



An
Coimisiún
Pleanála

DAC Report

ACP-322937-25

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

Appeal v Conditions

Development Description

The proposed works comprise of the following: (i) Revised Set-down Area location, (ii) Proposed revisions to the Accessible Car Parking Spaces, (iii) Proposed Internal alterations to the front of house area, at Circle K M11 Service Station, Ballyellen, Inch, Co. Wexford, Y25 V8F8.

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

DRV2512100WX

Appellant

Mr. Andrew McGrath

Appellant's Agent

McArdle Doyle Ltd

Building Control Authority:

Wexford County Council

Inspector

James Hickey MR IA I 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 following proposed works;

- (i) Revised Set-down Area location
- (ii) Proposed revisions to the Accessible Car Parking Spaces
- (iii) Proposed Internal alterations to the front of house area

All at Circle K M11 Service Station, Ballyellen, Inch, Co. Wexford, Y25 V8F8.

1.2. The revised application relates to external & internal alterations to **an existing Single Storey (plus Plant Level) Service Station.**

1.3. The appellant (Mr. Andrew McGrath) is appealing Conditions No.3 & 4 of the Revised Disability Access Certificate (DAC) granted by Wexford County Council (WCC) on the 4th June 2025.

The conditions being appealed are as follows;

Condition 3: Notwithstanding the proposed management arrangements of the development no less than the minimum requirements of TGD M 2022, shall be met for any material alterations within the building fabric of the development. The requirement to provide accessible sanitary facilities where general sanitary facilities are provided for as per TGD M, Section 1.4.3 shall be provided for at the proposed location providing new crew room & new staff welfare facilities, supporting the revised layout of Food Offering 2, 202.52m², the area to which the proposed material alterations apply, previously informed as a Dry Store, Staff Office & Cleaning Store.

Reason 3: To ensure the proposed development accords with no less than the minimum requirements of the Building Regulations, Technical Guidance Document M, Access & Use & in this instance Section 1.4.3 while also eliminate the potential hazard posed with the current design arrangement of entry doors to individual changing rooms (male & female) opening across the door openings for the WC cubicles.

Condition 4: The material alteration & relocation of a previous informed UAWC with LHT on DAC004/18 as granted from an area now identified as subway B.O.H shall

be located so as to provide for a “lobby – division wall” as previously demonstrated on Drawing P1395-GRY-D03 Rev A, submission date 22.12.17, for which DAC004/18 was granted.

Reason 4: To ensure the proposed material alterations do not contravene but accord with no less than the minimum requirements of the Building Regulations, Technical Guidance Document M, Access & Use & in this instance Section 1.4.3 & the Technical Guidance Documents & Statutory Regulations referred to therein. That the proposed accessible WC sanitary facilities achieve the same compliance level as the general provisions of sanitary facilities where food is being prepared or served.

2.0 Information Considered

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

- Previous DAC Application lodged by McArdle Doyle Ltd on the 22/01/2018.
- Previous DAC granted by WCC on 09/03/2018.
- Revised DAC Application lodged by the appellant’s agent on the 16/04/2025.
- Further Information (FI) request received from WCC on the 22/04/2025.
- Response to FI request issued by the appellant’s agent on the 24/04/2025.
- FI request received from WCC on the 12/05/2025.
- Response to FI request issued by the appellant’s agent on the 22/05/2025.
- Revised DAC granted by WCC on 04/06/2025.
- Appeal received by An Coimisiun Pleanála (ACP) from the appellant’s agent on the 01/07/2025.
- Response & observations on the appeal received by ACP from WCC on the 29/07/2025.

3.0 Relevant History/Cases

3.1. A previous DAC Application was lodged by McArdle Doyle Ltd on the 22/01/2018, which was subsequently granted by WCC on the 09/03/2018 (Ref: DAC004/18).

4.0 Appellant's Case

4.1. The appellant is appealing the attachment of Conditions No.3 & 4 of the Revised DAC granted by WCC on the 4th June 2025, largely on the basis that it sets out requirements that are not necessary to demonstrate compliance with Part M of the Building Regulations.

The following is a summary of the points set out by the appellant's agent in support of the appeal:

Condition No.3

- The sharing of back of house facilities, including an Accessible Changing Room & an Accessible Shower/WC, between Service Station Staff & Food Offering Staff, is in line with the arrangement set out in the previous DAC granted by WCC on the 9th March 2018. No changes are proposed to this arrangement.
- With regard to the potential hazard posed with the current design arrangement of entry doors to individual Changing Rooms (male & female) opening across the door openings for the WC cubicles, the appellant's agent is unclear as to the relevance of this potential hazard to TGD Part M 2022, as users with additional needs have access to various accessible facilities in both staff & public areas.
- The cubicles in question comply with Diagram 18 of TGD Part M 2022, have already been constructed & would be difficult to modify as they are within a tenant area.

Condition No.4

- With regard to the provision of a 'Lobby – Divisional Wall' to the entrance of the proposed Unisex Accessible WC (UAWC), the appellant's agent is unclear as to the relevance of this condition to TGD Part M 2022 & WCC's implied reference to other technical guidance documents.
- The appellant's agent has referenced Section 1.4.4(r) of TGD Part M 2022, which notes that the provision of lobbies to accessible sanitary facilities

should be avoided where possible as lobby doors may create barriers to easy movement.

- The lack of barriers is a key component of the current accessibility strategy which was also demonstrated in the original DAC application.
- Part M compliant door closers will be fitted to door sets in order to ensure that any reduction to the WC Lobby is minimal, temporary & in conjunction with the appropriate ventilation requirements.
- The internal layout of the proposed UAWC will maximise privacy without the requirement for a Lobby.

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 3

- The area to which the above condition relates, Food Offering, has increased its floor area from 184.82m² to 202.52m². As a consequence, the developer in consideration of the standards requires a separate staff welfare suite which was previously not provided for.
- In accordance with Section 1.4 of TGD M 2022 the number & location of sanitary facilities required in a building will be dictated by the nature of the building, the size of the building, the number of people & patterns of use, safety health & welfare etc. The above was considered by the developer in deciding to now install a separate staff welfare suite. It is therefore appropriate that all of Section 1.4.3 of TGD M is considered which requires 'the provision of accessible sanitary facilities where sanitary facilities are provided in a building'.
- In accordance with Section 0.2 of TGD M 2022, the current design arrangement of entry doors to individual Changing Rooms (male & female)

opening across the door openings for the WC cubicles presents a potential hazard.

Condition 4:

- Section 1.4.3 of TGD M 2022, outlines the general provision with specific reference to Part G/TGD G, & to Safety, Health & Welfare at Work regulation.
- The proposed material alterations fail to demonstrate compliance taking account of TGD M 1.4.3 & all standards referred to therein, creating a lesser provision or contravention of what was previously granted.
- The proposed new arrangement will result in a door from a Sanitary Facility opening directly out into a public space where food is being prepared, served & consumed. This is a lesser standard than previously granted.
- The proposed door from the newly relocated UAWC will open directly outwards into the circulation route to the public Sanitary Facilities. This is a lesser standard than previously granted.
- The clear effective width of the circulation route, outside the newly relocated UAWC will be reduced from 2000mm to 1195mm when the door is in the open position. This contravenes Section 1.3.3.3(a) & (g).
- Any proposed changes or material alterations to an area within the development has the potential to have a knock-on effect to other areas of compliance & must be considered as is the case in this instance.

6.0 **Assessment**

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

Having regard to the nature of the appeal which is against two 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, 1997, as amended.

6.2. Content of Assessment

6.2.1. Condition 3

The appellant's agent in its appeal has set out a number of items to be considered by ACP 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.

The appellant is appealing the attachment of Condition No.3 (provision of additional accessible sanitary facilities) on the basis that the sharing of back of house facilities, including an Accessible Changing Room & an Accessible Shower/WC, between Service Station Staff & Food Offering Staff, is in line with the arrangement set out in the previous DAC granted by WCC on the 9th March 2018, & that no changes are proposed to this arrangement.

The BCA is of the view that Section 1.4.3 of TGD M should be applied which requires the provision of accessible sanitary facilities where sanitary facilities are provided in a building.

In my view the sharing of back of house facilities, including an Accessible Changing Room & an Accessible Shower/WC, between both sets of staff is acceptable in this instance, given the close proximity of these facilities. As a consequence I am of the opinion that the requirement to amend the design is not necessary to demonstrate compliance with Part M of the Building Regulations (as amended).

With regard to the potential hazard posed with the current design arrangement of entry doors to individual Changing Rooms (male & female) opening across the door openings for the WC cubicles, the appellant's agent is unclear as to the relevance of this potential hazard to TGD Part M 2022, as users with additional needs have access to various accessible facilities in both staff & public areas.

The BCA is of the view that the current design arrangement of entry doors to individual Changing Rooms (male & female) opening across the door openings for the WC cubicles presents a potential hazard.

Although the current design arrangement of entry doors to the individual Changing Rooms is not ideal, I am of the view that adequate provision has been made for

people to access & use the WCs & Changing Rooms in question, & that the requirement to amend the design is not necessary to demonstrate compliance with Part M of the Building Regulations (as amended).

6.2.2. **Condition 4**

The appellant's agent in its appeal has set out a number of items to be considered by ACP 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.

The appellant is appealing the attachment of Condition No.4 (provision of a 'Lobby/Divisional Wall' to the entrance of the proposed UAWC) on the basis that, in accordance with Section 1.4.4(r) of TGD Part M 2022, the provision of lobbies to accessible sanitary facilities should be avoided where possible as lobby doors may create barriers to easy movement. The appellant's agent has also noted that the lack of barriers is a key component of the current accessibility strategy which was also demonstrated in the original DAC application.

The BCA is of the view that the proposed new arrangement will result in a door from a Sanitary Facility opening directly out into a public space where food is being prepared, served & consumed. In addition, the clear effective width of the circulation route, outside the newly relocated UAWC will be reduced from 2000mm to 1195mm when the door is in the open position which contravenes Section 1.3.3.3(a) & (g).

Section 2.5 of TGD Part G Hygiene 2008 (reprinted 2011) notes that a room or space containing a water closet should be separated from a place used for the preparation or cooking of food by means of: - (a) in the case of a building used solely as a dwelling, a door, and (b) in any other case, a properly ventilated passage or lobby. The appellant's agent has noted in their appeal that appropriate ventilation will be provided.

With regard to the effective clear width of the adjoining circulation route, Section 1.3.3.3(a) of TGD M 2022 notes that 'the unobstructed clear width should be at least 1200mm. Elements such as columns, radiators and fire hoses should not project into this corridor width.' The effective clear width of the adjoining circulation route, as indicated on the application drawings is 1195mm, just 5mm below the 1200mm noted above.

Although Section 1.3.3.3(g) of TGD M 2022 notes that 'outward opening doors should not project into a major access route or an escape route'. The door to the existing adjoining UAWC, which was part of the previous DAC application granted in March 2018, projects into the existing circulation route & is identical to that now proposed.

I am of the view that adequate provision has been made for people to access & use the UAWC & the adjoining circulation route in question, & that the requirement to amend the design is not necessary to demonstrate compliance with Part M of the Building Regulations (as amended).

7.0 Recommendation

- 7.1. I recommend that ACP direct the BCA to remove conditions No.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 Service Station 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. 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 ACP direct the BCA to remove the following conditions;

Condition 3: Notwithstanding the proposed management arrangements of the development no less than the minimum requirements of TGD M 2022, shall be met for any material alterations within the building fabric of the development. The requirement to provide accessible sanitary facilities where general sanitary facilities are provided for as per TGD M, Section 1.4.3 shall be provided for at the proposed location providing new crew room & new staff welfare facilities, supporting the revised layout of Food Offering 2, 202.52m², the area to which the proposed material alterations apply, previously informed as a Dry Store, Staff Office & Cleaning Store.

Reason 3: To ensure the proposed development accords with no less than the minimum requirements of the Building Regulations, Technical Guidance Document M, Access & Use & in this instance Section 1.4.3 while also eliminate the potential hazard posed with the current design arrangement of entry doors to individual changing rooms (male & female) opening across the door openings for the WC cubicles.

Condition 4: The material alteration & relocation of a previous informed UAWC with LHT on DAC004/18 as granted from an area now identified as subway B.O.H shall be located so as to provide for a “lobby – division wall” as previously demonstrated on Drawing P1395-GRY-D03 Rev A, submission date 22.12.17, for which DAC004/18 was granted.

Reason 4: To ensure the proposed material alterations do not contravene but accord with no less than the minimum requirements of the Building Regulations, Technical Guidance Document M, Access & Use & in this instance Section 1.4.3 & the Technical Guidance Documents & Statutory Regulations referred to therein. That

the proposed accessible WC sanitary facilities achieve the same compliance level as the general provisions of sanitary facilities where food is being prepared or served.

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.

James Hickey MRIAI RIBA ARB

29th October 2025