



An
Coimisiún
Pleanála

DAC Report

ACP-324319-26

Appeal v Refusal

Appeal v Condition attached
to a Disability Access
Certificate

Development Description

Construction of an apartment
building consisting of 9 no.
dwellings at Rosbercon, New
Ross, Co. Wexford.

Building Control Authority DAC number:

DAC2618699WX

Appellant:

Wexford County Council

Appellant's Agent:

Van Dijk Architects

Building Control Authority:

Wexford County Council

Inspector

David Whelan

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1.0 Introduction

- 1.1. The subject site is located at Rosbercon, New Ross, Co. Wexford. The Disability Access Certificate (DAC) application relates to the construction of a residential development. The subject building is an Apartment building over three storeys and consists of 9 no. duplex dwellings, comprising of 3 no. 1 bed dwellings, 3 no. 2 bed dwellings and 3 no. 3 bed dwellings which are all own door access.
- 1.2. The Building Control Authority (BCA) granted a DAC application, dated 29/04/2026.
- 1.3. This case is an **appeal v condition**.
- 1.4. The BCA attached the following condition to the granted DAC:

Condition: 2

The internal stairs, providing vertical circulation to the entry level of the habitable rooms @ F.F.L of 5.85m for one Bedroom Apartment(s) unit G3 and units E2 shall be provided in accordance with no less than the requirements of TGD M2022, Section 3.3.2.2 with specific but not exclusive reference to sub section (c) the bottom landing at entry point shall be provided clear of the main entrance door swing. A door opening onto a landing shall be so positioned that there will be a clear space of at least the full width of the flight between the door swing and the flight.

Reason: 2

To ensure standards for providing appropriate and safe means of vertical circulation and to facilitate circulation of visitors within a dwelling where there is no habitable room at the entry level, in accordance with the requirements of the Building Regulations, Part M 2022, Access and Use.

2.0 Information Considered

- 2.1. The information considered in this appeal comprised the following:
 - Drawings submitted with the DAC application
 - Further information and Drawings received by the BCA
 - Copy of BCA decision and supporting internal report
 - Appeal prepared by Van Dijk Architects on behalf of the Appellant

- Drawings or documents received by the Commission with the appeal on 26/05/2026
- Submissions received from the BCA on the appeal on 09/06/2026
- Further submissions by the Appellant received by the Commission on 10/07/2026

3.0 Relevant History/Cases

- 3.1. The BCA referenced a previous DAC as part of their submission; DAC2205611WX. This DAC was granted by Wexford County Council with the same Agent as this case and also attached a similar condition as follows:

“The internal stairs, providing vertical circulation to the habitable rooms of Maisonette Type 1 over Duplex Apartment Type 1 shall be provided in accordance with no less than the requirements of TGD M2010, Section 3.3.2.2 with specific but not exclusive reference to sub section (c) the bottom landing at entry point shall be provided clear of the main entrance door swing. A door opening onto a landing shall be so positioned that there will be a clear space of at least the full width of the flight between the door swing and the flight.”

- 3.2. Current associated appeals are as follows:

- ACP-324313-26
- ACP-324314-26
- ACP-324317-26
- ACP-324321-26

4.0 Appellant’s Case

- 4.1. The Appellant is appealing Condition No. 2 of the granted DAC.
- 4.2. Compliance with Technical Guidance Document Part M 2022 (TGD Part M 2022).

The proposed internal stairway complies fully with the requirements of Section 3.3.2.2 of TGD Part M 2022 as *“VDA have designed the Duplex and Triplex units, in Block 5, in accordance with the requirements set out in Section 3.3.2.2... with ‘top and bottom landings... each of which should be at least 900mm long’. There is no requirement*

outlined in Section 3.3.2.2 to provide a bottom landing, at least 900mm long, clear of the main entrance door swing.”

4.3. Comparison with Other Provisions of TGD Part M 2022

The Appellant notes that the BCA response references Section 1.3.4.3(c) of TGD Part M 2022 which expressly requires landings to be clear of any door swing for ambulant stairways in buildings other than dwellings. However this section is not applicable to the proposal given the proposed units are all duplex dwellings or apartments with own door access. The Appellant submits that the omission of equivalent wording in Section 3.3.2.2 of TGD Part M 2022 indicates that no such requirement applies.

4.4. Universal Design

The Appellant submits that the objectives of Universal Design cannot be relied upon to imply additional compliance requirements beyond those contained within the TGD Part M 2022 document.

4.5. Previous DAC Decision

The Appellant submits that a previous DAC decision for an unrelated project does not establish a requirement of TGD Part M 2022.

5.0 Building Control Authority Case

5.1. The BCA granted the DAC subject to Condition No. 2, requiring the bottom landing of the internal stairway to be clear of the entrance door swing.

5.2. Purpose of Part M

The BCA states that, where no habitable room is provided at entrance level, TGD Part M 2022 requires an ambulant stair to provide access to the habitable rooms above. Reference is made to the objective of Section 3.3.1 of TGD Part M 2022 and the principles of inclusive design and Universal Design.

5.3. Interpretation of the Landing Requirement

The BCA interprets the 900mm minimum landing required by Section 3.3.2.2 of TGD Part M 2022 as needing to be clear of any door swing, stating that this is implied by the objectives and principles of TGD Part M 2022.

5.4. Reliance on Ambulant Stair Guidance

The BCA refers to the guidance for ambulant stairs in Section 1.3.4.3(c) of TGD Part M 2022, which requires a landing to be clear of any door swing. While acknowledging that dwellings require only a 900 mm landing, the BCA considers that the same principle should apply where an ambulant stair is required within a dwelling.

5.5. Application to the Proposed Design

The BCA states that the proposed layout, which provides approximately 400mm × 900mm of circulation space behind the inward opening entrance door, is *“wholly inadequate to provide ease of access... The design does not demonstrate the provision for persons or mobility aid users including wheelchair users as required under visitable into or circulation requirements as per Part M”*

5.6. Previous DAC

The BCA refers to a previous DAC involving the same Architect/Applicant in which an equivalent condition was imposed. The BCA states that this sets a precedent with both the Agent and the Appellant for the designs presented as part of this application.

6.0 Assessment

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

Having regard to the nature of the appeal which is solely against a condition(s), 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. Scope of the Application

This appeal concerns a condition attached to a granted DAC. I have reviewed the reasons for the condition and the grounds of appeal and have considered the drawings, details and submissions on file. I am satisfied that sufficient information has been provided to determine whether the proposed works comply with the requirements of TGD Part M 2022 of the Second Schedule to the Building Regulations 1997, as amended.

6.2.2. Condition 2

The principal issue in this appeal is whether Section 3.3.2.2 of TGD Part M 2022 requires the bottom landing to be clear of the entrance door swing.

The BCA submits that, although Section 3.3.2.2 of TGD Part M 2022 does not expressly refer to door swings, such a requirement is implicit in the objectives of Universal Design and is necessary to ensure that the landing functions as part of an accessible circulation route.

The Appellant submits that the proposed design complies with all of the requirements expressly set out in Section 3.3.2.2 of TGD Part M 2022. In particular, the internal stairway provides top and bottom landings of not less than 900mm, together with the prescribed stair width, riser and going dimensions and handrails. The Appellant argues that the condition introduces an additional requirement which is not contained within the applicable guidance.

Having considered the submissions of both parties, I note that Section 3.3.2.2 of TGD Part M 2022 prescribes the design criteria applicable to stairways serving dwellings where there is no habitable room at entrance level. While the section specifies minimum landing dimensions, it does not require those landings to be clear of any door swing.

I also note that elsewhere within TGD Part M 2022, where the guidance intends to require a landing to be clear of a door swing, it does so expressly. The absence of equivalent wording in Section 3.3.2.2 of TGD Part M 2022 is a material consideration when interpreting the applicable guidance.

While I acknowledge the BCA's submission regarding the objectives of Universal Design and TGD Part M 2022, I do not consider it fair and reasonable to infer an

additional compliance requirement where the applicable guidance does not expressly provide for one.

Compliance with the TGD Part M 2022 should be capable of being demonstrated by reference to the published requirements applicable to the works. In this instance, the proposed design satisfies the provisions of Section 3.3.2.2 of TGD Part M 2022 and is therefore in compliance with Part M of the Second Schedule to the Building Regulations 1997.

7.0 Recommendation

I recommend that An Coimisiún Pleanála directs the BCA to grant a Disability Access Certificate with the omission of Condition No. 2.

8.0 Reasons and Considerations

- 8.1. Having regard to the provisions of Part M of the Second Schedule to the Building Regulations 1997, as amended, Second Schedule, Part M, to the nature and layout of the proposed works and to the submission made in connection with the application and appeal, it is considered that the works or building to which the application relates, if constructed in accordance with the plans, calculations, specifications and particulars submitted, complies with the requirements of Part M of the Second Schedule to the Building Regulations 1997, as amended.

9.0 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.

David Whelan
8th September 2026