



An
Coimisiún
Pleanála

Addendum Report

ACP-323144A-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 DAC
number:**

DRV2510847DC

Appellant

Ardcourt Ltd – Clapton (Ireland) Ltd

Appellant's Agent

O'Herlihy Access Consultancy

Building Control Authority:

Dublin City Council

Inspector

James Hickey MRIAI RIBA ARB

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1.0 Introduction

- 1.1. On the 21st April 2026, the Commission decided to seek an addendum report on file ACP-323144-25 as set out in Direction CD-022101-26.

This report should be read in conjunction with 'Inspector's Report ACP-323144-25' dated the 9th December 2025.

2.0 Information Considered

- 2.1. The information considered in this appeal comprised 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 07/08/2024 (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 case is set out in Section 4 of Inspector's Report ACP-323144-25.

5.0 Building Control Authority Case

5.1. The BCA case is set out in Section 5 of Inspector's Report ACP-323144-25.

6.0 **Assessment**

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

- 6.1.1. Having regard to the nature of the appeal which is against a refusal to grant a revised DAC, 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.

6.2. **Content of Assessment**

- 6.2.1. This report should be read in conjunction with 'Inspector's Report ACP-323144-25' dated the 9th December 2025.
- 6.2.2. The revised Disability Access Certificate application submitted to the Building Control Authority (BCA) relates to alterations to 2No. 8 Storey over Basement Apartment Blocks comprising a total of 103 residential units.
- 6.2.3. The appellant 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.
- 6.2.4. The four reasons for the refusal are set out in detail in the Inspector's Report referred to above. The headings have been included here for ease of reference;
- Reason 1: Non-Compliance with Part M (Access & Use)
 - Reason 2: Inadequate Information & Documentation
 - Reason 3: Failure to Justify Deviations from Previous DAC Conditions
 - Reason 4: Lack of Clarity on Access & Use
- 6.2.5. **Reason 1: Non-Compliance with Part M (Access & Use)**

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.

The appellant's agent is of the view that the relevant guidance within TGD M 2010 has been followed & that the level of detail provided in the documentation submitted as part of the revised DAC application & subsequent correspondence is sufficient to demonstrate compliance.

Although the appellant's agent is of the view that the relevant guidance has been followed, the BCA has noted that compliance has not been demonstrated in relation to a number of issues including the following;

- Ambulant accessible stair requirements
- Ramped approach
- Level access.

In my view there is a general lack of consistency in the documentation provided, & although the onus is on the applicant to demonstrate compliance with the Building Regulations, the appellant's agent seems to be of the view that the BCA should continue to seek clarification on the revised application documentation until all issues are resolved. The extent of inconsistencies & discrepancies identified in the revised DAC application documentation, as outlined below, is excessive. In my view, the majority of these issues should have been addressed by the appellant's agent during the preparation of the revised DAC application, thus avoiding the requirement for such issues to be raised by the BCA.

With regard to the quality of the information & documentation received, the following extract has been taken from the Building Control Regulations 1997 (as amended);

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—

(1) 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.

Although a number of revised plans & particulars have been issued by the appellant's agent during the application process in response to the issues raised by the BCA, given the extent of inconsistencies & notable discrepancies identified in the revised DAC application documentation, including the following;

- 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
- Lack of clarity on cyclist access/egress. The Basement Bicycle Parking Area is landlocked by car park spaces.
- Inconsistencies in internal layout & access routes.
- Revision 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.
- Inconsistencies between the revised DAC application drawings & the revised FSC application drawings.

I am of the view, that the revised DAC application, fails to meet the standard required under Article 20E of the Building Control Regulations 1997 (as amended), as the revised plans & particulars do not 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 (Access and Use) of the Second Schedule to the Building Regulations 1997, as amended.

6.2.6. 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), as the application lacks sufficient clarity & consistency in drawings & technical 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.

Please refer to 'Article 20E (1)' of the Building Control Regulations 1997 (as amended) noted in Section 6.2.5 above & the list of inconsistencies & notable discrepancies identified in the revised DAC application documentation. In my view, the revised DAC application, fails to meet the standard required under Article 20E of the Building Control Regulations 1997 (as amended), as the revised plans & particulars do not 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 (Access and Use) of the Second Schedule to the Building Regulations 1997, as amended.

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

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 appellant's agent is of the view that ACP 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 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.*

In addition, TGD M 2010 notes that;

- *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.*
- *The guidance in Section 1 (Access and Use of Buildings Other than Dwellings) applies to the common areas of apartment blocks and their environs.*

Under Section 3 (Access and Use of Dwellings) of TGD M 2010 a stepped change of level within an apartment is permitted, provided that 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 1997 (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 on the basis that a stepped change of level within an apartment is permitted, under Section 3 (Access and Use of Dwellings) of TGD M 2010, provided that at least one habitable room and a room containing a WC can be accessed from the accessible entrance. As a consequence, & although preferable, the provision of level access balcony areas within individual apartments is not a requirement under Part M of the Second Schedule to the Building Regulations 1997, as amended.

6.2.8. 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 & inconsistency in relation of a number of issues including the following;

- Cyclist access/egress routes. The Basement Bicycle Parking Area is landlocked by car park spaces.
- Inconsistences in internal layout & access routes.
- Revision 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.

Please also refer to 'Article 20E (1)' of the Building Control Regulations 1997 (as amended) noted in Section 6.2.5 above & the extent of inconsistencies & notable discrepancies identified in the revised DAC application documentation. In my view, the revised DAC application, fails to meet the standard required under Article 20E of the Building Control Regulations 1997 (as amended), as the revised plans & particulars do not 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 (Access and Use) of the Second Schedule to the Building Regulations 1997, as amended.

7.0 Recommendation

7.1. I recommend that ACP reject the appeal against the BCA's Decision & in so doing, remove Reason 3 'Failure to Justify Deviations from Previous DAC Conditions'.

I recommend that the Board Refuse to issue a Revised Disability Access Certificate for the reasons set out in Section 8 below.

8.0 Reasons and Considerations

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

Having regard to the presented design of the proposed residential development 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 it has **not** been demonstrated by the appellant in the revised Disability Access Certificate application and appeal that the proposed works are in compliance with Part M (Access & Use) due to the general lack of consistency identified across the revised DAC application documentation, as outlined in section 6.2.5 above. In addition, it is considered that it has **not** been demonstrated by the appellant that the revised Disability Access Certificate application and appeal meets the standard required under Article 20E of the Building Control Regulations 1997 (as amended), as the revised plans & particulars are not of a quality to enable the BCA to assess, whether the said works or building would, if constructed in accordance with the design presented with the application and the appeal, comply with the requirements of Part M (Access and Use) of the Second Schedule to the Building Regulations 1997, as amended.

8.2. Reason 2: Inadequate Information & Documentation

Having regard to the presented design of the proposed residential development 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 it has **not** been demonstrated by the appellant that the revised Disability Access Certificate application and appeal meets the standard required under Article 20E of the Building Control Regulations 1997 (as amended), as the revised plans & particulars are not of a quality to enable the BCA to assess, whether the said works or building would, if constructed in accordance with the design presented with the application and the appeal, comply with the requirements of Part M (Access and Use) of the Second Schedule to the Building Regulations 1997, as amended.

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

Having regard to the presented design of the proposed residential development 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 it **has** been demonstrated by the appellant in the revised Disability Access Certificate application and appeal that the provision of level access to the external balconies of individual

apartments is not required in order to meet the requirements of Part M of the Second Schedule to the Building Regulations 1997, as amended. Therefore 'Reason 3' as attached by the Building Control Authority to the refusal to grant a Disability Access Certificate is not necessary to meet the guidance set out in TGD Part M 2010 or accordingly to demonstrate compliance with Part M of the Second Schedule to the Building Regulations 1997, as amended. In this instance, it is considered that the proposed external balconies, if constructed in accordance with the design presented with the application and the appeal, would comply with the requirements of Part M to the second schedule to the Building Regulations 1997, as amended.

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

Having regard to the presented design of the proposed residential development 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 it has **not** been demonstrated by the appellant in the revised Disability Access Certificate application and appeal that the proposed works are in compliance with Part M (Access & Use) due to the lack of clarity & consistency identified in relation to a number of issues, as outlined in section 6.2.8 above. In addition, it is considered that it has **not** been demonstrated by the appellant that the revised Disability Access Certificate application and appeal meets the standard required under Article 20E of the Building Control Regulations 1997 (as amended), as the revised plans & particulars are not of a quality to enable the BCA to assess, whether the said works or building would, if constructed in accordance with the design presented with the application and the appeal, comply with the requirements of Part M (Access and Use) of the Second Schedule to the Building Regulations 1997, as amended.

9.0 **Sign off**

- 9.1. 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

12th May 2026