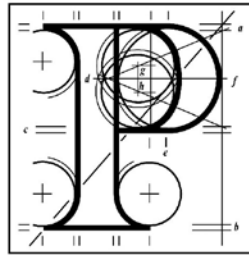


An Bord Pleanála



Appeal against; Refusal of Disability Access Certificate.

For; Change of use from offices to a bedroom annex for the nearby Portobello Hotel.

At; Grand Canal House, 1-17, Rathmines Road Lower, Rathmines, Dublin 6
(a Protected Structure)

Board DAC appeal ref no: 29D DS 0056

BCA Disability Certificate application no.; 2016/0650

Appellant/Agent: Richie McDermott/Emmet Humphreys Architects

Building Control Authority: Dublin City Council

Board Consultant name: Denise Germaine MRIAI, MCIAT, ICIOB

Site inspection/photographs: External visual inspection. Photos - None.

1. INTRODUCTION

The application for a Disability Access Certificate to Dublin City Council comprises the change of use from offices to a bedroom annexe for the nearby Portobello Hotel. The building at Grand Canal House, 1-17 Rathmines Road Lower is a Protected Structure.

Dublin City Council issued a refusal of DAC Certificate in October 2016. An Bord Pleanála received full documentation in support of the appeal, including Planning Permission history.

The relevant building, Grand Canal House, Nos. 1-17 Rathmines Road Lower, is currently in use as office accommodation. The building is a fine, late 19th Century, two storey over basement, 5 bay building, with many remaining architectural features, both externally and internally. It appears to have been originally built as office accommodation for the adjoining works, which were originally a Building Contractors and later, a Motor Distributors.

The building appears to have been in office use for some time. The current proposals are to change the use of the building from offices to an 8 bedroom annexe for the nearby Portobello Hotel, by carrying out some internal alterations to remove modern partitioning and suspended ceilings and return the rooms close to their original proportions, while retaining and renovating the architectural features of the building.

2. INFORMATION CONSIDERED

The full file of documentation, as supplied by An Bord Pleanála was considered in arriving at this recommendation. The several files of documents reviewed, which refer to Grand Canal House, Nos. 1-17, Rathmines Road Lower, included as follows;

- File Ref 3193/11 - Original Planning Application to change the previous office use to that of an 11 bedroom annexe to the nearby Portobello Hotel — August 2011.
- Subsequent Further Information requested and received— November 2011
- File Ref 3193/11 - Grant of Planning Permission, with 10 conditions, including reducing number of bedrooms to 8 – 4th January 2012
- An Bord Pleanála Ref PL29S.240119 - Appeal against Condition No. 3 (restricting term of Planning Permission to 4 years) – 24th January 2012
- An Bord Pleanála Ref. PL29S.240119 - Appeal Decision to remove Condition No. 3 – 14th September 2012
- Reg. Ref. DAC 2016/0441 - Disability Access Certificate Application – 18th August 2016 and Reg. Ref. DAC 2016/0650 – Disability Access Certificate Application – 30th November 2016

- Reg. Ref. DAC 2016/0650 - Disability Access Certificate refusal, with two reasons – 27th January 2017
- Appeal against refusal of Disability Access Certificate, including grounds of appeal and Heritage Impact Assessment – 20th February 2017
- Dublin City Council Building Surveyor's Report and Consultant Architectural Technologist to the Housing and Sustainable Communities Agency Report – March 2017

Following my request for additional information, I received on April 25th 2017;

- Reg. Ref. 16/1348/7D - Fire Safety Certificate Application (7 day notice) – 1st July 2016
- Plans, Sections & Elevations of proposed as submitted for FSC – June 2016
- Reg. Ref. FSC2164/16/7D - Fire Safety Certificate Ref. – 21st July 2016

3. RELEVANT HISTORY/CASES

The Disability Access Certificate was refused on January 27th 2017 for the following reasons;

Reason 1

The application fails to demonstrate compliance with Part M1 of the Second Schedule of the Building Regulations 1997 to 2014.

Reason 2

Reliance on facilities located in a building remote from the subject building is not considered adequate to demonstrate compliance with the requirements of Part M of the Second Schedule of the Building Regulations 1997 to 2014.

As part of my review of this case, I examined several other previous cases, all of which referred to Protected Structures, namely; DS0050 (2014), DS0035 (2012), DS0012 (2010) and DS0002 (2010).

4. APPELLANT'S CASE

The Appellant is appealing against the refusal of a Disability Access Certificate and his case, based on documents lodged, is that this application for a DAC Certificate relates to the adaptation of this historic building to a use solely as a bedroom annexe to the nearby Portobello Hotel. He claims that the bedrooms in Grand Canal House will only be used as overflow accommodation for able-bodied guests and that fully accessible bedrooms and all other hotel facilities are provided in the main Portobello Hotel at the junction of Richmond Street South and Charlemont Mall

The Appellant states that, in dealing with this proposal as part of the appeal against one condition of the previously granted Planning Permission, An Bord Pleanála have already reviewed the proposal, and that Planning Permission was granted.

It is advised that the Planning Department had no objection to the building being used as a bedroom annexe to the Portobello Hotel, which, although remote from Grand Canal House, is within walking distance and provides adequate accessible accommodation and facilities for disabled guests. The Appellant states that Condition No. 9 attached to the Planning Permission, (which has not been appealed), confines the use of the building to a bedroom annexe to the Portobello Hotel and to no other use.

The Appellant also states that, due to the Protected Structure designation of Grand Canal House, the carrying out of works to provide accessibility both to the entrance and in the interior of the building would be totally impracticable and would significantly impact the historic architectural character of the property.

The Appellant also states that a Fire Safety Certificate was granted for the proposals, which do not provide for means of escape for wheelchair users.

The Appellant states that, due to Condition No. 9 of the Planning Permission issued by Dublin City Council, the premises at Grand Canal House, 1-17 Rathmines Road Lower is effectively permanently tied to the Portobello Hotel, unless a subsequent Planning Application, Fire Safety Certificate and Disability Access Certificate for a different use were to be applied for and granted.

5. BCA CASE

The BCA case based on documents lodged and in accordance with their report copied to An Bord Pleanála, claims that it is unreasonable to rely upon accessible accommodation in another building, remote from the subject building, for compliance with the requirements of Part M of the Building Regulations.

It is also stated that the applicant has failed to demonstrate exhaustive efforts which would provide wheelchair access to the building.

6. CONSIDERATION/ASSESSMENT

Details lodged with application

I consider that the documentation available from An Bord Pleanála and which I have reviewed is sufficient for me to make an informed recommendation to the Board and for the Board to determine the merits of the case, having regard to the requirements of Building Regulations Part M.

Content of Assessment

Because of the Protected Structure designation of the building and the views of the Conservation Architects, it is clear that extensive alterations to the building in order to provide full disabled accessibility would damage both the external and internal architectural features of the building in an unacceptable manner.

My assessment addresses the practical impossibility of providing adequate access to this Protected Structure in light of the comments of the Dublin City Council Conservation Officer (December 12th 2011), who states '*In principal the use of the protected structure as part of the ancillary accommodation to the Portobello Hotel immediate to Portobello Bridge may be regarded as a positive proposal and capable of sustaining the historic fabric of the building.*'

The appellants state that the extent of their demise in this premises is contained within the external walls of the building, and includes the lower level area between the front wall of the building and the public footpath. The Appellants would appear to have no legal access to or over the external areas to the side or rear of the building. Therefore I consider that it is physically impossible for the Appellants to provide alternative access to the building other than the existing front entrance steps and door, which are part of the protected structure.

Likewise, although TGD M 2010 provides for certain relaxations of the guidance as regards accessibility in respect of existing premises, none of the reduced requirements in Section 2 of TGD M 2010 are physically possible to achieve without damaging the very architectural features of this building which have prompted its designation as a Protected Structure.

TGD M 2010 states "*In the case of material alterations or change of use of existing buildings, the adoption without modification of the guidance in this document may not, in all circumstances, be appropriate. In particular, the adherence to guidance, including codes, standards or technical specifications, intended for application to new work may be restrictive or impracticable. Buildings of architectural or historical interest are especially likely to give rise to such circumstances. In these situations, alternative approaches based on the principles contained in the document may be more relevant and should be considered.*"

It is my opinion that the proposal to convert this building to a use as overflow, non-accessible bedrooms for a nearby hotel, which contains all the necessary accessible accommodation and facilities, is a suitable alternative approach.

The Appellants have stated in their application for a Disability Access Certificate that, apart from the guidance in TGD M 2010 for wheelchair and ambulant disabled access, all other recommendations of TGD M 2010 as regards corridor and door widths, door furniture, visual contrast, signage, lighting, switches, outlets and controls etc. will be complied with in the development, so that persons with sight and hearing impairment could be safely accommodated in the building.

My views on the two reasons given for refusal of the Disability Access Certificate are as follows;

Reason No. 1 – *The application fails to demonstrate compliance with Part M1 of the Second Schedule of the Building Regulations 1997 to 2014.*

In my view, the Appellant has given an adequate explanation of the reasons why full compliance with the requirements of Part M1 of the Building Regulations cannot practicably be met in this instance.

It is regrettable, however, that the Applicant did not, apparently, apply for a waiver or relaxation of the requirements of Building Regulations Part M, in light of the particular historic and architectural nature of this Protected Structure.

It would appear that the different departments of Dublin City Council are at odds as to an appropriate and sustainable use of this historic building, as both Planning Permission and a Fire Safety Certificate have been granted for the proposals.

In my view, It would be regrettable if, due to the impossibility of providing full accessibility in this building, the building would be rendered unusable and would consequently fall into dereliction.

Reason No. 2 – *Reliance on facilities remote from the subject building is not considered adequate to demonstrate compliance with the requirements of Part M of the Second Schedule of the Building Regulations 1997 to 2014.*

The use of the building solely as a bedroom annexe to the nearby Portobello Hotel, which is within walking distance and where fully accessible bedroom accommodation and other guest facilities are provided, seems to me to be a sensible alternative approach, and would ensure the continued use and maintenance of this historic building.

7. CONCLUSION/RECOMMENDATION

My final conclusion/recommendation is that;

A Disability Access Certificate should be granted, subject to one condition, namely;

Condition No. 1 The accommodation shall only be used as hotel bedrooms as an annexe to the nearby Portobello Hotel, and shall not be used as any other form of accommodation.

REASONS AND CONSIDERATIONS

It is considered that, subject to the issue of a Disability Access Certificate with the inclusion of Condition No. 1, the development would comply with the requirements of Part M of the Second Schedule to the Building Regulations 1997 to 2014.

Signed;.....
Denise Germaine, MRIAI, MCIAT

Dated; 4th May 2017