

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 AP12/10 – Regulation R2 (Access and use) as applied by Regulation A7 (Application to alterations and extensions)

The proposed works

The appellant is proposing to carry out refurbishment work, including alterations, to the first floor of an existing building (used as an entertainment complex).

The council's decision

The District Council's Notice of Rejection dated 16th June 2010 explains that its decision is based on a contravention of Part R of the Building Regulations (NI) 2000 (as amended). It determined that the proposed works would contravene the Building Regulations as follows –

“R2 - Reasonable provision shall be made for people to have access to, into within and to use a building and its facilities.

This regulation has not been complied with in respect of the use of the bar counters which do not have sections in each bar with a 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, the District Council declined to make representations on the reasoning for the rejection of the plans.

The appellant's grounds for the appeal

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

“The work includes –

- general decoration
- new flooring
- new bar
- refurbishment of DJ box
- new level access seating bays

It would be unreasonable and dangerous for us to install these sections of dropped counters.

Crowd swell would result in customers being pushed over the top of these dropped counters.

Having dropped counters would facilitate attacks on bar staff.

Low intensity lighting could result in customers dropping bottles at this counter resulting in glass breakage and possible injury.

Our care policy is a safer and user friendly way of catering for disabled customers.”

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 case submitted by 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 –

- this is a building to which members of the general public are admitted;
- the building has accessible features;
- customers will make purchases at the counter;
- customers have the opportunity to consume purchases at the counter;

a seated person or a person standing who is short in stature will be disadvantaged in their use of this counter if it is constructed to the design height of 1175 mm.

Decision

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