

## **Building Regulations (Northern Ireland) 2000 (as amended)**

### **Appeal against a Rejection of Plans**

The following is a summary of the Department's determination of an appeal against a rejection of plans made under Article 17 of the Building Regulations (Northern Ireland) Order 1979 (as amended).

### **Appeal AP10/10 – Regulation R2 (Access and use) as applied by Regulation A7 (Application to alterations and extensions)**

#### **The proposed work**

The appellant is proposing to fit-out and existing unit as a restaurant.

#### **The council's decision**

The District Council's Notice of Rejection dated 4<sup>th</sup> March 2010 explains that its decision is based on a contravention of Part R of the Building Regulations (NI) 2000 (as amended). The District Council's reason for rejection is given as follows –

#### ***“R2 Access and use***

*A serving counter or bar counter shall have not less than one section of its working surface at a height of 850 mm above floor level for a length of not less than 1500 mm.”*

In response to the Department's request for representations the District Council's letter of 7<sup>th</sup> May 2010 includes the following –

*“The access statements submitted discusses the procedures staff are trained to follow for any customer who is identified in need of assistance. The advantage of the lowered counter facility is not limited to those identified as being in need.... We would also be of the opinion that a lowered counter does not substitute the need to have such a health and safety policy but likewise the policy does not negate the need for a lowered counter which should compliment this policy.*

*There are no practical or space constraints with regard to the provision of a lowered counter.*

*The restaurant will have a high usage from members of the public.*

*There are no financial implications with regard to the provision of such a facility.*

*In summary we are of the opinion that the restaurant does not offer reasonable provision in relation to access to its self service food and beverages and that the health and safety policy to deal with identified risks is not an appropriate substitution.”*

## **The appellant's grounds for the appeal**

The following grounds for appeal are extracted from the appellant's letter–

*"In our view the plans and supporting documents submitted to the Council comply with the Building Regulations.*

*In our view the plans and supporting documentation submitted to the council clearly demonstrate that the requirements of the regulations can be met by other means. i.e. Table Service and sign informing customers of same.*

*It is difficult to manoeuvre a wheelchair or use a walking aid while carrying a tray of food and drink. It is also dangerous and could result in the scalding of the disabled person or other customers etc. The provision of a lowered section of counter to facilitate this event (and other associated risks) in our view is nonsensical.*

In a further letter the appellant added the following to their grounds for appeal –

*"A lowered section of counter as described in Technical Booklet Section 5, Paragraph 5.10 is not a comfortable or natural height for the vast majority of restaurant staff to work at.*

*If a lowered section of counter were installed at the proposed restaurant it would take up over 30% of the counter and 2 of the proposed 6 tills.*

*The proposed restaurant is a small fast food restaurant with limited space for a kitchen, counter, seating, queuing etc. It is therefore neither practical or financially viable to reduce the size of the kitchen, seating or queuing area to accommodate a longer counter"*

The appellant also submitted a policy statement, signed by the Operations Director, showing the company's commitment to provide a "high quality, accessible and inclusive fast food service...".

## **Regulation R2 Access and use**

Regulation R2, as applied in the circumstances of the work by Regulation A7, states –

*Reasonable provision shall be made for people to have access to, into, within and to use a building and its facilities:*

*Provided that in a dwelling this requirement shall be limited to the entrance storey or, where that storey contains no habitable room, to the principal storey.*

## **Department's consideration of the appeal**

In coming to a decision on this appeal, the Department considered –

- the application of regulation A7 (Application to alterations and extensions – therefore the application of Part R to the proposals;
- the cases submitted by both the district council and the appellant;

- the plans indicating the development proposals;

### **Conclusion**

Regulation R2 requires reasonable provision for people to have access to, into, within and to use a building and its facilities. The regulation is focused on all people and not solely disabled people.

In the circumstances of this case which are –

- there is no self-selection service along the counter;
- at no time is a customer given the opportunity to handle the food/drink prior to it being placed on the tray by their server;
- food is not consumed at the counter;
- the counter has a working surface 950 mm high thus allowing visual contact (with both those serving and the counter surface) and payment exchanges to be made; and
- a policy statement, to aid those who may require assistance, supports the service offered at the counter,

a seated person, a person standing who is short in stature, a younger person etc. will not be disadvantaged in their use of this counter.

### **Decision**

The detailed examination of the plans and consideration of this case determined that the drawings demonstrated that reasonable provision for people to use a building and its facilities (specifically the servery counter) had been made.