal and to direct the Building Control Authority to

grant the Disability Access Certificate accordingly. The Board did not therefore share the inspector's reason number 1 that the applicant failed to demonstrate compliance with the requirements of Part M of the Building Regulations.

Board Member: Eamonn James Kelly **Date:** 27/03/2025
Eamonn James Kelly

Note

In relation to the inspector's wider assessment and the concerns raised by the Building Control Authority and the inspector that the current proposal does not comply with a previously granted Disability Access Certificate (Ref: ABP 314174-22) for the same building, the Board was satisfied that, where access revisions are proposed to a building, it is open to the applicant to bring forward an application for approval for these revisions through a Revised Disability Access Certificate application process, as provided for under the Building Control Act 1990, as amended and the associated Building Control Regulations 1997, as amended. It is this Revised Disability Certificate application that is currently before the Board following an appeal.

The Board further noted, that while not a stated reason for refusal, the wider inspector's assessment also raised concerns in relation to the change of Stair Core no. 04 from that which complies with Part M (2010) to one that complies with Part K (2014) and Part B (2006) of the Building Regulations, but not Part M(2010). Having assessed this element of the appeal, the Board was satisfied that, having regard to the proposal for three ambulant accessible stairs (01, 02 and 03) that comply with Section 1.3.4.1.2 of Part M (2010), the requirements of Section 1.3 (Circulation

within buildings other than dwellings) are met and there is no additional requirement for all stairs, including Stairs no. 04 to be suitable for ambulant disabled people. In this regard the Board noted within Section 6.2.3 of the inspector's report, it is acknowledged that Stairs 04 as proposed is acceptable and hence this matter did not ultimately form a recommended reason for refusal.