

## **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 AP001/09 - Regulation R2: Access and use (specifically provision of suitable access to a shop)**

#### **The proposed work**

The appellant is proposing to change the use of the ground floor flat within a block of flats, to a shop. The works consist of both internal and external alterations.

The plans show that, on completion, the proposed accommodation will provide reception area, consultation rooms, stores, workshops and ancillary areas.

#### **Regulation R2: Access and use**

Regulation R2, as applied in the circumstances of this work by Regulation A7: Application to alterations and extensions and Regulation A9: Application to material change of use, 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."*

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

The District Council rejected the plans as it believed the structural alterations to the entrance did not comply with the requirements of Part R of the Building regulations.

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

The appellant, in support of the appeal, provided the following information –

- a letter of explanation regarding the type and nature of the business
- an Access Statement in support of the appeal – this Access Statement was updated from that provided as part of the submission of plans to the district council. It explained the access issues of the design and identified the environmental constraints.

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

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

- the cases submitted by both the district council and the appellant and reviewed the development proposals
- the use of the building
- the users who would need access to the building

### **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 building the Department's view is –

- certain sections of society will be disadvantaged in their use of the building if the proposed shop does not have suitable access
- accessibility for mobility impaired people, including wheelchair users, within the circumstances of this case, may reasonably be expected to be provided
- the alternative entrance suggested by the Access Statement cannot be deemed as a suitable alternative accessible entrance

### **Decision**

In relation to access to the building, the drawings demonstrated that there was a contravention of Regulation R2 therefore the Department upheld the decision of the district council to reject the plans.