An Coimisiún Pleanála

DAC Report

ACP-324480-26

Appeal v Refusal or Appeal v Condition(s)	Appeal v Condition
Development Description	Appeal against Condition 9 of granted Disability Access Certificate regarding Proposed construction of Blocks E, F & G (Phase1) for the proposed residential development at Royal Liver, Nass Road, Dublin 12, Proposed construction of Phase 1 of the residential development consisting of Blocks E, F & G up to ten storey and over a ground floor car park.
Development Address	Royal Liver, Naas road, Dublin 12.
Building Control Authority DAC number:	DAC2619741DC
Appellant	Mr. Paul Greene, Land Development Agency, 2nd Floor Ashford House, Dublin, D02 VX67
Appellant's Agent	Maurice Johnson & Partners, The Anchorage, Charlotte Quay, Dublin 4, D04 X6C5

Building Control Authority:	Dublin City Council
Inspector	Michael Mohan, FRIAI

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1.0 Introduction

1.1. The proposed development is the construction of Block's E, F & G over a ground floor car park which will be part of Phase 1 of an overall development comprising other blocks. The residential blocks will comprise 566 residential units. It is noted that separate Disability Access Certificate applications will be submitted for the remainder of the blocks which will be part of Phase 2/3 of the overall development. The site for the development is in Dublin 12. It is bounded by the Old Naas Road, Kylemore Road and the Naas Road. Access to the site is provided by these three roads. There will be three own door accessed commercial units and an amenity unit provided at ground floor level which will be shell and core only with these units subject to their own future fit out DAC applications at the appropriate time.

1.2. The application relates to a new building.

1.3. The application submitted was for a DAC. The case relates to an appeal v condition.

1.4. The condition under appeal states:

> Condition 9: Switches, outlets, and controls located within the residential area and common areas (stairs, lobbies, and landlord/tenant area) shall comply with Section 1.5.7 of TGD Part 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 submitted with the application on 03/03/2026.
- Further information and drawings received by the BCA on 22/06/2026.
- Copy of the granted Disability Access Certificate issued by the BCA.
- Appeal prepared by the Agent on behalf of the appellant.
- Drawings or documents received by the Commission with the appeal on 24/07/2026.
- Submissions received from the BCA on the appeal on 27/08/2026.

- Further submission received by the Commission from the agent on behalf of the appellant on 18/09/2026.

3.0 Relevant History/Cases

3.1. I am not aware of any relevant Building Control history relating to the appeal site, including any previous DAC or Revised DAC or/and any dispensation or relaxation of the Building Regulations.

4.0 Appellant's Case

4.1. The appellant is appealing Condition 9 attached to the Disability Access Certificate on the basis that it exceeds of the requirements of TGD-M, and Part M of the Building Regulations and should be amended to remove reference to "within the residential area". The following points are set out in support of the appeal:

- The response letter from the BCA, dated 27.08.2026, only addresses sockets/switches/controls to the common areas of the development which is not the subject of this appeal. While the appellant does not necessarily agree with statements made by the DCC in relation to the sockets in the common areas they feel this is subject to a separate forum particularly in relation to fire safety concerns in relation to electric scooters being charged in common areas.
- Section 1 of TGD-M sets out the requirements for Access and Use of Buildings Other than Dwellings to comply with Part M of the Building Regulations. Section 3 of TGD-M sets out the requirements for Access and Use of Dwellings to comply with Part M of the Building Regulations
- The appeal submitted in relation to Condition 9 sought the omission of "within the residential area" to eliminate any ambiguity that the condition applies to the private apartments within the development and that the condition is only applicable to the common areas of the residential development. This omission will avoid any potential confusion as individual apartments/ dwellings in the development will comply with Section 3 of TGD-M and not Section 1.5.7.

- The appellant is of the view that the reason given for the condition is without a specific design basis and contrary to TGD-M Section 3.5.2 guidance.
- It is note that the Compliance Report submitted with the application states:

> "It is submitted that the provision of switches, outlets and controls complying with Section 1.5.7 of TGD-M 2022 will not be considered necessary in the residential cores, (i.e. the stairs, lobbies and corridors), noting the design provisions of this Section of Part M are applicable only to the *'common areas'* in residential buildings, (e.g. the residential amenity accommodation), whereby fittings in such areas are generally not utilized by residents, and rather more so intended for use by cleaners and maintenance personnel. It is noted that the sockets in the common areas of the residential cores will be key locked type sockets to prevent unauthorised use and so they can only be used by maintenance/cleaning personnel in line with the FSC requirements for the blocks."

5.0 Building Control Authority Case

5.1. The following is a summary of BCA submission on the appeal.

- The BCA does not accept the applicant's position as set out in the submitted Compliance Report where it expressly states "that the provision of switches, outlets and controls complying with Section 1.5.7 of TGD-M 2022 will not be considered necessary in the residential Cores, (i.e. the stairs, lobbies and corridors)".
- The BCA is not satisfied that this position adequately demonstrated compliance with the objectives of Part M and therefore considered it necessary to attach a condition clarifying the expected standard of accessibility.
- The BCA considers that it was necessary, reasonable and proportionate to attach a condition where uncertainty had been introduced by the applicant regarding the extent to which subsection 1.5.7 would be applied.

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. There is potential ambiguity between the documents submitted with the application/appeal, the BCA responses and Condition 9 in the granted DAC. Confusion has arisen in the use of the terms “residential area”, “residential cores”, “common areas” and “private apartments/dwellings”.

6.2.2. Compliance with Part-M of the Building Regulations will be deemed to be achieved by complying with the guidance in Section 1 of TGD-M with respect to the residential cores and common areas and specifically with Section 1.5.7 with respect to switches, outlets and controls. On the other hand, private apartments/dwellings are deemed to comply if they meet the guidance in Section 3 of TGD-M and specifically with Section 3.5.2 with respect to switches, outlets and controls.

6.2.3. One can understand the BCA’s concern when the Compliance Report stated that “the provision of switches, outlets and controls complying with Section 1.5.7 of TGD-M 2022 will not be considered necessary in the residential cores, (i.e. the stairs, lobbies and corridors)”. The BCA did not accept this position, particularly when no alternative approaches to compliance were proposed by the applicant.

6.2.4. The BCA were of the view that the applicant should have demonstrated how it was intended to comply with Section 1.5.7 or offer alternatives which would comply.

6.2.5. The applicant stated that the sockets in the common areas of the residential cores will be key locked type sockets to prevent unauthorised use and so they can only be used by maintenance/cleaning personnel in line with the Fire Safety Certificate requirements for the blocks.

6.2.6. Charging of e-scooters and e-bikes in common areas of apartment blocks is a recognised and growing fire safety problem. E-scooters use lithium-ion batteries, which can overheat, short circuit, or catch fire if damaged or are overcharged.

6.2.7. Dubin Fire Brigade have found that a significant portion of owners charge devices in communal hallways or shared spaces. They should not be charged within buildings at all.

6.2.8. Section 0.2 TGD-M sets out the requirements that people can safely and independently approach, gain access and use a building, its facilities and its environs, and elements of the building do not constitute an undue hazard for people, especially for people with vision, hearing or mobility impairments. It is fair to say that charging e-scooters constitutes a hazard and that the use of these e-scooters was not envisaged when TGD-M was drafted.

6.2.9. Section 0.3 TGD-M sets out the requirements of buildings other than dwellings requiring that people can circulate within the building and use the building's facilities.

6.2.10. Owners/Management Companies are responsible for maintaining a building's structure and common spaces. Under the Fire Services Act 1981, common hallways, stairwells and lobbies must remain entirely free of obstructions that could trap residents or block emergency services during a fire. House Rules are normally issued by building owners/management companies. Evidence to date suggests that some people ignore the house rules. Owners/Management Companies would have to physically monitor/inspect the residential cores (stair, lobbies and corridors) to make sure that there are no unauthorised uses taking place. One can appreciate that it would be difficult to achieve enforcement by just relying on house rules.

6.2.11. Providing key locked sockets in the residential cores (stair, lobbies and corridors) is a solution which would prevent people charging e-scooters and e-bikes there. The users of the building could be broadly summarised as the apartment residents, visitors, landlords and maintenance/cleaning staff. The primary function of the stairs, lobbies and corridors is to act as protected routes to safely gain access to and from the apartments. For safety reasons, it could be argued that the only authorized people who should have access to sockets in these protected areas are those involved in maintenance and cleaning. The key locked sockets would effectively remove the hazards in question.

6.2.12. It should be possible to meet the guidance in Section 1.5.7 with respect to the residential cores while also providing key locked sockets.

6.2.13. In the submission received by the Commission on 18/09/2026, the applicant requested that Condition 9 should be amended to eliminate any ambiguity that the condition applies to private apartments and to remove reference to “within the residential area”. Section 3.5.2 applies to individual apartments/dwellings but Section 1.5.7 does not. In my opinion the appellant has made a reasonable request.

7.0 Recommendation

7.1. Direct the BCA to attach condition number 9 as amended below and the reason therefor as follows and for the reasons and considerations set out below:

8.0 Reasons and Considerations

8.1. Reasons and Considerations

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 there is potential ambiguity in the wording of Condition 9 in order to meet the requirements of Part M of the Second Schedule to the Building Regulations 1997, as amended. Therefore condition No.9 as originally attached by the Building Control Authority to the Disability Access Certificate should be amended 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 (with Condition 9 amended), would comply with the requirements of Part M to the second schedule to the Building Regulations 1997, as amended.

9.0 Conditions

9.1. Recommended Condition

Condition No.9:

Switches, outlets, and controls located within the common areas (stairs, lobbies, corridors and landlord/tenant area) shall comply with Section 1.5.7 of TGD Part 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.

Michael Mohan

15/10/2026