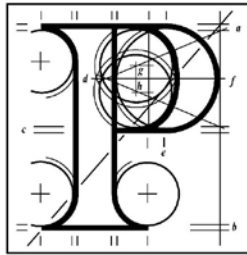


An Bord Pleanála



Appeal against; Refusal of Disability Access Certificate.

For; Change of use of existing gardeners cottage to an independent Hotel Suite

At; Ballyfin Demesne, Ballyfin, Co. Laois (a Protected Structure)

Board DAC appeal ref no: PL11 DS0057

BCA Disability Certificate application no.; DAC 16-28

Appellant/Agent: Ballyfin Demesne Ltd./Kenny Lyons Associates, Architects

Building Control Authority: Laois County Council

Board Consultant name: Denise Germaine MRIAI, MCIAT, ICIOB

Site inspection/photographs: None.

1. INTRODUCTION

The application for a Disability Access Certificate to Laois County Council comprises the change of use from a gardener's cottage to a one-bedroom suite annexe for the adjacent Ballyfin Demesne Hotel. The main building at Ballyfin Demesne is a Protected Structure, a neo-classical mansion built in the 1820s and the outbuildings and gardener's cottage form part of the curtilage of the Protected Structure.

Laois County Council issued a refusal of DAC Certificate in May 2017.

The applicants appealed the decision on 15th June 2017.

An Bord Pleanála received full documentation in support of the appeal, including the Disability Access Certificate history for the main Ballyfin Demesne Hotel.

The relevant building, the subject of this application, a gardener's cottage, appears to be unoccupied residential accommodation. The building is a detached, late 19th Century, two-storey, 4-bay dwelling, with a front entrance portico and a single storey lean-to extension to the East side. The cottage is built into the perimeter wall of the walled garden, which is accessed via a cut limestone surrounded gateway to the left of the cottage.

The current proposals are to change the use of the cottage building from residential to a single luxury bedroom suite annexe for the adjacent 5 star Ballyfin Demesne Hotel, by carrying out some external and internal alterations to provide living/dining/kitchen accommodation together with a WC on the Ground Floor and a large double bedroom with double bathroom en-suites on the First Floor. A new staircase to the First Floor is to be provided and the proposed works maintain the original cottage proportions, whilst retaining and renovating the architectural features of the building.

The building is accessed by an external pedestrian pathway from the main hotel 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 the Ballyfin Demesne, include as follows;

- File Ref DAC 16-28 – Disability Access Certificate application, December 23rd 2016.
- Subsequent Further Information requested and received– April 25th 2017
- File Ref DAC 16-28 – Refusal of Disability Access Certificate – May 19th 2017
- Appeal against refusal of Disability Access Certificate, including grounds of appeal – 12th June 2017
- Reg. Ref. 11-14 – Disability Access Certificate application and grant, with conditions, for the main Ballyfin Demesne Hotel – June 2011.

3. RELEVANT HISTORY/CASES

The Disability Access Certificate was refused on May 19th 2017 for the following reason;

Reason

On examination of the application submitted on 23rd December 2016 and further information submitted 25th April 2017 it was found that the particulars submitted were not in compliance with Part M of the Building Regulations.

Therefore a disabled access certificate of compliance cannot be issued for this building.

As part of my review of this case, I examined one other previous case, which referred to a hotel annexe, also a Protected Structure, namely; DS0056 – May 2016.

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 building, which is part of the curtilage of a Protected Structure, to a use solely as a bedroom suite annexe to the adjacent Ballyfin Demesne Hotel. It is stated that this luxury self-contained accommodation will be provided with ambulant access and that fully accessible bedroom accommodation and all other accessible hotel facilities are provided in the main Ballyfin Demesne Hotel.

The Appellant also states that, due to the Protected Structure designation of Ballyfin Demesne, of which this cottage forms part of the curtilage, the carrying out of works to provide wheelchair accessibility both to the entrance and in the interior of the gardener's cottage building would be totally impracticable and would significantly impact the historic architectural character of the property.

5. BCA CASE

The BCA case based on documents lodged and in accordance with their brief response to the application, copied to An Bord Pleanála, states that '*Although the existing cottage is in the curtilage of a protected structure, it is not in itself a protected structure. Therefore it can be modified to comply with part M of the Building Regulations.*'

Despite a request from An Bord Pleanála to Laois County Council on September 5th 2017 for further documentation to assist the consideration of the appeal, no response has been received from Laois County Council.

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

The guidance given in *An Bord Pleanála - Architectural Heritage Protection – Summary of the Guidelines for Planning Authorities* states, inter alia;

- *Designed gardens of protected structures are seen as an extension of the house.*
- *If a formal relationship exists between a protected structure and its ancillary buildings. New construction that may interrupt that relationship should not be permitted.*

Because of the Protected Structure designation of the main Ballyfin Demesne Hotel building and, given the design and appearance of the gardener's cottage, its location within the curtilage of the Ballyfin demesne and the proximity of the gardener's cottage and adjacent walled garden to the main neo-classical hotel building, I consider that extensive alterations to the cottage building in order to provide full wheelchair accessibility could potentially damage both the external and internal architectural features of this historic building in an unacceptable manner.

My assessment addresses the practical impossibility of providing adequate wheelchair access to this building in light of the stated mission in Laois County Council's Laois Heritage Plan 2014-2019, namely *"To protect, increase accessibility to and maximise the value of our heritage by working in partnership to foster an understanding of heritage through participation, education and research."*

I consider that it is physically impossible for the Appellants to provide alternative access to this building other than the existing front portico, entrance step and door, which form part of the curtilage of a protected structure.

Although TGD M 2010 provides for certain relaxations of the guidance as regards accessibility in respect of existing premises, some of the reduced requirements in Section 2 of TGD M 2010 are physically impossible to achieve without potentially damaging the architectural features of this historic building.

TGD M 2010 states "**Existing Buildings** *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.*"

This guidance is enlarged upon in Clause 0.8 - Existing Buildings, with particular reference to Protected Structures and buildings of architectural or historical significance in paragraphs 4, 5 and 6.

Section 0.7 of TGD M 2010, in determining 'practicability', gives as one reason for determining the impracticability of full compliance with Part M as;

- (i) *Where the works would have a significant adverse effect on the historical significance of the existing building, facility or environs e.g. works to a Protected Structure.*

It is my opinion that the proposal to convert this building to a use as a luxury, bedroom suite for the adjacent Ballyfin Demesne Hotel, which contains all the necessary wheelchair accessible accommodation and facilities and which holds a current Disability Access Certificate, is a suitable alternative approach. This proposed self-contained hotel suite in the gardener's cottage could accommodate guests with a wide range of disabilities, with the sole exception of wheelchair access.

The Appellants have stated in their application for a Disability Access Certificate that, apart from the guidance in TGD M 2010 for wheelchair disabled access, all other recommendations of TGD M 2010 as regards ambulant disabled access will be complied with in the development, so that persons with sight and hearing impairment and other disabilities could be safely accommodated in the building.

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

Reason

On examination of the application submitted on 23rd December 2016 and further information submitted 25th April 2017 it was found that the particulars submitted were not in compliance with Part M of the Building Regulations.

Therefore a disabled access certificate of compliance cannot be issued for this building.

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.

In my view, it would be regrettable if, due to the impossibility of providing full wheelchair accessibility in this cottage although ambulant disabled access and use can be provided, this historic building may be rendered unusable and may consequently fall into dereliction.

The use of the building solely as a luxury bedroom suite annexe to the adjacent Ballyfin Demesne Hotel, which is within a short walking distance on the grounds of the Hotel 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 cottage building.

7. CONCLUSION/RECOMMENDATION

My final conclusion/recommendation is that;
A Disability Access Certificate should be granted, subject to six conditions, namely;

Condition No. 1 - The accommodation shall only be used as a hotel bedroom suite as an annexe to the adjacent Ballyfinn Demesne Hotel, and shall not be used as any other form of accommodation.

Reason – To ensure that fully accessible accommodation and facilities are provided elsewhere on the premises for guests of the hotel.

Condition No. 2 – Pedestrian access to the Gardener's Cottage Suite from the main Ballyfinn Demesne Hotel shall be suitable for ambulant disabled use and shall present no hazards to ambulant disabled persons or those with sight impairment.

Reason – To ensure that the approach to the building shall be suitable for ambulant disabled people.

Condition No. 3 - The facilities within the Gardener's Cottage Suite shall be suitable for ambulant disabled use.

Reason – To ensure that access into and use of the facilities in the gardener's cottage suite shall be suitable for ambulant disabled people.

Condition No. 4 - The new stairs in the Gardener's Cottage Suite shall be in accordance with TGD M 2010, 2.3.4.3 for ambulant disabled use, and shall be provided with handrails in accordance with TGD M 2010 1.3.4.5.

Reason – To ensure that the upper floor of the gardener's cottage suite shall be accessible to ambulant disabled people.

Condition No. 5 - The Ground Floor WC in the Gardener's Cottage Suite shall comply with the guidance on ambulant disabled use in TGD M 2010 1.4.6.2 and Diagram 19.

Reason – To ensure that ambulant disabled people may safely use the sanitary facilities in the gardener's cottage suite.

Condition No. 6 – The guidance in TGD M 2010 Section 1.6 shall be followed as regards signage, visual contrast and lighting in the Gardener's Cottage Suite.

Reason – To ensure that use of the facilities in the gardener's cottage suite shall be suitable for ambulant disabled people.

REASONS AND CONSIDERATIONS

Having regard to the type, use, location and layout of this building and also to the nature and extent of the proposed works, to the confirmation that services and facilities for access and use are provided in the main Hotel premises, to the guidance given in Technical Guidance Document M – 2010 – Clause 0.8 and to the submissions made by the applicants in the Disability Certificate Application and Appeal, I consider that, subject to compliance with the 6 recommended conditions above, compliance with the requirements of Part M of the Second Schedule to the Building Regulations 1997 to 2017 would be achieved to ensure that adequate provision would be made for people to access and use the building, its facilities and its environs.

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

Dated; 25th September 2017