



An
Coimisiún
Pleanála

DAC Report

ACP-323144-25

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

Appeal v Refusal

Development Description

Revised Disability Access Certificate application for alterations made to 2No. 8 Storey over Basement Apartment Blocks during the construction phase of the works, at Bluebell Mills / Sheldon Park Hotel Apartment Blocks A & B at Kylemore Road, Dublin 12.

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

DRV2510847DC

Appellant

Ardcourt Ltd – Clapton (Ireland) Ltd

Appellant's Agent

O'Herlihy Access Consultancy

Building Control Authority:

Dublin City 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 alterations to 2No. 8 Storey over Basement Apartment Blocks during the construction phase of the works;

(i) Alterations at Basement Level

- Additional Lobby to vertical circulation Core 2 & relocation of accessible parking bay
- Reconfiguration of vertical circulation Core 3
- Removal of Storeroom & Bicycle Store to facilitate 70No. bicycle parking spaces
- Removal of Storeroom
- Stair 4 converted to emergency egress only

(ii) Alterations at Ground Floor Level

- Alterations to Apartment No.67 Entrance Hallway
- Relocation of Storage Area & bedroom doors
- Alterations to accessible WC doors & introduction of Ensuites
- Relocation of internal doors
- Reconfiguration of balconies

(iii) Alterations at First Floor to Sixth Floor Level

- Alteration to Apartment Entrance Hallway
- Relocation of storage area & bedroom doors
- Alteration to accessible WC doors & introduction of Ensuites

(iv) Alterations at Seventh Floor Level

- Alteration to Apartment Entrance Hallway of Apartment No.102
- Reconfiguration of apartment layout to Apartment No.s 57 & 104
- Alteration to accessible WC doors & relocation of storage areas

All at Kylemore Road, Dublin 12.

- 1.2. The revised application relates to alterations to 2No. 8 Storey over Basement Apartment Blocks comprising a total of 103 residential units.
- 1.3. The appellant (Ardcourt Ltd – Clapton (Ireland) Ltd) is appealing the decision by Dublin City Council (DCC) to refuse to grant a Revised Disability Access Certificate (DAC) on the 27th June 2025 for the works to which the application relates.

The reasons for the refusal are set out below;

Reason 1: Non-Compliance with Part M (Access & Use)

The applicant has not demonstrated compliance with Part M1 of the Second Schedule to the Building Regulations 1997 (as amended) & the proposal discriminates against persons on the basis of their ability.

Reason 2: Inadequate Information & Documentation.

The application lacks sufficient technical detail & clarity in drawings & reports. Numerous discrepancies exist with conflicting information across multiple drawings including;

- Site Boundaries
- Bin Stores & bicycle parking
- Stair dimensions & configurations
- Ramp gradients & landings
- Internal layouts
- Revisions to drawings are not clearly identified or documented, contrary to standard drafting practices.
- Discrepancies & contradictions between drawings regarding the dimensions of building undermines the overall reliability & credibility of the submitted information.

Reason 3: Failure to Justify Deviations from Previous DAC Conditions.

The application does not adequately justify why Condition 9 of the previously granted DAC2105616DC cannot be complied with. Arguments put forward to overturn this condition are unsupported by adequate technical evidence or rationale. The details

shown on submitted drawing reference RDAC-P-205, dated May 2025, illustrated that compliance with Condition 9 of the previously granted DAC2105616DC is practicable & achievable.

Reason 4: Lack of Clarity on Access & Use

No clear information on access control systems, cyclist access/egress, or obstruction mitigation in parking areas. Ambiguities in drawing legends & shading further obscure understanding of the design intent.

2.0 Information Considered

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

- Previous DAC Application lodged on the 08/01/2018 (DAC/2018/0010)
- Previous DAC granted by DCC on 05/03/2018.
- Previous DAC Application lodged on the 07/09/2021 (DAC2105616DC)
- Previous DAC granted by DCC on 29/10/2021.
- Revised DAC Application lodged on the 18/09/2023 (DRV2305948DC)
- Previous Revised DAC refused by DCC on 14/11/2023.
- Appeal received by An Bord Pleanála (ABP) from the appellant's agent (David Moran Architects) on the 01/12/2023.
- Inspector's Report ABP-318646-23.
- Appeal refused by ABP on the 7th August 2024 (ABP-318646-23).
- Previous Revised DAC Application lodged on the 27/11/2024 (DRV2408771DC).
- Previous Revised DAC refused by DCC on 29/01/2025.
- Previous Revised DAC Application lodged on the 04/03/2025 (DRV2510847DC).
- Response to FI request issued by the appellant's agent on the 30/05/2025.
- Previous Revised DAC refused by DCC on 27/06/2025.
- Appeal received by An Coimisiun Pleanála (ACP) from the appellant's agent (O'Herlihy Access Consultancy) on the 25/07/2025.

- Response & observations on the appeal received by ACP from DCC on the 27/08/2025.
- Further Documentation received by ACP from DCC on the 30/09/2025.
- Response to DCC's observations received by ABP from the appellant's agent on the 13/10/2025.

3.0 Relevant History/Cases

3.1. Previous DAC applications for these Buildings include the following;

- DAC/2018/0010
- DAC2105616DC
- DRV2305948DC
- DRV2408771DC
- DRV2510847DC.

3.2. The following case references may be of assistance to the Board in determining this case;

- ABP-319945-24
- ABP-318646-23
- ABP-308863-20.

4.0 Appellant's Case

4.1. The appellant's agent (O'Herlihy Access Consultancy) is appealing the decision by DCC to refuse to grant a revised DAC on the 27th June 2025, largely on the basis that the documentation submitted demonstrates that;

- the Guidance in TGD M 2010 has been met.
- the requirements of Part M of the Second Schedule of the Building Regulations would be met prior to opening or occupation.
- sufficient information was provided to demonstrate compliance & allow the BCA to grant the revised DAC (possibly with conditions).

- some of the reasons provided by BCA for the refusal are vague & if elaborated on could have been addressed during the process.

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

Reason 1: Non-Compliance with Part M (Access & Use)

- A detailed list of all information included as part of the revised DAC application has been provided.
- The level of detail provided in the documentation submitted as part of the revised DAC application is sufficient to demonstrate compliance.
- No rationale of further information has been provided by the BCA as to why the application does not demonstrate compliance.
- It is unclear as to how the proposal discriminates against persons on the basis of their ability.
- The reason for refusal is similar to that noted under 'Reason No.3' of a previous revised DAC Application (DRV2408771DC), refused by DCC on the 29/01/2025.
- Only one request for further information was received from the BCA during the application process, which was subsequently responded to by the appellant's agent. Had further information/clarification requests been sought by the BCA to demonstrate compliance, these could have been responded to during the application process.
- The appellant's agent contacted the BCA prior to the application being lodged in order to identify the best approach & the level of detail required. The appellant's agent also contacted the BCA during the process in order to identify if any additional information was required. No further information/clarification requests were received other than the RFI noted above.

Reason 2: Inadequate Information & Documentation.

- The detailed drawings provided indicate all changes which in turn were cross referenced with the revised DAC Report in order to demonstrate compliance.

- Dimensions were provided on the drawings.
- The discrepancy identified between the site boundary indicated on the 'Site Location Plan - Drg. No. RDAC-001' & that indicated on the 'Site Layout Plan – Drg. No. RDAC-P-002' has been clarified.
- Drg. No. ACP-002 indicates the access route leading to the Bin Store.
- Drg. No. RDAC-P-002 & Drg. No. ACP-P-002 indicates the location & access routes leading to the Ground Floor Bicycle Parking Shelters.
- The Basement Bicycle Parking Area is an open area accessed via the Basement vehicular ramp as indicated on Drg. No.s ACP-P-002 & ACP-P-099.
- In relation to 'Stair Dimensions & Configurations' significant information has been provided to demonstrate compliance.
- In relation to 'Ramp Gradients & Landings';
 - Changes to level landings are indicated outside each apartment entrance & detailed information on compliance is provided
 - No changes are proposed to the main entrances at Ground Floor Level
 - Where changes took place in the Basement, level landings were indicated & detailed information on compliance is provided
 - 3 No. ramps now indicated on the revised DAC drawings were not indicated on the original DAC application. This was an oversight & the required amendments will be in place prior to the buildings being opened/occupied.
- Internal layout changes are indicated on the drawings & cross referenced with the revised DAC Report.
- The appellant's agent contacted the BCA prior to the application being lodged in order to identify the best approach & the level of detail required. The appellant's agent also contacted the BCA during the process in order to identify if any additional information was required. No further information/clarification requests were received other than the RFI noted above.

Reason 3: Failure to Justify Deviations from Previous DAC Conditions.

- ABP has determined, in a previous case, that level access to the balcony areas within private apartments is not a requirement under Part M of the current applicable Building Regulations.
- The appellant's agent contacted the BCA prior to the application being lodged in order to identify the best approach & the level of detail required. The appellant's agent also contacted the BCA during the process in order to identify if any additional information was required. No further information/clarification requests were received other than the RFI noted above.

Reason 4: Lack of Clarity on Access & Use

- No significant revisions to the design of 'Access Control Systems' has been made since the original DAC application was granted.
- No significant revisions to the design of 'Cyclist Access/Egress' has been made since the original DAC application was granted.
- No significant revisions to 'Obstruction Mitigation in Parking Areas' has been made since the original DAC application was granted.
- In relation to 'Ambiguities in Drawing Legends & Shading';
 - This concern was not raised by the BCA as part of their further information request.
 - Sufficient information was provided in order to allow the BCA to assess the application.
- The appellant's agent contacted the BCA prior to the application being lodged in order to identify the best approach & the level of detail required. The appellant's agent also contacted the BCA during the process in order to identify if any additional information was required. No further information/clarification requests were received other than the RFI noted above.

5.0 Building Control Authority Case

- 5.1. The BCA reasons for the refusal 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 decision;

Reason 1: Non-Compliance with Part M (Access & Use)

- The applicant has failed to demonstrate that the works, as constructed, meet the requirements of Part M1 of the Second Schedule to the Building Regulations 1997 (as amended).
- The proposal, in its current form, risks discriminating against persons on the basis of their ability.
- Inadequate demonstration of compliance with;
 - Ambulant accessible stair requirements
 - Ramped approach
 - Level access.

Reason 2: Inadequate Information & Documentation.

- The BCA is not satisfied that adequate information has been submitted to demonstrate compliance with Part M1 of the Second Schedule to the Building Regulations 1997 (as amended).
- The application lacks sufficient clarity & consistency in drawings & technical documentation. Notable discrepancies include;
 - Misalignment of Site Boundaries between drawings
 - Conflicting representations of Bin Stores & Bicycle Parking across drawings
 - Inconsistencies in stair dimensions, landing depths & going measurements on different drawings
 - Unclear revisions & undocumented changes to stair configurations & access routes.

- Absence of clear ramp specifications & gradients, contrary to TGD M 2010.

The above issues undermine the reliability of the submission & prevent a full assessment of compliance.

Reason 3: Failure to Justify Deviations from Previous DAC Conditions.

- The application attempts to overturn Condition 9 of the previously granted DAC without adequate technical justification.
- The current submission fails to demonstrate that level access to balconies is either impracticable or unnecessary under Part M.
- No rationale has been provided as to why the 65mm level difference at balcony thresholds cannot be addressed.
- The applicant's reliance on precedent does not negate the requirement to demonstrate compliance in this specific case.

Reason 4: Lack of Clarity on Access & Use

- Lack of clarity on access control systems & cyclist access/egress. The Basement Bicycle Parking Area is landlocked by car park spaces.
- Inconsistences in internal layout & access routes.
- Revisions are not clearly identified on drawings.
- Ambiguities in drawing legends & shading further obscure understanding of the design intent.
- Conflict in the use of a Basement car park space & access to Stair 2.
- Inconsistences between the revised DAC application drawings & the revised FSC application drawings.
- The submission fails to meet the standard required under Article 20E of the Building Control Regulations 1997 (as amended).

5.3. De Novo assessment/appeal v conditions

Having regard to the nature of the appeal which is against a refusal to grant a revised DAC application, and having considered the drawings, details and

submissions on the file it is considered that the treatment of the appeal on a De Novo basis is warranted.

5.4. Content of Assessment

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 refusing to grant a revised DAC & a summary of the points made in support of this decision is also set out above.

The following extract has been taken from the Building Control (Amendment) Regulations 2009;

Revised Disability Access Certificate.

20E (1) A revised disability access certificate shall be required where significant revision is made to the design or works of a building or an extension of, a material alteration to or a material change of use of a building in respect of which a disability access certificate has been granted by a building control authority.

(2) (a) An application for a revised disability access certificate shall be in the form specified for that purpose in the Third Schedule.

(b) An application for a revised disability access certificate shall be accompanied by—

(i) such revised plans, (including a site or layout plan)(in duplicate) and such other revised particulars as are necessary to—

(I) identify and describe the works or building to which the application relates,

(II) 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,

(III) identify the nature and extent of the proposed use and, where appropriate, of the existing use of the building concerned.

5.4.1. Reason 1: Non-Compliance with Part M (Access & Use)

The appellant's agent is of the view that the level of detail provided in the documentation submitted as part of the revised DAC application is sufficient to demonstrate compliance.

The BCA is of the view that the applicant has not demonstrated compliance with Part M1 of the Second Schedule to the Building Regulations 1997 (as amended) & that the proposal discriminates against persons on the basis of their ability.

Having considered the information on the file in relation to the appeal & the requirements set out in the 'Building Control (Amendment) Regulations 2009', I am of the opinion that the revised DAC application submitted does not contained the level of detail necessary in order to enable the BCA 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.

5.4.2. Reason 2: Inadequate Information & Documentation.

The appellant's agent is of the view that adequate information has been provided in the documentation submitted as part of the revised DAC application to demonstrate compliance. The detailed drawings included indicate all changes which in turn were cross referenced with the revised DAC Report in order to demonstrate compliance.

The BCA is not satisfied that adequate information has been submitted to demonstrate compliance with Part M1 of the Second Schedule to the Building Regulations 1997 (as amended). The application lacks sufficient clarity & consistency in drawings & technical documentation.

Having considered the information on the file in relation to the appeal & the requirements set out in the 'Building Control (Amendment) Regulations 2009', I am of the opinion that the revised DAC application submitted does not contained adequate information or documentation in order to enable the BCA 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.

5.4.3. Reason 3: Failure to Justify Deviations from Previous DAC Conditions.

The appellant's agent is of the view that ABP has determined, in a previous case, that level access to the balcony areas within private apartments is not a requirement under Part M of the current applicable Building Regulations.

The BCA is of the view that the application attempts to overturn Condition 9 of the previously granted DAC without adequate technical justification & that the current submission fails to demonstrate that level access to balconies is either impracticable or unnecessary under Part M.

The key requirement of Part M of the Second Schedule to the Building Regulations (as amended), which applies to this issue is as follows;

- M1 – Adequate provision shall be made for people to access and use a building, its facilities and its environs.

TGD M 2010 notes that;

- The guidance in Section 1 (Access and Use of Buildings Other than Dwellings) applies to the common areas of apartment blocks and their environs.
- The guidance in Section 3 (Access and Use of Dwellings) applies to dwellings and their environs. This includes individual dwelling houses and individual apartments. It does not apply to the common areas of apartment blocks. Guidance on these areas is provided in Section 1.
- Where works are carried out in accordance with the guidance in this document, this will, prima facie, indicate compliance with Part M of the Second Schedule to the Building Regulations (as amended).

As a consequence, a stepped change of level within an apartment is permitted under Section 3 (Access and Use of Dwellings) of TGD M 2010 provided at least one habitable room and a room containing a WC can be accessed from the accessible entrance. Although it would obviously be preferable for all facilities within a building to be accessible and useable and constructed to facilitate active participation, TGD M 2010 notes that where works are carried out in accordance with the guidance in this document, this will, prima facie, indicate compliance with Part M of the Second Schedule to the Building Regulations (as amended).

Having considered the information on the file in relation to the appeal & the guidance set out in TGD M 2010 above, I am of the opinion that this reason for refusal should be removed.

5.4.4. **Reason 4: Lack of Clarity on Access & Use**

The appellant's agent is of the view that no significant revisions to the design of 'Access Control Systems' or 'Cyclist Access/Egress' has been made since the original DAC application was granted, & that sufficient information was provided in order to allow the BCA to assess the application.

The BCA is of the view that the application; lacks clarity on access control systems & cyclist access/egress, that there are inconsistencies between internal layouts & access routes, & that the submission fails to meet the standard required under Article 20E of the Building Control Regulations.

Having considered the information on the file in relation to the appeal & the requirements set out in the 'Building Control (Amendment) Regulations 2009', I am of the opinion that the revised DAC application submitted lacks clarity & does not contained the level of detail necessary in order to enable the BCA 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.

6.0 **Recommendation**

- 6.1. I recommend that the ACP rejects the appeal against the BCA's Decision & in so doing, removes Reason 3 'Failure to Justify Deviations from Previous DAC Conditions'.

7.0 **Reasons and Considerations**

- 7.1. Having regard to the presented design of the proposed amendments to the existing buildings and the accompanying compliance report, to the submissions made in connection with the revised Disability Access Certificate application and the appeal, and to the report and recommendation of the reporting inspector, it is considered that the information provided lacks clarity & does not contained the level of detail

necessary in order to enable the BCA 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 (as amended).

8.0 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

9th December 2025