



An
Coimisiún
Pleanála

DAC Report

ACP-324344-26

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

Appeal v Condition

Development Description

Proposed construction of a 9-storey residential block (to be known as Block G) at St. Vincent's Residential Development, Fairview, Dublin 3.

**Building Control Authority DAC
number:**

DAC2618636DC

Appellant

Conor Delahunty

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 'St. Vincent's Residential Development Fairview' consists of the redevelopment of the existing St. Vincent's Hospital site to provide for a new hospital building delivering Mental Health Services, & 9 new residential buildings consisting of circa 811 residential units.

The Disability Access Certificate application submitted to the Building Control Authority (BCA) relates to the construction of a residential block (to be known as Block G) within the 'St. Vincent's Residential Development Fairview'.

Block G will consist of 9 storeys (ground & 8 upper floors), will provide 139 residential units & will be served by two stair cores. All apartments will be accessed directly from the common lobbies/corridors as indicated on the DAC application drawings.

- 1.2. The application relates to **a new 9-storey Residential Building**.
- 1.3. The appellant (Conor Delahunty) is appealing Condition No.6 of the Disability Access Certificate (DAC) granted by Dublin City Council (DCC) on the 5th May 2026.

The condition being appealed is as follows;

Condition 6: Switches, outlets and controls located within the residential cores and common areas (stairs, lobbies, corridors and landlord/tenant area) and within individual apartments, shall comply with section 1.5.7 of TGD M 2022.

Reason: To make adequate provision for building users to access and use the building and its facilities.

2.0 Information Considered

- 2.1. The information considered in this appeal comprised the following:
- Drawings & Report submitted with the application on 21/01/2026.
 - Additional information submitted on the 07/04/2026.
 - Recommendation of the Senior Executive Building Surveyor on 05/05/2026.
 - Order of the Senior Executive Manager dated the 05/05/2026.
 - Disability Access Certificate granted by DCC on 05/05/2026.

- Appeal received by An Coimisiun Pleanála (ACP) from the appellant's agent (Maurice Johnson & Partners) on the 04/06/2026.
- Response & observations on the appeal received by ACP from DCC on the 06/07/2026.
- Further submission received by ACP from the appellant's agent on 24/07/2026.

3.0 Relevant History/Cases

- 3.1. There is no previous DAC application for this particular building (Block G).
- 3.2. However, the appellant's agent in their letter of appeal notes that DCC previously granted a DAC for Block A (BCMS Ref. DAC2516922DC) & Block B (BCMS Ref. DAC2516179DC) in the same development. Both these Blocks have the same design approach as Block G, however, a condition similar to that now being appealed was not attached to the previously granted DACs.

4.0 Appellant's Case

- 4.1. The appellant is appealing the attachment of Condition No.6 to the Disability Access Certificate issued by the BCA on the 5th May 2026 largely on the basis that it sets out requirements which are at odds with a previously approved design approach within the same development & 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;

- Technical Guidance Document M 2022 (TGD M 2022) notes that;
 - Section 1 applies to 'Access and Use of Buildings Other than Dwellings'
 - Section 3 applies to 'Access and Use of Dwellings'.

It is not considered appropriate for the BCA to impose a condition/design requirement on a dwelling that is contrary to the guidance set out in TGD M 2022.

- The requirement set out in Condition 6 is at odds with a previously approved design approach within the same development. Blocks A & B, the subject of previous DAC applications, have the same design approach as the Block in question (Block G), however, a condition similar to that now being appealed was not attached to the previously granted DACs.
- The proposed design approach satisfies the prescriptive & functional requirements of Part M of the Building Regulations (as amended) & a satisfactory reason for the imposition of Condition 6 has not been provided by the BCA.
- The reason given for attaching Condition 6 is without a specific design basis & is contrary to the guidance set out in TGD M 2022 Section 3.5.2.
- The imposition of applying guidance for public areas to private dwellings, which is contrary to the guidance set out in Section 3 of TGD M 2022, would place undue restrictions on residents & would not be readily achievable with minimal design or cost implications.
- Imposing the requirements of Section 1.5.7 of TGD M 2022 on dwellings, as opposed to the requirements of Section 3.5.2, is not justified or necessary in order to *'make adequate provisions for building users to access & use the building & its facilities'*.
- The appellant's agent, in their conclusion to the further submission received by ACP from the appellant on 24/07/2026, notes that;
 - 4 of the 6 points made by the BCA in its conclusion are not relevant to this appeal
 - They disagree with the BCA that the appellant's interpretation of TGD M 2022 within the application is incorrect & submit that the design of the dwellings is fully compliant with the functional requirements of M1 of Part M of the Building Regulations.
 - Imposing the requirements for non-dwelling areas on dwellings is not considered practical & appropriate. The corollary of this would be that every new dwelling should comply with the requirements of TGD M 2022 Section 1.5.7 which would be considered a punitive position.

- The appellant's agent agrees with the BCA that the requirements of TGD M 2022 Section 1.5.7 apply to common areas within residential buildings as noted in Section 0.5 of TGD M 2022 & are not appealing that section of the condition.
- The proposal put forward in the DAC application was to comply with the requirements of Section 3.5.2 of TGD M 2022 for switches & sockets within the dwellings therefore no alternative design was required.
- The statement regarding the provision of switches, outlets & controls not being in compliance with TGD M 2022 Section 1.5.7 is not the subject of the appeal in this instance. The switches, outlets & controls in common areas within the development will comply with TGD M 2022 Section 1.5.7.
- ACP direct DCC to amend Condition 6 of the granted DAC to omit the text '*and within individual apartments*'. Condition 6 should then read as follows, '*Switches, outlets and controls located within the residential cores and common areas (stairs, lobbies, corridors and landlord /tenant area) shall comply with section 1.5.7 of TGD M 2022*'.

5.0 Building Control Authority Case

- 5.1. The reason given by the BCA for attaching Condition 6 to the DAC is to make adequate provision for building users to access and use the building and its facilities.

The following points are set out in support of the BCA's request to uphold Condition 6;

- Every opportunity to comply with Section 0.1 of TGD M 2022 should be taken.
- BCA's Technical Justification
 - Part M aims to foster an inclusive approach to the design & construction of the built environment & Part M further notes that buildings should be designed to reflect the fact that all people experience changes in their abilities as they progress through the different stages of life.

- The original DAC application indicated that compliance with Section 1.5.7 of TGD M 2022 was deemed unnecessary in the residential cores/common areas.
- A common area is considered to mean any part of a building that is not part of an individual dwelling & is intended for shared use.
- The proposed design does not provide accessible switches, sockets & controls within the common areas for use by persons with disabilities. Consequently, the design fails to demonstrate compliance with the functional requirements of Part M & falls far short of the guidance & objectives set out in TGD M 2022.
- Condition 6 is reasonable & necessary to secure compliance with the requirements & intent of Part M.
- The reason for Condition 6 is to make adequate provision for building users to access & use the building & its facilities.
- All common circulation areas within the apartment block should comply with Section 1.5.7 of TGD M 2022.
- Statutory Obligations under Part M 2022
 - The Building Regulations Part M1 notes that 'Adequate provision shall be made for people to access & use a building, its facilities & its environs'.
 - Section 1.5.7 of TGD M 2022 applies to all common areas in residential buildings.
 - Section 1 of TGD M 2022 applies to buildings other than dwellings & the common areas of apartment blocks & their environs. As lobbies & corridors form part of the communal areas of an apartment block, they are covered by Section 1 including Sub-section 1.5.7.
- Misinterpretation of Common Areas & Building Users
 - The original application incorrectly interpreted 'common areas' as spaces not requiring accessible controls.
- TGD M 2022 – Section 0.1 General

- Section 0.1 establishes the overarching purpose of Part M, which is to promote an inclusive & universally accessible built environment.
- It aims to ensure that buildings are accessible & usable to all, while supporting the principles of Universal Design as defined in the Disability Act 2005.
- TGD M 2022 sets out the minimum standards for compliance & encourages designers to consider broader accessibility measures where practicable & appropriate.
- BCA considers that additional measures are practicable & appropriate in this new build context, & this includes providing switches, outlets & controls within the individual apartments that accord with Sub-section 1.5.7 of TGD M 2022.
- This approach can be readily achieved with minimal if any design or cost implication.
- The BCA, in their conclusion to the 'Response & observations on the appeal received by ACP from DCC on the 06/07/2026, notes that;
 - The appellant's interpretation of TGD M 2022 within the application is incorrect.
 - Section 0.1 of TGD M 2022 is applicable to these works & making additional provisions within the individual apartments to comply with sub-section 1.5.7 of TGD M 2022 is both practical & appropriate.
 - Sub-Section 1.5.7 of TGD M 2022 clearly applies to all Common Areas.
 - The proposal put forward within the DAC application does not satisfy Section M1 'Access & Use' of Part M of the Building Regulations (as amended).
 - No alternative compliant solution was put forward within the application.
 - If it were accepted that switches, outlets & controls associated with a new development were not required to comply with sub-section 1.5.7 of TGD M 2022, this would set an undesirable precedent, undermining

established accessibility standards & compromising the safety & equitable use of buildings.

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.6 (Switches, outlets and controls located within the residential cores and common areas (stairs, lobbies, corridors and landlord/tenant area) and within individual apartments, shall comply with section 1.5.7 of TGD M 2022) 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 BCA has submitted a 9-page report to ACP on the 06/07/2026 in response to the appeal from the appellant's agent. The appellant's agent has subsequently submitted a response to this report on the 24/07/2026 addressing the items raised.
- 6.2.3. The points raised by both parties have been summarised in sections 4 & 5 above.
- 6.2.4. 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.
- 6.2.5. TGD M 2022 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).

6.2.6. 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 notes that;

- The guidance set out in TGD M 2022 'Section 1.5.7 – Switches, Outlets & Controls' applies to the common areas of apartment blocks and their environs. It does not apply to dwellings.
- Switches, Outlets & Controls located within the residential cores & common areas shall comply with the guidance set out in TGD M 2022 Section 1.5.7. The appellant's agent is in agreement with the BCA on this issue & has confirmed in their submission that this element of Condition 6 is not the subject of the appeal.
- Switches & Sockets within the dwellings shall comply with the guidance set out in TGD M 2022 Section 3.5.2.
- Imposing a condition/design requirement on dwellings that is contrary to the guidance set out in TGD M 2022 is not justified.

6.2.7. I am in agreement with the agent's view, in that there is no requirement within TGD M 2022 for the guidance set out in 'Section 1.5.7 – Switches, Outlets & Controls' to be applied to dwellings. Guidance on 'Switches & Sockets in Dwellings' is set out in Section 3.5.2.

Although it may be preferable to provide additional measures & 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).

Imposing the requirements of Section 1.5.7 of TGD M 2022 on dwellings, as opposed to the requirements of Section 3.5.2, would in my view seem to be contrary to the guidance set out in TGD M 2022.

- 6.2.8. Although the BCA is of the view that Condition 6 is necessary, the appellant's agent has noted that the requirement set out in Condition 6 is at odds with a previously approved design approach within the same development. Blocks A & B, the subject of previous DAC applications, have the same design approach as the Block in question (Block G), however, a condition similar to that now being appealed was not attached to the previously granted DACs.

Whilst it seems difficult to understand why an additional condition, which materially impacts an approved approach, 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.

- 6.2.9. In my view, the appellant has demonstrated that the works if be 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).

7.0 Recommendation

- 7.1. I recommend that ACP direct the BCA to amend the wording of Condition No.6 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 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 Disability Access Certificate application and appeal that it is not required for switches, outlets & controls within individual apartments to comply with section 1.5.7 of TGD 2022 in order to meet the requirements of Part M of the Second Schedule to the Building Regulations 1997, as amended. Therefore, the wording of condition No.6 as originally attached by the Building Control Authority to the Disability Access Certificate is to be amended to meet the relevant 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 amend the wording of Condition No.6 as follows;

Condition 6: Switches, outlets and controls located within the residential cores and common areas (stairs, lobbies, corridors and landlord/tenant area) shall comply with section 1.5.7 of TGD M 2022.

Reason: To make adequate provision for building users to access and use the building and its 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

31st August 2026