



An  
Bord  
Pleanála

## DAC Report

**ABP-322185-25**

### **Appeal v Refusal or Appeal v Condition(s)**

Appeal v Conditions

### **Development Description**

Material Change of use of portion of Existing Public House to an Independent Retail Unit; Off-Licence to Public House Area; Existing Extension to Public House for New Covered Seating Area; and Material Alterations to Existing Restaurant and Public House Respectively.

Location: The Portor House,  
Ballytramon, Castlebridge, Co.  
Wexford. Y35 Y030

### **Building Control Authority Disability Access Certificate application number:**

DRV2407807WX

### **Appellant**

Mr. Pat Doyle

### **Appellant's Agent**

Staples Owley Ltd.

### **Building Control Authority:**

Wexford County Council

### **Inspector**

James Hickey MRAI RIBA ARB

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## 1.0 Introduction

- 1.1. The Revised Disability Access Certificate application submitted to the Building Control Authority (BCA) relates to the material change of use and material alterations of/to a number of areas within an existing Restaurant & Public House, known as the Porter House, at the Ballytramon, Castlebridge, Co. Wexford.

The proposed changes and alterations consist of the following;

- Material change of use of an existing Public House Lounge into an independent Retail Unit
- Material change of use of an existing Off-Licence into a Public House Bar area.
- Material change of use of an existing extension into a Public House seating area.
- Material change of use of an existing store at first floor level into an Office.
- Material alterations within the existing Restaurant & Public House as indicated on Drawing No. DAC 384-23\_04-05\_REV C.

- 1.2. The application relates to **an existing 1/2-storey Restaurant & Public House.**

- 1.3. The appellant (Mr. Pat Doyle) is appealing Conditions No.2, 3 & 4 of the Revised Disability Access Certificate (DAC) granted by Wexford County Council (WCC) on the 5<sup>th</sup> May 2025.

The conditions being appealed are as follows;

**Condition 2:** The external ramp informed as providing access/egress, Exit 6 to the area of the proposed Material Change of Use for this development shall be provided so as to comply with the requirements of the Building Regulations, TGD M 2022, Section 1.1.3.4 and all subsections thereof and no less than Section 2.1.3.

**Reason 2:** To comply with the application of Part M for existing buildings where a Material Change of Use is proposed, and where reasons of practicability have not been demonstrated, the requirements of the Building Regulations, Technical Guidance Document M 2022, Access and Use.

**Condition 3:** The internal circulation route within the area of the extension as part of this application, shall meet with no less than the minimum requirements as per TGD M 2022, Section 1.3 with specific but not exclusive reference to subsection 1.3.3.3 (c) to (f) and the access route from the area of the extension, outdoor covered seating area, through the existing bar, supporting the required minimum level of access to the required accessible WC facility as part of this application.

**Reason 3:** To comply with the application of Part M for existing buildings where an extension to a building forms part of the application, and whereby reasons of practicability have not been demonstrated, the requirements of the Building Regulations, Technical Guidance Document M 2022, Access and Use shall be met.

**Condition 4:** The internal circulation route from the proposed area of the Material Change of Use, the Pool Bar shall meet with no less than the minimum requirements as per TGD M 2022, Section 1.3 with specific but not exclusive reference to subsection 1.3.3.3 (c) to (f) to provide an accessible route from the Pool Bar area, as part of this application, to the required accessible WC facility as part of this application.

**Reason 4:** To comply with the application of Part M for existing buildings where a Material Change of Use is proposed, the requirement for access to sanitary facilities therein meeting no less than the minimum requirements of the Building Regulations, Technical Guidance Document M 2022, Access and Use.

## 2.0 Information Considered

2.1. The information considered in this appeal comprised the following:

- Previous Disability Access Certificate (DAC) Application lodged by J. Staples & Associates (JSP) on the 26/02/2015.
- Previous DAC granted by WCC on 11/03/2015.
- Revised DAC Application lodged by the appellant's agent on the 22/10/2024.
- Further Information (FI) request received from WCC on the 29/10/2024.

- Response to FI request issued by the appellant's agent on the 30/10/2024.
- FI request received from WCC on the 11/11/2024.
- Response to FI request issued by the appellant's agent on the 05/02/2025.
- FI request received from WCC on the 07/02/2025.
- Response to FI request issued by the appellant's agent on the 27/02/2025.
- Revised DAC granted by WCC on 05/03/2025.
- Appeal received by An Bord Pleanála (ABP) from the appellant's agent on the 01/04/2025.
- Response & observations on the appeal received by ABP from WCC on the 16/04/2025.
- Response to WCC's observations received by ABP from the appellant's agent on the 03/06/2025.

### **3.0 Relevant History/Cases**

- 3.1. A previous DAC Application was lodged by J. Staples & Associates (JSP) on the 26/02/2015, which was subsequently granted by WCC on the 11/03/2015 (Ref: DAC013/15).

### **4.0 Appellant's Case**

- 4.1. The appellant is appealing the attachment of Conditions No.2, 3 & 4 of the Revised DAC granted by WCC on the 5<sup>th</sup> May 2025, on the basis that the requirements set out are not necessary to demonstrate compliance with Part M of the Building Regulations, given that in the case of material alterations or change of use of existing buildings, the adoption without modification of the guidance set out in Technical Guidance Document M 2022 (TGD M 2022) is not appropriate in all circumstances, & that in some situations, alternative approaches based on the principles contained in TGD M 2022 may be more relevant & should be considered. The following is a summary of the points set out by the appellant's agent in support of the appeal:

## **Condition No.2**

- As set out in section 2.2.2 of TGD M 2022 at least one entrance should be made accessible.
- Entry/Exit 8 is the designated accessible entrance.
- Exit 6 is to be used as an emergency exit only.

## **Condition No.3**

- As set out in section 2.3.4.1 of TGD M 2022 the same range of services/facilities that are available on the other levels should be made available on the entry or accessible level.
- The area in question is to be utilised as internal seating only with no unique facilities & as such is equivalent to the existing seating areas within the Public House.
- The existing Bar area is on an accessible level, accessed from the designated accessible entrance Entry/Exit 8, & provides access to the Bar, seating areas & accessible sanitary facilities.
- The provision of a ramp in this area would be unduly restrictive & would result in a significant reduction in the seating provision.
- A Fire Safety Certificate (FSC) has been granted by WCC in line with the particulars of this revised DAC application.
- The area of the extension identified as the 'Covered Seating Area' was roofed before the end of 2006 & as such would not be subject to the requirement of a DAC but would still comply with Part M of the Building Regulations. The initial application included the area of the extension as an applicable area however this was subsequently withdrawn.
- While the level of compliance of internal access is being questioned, it should be noted that a compliant means of access to the accessible level of the building, which facilitates access to the Bar, seating areas & accessible sanitary facilities is provided.

#### **Condition No.4**

- In order to ensure that the pool table in question is accessible to all it is now proposed to locate it within the existing Bar area. This location is on an accessible level, accessed from the designated accessible entrance Entry/Exit 8, & provides access to the Bar, seating areas & accessible sanitary facilities.
- The additional Bar area will now have no unique facilities & as such is equivalent to the existing Bar areas within the Public House.

### **5.0 Building Control Authority Case**

- 5.1. The BCA reasons for applying the conditions are set out above in section 1.3.
- 5.2. The following is a summary of the points set out by the BCA in support of their conditions;

#### **Condition No.2**

- The Exit 6 ramp was not indicated on the drawings of the previous DAC application (2015) & is therefore a new element which should have been captured in a revised DAC application.
- A ramp in accordance with Section 1.1 of TGD M 2022 should be provided.
- The appellant did not submit or demonstrate reasons for the Determination of Practicability as required under Section 0.7 & 0.8 of TGD M 2022. The drawings submitted would suggest that a ramp in compliance with TGD M 2022 would be achievable.
- Entry/Exit 8 does not provide level access to the proposed change of use area (Off-Licence to Pool Room), there is 270mm level difference.
- Exit 6 should be fully accessible to provide adequate provision for people to access & use this element of the building.
- The Exit 6 ramp should be in compliance with the requirements of the Building Regulations, TGD M 2022, Section 1.1.3.4 and all subsections thereof and no less than Section 2.1.3.

- In relation to the appellant agent's note that a Fire Safety Certificate (FSC) has been granted by WCC in line with the particulars of this revised DAC application, it is acknowledged that no items outside of the application process are to be submitted as part of the appeals process.

### **Condition No.3**

- The statement made by the appellant's agent that the extension was constructed circa 2000 to 2006 is disputed.
- The extension floor level is 210mm higher than the accessible route.
- An accessible route to the accessible WC facility should also be provided from the extension.
- Sufficient detail on the proposed 'concrete slip installation' between the accessible route & the extension has not been provided.

### **Condition No.4**

- The internal circulation route from the proposed area of the Material Change of Use, the Pool Bar, shall meet with no less than the minimum requirements as per TGD M 2022 Section 1.3 with specific but not exclusive reference to subsection 1.3.3.3 (c) to (f) to provide an accessible route from the Pool Bar area, as part of this application, to the required accessible WC facility as part of this application.
- The Pool Bar is exclusive to this area & is not provided in any other part of the Bar.
- An accessible route to the accessible WC facility should also be provided from the Pool Bar.

## **6.0 Assessment**

### **6.1. *De Novo* assessment/appeal v conditions**

Having regard to the nature of the appeal which is against three conditions, and having considered the drawings, details and submissions on the file and having regard to the provisions of Article 40 of the Building Control Regulations 1997, as amended, I am satisfied that the determination by the Board of this application as if it



had been made to it in the first instance would not be warranted. Accordingly, I consider that it would be appropriate to use the provisions of Article 40(2) of the Building Control Regulations (as amended).

## **6.2. Content of Assessment**

6.2.1. It would obviously be preferable for all areas within & adjoining the existing building to be fully accessible to all. However, given that this is an existing Public House, over 100 years old, I am of the view that the adoption without modification to the guidance set out in TGD M 2022 may not in all circumstances be appropriate. Particularly, the adherence to guidance & standards intended for application to new buildings. In these situations, alternative approaches based on the principles contained in the document may be more relevant.

### **6.2.2. Condition 2**

The appellant is appealing the attachment of Condition No.2 (Compliance of existing external ramp to Exit 6) on the basis that the requirement set out is not necessary to demonstrate compliance with Part M of the Building Regulations (as amended).

The appellant's agent in its appeal has set out a number of items to be considered by ABP in making its determination and these are summarised above. Similarly, the BCA reasons for applying the condition & a summary of the points made in support of it are also set out above.

As it has been confirmed that Entry/Exit 8 is the designated accessible entrance & that Exit 6 is to be used as an emergency exit only. I am of the view that the requirements set out in TGD M 2022, Section 1.1.3.4 and Section 2.1.3 do not apply on the basis that the existing external ramp to Exit 6 is not a 'Ramped Access Route' as it is to serve as an emergency egress route only.

### **6.2.3. Condition 3**

The appellant is appealing the attachment of Condition No.3 (internal circulation route within the area of the extension) on the basis that the requirement set out is not necessary to demonstrate compliance with Part M of the Building Regulations (as amended).

The appellant's agent in its appeal has set out a number of items to be considered by ABP in making its determination and these are summarised above. Similarly, the BCA reasons for applying the condition & a summary of the points made in support of it are also set out above.

As it has been confirmed that the area of the extension is to be utilised as internal seating only with no unique facilities. I am of the view that the requirements set out TGD M 2022, Section 1.3 & Section 1.3.3.3 do not apply on the basis that the additional seating area will have no unique facilities & as such is equivalent to the existing seating areas elsewhere within the Public House

#### **6.2.4. Condition 4**

The appellant is appealing the attachment of Condition No.4 (internal circulation route from the proposed area of the Material Change of Use, the Pool Bar) on the basis that the requirement set out is not necessary to demonstrate compliance with Part M of the Building Regulations (as amended).

The appellant's agent in its appeal has set out a number of items to be considered by ABP in making its determination and these are summarised above. Similarly, the BCA reasons for applying the condition & a summary of the points made in support of it are also set out above.

As it has been confirmed that the pool table in question is now to be located within the existing Bar area, which is on an accessible level, accessed from the designated accessible entrance Entry/Exit 8, with access to the Bar, seating areas & accessible sanitary facilities. I am of the view that the requirements set out TGD M 2022, Section 1.3 & Section 1.3.3.3 do not apply on the basis that the additional Bar area will now have no unique facilities & as such is equivalent to the existing Bar areas within the Public House.

## **7.0 Recommendation**

- 7.1. I recommend that ABP direct the BCA to remove conditions No.2, 3 & 4 to which the appeal relates for the reasons and considerations set out below.

## 8.0 Reasons and Considerations

- 8.1. Having regard to the presented design of the proposed amendments to the Existing Public House and the accompanying compliance report, to the submissions made in connection with the Disability Access Certificate application and the appeal, and to the report and recommendation of the reporting inspector, it is considered that it has been demonstrated by the appellant in the Disability Access Certificate application and appeal that the requirements set out in the above conditions are not required in order to meet the requirements of Part M of the Second Schedule to the Building Regulations (as amended). Therefore conditions No.2, 3 & 4 as originally attached by the Building Control Authority to the Disability Access Certificate in my view are not necessary to demonstrate compliance with Part M of the Second Schedule to the Building Regulations (as amended). It is considered that the proposed works if constructed in accordance with the design presented with the application and the appeal, would comply with the requirements of Part M of the second schedule to the Building Regulations (as amended).

## 9.0 Conditions

- 9.1. It is recommended that ABP direct the BCA to remove the following conditions;

**Condition 2:** The external ramp informed as providing access/egress, Exit 6 to the area of the proposed Material Change of Use for this development shall be provided so as to comply with the requirements of the Building Regulations, TGD M 2022, Section 1.1.3.4 and all subsections thereof and no less than Section 2.1.3.

**Reason 2:** To comply with the application of Part M for existing buildings where a Material Change of Use is proposed, and where reasons of practicability have not been demonstrated, the requirements of the Building Regulations, Technical Guidance Document M 2022, Access and Use.

**Condition 3:** The internal circulation route within the area of the extension as part of this application, shall meet with no less than the minimum requirements as per TGD M 2022, Section 1.3 with specific but not exclusive reference to subsection 1.3.3.3 (c) to (f) and the access route from the area of the extension, outdoor covered

seating area, through the existing bar, supporting the required minimum level of access to the required accessible WC facility as part of this application.

**Reason 3:** To comply with the application of Part M for existing buildings where an extension to a building forms part of the application, and whereby reasons of practicability have not been demonstrated, the requirements of the Building Regulations, Technical Guidance Document M 2022, Access and Use shall be met.

**Condition 4:** The internal circulation route from the proposed area of the Material Change of Use, the Pool Bar shall meet with no less than the minimum requirements as per TGD M 2022, Section 1.3 with specific but not exclusive reference to subsection 1.3.3.3 (c) to (f) to provide an accessible route from the Pool Bar area, as part of this application, to the required accessible WC facility as part of this application.

**Reason 4:** To comply with the application of Part M for existing buildings where a Material Change of Use is proposed, the requirement for access to sanitary facilities therein meeting no less than the minimum requirements of the Building Regulations, Technical Guidance Document M 2022, Access and Use.

## 10.0 Sign off

I confirm that this report represents my professional assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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James Hickey MRIAI RIBA ARB

6<sup>th</sup> July 2025.