

Inspector's Report

Appeal against conditions attached to a Disability Access Certificate for Material Alterations across all levels of an existing assembly and recreation building at the Victory Centre, Firhouse Road, Tallaght, Dublin 24.

Board DAC appeal ref. no.:	DS 06S.DS0061
Building Control Authority Ref. No.:	DAC 134/17
Appellant/Agent:	Buildings & Land Ltd. 42-44 Copthorne Road Felbridge East Grinstead West Sussex UK Ms. Siobhan Ashe (Agent) Jeremy Gardner Associates (JGA) 9 Upper Baggot Street Dublin 1
Building Control Authority:	South Dublin County Council
Inspector:	Michael Mohan, FRIAI
Appendix Attached:	None

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1.0 Introduction

1.1. Site description

The building is an existing detached building which consists of a mainly two-storey structure comprising small assembly halls, a creche, offices, plant areas, a café a book store and an auditorium.

1.2 Subject Matter of Application

The application is for material alterations to the following areas:

Level 1 – All areas except stair cores and toilet facilities

Level 2 – All areas excluding the large auditorium and stair cores

Level 3 – Small control room within the existing plant area.

The Disability Access Certificate application was made by Siobhan Ashe, JGA Fire Engineering Consultants, on behalf of Buildings & Land Ltd. and was received by the Building Control Authority (BCA) on the 9th May 2017 and included:

- Completed DAC application form
- 2 No. copies of drawings:

Drawing Number	Title	Scale
FSC/441/M101	Level 1	NTS
FSC/441/M101	Level 2	NTS
FSC/441/A	Level 3	NTS
AI/3666/2/1	Site Plan	1:500
AI/3666/2/2	Level 1	1:200
AI/3666/2/3	Level 2	1:200
AI/3666/2/4	Level 3	1:200
AI/3666/2/5	Sections	1:200
AI/3666/2/6	South-East & North-West Elevations	1:200
AI/3666/2/7	South-West & North-East Elevations	1:200
AI/3666/2/2	Level 1	1:100
AI/3666/2/3	Level 2	1:100
AI/3666/2/2	Level 1	1:200
AI/3666/2/3	Level 2	1:200
AI/3666/2/4	Level 3	1:100
AI/3666/2/5	Sections	1:100

- 2 No. copies of the Disability Access Certificate Compliance Report
- Confirmation of an EFT of €800.
- Cover letter from Agent dated 5th May 2017

1.3 Building Control Authority decision

The BCA issued a Disability Access Certificate (DAC) for the above works dated 5th September 2017; Decision Order No.: DAC/134/17; Decision Date: 4th September 2017; Register Reference: 17/6049D. Eleven conditions were attached to the DAC, three of which are the subject of this appeal.

2.0 Information considered

The following information was considered as part of the appeal process:

1. **Notification to Grant Permission & Refuse Permission Planning, Reg. Ref. No.: SD10A/0176:**

Permission granted for pedestrian entrance gate to Firhouse Road with stone clad side walls, steps, signage, landscaping and lighting.

Permission refused for extension to car park providing an additional 75 cars.

2. **Disability Access Certificate application:** Ref. No. DAC/134/17
Application including report and drawings, listed at 1.3 above, was lodged by Siobhan Ashe, JGA Fire Engineering Consultants and received by the BCA on 9th May 2017 and received by the Board on 26th October 2017.

3. **Appeals Documentation submitted by appellant:** The appeal documentation was received by An Bord Pleanála on 3rd October 2017 and included:

- Letter from Siobhan Ashe, JGA Fire Engineering Consultants, dated 2nd October 2017.
- Copy of DAC/134/17
- Cheque for €500.

4. **Application Documentation from BCA**

South Dublin County Council submitted a letter to the Board, dated 25th October 2017 (in response to a request from the Board, dated 11th October 2017), which was received by the Board on 26th October 2017 and included copies of the following:

- Copy of the application which indicated the applicant's interest in the land or structure.
- Copy of the public notice submitted with the application.

- Copy of the plans submitted with the application.
- Certified copy of Manager's Order No. DAC/134/17.
- Copies of all technical reports in connection with the application.

5. **Disability Access Certificate:** Ref. No. DAC/134/17 issued by the BCA on 5th September 2017 and was received by An Bord Pleanála on 26th October 2017. It included eleven conditions. The following three conditions are the subject of this appeal:

Condition 3:

Doors opening towards a corridor is (assume it should be "in") a major access route or escape route shall be recessed so that when fully open, it does not project into the corridor space as per the guidance in Section 2.3.3.3 of TGD M 2010. In this regard attention is drawn to the doors serving the wheelchair accessible unisex WCs on level 1 opposite the service riser next to Stairs 1, and on level 2 next to the male toilets in the classroom area.

Reason: To facilitate safe and independent use of the building.

Condition 4:

The proposed wheelchair accessible unisex WCs shall have a minimum turning space of 1800mm x 1800mm as per the guidance in Section 1.4.3.1 and Diagram 15a of TGD M 2010.

Reason: To facilitate safe and independent use of the building.

Condition 7:

Accessible toilet, changing and showering facilities, in accordance with the guidance in Sections 2.0 and 2.4 of TGD M 2010, shall be provided in the proposed gym area on Level 1 on the same basis as such facilities are provided for use by able bodied people.

In this regard the accessible toilet and changing room indicated on drawing AI/3666/2/2 Rev.A, submitted as Additional Information on 17/08/2017, is not acceptable as it requires a person needing to avail of this facility to leave the gym and travel approx.17m. along corridors and through cross-corridor doors, whereas an able-bodied person using the gym's facilities will be able to shower, change and use a WC without the need to leave the gym area.

Reason: To facilitate safe and independent use of the building.

7. Observations from the BCA in relation to the appeal:

The BCA submitted a Disability Access Certificate Application Report, which was prepared as part of the assessment of the DAC application, to An Bord Pleanála which was attached to the letter dated 25th October 2017 and which was received by the Board on the 26th October 2017. The observations from the BCA are shown below in Section 6.0 Building Control Authority's Case

3.0 Relevant history/cases

PLANNING APPLICATIONS:

PA Reg. Ref. No.: SD17A/0290

Refusal of permission for erection of six lighting poles supporting sports pitch LED lighting and associated landscape works.

PA Reg. Ref. No.: SD17A/0248

Permission granted for retention of 1 sign.

4.0 DAC application

Disability Access Certificate application: Ref. No. DAC/134/17. The application, including report and drawings, listed at 1.3 above, was lodged by Siobhan Ashe, JGA Fire Engineering Consultants and received by the BCA on 9th May 2017 and received by the Board on 26th October 2017.

5.0 Appellant's case

Siobhan Ashe, JGA Fire Engineering Consultants lodged an appeal on behalf of the applicant, dated 2nd October 2017, against Conditions Nos. 3, 4 and 7 of the BCA's Decision on the Disability Access Certificate Application, which was received by the Board on 3rd October 2017. The following is a brief outline of the Appellant's case:

Condition 3:

- There are constraints on the space available in an existing building.
- The outward opening doors, when fully opened by more than 90 degrees, allow a clear width of 1300mm in the corridors.

- These corridors are escape routes and the minimum width is maintained.

Condition 4:

- It is not practicable to provide 1800mm x 1800mm turning spaces in the accessible WCs in this existing building.

Condition 7:

- Where it is not practicable to provide both communal and individual facilities, an individual unisex and accessible showering and/or changing facility as per 1.4.9 should be provided.
- The guidance makes no reference to where the changing and showering facilities should be located in the building.
- The location of the accessible changing / showering facility is in as close proximity as practical to the sauna and gym, considering the space restrictions of this existing building.
- The purpose of the gym is for occupants to use the treadmill and exercise bikes to complete an exercise routine as a mandatory pre-requisite to gain access to the sauna linked to the exercise area.
- As the treadmill and exercise bikes will only be used by able bodied persons, it is considered unlikely that wheelchair users will be using the facilities. However accessible changing/showering facilities are provided in close proximity to the gym area if this was to occur.

6.0 Building Control Authority's case

The BCA submitted a Disability Access Certificate Application Report to An Bord Pleanála which was attached to the letter dated 25th October 2017 and which was received by the Board on the 26th October 2017. In summary this report stated:

Horizontal Features:

- *The doors serving wheelchair accessible unisex WCs on level 1 and level 2 open out onto the adjoining corridors, both of which could not be considered as 'infrequently used' and both of which appear to be escape routes.*

Sanitary Facilities:

- *The space shown for the changing and/or changing facilities is smaller than the guidance shown in TGD M 2010.*
- *The proposed male and female changing and showering facilities in a gym on level 1 do not appear to be wheelchair accessible.*
- *Additional Information on 17/08/2017, is not acceptable as it requires a person needing to avail of this facility to leave the gym*

and travel approx.17m. along corridors and through cross-corridor doors, whereas an able-bodied person using the gym's facilities will be able to shower, change and use a WC without the need to leave the gym area.

Wheelchair accessible unisex WC:

- *It is considered in this case that a wheelchair accessible unisex WC with a turning space of 1800mm x 1800mm could be provided.*

7.0 Considerations

7.1 Level of detail provided in the application to meet the requirements of the Building Control (Amendment) Regulations 2009

Section 20 (D) 3(b) of the Building Control (Amendment) Regulation 2009 states that a DAC application should:

- *Identify and describe the works or building to which the application relates;*
- *Enable the building control authority to assess, whether the said works or building would, if constructed in accordance with the said plans and other particulars, comply with the requirements of Part M of the Second Schedule to the Building Regulations;*
- *Identify the nature and extent of the proposed use and, where appropriate, of the existing use of the building concerned.*

Section 20(D) 4 of the Building Control (Amendment) Regulation 2009 states:

- (c) *Where a building control authority consider that an application for a disability access certificate does not comply with paragraph (3), they may, as they consider appropriate, having regard to the extent of the failure to comply with the said paragraph, by notice in writing—*
- (i) *inform the applicant that the application is invalid and cannot be considered by the authority, or*
 - (ii) *require the applicant to furnish such further plans, calculations, specifications or particulars, or such additional fee, as may be necessary to comply with the said article*
- (d) *Where a building control authority serve a notice in accordance with sub-paragraph (c), they shall return to the applicant all the documents and the fee which accompanied the application.*

7.2 Meeting the requirements of Part M of the Building Regulations

Legislative Considerations

Part M of the Second Schedule to the Building Regulations, (as amended), provides as follows:

To meet the requirements of M1: *Adequate provision shall be made for people to access and use a building, its facilities and environs.*

Technical Guidance:

The applicant has indicated that the following guidance has been referred to:

- TGD M: 2010
- BS 8300:2009
- BS 8501:2002

8.0 Assessment

This appeal is against Conditions attached to a Disability Access Certificate. Having considered the drawings, reports, details and submissions on file it is considered that a *de novo* approach is not warranted.

Condition No.3:

- The proposed doors serving the wheelchair accessible unisex WCs open out onto major access routes / escape routes. The BCA stated in this condition that they should be recessed, as per guidance in Section 2.3.3.3 of TGD M 2010, so that when fully opened they will not project into the corridors.
- Diagram 12 TGD M 2010 indicates: *900mm (min) clear space where a door to an accessible WC opens into an infrequently used corridor which is not an escape route.*
- The applicant's agent argued that the outward opening doors, when fully opened by more than 90 degrees, will allow a clear width of 1300mm in the corridors. This argument misses the point that doors should not open out onto major access routes / escape routes. Even if the clear width remaining is 1300mm the outward opening doors will create a hazard/obstruction for people using the corridors.

- The BCA stated that the outward opening doors, serving the wheelchair accessible unisex WCs on level 1 opposite the service riser next to Stairs 1 and on level 2 next to the male toilet in the classroom area, should be recessed as they are on frequently used corridors which are also escape routes. This may prove to be difficult to achieve in the existing building. There are alternatives, with reference to 12.2.6 of BS 8300 2900:

Any door to sanitary accommodation, whether opening inwards or outwards, should be capable of being opened in an emergency if a person inside has fallen against it and is unable to move.

Inward opening doors could be installed using pivot hinges, in conjunction with an emergency release door stop and bathroom lock operable from the outside.

Sliding doors are an alternative where it is not possible for a side-hung door to swing either in or out or for a reduced-swing doorset to be used.

- If inward opening doors are to be used with pivot hinges as described above then the floor area inside the accessible unisex WCs should be increased to ensure that 1800mm x 1800mm turning spaces will be provided, clear of the door swing.
- I am of the view that Condition No. 3 should be amended.

Condition 4:

- I do not accept the applicant's agent's view that it is not practicable to provide accessible WCs with 1800mm x 1800mm turning spaces. This is a large building with nett floor areas greater than 200 sq.m. in which case turning spaces of 1800mm x 1800mm should be provided.
- There is ample room in this building to provide wheelchair accessible unisex WCs with 1800mm x 1800mm turning spaces.
- The wheelchair accessible unisex WC on level 1 is being formed by taking space from a large area of existing toilets on level 1. There is scope to provide for a 1800mm x 1800mm turning space.
- The wheelchair accessible unisex WC / the Men's Bathroom / Coats room on level 2 could be rearranged to provide for a 1800mm x 1800mm turning space in the accessible unisex WC.
- I am of the view that Condition No. 4 should be amended.

Condition 7:

- The applicant/agent propose to provide accessible toilet, changing and showering facilities remote from the gym area. They state that (a) *the purpose of the gym is for occupants to use the treadmill and exercise bikes to complete an exercise routine as a mandatory pre-requisite to gain access to the sauna linked to the exercise area* and (b) *as the treadmill and exercise bikes will only be used by able bodied persons, it is considered unlikely that wheelchair users will be using the facilities. However accessible changing/showering facilities are provided in close proximity to the gym area if this was to occur.*
- The BCA stated that: *A person needing to avail of this facility will have to leave the gym and travel approx. 17m. along corridors and through two cross- corridor doors, whereas an able-bodied person using the gym's facilities will be able to shower, change and use the WC without the need to leave the gym area. This situation is not considered acceptable.*
- In this case, persons with disabilities would not be treated the same as able-bodied persons.
- The space indicated on the plan submitted scales 2500mm x 1700mm for the accessible unisex WC with changing/showering facilities. The minimum space recommended in Diagram 21 of TGD M 2010 is 2500mm x 2500mm (or 2500mm x 2700mm if a deeper WHB is being used) for a WC with shower. The space proposed is below the minimum recommended size for either a WC on its own (2500mm x 1800mm) or a WC with a changing /showering facility.
- This is a large building with nett floor areas greater than 200 sq.m. There is ample scope to provide accessible toilet, changing and showering facilities as recommended in Diagram 21 of TGD M 2010.
- Section 1.4.3.5 of TGD M2010 states:
 - The provisions for changing and/or showering facilities are as follows:
 - (a) *Where communal separate-sex changing and/or showering facilities are provided, accessible changing and/or showering facilities should be provided in communal areas by subdividing the area and providing accessible space and fittings as for self-contained facilities as per 1.4.9.*
 - (b) *In sports facilities, accessible individual unisex self-contained showering and/or changing facilities should be provided as per 1.4.9 in addition to communal separate-sex facilities. Where it is not practicable to provide both communal and individual facilities, an individual unisex and accessible showering and/ or changing facility as per 1.4.9 should be provided. A choice of layouts suitable for left-hand and right-hand transfer should be provided when more than one changing and/ or showering facility*

is provided.

- I am of the view that changing/showering/WC facilities should be available for persons with disabilities without the need to leave the gym area to use these facilities. It may not be practicable to include them in both the male and female changing areas therefore an individual accessible changing/showering/WC facility should be provided within the gym area.
- I am of the view that Condition No.7 should be amended.

9.0 Conclusions / Recommendations

In conclusion, I am of the view that the DAC should stand subject to amendments to the Conditions appealed as set out below:

Condition 3:

Doors should not open outwards towards a corridor in a major access route or escape route. Acceptable alternatives would be (a) install recessed doors so that when fully open, they do not project into the corridor space as per the guidance in Section 2.3.3.3 of TGD M 2010; (b) install inward opening doors using pivot hinges, in conjunction with an emergency release door stop and bathroom lock openable from the outside Any door to sanitary accommodation should be capable of being opened in an emergency if a person inside has fallen against it and is unable to move, or (c) install sliding doors. No matter what solution is selected the floor areas of the accessible unisex WC/changing/showering facilities should not be less than those recommended in TGD M 2010.

Reason: To facilitate safe and independent use of the building.

Condition 4:

The proposed wheelchair accessible unisex WCs shall have a minimum turning space of 1800mm x 1800mm as per the guidance in Section 1.4.3.1 and Diagram 15a of TGD M 2010.

If inward opening doors are to be used with pivot hinges, in conjunction with an emergency release door stop and bathroom lock openable from the outside then the floor area inside the accessible unisex WCs should be increased to ensure that 1800mm x 1800mm turning spaces will be provided, clear of the door swing.

Reason: To facilitate safe and independent use of the building.

Condition 7:

Accessible toilet, changing and showering facilities, in accordance with the guidance in Sections 2.0 and 2.4 of TGD M 2010, shall be provided in the proposed gym area on Level 1 on the same basis as such facilities are provided for use by able bodied people. Changing/showering/WC facilities should be available for persons with disabilities without the need to leave the gym area to use these facilities. If impracticable to include them in both the male and female changing areas an individual accessible changing/showering/WC facility should be provided within the gym area.

Reason: To facilitate safe and independent use of the building.

I recommend that the Board decides to issue a Disability Access Certificate in this case with amendments to the Conditions appealed as set out above.

9.1 Reasons and Considerations

Having regard to the provisions of the Building Regulations 1997 to 2017, Second Schedule, Part M, to the form and layout of the existing building and the nature of the proposed works and to the submissions made in connection with the DAC 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, and subject to compliance with the amended conditions as set out above, will comply with the requirements of Part M of the Second Schedule to the Building Regulations 1997 to 2017.



Michael Mohan, FRIAI

Inspector, 18th January 2018