

Inspector's Report

Appeal against a condition attached to a Disability Access Certificate for a change of use of existing ball alley to multipurpose community room and installation of first floor over proposed multipurpose community room to extend existing gym on first floor with associated site works at Killealy Parochial Hall, Killealy, County Wexford.

Board DAC Appeal Ref. No.:	ABP-302961-18
Building Control Authority Ref. No.:	DAC 056/18
Appellant/Agent:	Killealy Hall Development Group Killealy Parochial Hall, Killealy, Co. Wexford
	Staples Owley Ltd. (SOL) (Agent) Unit M6 Wexford Enterprise Centre Kerlogue Rosslare Road Co. Wexford
Building Control Authority:	Wexford County Council
Inspector:	Michael Mohan, FRIAI
Appendix Attached:	None

Table of Contents

Ref.	Section	Page
1.0	Introduction	3
1.1	Site Description	3
1.2	Subject Matter of Application	3
1.3	Building Control Authority Decision	4
2.0	Information Considered	4
3.0	Relevant History / Cases	7
4.0	DAC Application	7
5.0	Appellant's Case	7
6.0	Building Control Authority's Case	8
7.0	Considerations	9
7.1	Level of detail provided in the application to meet the requirements of the Building Control (Amendment) Regulations 2009	9
7.2	Meeting the requirements of Part M of the Building Regulations	9
8.0	Assessment	10
9.0	Conclusions / Recommendations	13
9.1	Reasons and Considerations	13

1.0 Introduction

1.1. Site description

The building is an existing detached, part single and part two-storey building located in its own grounds within the rural village of Killealy. It comprises two main building volumes connected by a single storey reception area and toilets. On the south side of the link is a two storey wing comprising two ball alleys and a playschool with associated storage rooms at ground level and a gym at first floor level. The gym is accessed by two staircases from ground floor level. The north wing is primarily single storey containing a community room/kitchen, a community hall with a raised stage at one end with a two storey storage area off the side of the stage. There are changing rooms underneath the stage. Two stairs give access to alternate sides of the stage from the changing rooms below. There is a set of steps from the community hall up to the stage floor.

1.2 Subject Matter of Application

The application is for change of use of an existing ball alley to a multipurpose community room and installation of a first floor over the proposed multipurpose community room to extend the existing gym on the first floor with associated site works.

The Disability Access Certificate application was submitted by Staples Owley Ltd. (SOL), Fire Safety Engineering Consultants, on behalf of Killealy Hall Development Group. and was received by the Building Control Authority (BCA) on the 3rd August 2018 and included:

- Completed DAC application form
- Letter from the Chairman of Killealy Hall Development Group
- 2 No. copies of drawings:

Drawing Number	Title	Scale
01-04	Site Location Maps	Various scales
02-04	Site Layout Plan	1:500
03-04	Existing Drawings	Various scales
04-04	Proposed Drawings	Various scales

- 2 No. copies of the Disability Access Certificate Report (Compliance Report)
- Letter from the Agent (undated but stamped received by BCA on 3rd August 2018) which claimed an exemption from the requirement to pay a DAC application fee. The exemption was granted by the BCA.

1.3 Building Control Authority Decision

- The BCA issued a letter, dated 15th August 2018, outlining further information required.
- The Agent submitted a letter, dated, 29th August 2018, requesting a two month extension of time to consider the application.
- The Agent submitted a letter, dated 8th September 2018, along with a revised Technical Report and revised Drawings, in response to the BCA request for further information.
- The BCA issued a Disability Access Certificate, dated 15th October 2018, DAC No. DAC056/18, Decision Order No.: 72/2018; Decision Date: 11th October 2018. Three conditions were attached to the Disability Access Certificate.

2.0 Information Considered

The following information was considered as part of the appeal process:

1. Disability Access Certificate application:

Ref. No. DAC056/18

Application including Technical Report and drawings, listed at 1.2 above, was lodged by Staples Owley Ltd., Fire Safety Engineering Consultants. It was received by the BCA on 3rd August 2018 and received by the Board from the BCA 27th November 2018.

The BCA issued a request for further information, dated 15th August 2018, which was received by the Board on 27th November 2018.

In response to the BCA request for further information, the Agent submitted a letter, dated 8th September 2018, along with a revised Technical Report and revised Drawings.

The Agent sent an email to the BCA, dated 11th October 2018, which was received by the Board on 27th November 2018, stating that they wished to amend and submit a revised Page 15 of the report.

The BCA issued a Disability Access Certificate, DAC056/18, dated 15th October 2018, a copy of which was received by the Board on 6th November 2018 attached to the appeal from the Agent and a further copy from the BCA on 27th November 2018.

2. Appeal Documentation submitted by Agent:

The appeal documentation, received by An Bord Pleanala on 6th November 2018, included:

- Letter from Mr. Jim Staples, Staples Owley Ltd. (SOL), Fire Safety Engineering Consultants, dated 31st October 2018, stating that they wished to appeal Condition No.3 which was attached to the Disability Access Certificate DAC056/18.
- Copy of documents submitted with DAC application Ref. No. DAC056/18.
- Copy of Disability Access Certificate DAC056/18.
- Cheque for €500.

3. Application Documentation from BCA

Wexford County Council submitted a letter to the Board, dated 23rd November 2018 (in response to a request from the Board, dated 13th November 2018), which was received by the Board on 27th November 2018 and included copies of the following:

- Copy of the application documents including submitted drawings and Disabled Access Technical Report and letters of correspondence between the BCA and Appellant's Agent.
- Certified copy of Executive Order No.72/2018, dated 11th October 2018.
- Certified copy of letter to Appellant's Agent, dated 7th December 2017, informing of the BCA's decision.
- Copies of all Technical Reports in connection with the application.

4. Notification of a Disability Access Certificate:

Disability Access Certificate, Ref. No. DAC056/18, issued by the BCA on 15th October 2018, was received with the appeal by An Bord Pleanala on 6th November 2018 and a further copy was received by the An Board Pleanala from the BCA on 27th November 2018.

Three conditions were attached to the Disability Access Certificate:

Condition No.1:

The proposed development shall be carried out in accordance with

- (i) the building Regulations to satisfy the requirements of Part M*
- (ii) any revisions or changes to the plans and particulars as lodged shall be notified to the Building Control Authority prior to*

opening or operation of the development for which the Disability Access Certificate applies.

Reason:

To ensure the proposed development accords with the requirements of the Building Regulations 2010 Technical Guidance Document M Access and Use.

Condition No.2:

The provision of an internal corridor/part corridor shall be installed to provide ease of access at the junction of the proposed community room and the existing corridor to facilitate ease of access to/from the proposed accessible WC location. Specific reference to TGD M 2010, Section 1.3.3.3 (b) and (ii) thereof to be applied in this instance.

Reason:

To ensure ease of access, for all users, to the accessible WC and its location as required to support the application of the proposed Material Change of Use for this Community Facility. To ensure the proposed development accords with the application of the Building Regulations 2010 Technical Guidance Document M Access and Use.

Condition No.3:

The installation of a passenger lift to provide access to the upper floor is required and shall be installed in compliance with TGD M 2010 Section 1.3.4.1.1 and Section 1.3.4.2 and all subsections thereof (a) to (v) without exception.

Reason:

The assessment of the drawings and calculation of the upper floors area thereof is within the range for which a lift is required. To ensure the proposed development accords with the Requirements of the Building Control Regulations 2010 Technical Guidance Document M, Access and Use.

5. Observations from the BCA in relation to the appeal:

The BCA submitted a letter to An Board Pleanala, dated 11th December 2018, which was received by the Board outside the period specified in Article 29(2) of the Building Control Regulations. An Bord Pleanala wrote to the BCA, dated 17th December 2017, returning the BCA submission. However, in that letter from the Board they invited the BCA to make submissions or observations in relation to the appeal in the

interests of justice. The BCA subsequently submitted a letter (also dated 11th December 2018) which was received by the Board on the 21st December 2018. The observations from the BCA are referred to below in Section 6.0 Building Control Authority's Case

3.0 Relevant history/cases

This Inspector is not aware of a previous DAC application relevant to this building.

4.0 DAC application

Disability Access Certificate application: Ref. No. DAC056/18. Application including the Technical Report and drawings, listed at 1.2 above, was lodged by Staples Owley Ltd., Fire Safety Engineering Consultants. It was received by the BCA on 3rd August 2018 and received by the Board from the BCA on 6th November 2018.

5.0 Appellant's case

Staple Owley Ltd., Fire Safety Engineering Consultants lodged an appeal on behalf of the applicant/appellant, dated 31st October 2018, against Condition No. 3 attached to the Disability Access Certificate DAC056/18. The appeal was received by the Board on 6th November 2018.

In response to an invitation from An Board Pleanála, dated 4th January 2019, the Agent made a submission, dated 15th January 2019, which was received by the Board on 18th January 2019.

The following is a brief outline of the Appellant's case:

- The floor area (in the south wing) of the existing first floor plus the area which is the subject of the application amounts to 197 sq.m. This excludes the stage area and storage (in the north wing) as the first floor gym and the stage/storage floor are separated (by the single storey link) so that they cannot be assessed as one floor.
- The application includes for providing a gym at first floor level and on the ground floor thereby allowing everyone to use the building. Reference is made to TGD M 2.3.4.1. which guides that where it is impracticable to provide a passenger lift that "*alternatively, the same range of services/ facilities that are available on the other levels should be made available on the entry or accessible level(s).*"

- The Agent does not see the need for a lift in this building as all the public facilities will be provided at ground level and will be easily accessible.
- Providing a lift to serve one room in this case is impracticable.
- Reference is made to TGD M 2010, which states on Page 7:
In the case of material alterations or change of use of existing buildings, the adoption without modification of the guidance in this document may not, in all circumstances, be appropriate. In particular, the adherence to guidance, including codes, standards or technical specifications, intended for application to new work may be unduly restrictive or impracticable.
- Gym facilities on the ground floor were not provided to date as the Agent advised the Applicant/Appellant to wait for a valid Disability Access Certificate / decision on this appeal.

6.0 Building Control Authority's case

The BCA submitted a letter (dated 11th December 2018) which was received by the Board on the 21st. The following is a brief summary of the BCA's case:

- The BCA is of the opinion that a passenger lift is required to the first floor gym because (a) the DAC Report stated that it is not possible to provide/or alter either of the existing stairs (b) the practicability with regard to the existing internal stairs was not sufficiently demonstrated (c) the same range of services on the first floor are not provided on the ground floor (i.e. gym) and (d) the upper floor area is in the region of 200 sq.m.
- The BCA quoted the following:

TGD M 2010 1.3.4.3 Internal stairs suitable for ambulant disabled people

At least one set of stairs suitable for ambulant disabled people should be provided to access all floors above or below entrance level in a building.

- A request for a partial dispensation from, or relaxation of, the requirements of Building Regulations 2010 was not submitted to support this application.

7.0 Considerations

7.1 Level of detail provided in the application to meet the requirements of the Building Control (Amendment) Regulations 2009

Section 20 (D) 3(b) of the Building Control (Amendment) Regulation 2009 states that a DAC application should:

- *Identify and describe the works or building to which the application relates;*
- *Enable the building control authority to assess, whether the said works or building would, if constructed in accordance with the said plans and other particulars, comply with the requirements of Part M of the Second Schedule to the Building Regulations;*
- *Identify the nature and extent of the proposed use and, where appropriate, of the existing use of the building concerned.*

Section 20(D) 4 of the Building Control (Amendment) Regulation 2009 states:

(c) *Where a building control authority consider that an application for a disability access certificate does not comply with paragraph (3), they may, as they consider appropriate, having regard to the extent of the failure to comply with the said paragraph, by notice in writing—*

(i) inform the applicant that the application is invalid and cannot be considered by the authority, or

(ii) require the applicant to furnish such further plans, calculations, specifications or particulars, or such additional fee, as may be necessary to comply with the said article

(d) *Where a building control authority serve a notice in accordance with sub-paragraph (c), they shall return to the applicant all the documents and the fee which accompanied the application.*

7.2 Meeting the requirements of Part M of the Building Regulations

Legislative Considerations

Part M of the Second Schedule to the Building Regulations, (as amended), provides as follows:

To meet the requirements of M1: Adequate provision shall be made for people to access and use a building, its facilities and environs.

Technical Guidance:

In their Technical Report, SOL indicated that achievement of compliance with Part M of the Building Regulations is demonstrated by reference to TGD M: 2010. In addition, they stated that reference may also be made to the following documents:

- Building for Everyone Inclusion, Access and use (National Rehabilitation Authority) 2010
- Irish Wheelchair Association Best Practice Guidelines Designing Accessible Environments (2014).
- Good Practice Guidelines on Access of Streetscapes 2009

8.0 Assessment

This appeal is against a Condition attached to a Disability Access Certificate. Having considered the drawings, reports, details and submissions on file it is considered that a *de novo* approach is not warranted. However, while the Agent appealed only Condition No.3, it was considered that all three conditions warranted consideration, for the reasons outlined below.

Condition No.1:

The applicant has submitted the application and revised drawings/technical report to demonstrate compliance. It is up to the BCA to certify that the building or works to which the application relates, will, if constructed in accordance with the plans, calculations, specifications and particulars submitted, comply with the requirements of Part M of the Second Schedule to the Building Regulations 1997 to 2017.

The DAC issued by the BCA refers to *“the Second Schedule to the Building Regulations 1997 to 2015”*. This should read *“1997 to 2017”*.

Accordingly, I am of the opinion that Condition No.1 be amended to read:

The works are to be constructed in accordance with the revised plans and revised report submitted on 8th October 2019 and 11th October 2019 and comply with Part M of the Second Schedule to the Building Regulations 1997 to 2017.

Condition No.2:

The BCA stipulated in this condition that:

The provision of an internal corridor/part corridor shall be installed to provide ease of access at the junction of the proposed community room and the existing corridor to facilitate ease of access to/from the proposed accessible WC location.

TGD M 2.3.3.3 Corridors and passageways states:

The guidance in 1.3.3.3 should be followed except: (a) where it is not practicable to maintain the minimum unobstructed clear corridor width in 1.3.3.3 it should be as wide as possible but not less than 1000 mm. Elements such as columns, radiators and fire hoses should not project into this corridor width;

TGD M 1.3.3.2 (c) states:

there should be an unobstructed space of at least 300 mm on the pull side of the door between the leading edge of the door (when it opens towards you)

However, the Agent had already demonstrated compliance of the corridors and internal doors with TGD M 2.3.3.3. and 1.3.3.2 in his revised submission in answer to the BCA request for further information. In particular, the revised Drawing No. 04-04 showed the following:

- With reference to the door from the ground floor Community Room to the corridor giving access to the proposed accessible WC: *“Leading edge only achievable on pull side...It would not be practicable to alter the existing hall as potentially it would require moving or altering a load bearing structure...”*
- The corridor width of at least 1000mm will be achieved throughout. There is a pinch point in the corridor which will be widened to allow 1000mm, clear of doors swings, by chamfering the wall beside the toilets.
- The door in the corridor beside the proposed Accessible WC will be moved to provide a 300mm space beside the leading edge of the door.

Accordingly, in my opinion, Condition No. 2 should be omitted.

Condition No.3:

The main issue to resolve is whether people can access and use the facilities in the building. In this case it is proposed to extend the area of a first floor gym, within the building, by inserting a first floor over an existing ball alley. The ground floor of the ball alley will become a Community Room. Alternative gym facilities are proposed on the ground floor a second ball alley in the building.

TGD M 2010 1.3.4.1.1 guides that passenger lifts should be provided in all multi-storey buildings but it allows for an exception in:

non-residential or mixed use buildings with a nett floor area per floor of less than 200 m² and with no floor having an entrance level more than 4500 mm above or below the main entrance level,

The Agent stated in the appeal that:

the new first floor area which was part of the subject of the application plus the existing floor area is 197 sq.m. nett.

The Agent's calculation is correct.

TGD M 2.3.4.1. guides that where it is impracticable to provide a passenger lift that *"alternatively, the same range of services/ facilities that are available on the other levels should be made available on the entry or accessible level"*

The BCA found on inspection, 23rd November 2018, that a gym facility was not available on the ground floor. Subsequently, in writing to the Board, the Agent advised that gym facilities on the ground floor were not provided to date as the Agent had advised the Applicant/Appellant to wait for a valid Disability Access Certificate / decision on this appeal.

The BCA are of the opinion that a passenger lift should be installed to provide access to the first floor as the first floor area is in the region of 200 sq.m. and that alternative facilities are not being provided on the ground floor. However, the drawings included with the application clearly show that a gym will be provided on the ground floor in addition to the first floor. Therefore, alternative arrangements have been proposed to provide the same facilities on all levels in the building.

I am of the opinion that the proposed Material Change of Use does not warrant the provision of a passenger lift provided that a gym facility will be provided on the ground floor as shown on the Agent's Drawing No. 04-04.

9.0 Conclusions / Recommendations

In conclusion, I recommend that the Board directs the BCA to grant the DAC to amend Condition No.1 and to omit Conditions Nos. 2 and 3.

Condition No.1:

The works are to be constructed in accordance with the revised plans and revised report submitted on 8th October 2019 and 11th October 2019 and comply with Part M of the Second Schedule to the Building Regulations 1997 to 2017.

Reason:

To facilitate safe and independent use of the building.

9.1 Reasons and Considerations

Having regard to the provisions of the Building Regulations 1997 to 2017, Second Schedule, Part M, to the form and layout of the existing building and the nature of the proposed works and to the submissions made in connection with the DAC application and appeal, it is considered that the works or building to which the application relates, if constructed in accordance with the plans, calculations, specifications and particulars submitted, and subject to compliance with the conditions as set out above, will comply with the requirements of Part M of the Second Schedule to the Building Regulations 1997 to 2017.

Michael Mohan, FRIAI

Inspector, 13th February 2019