

# APPEAL UNDER S. 7 OF THE BUILDING CONTROL ACTS 1990 (AS AMENDED)

## REPORT

**8 FEBRUARY 2018**

Board DAC appeal ref no.:-	29D.DS0062
Building Control Authority:-	Dublin City Council
BCA reference:-	Disability Access Certificate application 2017/0430
Appellant/Agent:-	Joe Cully Architectural Construction Technology, An Tigh, Ballyogan Avenue, Carrickmines, Dublin D18 V6X9
Proposed works:-	Extension and material alterations to ground storey (in retail use), and material alterations and material change of use to upper storey (presently in office use, proposed as residential use), of existing two-storey building. *
Location:-	64A St. Agnes Road, Crumlin Cross, Dublin 12
Appeal against:-	Issue of Disability Access Certificate subject to conditions

*\* See discussion at section 2 of report below*

Report prepared by:- Board Consultant:- E. O Cofaigh Arkitekt MSA HFAIA

### CONTENTS

- 1 Introduction
- 2 The proposals the subject of the DAC application
- 3 Application of Building Regulations to the proposals
- 4 The level of provision for accessibility to be applied
- 5 Information considered in this report
- 6 Building Control Authority decision on the application
- 7 Appeal received by An Bord on 4 October 2017
- 8 Consideration of the application
- 9 Relevant history / cases
- 10 Dispensations and relaxations from building regulations requirements
- 11 Assessment and recommendations

## **1 INTRODUCTION**

This is an appeal against the issue with conditions by the Building Control Authority (BCA) of a Disability Access Certificate (DAC). The proposal which is the subject of the appeal is in an existing two-storey building, in retail use on the ground floor, with office use on the first floor.

On the ground storey, an extension and material alterations are proposed to the existing retail space (a subdivision into two retail units with shared service area.)

On the upper storey (and as part of this, the stairs from the ground storey) a material change of use is proposed, to residential use, with material alterations to that space also.

### **Appeal references 29D.DS0062 and 29D.DS0063**

Appeal references DS0062 and DS0063 are in respect of proposals for two separate buildings on the same site in Crumlin. I have examined and am reporting on these two appeals at the same time.

## **2 THE PROPOSALS THE SUBJECT OF THE DAC APPLICATION**

### **2.1 The application form submitted to the BCA with the original application**

The application form submitted with the original application is designed to provide clarity around the applicant's wishes and to provide a summary of the proposals for which the DAC is sought.

The application form says:- "*Address – Ground floor sub-divided (limited) main building used in association with Ground Floor rear yoga studio*".

At question 5 on the application form, "Classification of works or building", the response given is:

*Construction of new building YES NO*

*Material alteration YES NO*

*Material change of use YES NO*

*Extension to a building YES NO*

The application forms submitted in respect of 0062 and 0063 are identical, save only for a hand-written description of the proposals, inserted under "*address of owner of the works or building*" in the answer at section 1.

As a result of providing identical answers about two very different buildings, many of the answers to other questions are incorrect. At question 8, identical answers ("two-storeys") are given in respect of both the two-storey 0062 and the single-storey 0063; while the total area of the ground floor ("160.80 sq m") is the area of the ground storeys of these buildings taken together, not the area of either individually.

In my view the errors and lack of clarity in the above would have been sufficient reason for the BCA to invalidate the application. However, the BCA didn't do this and An Bord will now have to deal with the appeal on the basis of the information provided.

No survey drawings of the premises as existing were provided. These would have helped an evaluation of the proposals. An Bórd has however provided the planning appeal files in relation to the same site where survey drawings of the existing building are to be found.

## **2.2 The report submitted with the application**

The title of the project on the front page of the report is given as:- *“Project: Proposed Material Change of Use, of the existing retail ground floor units with apartments overhead, with a Pilate's/Yoga studio to the ground floor rere all at 64 St. Agnes Road, ...”*

There are two material changes of use: (0062, this one) of the first floor from office, to first floor residential; and, separately, in 0063 (the yoga studio). So from this it would appear that the first floor change of use is included, and that the reference to apartments overhead is just a typographical error, there being one apartment only.

A material change of use from office to apartment use and material alterations to an apartment both require a DAC.

At 1.1.0 M1 in the report which accompanied the application, the applicant says *“this disabled access certificate application is for the extension, material alteration and fit-out to the ground floor linked sub-divided property retail store and yoga studio to the rere only.”* This might be understood to mean that the first floor proposals do not form part of the application.

However, the BCA took a different view to the above. In their grant of a DAC they describe the proposal as **“Material Alterations, material change of use and an extension to a building”**. This was understandable because the drawings show the first floor proposals at the same level of detail as the ground floor.

But the BCA then imposed what in my view is an unclear condition (11) requiring *“the first floor level apartment shall be designed to be compliant with Section 3 of TGD Part M 2010”*. In my view this condition is unsatisfactory. The purpose of the DAC system is precisely for a BCA to adjudicate on whether the proposals comply with the requirements of the building regulations or otherwise, and compliance with TGD-M guidance is prima facie evidence of compliance. The condition is imprecise and offers no clue as to whether such compliance is achieved in the proposals, or otherwise; the extent of any non-compliance; and the ease or difficulty of making any non-compliant elements actually comply.

## **2.4 Conclusion**

Having considered the proposal drawings, survey drawings from the planning files, the application forms, and the report I have come to the conclusion that the applicant

probably intends this application to be in respect of a DAC for “**a ground-storey extension of area 41 sq m to an existing two-storey building, and material alterations to the existing ground floor of 76 sq m, all in retail use; and a material change of use from office to residential use and material alterations to the existing first storey, of area 85 sq m.**” The reference to floor areas is only necessitated by the applicant’s incorrect information on the application form.

Including the first floor apartment does, however, trigger issues the BCA have not considered, as regards the stairs from the ground storey to the first storey premises. The appellant refers to these issues in his appeal correspondence.

### **3 APPLICATION OF BUILDING REGULATIONS TO THE PROPOSALS**

Building regulations apply to the proposals as follows.

	<b>Building regulation requirement</b>	<b>Applicability to proposals the subject of this appeal</b>
M1	Adequate provision shall be made for people to access and use a building, its facilities and its environs.	Applies in full
M2	Adequate provision shall be made for people to approach and access an extension to a building	Applies in full
M3	If sanitary facilities are provided in a building that is to be extended, adequate sanitary facilities shall be provided for people within the extension.	Applies in full
M4	Part M does not apply to works in connection with extensions to and material alterations of existing dwellings, provided that such works do not create a new dwelling.	The works as determined at 2 above <u>do</u> create a new dwelling and Part M applies.

### **4 THE LEVEL OF PROVISION FOR ACCESSIBILITY TO BE APPLIED**

#### **4.1 The standing of the Technical Guidance Documents**

The applicant assesses the proposed works against the 2010 edition of the technical guidance document to Part M of the building regulations. This document (“TGD-M 2010”) was published by the Minister for the Environment under art. 7 of the building regulations, 1997 (S.I. 496 of 1997). Its purpose is to:-

*“provide guidance with respect to compliance with the requirements of the regulations. Where works or a building to which these Regulations apply is or are designed and constructed in accordance with any guidance contained in a technical guidance document, this shall, prima facie, indicate compliance with the relevant requirements of these Regulations. **The provisions of any guidance shall not be construed as prohibiting compliance with a***

***requirement of these Regulations by the use of any other suitable material, method of construction or specification.”***

## **4.2 TGD-M Guidance on existing buildings**

TGD-M makes general remarks on applying the guidance therein to proposals involving changes to existing buildings. Those remarks bear on the approach to be taken to assessing the existing stairway, under this application (my emphasis):-

*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 unduly 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 in the document may be more relevant and should be considered.*

***Works to existing buildings, such as extensions, material alterations and certain material changes of use, can present many design challenges because of the individual character, appearance and environs of existing buildings. The adoption without modification of the guidance in this document may not in all circumstances be appropriate.** While each existing building and site will present its own unique access opportunities and constraints, which may result in different ways of addressing accessibility, **the fundamental priorities of accessibility should be as set out in M1, i.e. accessing and using a building, its facilities and environs.***

In my view, these TGD-M paragraphs are important when considering the stairway access to the proposed first floor apartment.

## **5 INFORMATION CONSIDERED**

In considering this appeal I have reviewed the documentation on file and in particular:-

- (a) Appeal received by An Bord on 4 October 2017 and enclosures thereto;**
- (b) Documentation received by An Bord from the BCA on 19 October 2017;**
- (c) The survey drawings on An Bord’s planning register references 248907 and 247296;**
- (d) Supplementary material from the appellant dated 2 January 2018.**

In formulating this report I have had regard to the 2010 edition of the technical guidance document to Part M of the building regulations.

## **6 BUILDING CONTROL AUTHORITY DECISION ON THE APPLICATION**

On 6 September 2017, the BCA granted a Disability Access Certificate for proposals, with eleven conditions. The BCA’s description of the proposals was in my view unsatisfactorily imprecise:- *“Proposal: Material Alterations, material change of use and an extension to a building.”*

I would “headline” the conditions as follows.

Condition	Headline
1	Build per the plans and particulars lodged, together with performance requirements set out in the report which accompanied the application.
2	Design the ramps per TGD s.1.1.3.4 and diagram 3. A ramp with a 1:12 gradient shall not exceed 2000 mm long and 166 mm long [sic]
3	Ramps to be 1500 mm minimum width with handrails.
4	Ramps to have handrails per TGD s.1.1.3.6 and diagrams 6 and 7.
5	1800 x 1800 landing at the top of each ramp clear of any door swing.
6	Disabled car parking space per TGD s.1.1.5 and diagram 12, with 1200 clear space each side.
7	Glazed doors to have safety manifestations.
8	Level threshold entrances.
9	The wheelchair accessible WC and shower room to be per TGD s.1.4.8 and diagram 21.
10	Kitchen to be per TGD s.1.5.5.
11	First floor level apartment to comply with TGD section 3.

## **7 APPEAL RECEIVED BY AN BORD ON 4 OCTOBER 2017**

In the 10-page letter of appeal dated 2 September (the DAC is dated 6 September) the appellant provides extracts from newspaper reports which I have not considered in detail.

He says that the DAC conditions which the BCA sought to impose are “*at variance with the conditions granted at planning*”. Despite remarks in his appeal and in particular in his 2 January supplementary submission, this in my view is not a matter which arises for consideration as part of a DAC application.

At the bottom of page 5 the appellant says that “*Our client seeks a De Novo review by An Bord Pleanala.*” On page 10 of the appeal, he says that “*We ask that An Bord Pleanala remove conditions 2, 3 and 5 and allow for less than 100% compliance with TGD Part M 2010 section 3 for the apartment condition number 11.*”

At pp.9-10 the appellant says that the stairs to access the apartment does not comply with TGD-M section 3. The page 10 request indicates that the appellant believes the first floor apartment is part of the application.

## **8 MY CONSIDERATION OF THE APPLICATION**

### **\* De novo assessment**

I have assessed this application de novo. The proposals involve

- The existing ground floor premises, to be subdivided with a new ramped approach;
- The ground-storey extension to be built at the rear of the existing premises;
- The existing stairs from ground to first floor, intended to access the apartment;
- The existing first floor premises, to be changed from office to residential use, and to be materially altered.

A determining factor in assessing the application is which part of TGD-M 2010 it is appropriate to apply to the proposals. It seems to me that the appropriate part in relation to the existing retail premises is section 2, "Access and Use of existing buildings other than dwellings". Much of the BCA's assessment seems to have applied the more stringent standards in TGD-M section 1, which applies to new buildings.

### **8.1 Assessment of the proposals**

As regards extensions to existing buildings, TGD-M says (0.1, general) that "*extensions to existing buildings other than dwellings [should be] where practicable, accessible and useable*".

- 8.1.1 As regards the accessible car parking, there is dispute between the applicant/appellant and the BCA about this. Some of this is connected with the planning permission, which I have not considered. In my view, the guidance at TGD-M 2.1.5, On-site car parking, is applicable. That guidance says (my emphasis) "*The guidance in 1.1.5 should be followed, **where practicable**. Where on-site car parking is provided and it is not practicable to provide the number of designated car parking spaces in 1.1.5, as many as possible should be provided but at least one.*"

The proposals show one accessible car parking space, at the front of this premises. In my view, this is all that is practicable on this site and it complies with the guidance.

### **\* Access to the front entrance**

- 8.1.2 The proposed ramp to the two retail front entrances has a 1:12 gradient. TGD-M says (Table 1) that in a new building a 1:12 ramp should be maximum 2 metres going with a maximum 166 mm rise. The BCA have imposed this guidance as their condition 2.

In my view this is not appropriate as the building is an existing one. Where a building is being extended, the guidance at TGD-M 2.1, Approach to existing buildings excluding dwellings, might reasonably be used. The guidance at TGD-M s. 2.1.3.4 (b) on ramps at existing buildings permits, where "better" is not practicable, 1:12 ramps to be up to 4500 mm long.

In my view, having regard to the existing ground levels as set out on the proposed ground floor plan and to what is practicable, the proposals meet this requirement.

- 8.1.3 As regards the width of this ramp, the application shows this at 1200 mm while the BCA's condition 3 requires them to be 1500 mm wide.

As regards ramped access in existing buildings, TGD-M provides that “*The guidance in 1.1.3.4 should be followed except: (a) where it is not practicable to provide the minimum clear width (between walls, upstands or kerbs) in 1.1.3.4, it should be as wide as possible, but the **minimum unobstructed width between handrails should be not less than 1000 mm.***” In my view the proposed width of 1200 mm is acceptable.

- 8.1.4 As regards ramp handrails, the application report (p.9) proposes to “*provide handrails in conformity with TGD Part K and section 1.1.3.6 TGD Part M diagram 7.*” No drawings are given. The BCA inserted a condition requiring that the construction be to this effect, condition 4.

In my view, the proposals are acceptable. An Bord may wish to insert a condition similar to the BCA’s condition 4 but in my view, given the content of the report, this is not necessary.

- 8.1.5 The level access area in front of the two main retail entrance doors incorporates an 1800x1800 mm turning circle and this complies with the guidance at TGD-M 2.2.3.
- 8.1.6 The two main retail entrance doors are shown as 900 wide. The guidance at TGD-M 2.2.4 brings one back to table 2, where the minimum effective clear width of external doors at the entrance to buildings used by the general public (which includes shops) is to be 1000 mm minimum. I consider that it is practicable to attain this width and that a **condition** should be inserted in any DAC which An Bord grant, that the proposals be amended in this regard.

\* **Access to the rere entrance**

- 8.1.7 As regards the ramped access, handrails, width, and gradients to the rere door to this building, in my view these, likewise, comply with TGD-M 2.1.3.4. In my view, given the size of the site and the existing buildings, this is as good as is practicable.
- 8.1.8 I have considered the size of the level access area outside the rere entrance door to this building. Taking the two proposals 0062 and 0063 separately, there is no need for the general public to access the rere door. However, taking the two proposals together, as the applicant/appellant wants, a person in a wheelchair wishing to use the universally accessible shower facility at the back of this retail building must use this ramp. In my view, given the size of the access space at the rere door, it is not possible for a person using a wheelchair to open this door unaided. This in my view is not satisfactory.
- 8.1.9 I have looked carefully at the proposed layout of bicycle parking, the rere entrance gate, where the ramp lands at the lower level, and the size of the level access area. I would prefer a wider level access area so that a person using a wheelchair could pull the door open while on a level space. I come to the view that there is not enough space to do this.

On consideration, given how the appellant says the shower in the two-storey building is intended for use by wheelchair users in the 0063 yoga facility, I form the view that it would materially improve accessibility for this rere door to be automated, so that a person in a wheelchair could press a button (key-operated would be acceptable) at the foot of the ramp, for the door to open automatically and thereby materially ease access



to the rere entrance. I have drafted a **condition** in this regard which An Bord might consider including in any grant of a DAC for the proposals, see below.

8.1.10 I have then considered the width of the rere entrance door to this building. Taking the two proposals 0062 and 0063 separately, there is no need for the general public to access the rere door. However, taking the two proposals together, as the applicant/appellant wants, a person in a wheelchair wishing to use the universally accessible shower facility at the back of this retail building would benefit materially from having this rere door 1000 mm wide also. In my view, it is practicable for that door to be 1000 mm wide and again, given how the applicant/appellant says the two buildings will be used in practice, I have drafted a **condition** in this regard which An Bord may wish to consider, see below.

\* **Internal circulation**

8.1.11 There are no entrance lobbies at the entrance doors.

8.1.12 The proposals in the ground storey comply with the guidance at TGD-M 2.3.3 and there is no vertical circulation in the retail area (TGD-M, 2.3.4 Vertical features.)

8.1.13 As regards the entrance to the (changed use) first floor apartment, no level access is shown. However, TGD-M 3.3.2(d) provides that *“in exceptional circumstances, where it is not practicable to provide a level entry to a dwelling, one or more steps may be used. This may arise where there is insufficient space between the point of access and the entrance of the dwelling to provide a suitable level landing because of the need to conform to the existing building line or where the entrance storey does not contain at least one habitable room.”*

The proposed ground storey has no habitable room: nothing in fact, except a small store. In my view, the proposals comply with the guidance.

8.1.14 The stairs accessing the apartment is not dimensioned but it is clear that it does not comply with the guidance at TGD-M 3.3.2.2, Vertical circulation within a dwelling:- *“Where there is no habitable room at the entry level, the stairway providing access to the storey containing the main living room should comply with the following: (a) It should have a minimum unobstructed width of not less than 900 mm between handrails; (b) The rise of a flight between landings should be not more than 1800 mm .... ”*

It is clearly not satisfactory that the stairs to the first floor apartment has a long rise on its flight, because this is not a universally accessible stairs. The appellant submits that the proposals are what is practicable.

The issue of the rise of the stairs flights between landings in premises being converted, whether to residential use or otherwise, has been considered in other Bord appeals. See section 10 below. In those other appeals, An Bord accepted the inspector’s recommendation that, on balance, adequate provision to access the building was made, having regard to the pre-existing use, the extent of universal access which might

reasonably be anticipated, and whether the proposed changed use was likely to involve materially more intensive use by people who would need to use such a stairs.

In my view, the proposed change of use of the first floor from the previous “office with a non-compliant stairs” to an “apartment with the same non-compliant stairs” involves no new or greater contravention of the requirements of the regulations, and that this is not a reason to refuse the DAC sought.

\* **Provision of sanitary and other facilities**

8.1.15 To comply with the guidance in TGD-M section 3.4, Sanitary facilities for dwellings, an accessible WC should be provided in the apartment. None is shown. The bathroom shown is in my view capable of being modified to comply with TGD-M paragraph 3.4.2. I recommend that a **condition** to this effect be inserted in any grant of a DAC which An Bord make, see below. In making this recommendation I am aware that it is very difficult indeed for a person in a wheelchair to access the first floor apartment. But I form the view that an accessible WC is easily provided and that in certain circumstances this will be of material advantage to apartment users, notwithstanding the difficult of access up the stairs.

8.1.16 The report which accompanied the application/appeal undertakes at “3.1.2 *Building Services*” as regards the ground floor retail space that “*switches, outlets and controls will be provided to be in conformance with the guidance set out in TGD Part M Section [1.5.7] and [2.5.7] and diagram 30.*” In my view, compliance with that guidance is readily achievable within the proposed plans and this is satisfactory.

This is silent on new switches, outlets and controls in the apartment. I see no difficulty with the appellant ensuring compliance with the guidance in this regard. I recommend that a **condition** requiring compliance of new switches and sockets in the apartment comply with TGD-M section 3.5.2. be inserted in any grant of a DAC which An Bord make.

8.1.17 As regards accessible sanitary facilities in the ground storey retail unit:-

Half of the proposed ground storey extension to the rere of the existing and to be subdivided retail units is comprised of an accessible “disabled unisex wc and changing with wet room type shower”. The design of this extension should comply with guidance as regards a new building. Two issues arise:- (a) the *level* of provision (b) the *size* and (c) the *quality* of the provision.

TGD-M diagram 21 shows “an example of a shower room incorporating a corner wc for independent use” sized at 2700x2500 mm. That diagram, however, does *not* incorporate a changing bench; diagram 25 shows a changing room, but *not* a wc.

Having regard to the size and use of the premises; and having regard to the principle that provision for people with disabilities is to be at the same level as for able-bodied people:- in my view, the level of provision complies with the guidance.

As regards the *size* of this room, at 2870x3600 mm this in my view is adequate to incorporate both accessible sanitary, shower and changing facilities.

As regards the *quality* of the provision, TGD-M diagram 21 shows seats, towel rails, grab rails and more to a level of detail not provided as part of the application/appeal. The report which accompanied the application undertakes (4.1.0, page 15) that “the staff disabled wc is wheelchair accessible, which incorporates a washbasin and is in accordance with diagram 12 of TGD-M 2009”. There is no 2009 edition of TGD-M. Diagram 12 of TGD-M 2010 shows corridor widths.

In my view, the proposals are capable of being developed to provide accessible sanitary, shower and changing facilities. The BCA arrived at a similar view, inserting a condition that the wheelchair accessible WC and shower room to be per TGD s.1.4.8 and diagram 21. I recommend that a **condition** be inserted in any DAC An Bord grant, see below.

8.1.18 As regards refreshment facilities, TGD-M gives guidance at section 1.5.5 and in diagram 28 for “*Provision for a wheelchair user in a typical shared self service canteen*”. I have considered the BCA’s condition 10. In my view, the kitchen proposed at the rere of the proposed extension complies with the TGD guidance. I have considered whether the door shown might better open outwards to the corridor. Diagram 28 is silent in this regard. On balance, having regard to the width of the corridor outside, I think matters are better left as proposed.

8.1.19 As regards aids to communication, the report which accompanies the application undertakes that these will conform to TGD-M s.1.6.2. In my view, such compliance is also readily achievable within the proposed plans and this, too, is satisfactory. The report accompanying the application gives specific detail on a Public Address system to link this building and the proposed single-storey converted yoga space (0063).

## **9 RELEVANT HISTORY/CASES**

Neither the BCA nor the appellant have adduced any specific building control history relevant to this case. However, two determined appeals have considered the issue of the design of a staircase in a materially altered / change of use DAC application.

9.1 An Bord DAC appeal ref no.:- DS 29.D DS0040, 93A Sandymount Road, Sandymount, Dublin 4, involved a proposal for part change of use of an existing building, from use as an Office to use as a Day-care Centre. Much of the dispute, where the BCA refused a DAC, was about the design of an existing staircase.

In that case, An Bord overturned the decision of the BCA to refuse a DAC and granted a DAC subject to two conditions, one of which read-

*The new staircase shall be provided as per TGD-M (2010) section 2.3.4.3 except that the unobstructed width between handrails shall be as wide as practicable.*

9.2 An Bord DAC appeal ref no.:- 06.D DS0058, 6 Main Street, Lucan, Co. Dublin, involved a proposals to convert the first and second storeys of a small existing three storey office building into two 1-bedroom apartments. The only matter in dispute between the appellant and the BCA was the compliance of the pre-existing staircase with the relevant requirements of the building regulations in the proposed new circumstances.

In that case also, An Bord overturned the decision of the BCA to refuse a DAC and granted a DAC subject to one condition, which read-

*Having regard to the nature and layout of the building and proposed works and use, to the impracticability of altering the width of the stairs to achieve compliance with the width and handrail provisions set out in TGD-M (2010) S.1.3.4.3, to the compliance otherwise of the proposed works and use with the guidance set out in TGD-M (2010), to the submissions lodged 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 the proposed works and use would achieve an adequate level of access and use that would otherwise comply with the requirements of Part M of the Second Schedule of the Building Regulations 1997 to 2017.*

## **10 DISPENSATIONS AND RELAXATIONS FROM REQUIREMENTS**

Neither the BCA nor the appellant have referred to any dispensations from, or relaxations of, the requirements of the building regulations which have been granted in respect of or which might be relevant to the proposals. Accordingly, the provisions of art. 39(b) of the Building Control Regulations (as amended) do not come into consideration.

## **11 ASSESSMENT AND RECOMMENDATIONS**

### **11.1 Description of the proposals assessed**

Given the lack of clarity in the application and in the BCA description, An Bord may wish to consider altering the description of the proposals from the BCA's generic "Material alterations, material change of use and an extension to a building".

The proposals which I have assessed are in respect of:- "A ground-storey extension of area 41 sq m to an existing two-storey building, and material alterations to the existing ground floor of 76 sq m, all in retail use; and a material change of use from office to residential use and material alterations to the existing first storey, of area 85 sq m."

### **11.2 Summary of my views**

In accordance with art. 39(a) of the Building Control Regulations (as amended), I have restricted my assessment of this appeal to considering the extent to which the design complies with the requirements of Part M of the Second Schedule to the Building Regulations.

In reviewing this application and these conditions I have considered (i) the requirements of Part M of the building regulations (ii) the content of the 2010 edition of TGD-M. In this regard I consider that the guidance on "practicability" in existing buildings in the introductory sections of the TGD, and also the detail guidance on existing buildings in the design sections of the TGD, are relevant.

On considering the application and appeal, I have formed the view that if the proposals are modified in accordance with the conditions in the following section, they would, if constructed in accordance with the plans, calculations, specifications

and particulars submitted, comply with the requirements of Part M of the Second Schedule to the Building Regulations 1997 to 2017.

### **11.3 Recommendation**

I recommend that An Bórd allow this appeal and grant this Disability Access Certificate for the proposals therein, subject to conditions as follow.

	<b>Condition</b>	<b>Reason</b>
1	The clear unobstructed width of the two front and one rere entrance doors to the ground floor retail units to be 1000 mm or greater.	To facilitate universal access to the two retail units in compliance with building regulation requirement M1.
2	The entrance door to the rere of the units to be of accessible power-operated type in accordance with the guidance at section 1.2.4.3 of the 2010 edition of the technical guidance document to Part M of the building regulations.	To facilitate universal access to the rere entrance of the retail units in compliance with building regulation requirement M1.
3	The layout of the bathroom in the first floor apartment to be modified to provide an accessible WC in accordance with the guidance at section 3.4.2 of the 2010 edition of the technical guidance document to Part M of the building regulations.	To facilitate universal use of the building in compliance with building regulation requirement M1.
4	The switches and sockets in the first floor apartment to be installed in accordance with the guidance at section 3.5.2 of the 2010 edition of the technical guidance document to Part M of the building regulations.	To facilitate universal use of the building in compliance with building regulation requirement M1.
5	The ground floor disabled wc, changing and shower area to be provided with accessible sanitary, shower and changing fittings and accessories as shown in diagram 21 of the 2010 edition of the technical guidance document to Part M of the building regulations.	To facilitate universal use of the building in compliance with building regulation requirement M1.

E. O Cofaigh Arkitekt MSA HFAIA  
12 January 2018