

Inspector's Report

Appeal against conditions attached to a Disability Access Certificate for a temporary medical records facility, ancillary to the principal hospital use, within the site of the carpark of St. Rita's, in the form of a new 2-storey structure at St. Vincent's University Hospital, Elm Park, Dublin 4.

Board DAC Appeal Ref. No.:	ABP-313751-22
Building Control Authority Ref. No.:	DAC2201488DC
BCMS Submission No.:	4004181
Appellant:	Mary Connelly St. Vincent's University Hospital Elm Park Dublin 4
Agent:	O'Connell Mahon Architects 9, Fitzwilliam Place Dublin 2 D02 VW22
Building Control Authority:	Dublin City Council
Inspector:	Michael Mohan, FRIAI
Appendix Attached:	None

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1.0 Introduction

1.1. Site description

The proposed 2-storey temporary medical records building will be within the carpark of St. Rita's, on the campus of St. Vincent's University Hospital, Elm Park, Dublin 4.

The accommodation will consist of filing areas, offices and staff toilets. The medical records will be a restricted area, accessible to authorized staff only. There will be no designated reception area.

A new lift and internal stairs will be provided.

1.2 Subject Matter of Application

The application is for a temporary medical records facility, ancillary to the principal hospital use.

The Disability Access Certificate application, BCMS Reference No, DAC2201488DC, Submission No. 4004181, was submitted by O'Connell Mahon Architects, on behalf of St. Vincent's University Hospital and was received by the Building Control Authority (BCA) on the 11th March 2022 and included:

- Completed DAC application form and cheque for €500.
- Copies of the following drawings:

Drawing Number	Title	Scale
NMHMR-OCMA-00-00-DR-A_3500	DAC - Site Location Plan	1:1000
NMHMR-OCMA-00-00-DR-A_3501	DAC - Site Location Plan	1:500
NMHMR-OCMA-00-00-DR-A_3601	DAC - Plans	1:100
NMHMR-OCMA-00-00-DR-A_3602	DAC - Elevations	1:100
NMHMR-OCMA-00-00-DR-A_3603	DAC - Sections	1:100
NMHMR-OCMA-00-00-DR-A_3604	DAC – Ambulant Stairs & Gently Sloped Access Route	1:50
NMHMR-OCMA-00-00-DR-A_3605	DAC – Sanitary Facilities	1:50

The list of drawings shown in the table above were received as part of the appeal by An Bord Pleanála on 29th September 2021.

- Copy of Disability Access Certificate Application Compliance Report.

1.3 Building Control Authority Decision

- The BCA issued a Disability Access Certificate File Ref. No, DAC2201488DC, Submission No. 4004181, dated 10th September 2021. Eleven 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:

File Ref. No. DAC2201488DC, Submission No. 4004181.

The application including Disability Access Certificate Application Compliance Report and drawings, listed at 1.2 above, lodged by O'Connell Mahon Architects, which was received by the BCA via the BCMS system on 11th March 2022.

2. Appeal Documentation submitted by Agent:

The appeal documentation, received by An Bord Pleanála on 3rd June 2022, included:

- Letter of appeal O'Connell Mahon Architects to An Bord Pleanála, dated 3rd June 2022.
- Copy of supporting email from Ms Breda Kearns, Project Co-Ordinator, St. Vincent's University Hospital, dated 3rd June 2022.
- Drawing No. NMHMR-OCMA-00-00-DR-A_3601 Rev A.
- Fee of €500.00 with respect to the appeal.

3. Application Documentation from BCA

Dublin City Council, Building Control Division, submitted a letter to the An Bord Pleanála, dated 21st June 2022 (in response to a request from the Board, dated 9th June 2022), which was received by the An Bord Pleanála on 21st June 2022 and included copies of the following:

- Copy of the application documents including submitted drawings (listed in the table in Section 1.2 above) and Disability Access Certificate Application Compliance Report.
- Certified copy of Manager's Order, No.119/22, dated 6th May 2022.
- Senior Building Surveyor's *Recommendation: Grant with Conditions*, dated 4th May 2022.
- Certified copy of the Decision to Grant with Conditions dated 6th May 2022.

4. Notification of a Disability Access Certificate:

The BCA issued a Disability Access Certificate, File Ref. No.: DAC2201488DC, Submission No. 4004181, dated 6th May 2022. Seven Conditions were attached to the Disability Access Certificate.

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

The BCA submitted a letter with the BCA comments on the appeal to An Board Pleanála, dated 21st June 2022, which was received by the Board on the same day.

6. Invitation to Agent to make a submission

An Bord Pleanála wrote to the Agent, dated 4th July 2022, inviting him to make submissions or observations in relation to the submission, dated 21st June 2022, received from the BCA.

The Agent submitted a letter in response, dated 21st July 2022 which An Bord Pleanála received on 25th July 2022.

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:

File Ref. No. DAC2201488DC, Submission No. 4004181.

Application including Disability Access Certificate Application Compliance Report and drawings, listed at 1.2 above, lodged by O'Connell Mahon Architects. It was received by the BCA via the BCMS system on 11th March 2022.

5.0 Appellant's case

O'Connell Mahon Architects lodged an appeal on behalf of the applicant/appellant, dated 3rd June 2022, against Conditions Nos. 4 and No.6 which were attached to the Disability Access Certificate, Ref. No. DAC2201488DC. The appeal was received by An Bord Pleanála on 3rd June 2022.

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

Condition No.4

- The 'Temporary Medical Records Facility' is required to temporarily accommodate the existing Medical Records Department during the construction of the new National Maternity Hospital (NMH). Construction of the new hospital cannot commence until the existing medical records facility is moved off the NMH site.
- Once the new hospital is completed the Medical Records will be permanently located within it and the temporary records facility will be removed.
- No exemption from the requirements of the Building Regulations has been sought as the building has been designed in accordance with the relevant standards.
- The Agent advises with supporting correspondence from St Vincent's Health Care Group: "The 950mm wide passageways provided between filing room shelving, in our view are sufficient on the basis that it is not reasonably practical to assign a wheelchair user, or a person with limited mobility, to the task of collecting and delivering files manually throughout the hospital, irrespective of whether the shelving is fixed or mobile, or the wheelchair provided is powered or manual".
- The Agent mentions that a number of staff with mobility issues currently work in the Medical Records Department and will continue to work in the temporary building. He also lists the measures which are proposed which foster an inclusive approach by the client.

Condition No.6

- No changing facilities will be provided. The reference to 'Staff Changing' which was incorrectly noted on the first floor plan has since been removed.

6.0 Building Control Authority's case

The following is a brief summary of the BCA's case:

Condition No.4

- The BCA is of the opinion that this is not a temporary building as it does not fit within the classifications for exempted temporary buildings set out in the Third Schedule to the Building Regulations 1997 to 2021.

- The proposals do not foster an inclusive approach in accordance with Universal Design principles. They will segregate employees on their level of mobility and dexterity.
- High-capacity storage systems, mobile shelving could be considered in conjunction with elevating wheelchairs.

Condition No.6

- It is claimed that an error was made on the drawings in the original application and that changing facilities are not intended. If An Bord Pleanála agrees that this is the case, the BCA have no objection to this condition being struck off.

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.*

The drawings submitted with the application and appeal provided sufficient detail to enable assessment of the application and appeal.

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 subparagraph (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 Disability Access Certificate Application Compliance Report, O'Connell Mahon Architects stated that the works will "comply with the requirements of Part M 2010 (Access and Use) of the Second Schedule to the Building Regulations, in so far as those requirements apply to the proposed works".

8.0 Assessment

Having considered the drawings, Disability Access Certificate Application Report, details and submissions on file it is considered that a *de novo* approach is not warranted. This appeal is against two Conditions attached to a Disability Access Certificate.

Condition No. 4:

"1200mm unobstructed Independent access to the restaurant at first floor shall be provided by means of a passenger lift or suitable platform lift"

Reason: To provide for people to travel horizontally within a building conveniently and without discomfort in order to make use of all the relevant facilities.

The BCA are correct in promoting the principles of Universal Design. However, it may be worth examining if a more lenient approach would be justifiable, due to the particular circumstances, in this case.

First of all, the proposed building will temporarily accommodate the Medical Records Facility until the new National Maternity Hospital is

constructed after which it will permanently move to the new building and the temporary facility will be removed. The BCA state that the proposed building does not come within the definition of a temporary building which would be considered exempt from the requirements of Building Regulations. While that is so, no exemption was sought by the Agent and the stated intention is that this building will be removed once the new hospital is completed. In that sense it could be considered as temporary. Also, while the drawings submitted are not full working drawings, the form of construction shown appears to be more of a temporary nature.

St. Vincent's Healthcare Group submitted supporting correspondence stating that it is not reasonably practical to assign a wheelchair user, or a person with limited mobility, to the task of collecting and delivering files manually throughout the hospital, irrespective of whether the shelving is fixed or mobile, or the wheelchair provided is powered or manual.

The BCA suggested using powered elevating wheelchairs. Most of these have a height range of 300mm. This may be insufficient to safely allow a user to reach the top shelf of a 6-shelf high unit.

Many hospital paper files can be heavy which can present a challenge to even able-bodied people. I question the practicality of a disabled person, even with the benefit of using an elevating wheelchair, to access, retrieve, maneuver and deliver these files throughout the hospital. Lifting heavy files from the bottom shelf may also be difficult from a wheelchair.

On balance, I am inclined to agree that it is not reasonably practical to assign a wheelchair user, or a person with limited mobility, to the task of collecting and delivering files manually throughout the hospital, irrespective of whether the shelving is fixed or mobile, or the wheelchair provided is powered or manual and I am of the opinion, that Condition No.4 should be omitted.

Condition No. 6:

“Accessible changing facility shall be provided in accordance with Section 1.4.3.5 and Section 1.4.9 of TGD M 2010”

I believe that it was not intended to provide changing facilities and the reference to them on the original application drawing was made in error and has since been removed. Accordingly, this condition should be omitted.

9.0 Conclusions / Recommendations

In conclusion, I recommend that An Bord Pleanála directs the BCA to omit Conditions Nos. 4 and 6 in the granted Disability Access Certificate.

9.1 Reasons and Considerations

Having regard to the provisions of the Building Regulations 1997 to 2019, 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 attached to the Disability Access Certificate, will comply with the requirements of Part M of the Second Schedule to the Building Regulations 1997 to 2019.



Michael Mohan, FRIAI
Inspector

26th September 2022