



An
Coimisiún
Pleanála

DAC Report

ACP-323989-26

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

Appeal v Refusal

Development Description

Revised Disability Access Certificate application for proposed revisions to a previously approved Disability Access Certificate (Ref. No. DAC2405696DC) for a 3-storey residential duplex block (to be known as Block Type BZ01) at Oscar Traynor Road Residential Development, Oscar Traynor Road, Dublin 17.

**Building Control Authority DAC
number:**

DRV2516099DC

Appellant

Roger Browne

Appellant's Agent

Maurice Johnson & Partners

Building Control Authority:

Dublin City Council

Inspector

James Hickey MRIAI RIBA ARB

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1.0 Introduction

- 1.1. The Oscar Traynor Road Residential Development consists of a total of 853 residential units (240 houses & 613 apartments).

The Revised Disability Access Certificate application submitted to the Building Control Authority (BCA) relates to proposed revisions to a previously approved Disability Access Certificate (Ref. No. DAC2405696DC) for a 3-storey residential duplex block (to be known as Block Type BZ01) within the Oscar Traynor Road Residential Development at Oscar Traynor Road, Dublin 17.

The proposed 3-storey residential building will consist of 4No. apartments in total;

- 2No. ground floor two storey duplex apartments with own door entry and accessed directly from the outside.
- 2No. second floor single storey apartments accessed via a communal stair at ground floor level.

- 1.2. The revised application relates to proposed revisions to a previously approved Disability Access Certificate for **a 3-storey Residential Building**.

- 1.3. The appellant (Roger Browne) is appealing the decision by Dublin City Council (DCC) to refuse to grant a Revised Disability Access Certificate (DAC) on the 2nd December 2025 for the works to which the application relates.

The reasons for the refusal are set out below;

Reason 1: The applicant failed to provide adequate information showing compliance with the requirements of Part M of the Second Schedule of the Building Regulations.

Reason 2: The applicant has failed to demonstrate that the proposed works will comply with the requirements of Part M of the Second Schedule of the Building Regulations particularly in relation to providing a safe and convenient vertical circulation within the building.

Reason 3: The stair landing to the common stairs at the top floor conflicts with the clear space outside the apartment entrance door creating a greater risk of falls particularly with people with mobility or visual difficulties having to stand close to the top riser. The overlapping spaces create the potential for congestion within an area close to the top of the stairs particularly where residents are carrying items or

persons using mobility aids. During an emergency, with the risk of tripping or losing balance increasing, the lack of adequate clear and separate spaces at the top of the stairs adds to the risk of falling. The arrangements at the top of the common stairs do not achieve a safe and independent access for all users.

2.0 Information Considered

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

- Drawings & Report submitted with the original application on 09/08/2024.
- Disability Access Certificate granted by DCC on 02/10/2025.
- Drawings & Report submitted with the revised application on 09/10/2025.
- Recommendation of the Senior Building Surveyor on 01/12/2025.
- Order of the Executive Manager dated the 02/12/2025.
- Revised Disability Access Certificate refused by DCC on 02/12/2025.
- Appeal received by An Coimisiun Pleanála (ACP) from the appellant's agent (Maurice Johnson & Partners) on the 30/12/2025.
- Response & observations on the appeal received by ACP from DCC on the 24/02/2026.
- Further submission received by ACP from the appellant's agent on 13/03/2025.

3.0 Relevant History/Cases

3.1. There was a previously approved Disability Access Certificate (Ref. No. DAC2405696DC) for this particular building (Block BZ01).

3.2. In addition, the appellant's agent in their letter of appeal notes that;

- DCC previously granted a DAC for Block BZ03 (BCMS Ref. No.DAC2405476DC) in the same development on the 26th September 2024. Block BZ03 has the same layout as the Block in question (BZ01), however, a condition similar to Reason 3 noted above was not attached to the previously granted certificate.

- The reason for refusal as set out in Reason 3 above has been the subject of a previously successful appeal against a similar condition in the same development, appeal reference ABP-321219-24. As a consequence, it was assumed that the current design position was accepted.

3.3. Case reference ABP-321219-24 may be of assistance to the Board in determining this case.

3.4. The appellant is appealing a similar condition, to that outlined under Reason 3 above, on an additional 5 buildings within the overall development. The ACP case references are as follows;

- 323986-25
- 323984-25
- 323994-26
- 323995-26
- 323998-26.

4.0 **Appellant's Case**

4.1. The appellant is appealing the decision by DCC to refuse to grant a Revised DAC on the 2nd December 2025 largely on the basis that it sets out requirements which are at odds with a previously approved design within the same development & which are not necessary to demonstrate compliance with Part M of the Building Regulations (as amended).

4.2. **Reason 1 for Refusal**

- The reason for refusal is not valid as the Block in question & multiple scaled versions thereof have been approved by the BCA throughout the Oscar Traynor Road development.
- The information submitted demonstrates how compliance with Part M of the Building Regulations (as amended) is achieved.
- 31 DAC applications have been lodged for the buildings within this development to date & this is the first to receive a refusal.

4.3. Reason 2 for Refusal

- This reason is essentially a repeat of Reason 1 with additional commentary regarding '*providing a safe and convenient vertical circulation within the building.*'
- No specific reference is made as to which clause within the Technical Guidance Document M 2022 (TGD M 2022) has not been complied with.
- The appellant is of the view that the design proposed meets the requirements set out in TGD M 2022 & more specifically in the case of '*providing a safe and convenient vertical circulation within the building.*'
- The Block in question does not require a lift as per Section 1.3.4.1.1(c) of TGD M 2022 i.e. duplex buildings with two (or less) dwellings on any one storey & with no dwelling having an entrance level more than 6,500mm above or below the main entrance level. The height of the topmost floor is 6,300mm above the main entrance level.

4.4. Reason 3 for Refusal

The following points are set out in support of the appeal;

- The reason for refusal is not valid as the proposed design demonstrates compliance with the requirements set out in TGD M 2022.
- There is no requirement within TGD M 2022 for the 1200mm x 1200mm clear space to be provided in front of an entrance door to be outside of the clear landing space required to an internal ambulant disabled stair.
- In relation to the BCA reference to emergency, it is noted that the Block in question (BZ01) has a granted Fire Safety Certificate which demonstrates compliance with Part B of the Building Regulations. The proposed design is also in compliance with Part K of the Building Regulations. As a consequence, it is submitted that the design provides safe egress during an emergency.
- The requirement set out in Reason 3 is at odds with a previously approved design within the same development. Block BZ03, the subject of a previous DAC application, has the same layout as the Block in question (BZ01),

however, a condition similar to the reason now being appealed was not attached to the previous DAC granted for BZ03 on the 26th September 2024.

- The design submitted was previously successfully appealed, please refer to appeal No. ABP-321219-24.
- A satisfactory reason for the imposition of reason 3 has not been proved by the BCA.
- The reason given for attaching Reason 3 is without a specific design basis.
- No request for additional information was received from the BCA during the application process, & as a consequence no opportunity was afforded the appellant to address the BCA concern raised.
- DCC acknowledges that the scope of the application includes revisions to internal layouts but does not set out a reason for refusal.
- The functional depth during door operation of 1200mm to 1500mm as set out in section 4.1 of the 'Response & observations on the appeal received by ACP from DCC on the 24/02/2026' can be accommodated within the current proposal, please refer to the extract contained in the 'Submission received by ACP from the appellant's agent on 13/03/2026'.
- Article 29(3) of the Building Control Regulations 1997 (as amended) notes that;

'a building control authority shall not be entitled to elaborate upon any submissions or observations made in accordance with sub-article (2), or make further submissions or observations in relation to, the appeal and any such elaboration or submission that is or are received by the Board shall not be considered by it.'

The appellant's agent is of the view that three of the ten items included in the 'Response & observations on the appeal received by ACP from DCC on the 24/02/2026', are new items which were not previously raised by the BCA. As a consequence, these items do not comply with Article 29(3). The items in question are as follows;

- 4 – Clinical Mobility Analysis: Why Overlap is Acutely Unsafe

- 5 – Stair Edge Risk: Why the Top Landing is Not Negotiable
- 7 – Evidence Base Rationale for Separation.

Even though these observations were not raised during the course of the Revised DAC application process the appellant's agent has provided a response to each item.

- The proposed revisions to the design to which the revised DAC application relates have not been addressed. Instead, the focus seems to be on revisiting a condition attached to the original grant.
- A number of the positions proffered by the BCA are subjective in nature & the conclusions reached by the BCA incorrectly suggest that the building is inherently unsafe.
- The appellant's agent refutes the commentary contained in the cover letter included in the 'Response & observations on the appeal received by ACP from DCC on the 24/02/2026', on the basis that the design submitted meets the requirements set out in TGD Part M 2022 & therefore complies with Part M of the Second Schedule of the Building Regulations.
- The design will meet the requirements of;
 - M1 of Part M of the Second Schedule of the Building Regulations (as amendment), as *'Adequate provision shall be made for people to access and use a building, its facilities and its environs'*
 - K1 of Part K of the Second Schedule of the Building Regulations as *'Stairways, ladders and ramps shall be such as to afford safe passage for the users of a building.'*
- The following terms used by the BCA in their 'Response & observations on the appeal received by ACP from DCC on the 24/02/2026', are not contained in TGD M 2022;
 - Shared settings
 - Safe & convenient circulation.
- The appellant's agent is of the view that;

- The design as submitted & previously approved by DCC in Block BZ03, allows for people with a range of abilities to travel conveniently and without discomfort from floor to floor in order to make use of all relevant facilities.
- In addition to satisfying prescriptive requirements, the proposed design approach satisfies the functional requirements of Part M of the Building regulations.
- The appellant's agent, in their conclusion to the further submission received by ACP from the appellant on 13/03/2025, notes that they;
 - Have not be provided with a reason as to why the proposed internal revisions were refused.
 - Cited the successful appeal against a condition similar to Reason 3 on the same design typology along with a previously approved building on the same site.
 - Disagree with the BCA & submit that the design is compliant with the functional requirements of M1 of Part M of the Building regulations.
 - Refute the BCA conclusion that the design is 'Acutely unsafe for ambulant disabled issuers & all users under normal occupancy conditions' & are unsure as to the technical basis for such a conclusion to be reached.

5.0 Building Control Authority Case

- 5.1. The three reasons given by the BCA for refusing to grant a revised DAC are noted above under Section 1.3.

The following points are set out in support of the BCA's decision;

- Every opportunity to comply with Section 0.1 of TGD M 2022 should be taken.
- No appeal was made in relation to the original DAC application.
- The proposed revisions are primarily internal layout changes to Storerooms to one ground floor apartment & two upper floor apartments.

- The revised DAC application also included commentary & details to address the conditions attached to the original DAC application.
- The revised DAC application noted that all conditions, attached to the original DAC, other than Condition 4 would be complied with.
- The revised DAC application did not make any changes to comply with Condition 4 of the original application.
- The current proposal to only provide a 1200mm x 1200mm clear space in front of the entrance doors;
 - Conflicts with the functional objective of Requirement M1 (Safe & independent access for all users)
 - Compromises stair edge safety at the point of maximum instability for ambulant users.
 - Creates an unavoidable multi-user conflict on a shared landing serving multiple dwellings.
 - Relies on a prescriptive reading of TGD M 2022 diagrams while disregarding the functional requirement & established fall-risk hierarchy at the top of stairs.
- Section 0.1 of TGD M 2022 notes that *‘Experience has shown that meeting the needs of people with disabilities or elderly people frequently generates design solutions which benefit a wider range of user groups, including people with young children in buggies, people with temporary injuries or carrying heavy luggage’*.
- The absence of a lift puts greater emphasis on the need for the stairs & associated landings to provide a safe & convenient vertical circulation space within the building.
- The diagrams & minimums set out in TGD M 2022 are guidance, not a ceiling.
- Circulation routes should be safe & convenient for everyone.
- Landings should be level and have an unobstructed length (clear of any door or gate swing) of at least 1200 mm.

- In a shared setting, the landing is functionally obstructed if it must routinely serve as another dwelling's door manoeuvring zone.
- The functional depth during door operation is commonly more than 1200mm to 1500mm, depending on reach, strength, door ironmongery & the need to position aids.
- The absence of an RFI is not a prerequisite for a decision to be made.
- The BCA is entitled, indeed obliged, to determine an application on its own merits as necessary to achieve M1 compliance.
- The applicant did not deem it necessary to appeal any condition attached to the original DAC application.
- **Reason 1 for Refusal**
 - Each application must demonstrate compliance on its own merits with M1's functional test & this application was deemed not to show compliance.
 - Decisions made on previous DAC & revised DAC applications applicable to other buildings within the development do not bind the BCA as each application is decided on its own merits.
- **Reason 2 for Refusal**
 - It is considered that the functional requirements of Part M have not been satisfied by the proposed design in relation to the vertical circulation.
 - A shared landing serving multiple dwellings cannot safely double as the primary manoeuvring area for a door. That is a functional obstruction.
- **Reason 3 for Refusal**
 - TGD M 2022 minimums do not permit designs that defeat Requirement M1. A shared landing doing double duty as a door manoeuvring zone is functionally obstructed.
 - Part M compliance is independent. Satisfying B & K does not cure accessibility safety failures at the stair edge.

- It is considered that the functional requirements of Part M have not been satisfied by the proposed design.
- A shared landing serving multiple dwellings cannot safely double as the primary manoeuvring area for a door. That is a functional obstruction.
- Although a similar condition was previously overturned by ACP (ABP-321219-24), the Commission is entitled to reach a different conclusion in the interest of public safety.
- An entrance manoeuvring zone that is distinct from the landing is not a luxury. BCA simply requires that the landing & the door manoeuvring zone be physically distinct.
- The BCA, in their conclusion to the 'Response & observations on the appeal received by ACP from DCC on the 24/02/2026, notes that;
 - The proposals do not make any changes to comply with the relevant condition attached to the original DAC application.
 - The proposed overlap between the entrance manoeuvring zone & the top landing is non-compliant with the functional requirement of M1.
 - The proposal is acutely unsafe for ambulant disabled users & all users under normal multi-occupancy conditions.

6.0 **Assessment**

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

- 6.1.1. Having regard to the nature of the appeal which is against a refusal to grant a revised DAC, I consider that it is necessary that the determination by the Commission of this application should be as if it had been made to it in the first instance & therefore a De Novo approach is warranted.

6.2. **Content of Assessment**

- 6.2.1. The appellant is appealing the decision by DCC to refuse to grant a Revised DAC on the 2nd December 2025 largely on the basis that it sets out requirements which are at odds with a previously approved design within the same development & which are

not necessary to demonstrate compliance with Part M of the Building Regulations (as amended).

6.2.2. The three reasons for the refusal are set out below;

Reason 1: The applicant failed to provide adequate information showing compliance with the requirements of Part M of the Second Schedule of the Building Regulations.

Reason 2: The applicant has failed to demonstrate that the proposed works will comply with the requirements of Part M of the Second Schedule of the Building Regulations particularly in relation to providing a safe and convenient vertical circulation within the building.

Reason 3: The stair landing to the common stairs at the top floor conflicts with the clear space outside the apartment entrance door creating a greater risk of falls particularly with people with mobility or visual difficulties having to stand close to the top riser. The overlapping spaces create the potential for congestion within an area close to the top of the stairs particularly where residents are carrying items or persons using mobility aids. During an emergency, with the risk of tripping or losing balance increasing, the lack of adequate clear and separate spaces at the top of the stairs adds to the risk of falling. The arrangements at the top of the common stairs do not achieve a safe and independent access for all users.

6.2.3. The BCA has submitted a 12 page report to ACP on the 24/02/2026 in response to the appeal from the appellant's agent. The appellant's agent has subsequently submitted a response to this report on the 13/03/2026 addressing each of the items raised.

6.2.4. The points raised by both parties have been summarised in sections 4 & 5 above.

6.2.5. **Reason 1 & Reason 2 for Refusal**

The appellant's agent is of the view that these reasons for refusal are not valid as;

- No specific reference is made as to which clause within TGD M 2022 has not been complied with.
- The Block in question & multiple scaled versions thereof have been approved by the BCA throughout the Oscar Traynor Road development.

- The information submitted demonstrates how compliance with Part M of the Building Regulations (as amended) is achieved.
- The design proposed meets the requirements set out in TGD M 2022.

The BCA notes that;

- The applicant failed to provide adequate information showing compliance with the requirements of Part M of the Second Schedule of the Building Regulations.
- Each application must demonstrate compliance on its own merits with M1's functional test & this application was deemed not to show compliance.
- Decisions made on previous DAC & revised DAC applications applicable to other buildings within the development do not bind the BCA as each application is decided on its own merits.
- It is considered that the functional requirements of Part M have not been satisfied by the proposed design in relation to the vertical circulation.

In my view, the appellant's agent has provided adequate information to demonstrate compliance with the requirements of Part M of the Second Schedule of the Building Regulations. The above reasons for refusal put forward by the BCA are generic & do not specifically reference which section of TGD M 2022 has not been complied with.

6.2.6. Reason 3 for Refusal

A number of the points raised by both parties, in relation to Reason 3, are not unique & in my view can be grouped under the following headings;

- Compliance with Part M of the Building Regulations
- Requirement for Reason 3
- Current Design

6.2.7. Compliance with Part M of the Building Regulations

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

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

The appellant's agent in its appeal has set out a number of items to be considered by ACP in making its determination. However, the central issue in my opinion relates to the basis of compliance.

The appellant's agent is of the view that;

- there is no requirement within TGD M 2022 for the 1200mm x 1200mm clear space to be provided in front of an entrance door to be outside of the clear landing space required to stairs.
- The proposed design is in compliance with the following related sections of TGD M 2022;
 - 1.3.4.3 Internal stairs suitable for ambulant disabled people
(c) the landings should be level and have an unobstructed length (clear of any door swing) of at least 1200 mm or the width of the flight whichever is greater.
 - 3.2.2 Accessible entrance
(a) there should be a clear level area at least 1200 mm wide and at least 1200 mm deep in front of every accessible entrance.

I am in agreement with the agent's view, as there is no requirement within TGD M 2022 for the 1200mm x 1200mm clear space to be provided in front of an entrance door to be outside of the clear landing space required to stairs.

Although it may be preferable to have larger clear spaces in front of entrance doors & exceed the requirements of the Building Regulations, TGD M 2022 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).

In my view, the appellant has demonstrated that the works are being carried out in accordance with the relevant guidance as set out in TGD M 2022, and that if constructed in line with the design presented with the application and the appeal, will comply with the requirements of Part M of the second schedule to the Building Regulations (as amended).

6.2.8. Requirement for Reason 3

The appellant's agent has noted that the requirement set out in reason 3 is at odds with a previously approved design within the same development.

Whilst it seems difficult to understand why an additional condition/reason, which materially impacts an approved design, would be added to the DAC for a similar building. The BCA is of course entitled to reach a different conclusion & is not necessarily bound by previous decisions. However, it should also be noted that a similar condition was previously overturned by ACP (ABP-321219-24).

As noted above, I am of the view that there is no requirement within TGD M 2022 for the 1200mm x 1200mm clear space to be provided in front of an entrance door to be outside of the clear landing space required to stairs.

6.2.9. Current Design

The BCA is of the view that the current design is acutely unsafe for ambulant disabled users & all users under normal multi-occupancy conditions. However, the current design as submitted was previously approved by DCC in another Block (BZ03) within the same development. This Block has the same layout as the Block in question (BZ01), however, a condition similar to that set out in Reason 3, was not attached to the previous DAC granted for BZ03 on the 26th September 2024.

In addition, the appellant's agent has confirmed in their submission that the functional depth during door operation of 1200mm to 1500mm as set out in Section 4.1 of the 'Response & Observations' document received from DCC on the 24/02/2026', can be accommodated within the current proposal. Please refer to the extract contained in their submission under item 4.1.

In my view the layout of the current stair & landing at second floor level makes adequate provision for people to access & use the building.

7.0 Recommendation

- 7.1. I recommend that ACP direct the BCA to grant a Revised Disability Access Certificate with conditions for the reasons and considerations set out below.

8.0 Reasons and Considerations

- 8.1. 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 the works to which the application relates, if constructed in accordance with the design presented with the application and the appeal, and subject to compliance with the conditions as set out below, would comply with the requirements of Part M to the second schedule to the Building Regulations 1997, as amended.

9.0 Conditions

- 9.1. It is recommended that ACP direct the BCA to attach the following conditions to the Revised Disability Access Certificate;

- **Condition 1:** The proposed works shall be carried out in accordance with the plans, specifications and other relevant information submitted with the application (as well as any information submitted subsequently by way of additional information), save insofar as may be required by any other condition attached hereto.

Reason: In the interest of clarity.

- **Condition 2:** All floor finishes throughout the common circulation areas in the building shall be slip resistant in accordance with Annex C of BS8300-2:2018.

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

- **Condition 3:** Each step nosing throughout the common stair within the building shall incorporate a durable, permanently contrasting continuous material for the full width of the stair on both the tread and the riser. The contrasting material shall extend 50mm to 65mm in width from the front edge of the tread and 30mm to 55mm from the top of the riser, and shall contrast visually with the remainder of the tread and riser.

- Reason: To help people who are blind or partially sighted appreciate the extent of the stair and identify individual treads.
- **Condition 4:** The entrance door to apartment M2AC shall not interfere with the operation/door swing of the bathroom door on the second-floor level.

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

10.0 Sign off

- 10.1. 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

6th July 2026