



An
Coimisiún
Pleanála

DAC Report

ACP-324121-26

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

Appeal v Condition

Development Description

Revised Disability Access Certificate application for proposed revisions to a previously approved Disability Access Certificate (Ref. No. DAC2405476DC) for a 3-storey residential duplex block (to be known as Block Type BZ03) at Oscar Traynor Road Residential Development, Oscar Traynor Road, Dublin 17.

**Building Control Authority DAC
number:**

DRV2517718DC

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. DAC2405476DC) for a 3-storey residential duplex block (to be known as Block Type BZ03) within the Oscar Traynor Road Residential Development at Oscar Traynor Road, Dublin 17.

The proposed 3-storey residential building will consist of 16No. apartments in total;

- 8No. ground floor two storey duplex apartments with own door entry and accessed directly from the outside.
- 8No. second floor single storey apartments accessed via one of four communal stairs 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 Condition No.3 of the Revised Disability Access Certificate (DAC) granted by Dublin City Council (DCC) on the 4th February 2026.

The condition being appealed is as follows;

Condition 3: In the interest of safety for persons with a disability, the second-floor stair landing to the internal staircases shall have a minimum clear length of at least 1200mm and shall be separate from, and not encroach into, the 1200mm x 1200mm clear space required in front of the apartment entrances.

Reason: To ensure that the clear space at landings and entrances do not conflict, eliminate a potential fall hazard on the access route/stairs and in the interest of safety of people with disabilities.

2.0 Information Considered

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

- Drawings & Report submitted with the revised application on 09/12/2025.
- Recommendation of the Senior Building Surveyor on 03/02/2026.
- Order of the Executive Manager dated the 04/02/2026.
- Revised Disability Access Certificate granted by DCC on 04/02/2026.
- Appeal received by An Coimisiun Pleanála (ACP) from the appellant's agent (Maurice Johnson & Partners) on the 03/03/2026.
- Response & observations on the appeal received by ACP from DCC on the 19/03/2026.
- Further submission received by ACP from the appellant's agent on 05/05/2026.

3.0 Relevant History/Cases

- 3.1. There was a previously approved Disability Access Certificate (Ref. No. DAC2405476DC) for this particular building (Block BZ03). DCC granted this DAC on the 26th September 2024 & did not attach a condition similar to that now being appealed attached.
- 3.2. In addition, the appellant's agent in their letter of appeal notes that;
 - This matter 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 attached to Disability Access Certificates granted by Dublin City Council (DCC) for an additional 6 buildings within the overall development. The ACP case references are as follows;
 - 323986-25
 - 323984-25
 - 323998-26

- 323994-26
- 323995-26
- 324120-26

4.0 Appellant's Case

- 4.1. The appellant is appealing the attachment of Condition No.3 to the Revised Disability Access Certificate issued by the BCA on the 4th February 2026 largely on the basis that it sets out requirements which are at odds with a previously approved design & which are not necessary to demonstrate compliance with Part M of the Building Regulations (as amended).

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

- There is no requirement within Technical Guidance Document M 2022 (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.
- The requirement set out in Condition 3 is at odds with the previously approved design for Block BZ03. DCC previously granted a DAC (Ref. No. DAC2405476DC) for this particular building on the 26th September 2024. The original certificate did not have a condition similar to that now being appealed attached.
- The following extract has been taken from the Building Control Regulations 1997 (as amended);
20D (5) Where an application is made to a building control authority for a disability access certificate, the authority, in considering such application, shall—
(a) be restricted to considering only the extent to which the design or works complies with the requirements of Part M of the Second Schedule to the Building Regulations.

The scope of this application did not include the stair landing referenced in Condition 3 which is now the subject of the appeal.

- The design submitted was previously successfully appealed, please refer to appeal No. ABP-321219-24.
- Compliance with Condition 3 would result in a complete redesign of the second-floor apartments, which in turn would require the submission of a new planning application.
- A satisfactory reason for the imposition of Condition 3 has not been proved by the BCA.
- The reason given for attaching condition 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.
- 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 19/03/2026' 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 05/05/2026'.
- 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 19/03/2026', 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.

- 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 19/03/2026', 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 19/03/2026', 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 for the same building, 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 05/05/2026, notes that they;
 - 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 users & all users under normal occupancy conditions' & are unsure as to the technical basis for such a conclusion to be reached.
 - Disagree with the BCA conclusion that Condition 3 is required to mitigate 'a foreseeable catastrophic hazard' & again are unsure as to how a conclusion of such gravity could be reached.

5.0 Building Control Authority Case

- 5.1. The reason given by the BCA for attaching Condition 3 to the DAC is to ensure that the clear spaces at landings and entrances do not conflict, eliminate a potential fall hazard on the access route/stairs and in the interest of safety.

The following points are set out in support of the BCA's request to uphold Condition 3;

- Every opportunity to comply with Section 0.1 of TGD M 2022 should be taken.
- 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.
- In relation to the previously approved design for this Building, Block BZ03, prior decisions do not bind the BCA where safety risk is identified.
- Apartment area standards cannot override Building Regulations.
- Satisfying Part B & Part K of the Building Regulations does not cure accessibility safety failures at the stair edge.
- 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 19/03/2026, notes that;
 - 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.
 - Condition 3 is necessary, proportionate, & proper to mitigate a foreseeable catastrophic hazard.

6.0 **Assessment**

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

- 6.1.1. Having regard to the nature of the appeal which is solely against a condition, 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 Commission 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. The appellant is appealing the attachment of Condition No.3 (In the interest of safety for persons with a disability, the second-floor stair landing to the internal staircases shall have a minimum clear length of at least 1200mm and shall be separate from, and not encroach into, the 1200mm x 1200mm clear space required in front of the apartment entrances) largely on the basis that it sets out requirements which are at odds with a previously approved design for the same building & which are not necessary to demonstrate compliance with Part M of the Building Regulations (as amended).

6.2.2. The BCA has submitted a 12 page report to ACP on the 19/03/2026 in response to the appeal from the appellant's agent. The appellant's agent has subsequently submitted a response to this report on the 05/05/2026 addressing each of the items raised.

6.2.3. The points raised by both parties have been summarised in sections 4 & 5 above. A number of these are not unique & in my view can be grouped under the following headings;

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

6.2.4. **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 condition 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).

6.2.5. Requirement for Condition 3

The BCA is of the view that Condition 3 is necessary, proportionate, & proper to mitigate a foreseeable catastrophic hazard. However, the appellant's agent has noted that the requirement set out in Condition 3 is at odds with the previously approved design for this Building, Block BZ03.

Whilst it seems difficult to understand why an additional condition, which materially impacts an approved design, would be added to a revised DAC for the same 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. As a consequence, I recommend that ACP direct the BCA to remove Condition 3.

6.2.6. 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 for this Block (BZ03) on the 26th September 2024, via a granted DAC without a condition similar to that now being appealed attached. As noted above, it is difficult to understand why an additional condition, which materially impacts an approved design, would be added to a revised DAC for the same building.

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 19/03/2026', 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 remove condition No.3 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 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 a 1200mm x 1200mm clear space in front of an apartment entrance door, is not required to be outside of the clear landing space provided to the stair at second floor level in order to meet the requirements of Part M of the Second Schedule to the Building Regulations 1997, as amended. Therefore condition No.3 as attached by the Building Control Authority to the

Revised Disability Access Certificate is not necessary to meet the guidance set out in TGD Part M 2022 or accordingly to demonstrate compliance with Part M of the Second Schedule to the Building Regulations 1997, 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 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 remove the following condition;

Condition 3: In the interest of safety for persons with a disability, the second-floor stair landing to the internal staircases shall have a minimum clear length of at least 1200mm and shall be separate from, and not encroach into, the 1200mm x 1200mm clear space required in front of the apartment entrances.

Reason: To ensure that the clear space at landings and entrances do not conflict, eliminate a potential fall hazard on the access route/stairs and in the interest of safety of people with disabilities.

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

10th July 2026