

Building Regulations (Northern Ireland) 2000 (as amended)

Appeal against the issue of a contravention notice

The following is a summary of the Department's determination of an appeal against the issue of a contravention notice made under Article 18B of the Building Regulations (Northern Ireland) Order 1979 (as amended).

Appeal AP02/10 – Regulation R2: Access and use (specifically provision of a lift and suitable sanitary accommodation)

The work

The building is a recently completed shell unit in a business park and is presently being fitted out to be a public building.

Regulation R2 Access and use

Regulation R2, as applied in the circumstances of the 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, under Article 18 of the Building Regulations (Northern Ireland) Order 1979 (as amended), served a Contravention Notice as it believed that work to which Building Regulations apply, contravened those regulations.

"The work has not been executed in accordance with the approved plans and the requirements of Technical Booklet R which is the deemed-to-satisfy requirements for the Building Regulations. The following contraventions of the Building Regulations exist:-

- 1. Provide vertical circulation to the first floor level by means of a passenger lift complying with the provisions of paragraphs 4.21 to 4.32 of Technical Booklet R and as indicated on the approved plans.*
- 2. The sanitary accommodation at first floor level shall be suitable for wheelchair users and fitted out as per Diagram 6.1 of Technical Booklet R."*

The appellant's grounds for the appeal

Contravention #1

The appellant, to support the case that the proposals meet the requirements of Regulation R2, provided the following information -

“Design standard followed:

Approved document technical booklet R (Buildings other than dwellings).

Facilities in the building:

All key services have been located on the ground floor so that all users have access to them which includes a disabled toilet, kitchen, staff room and office all of which are fully disabled compliant in accordance with technical booklet R.

All services that are contained on the first floor have been provided or can also be provided on the ground floor and have been divided up into the 5 different age groups for ease of organisation to run the nursery effectively.

Access to the first floor has been provided via an ambulant disabled stair and was part of the existing building shell. It is located in the main reception/entrance area and is central to all rooms and has been upgraded to comply with the relevant provisions outlined in technical booklets H & R.

Access to the external play area is located on the ground floor via a passageway which runs along the left hand side of the stairs. All facilities which are located on this level have taken this area into account. Access to this area is fully disabled compliant in accordance with technical booklet R.”

Contravention #2

“A disabled toilet has been provided on the ground floor and was part of the original building shell but it has been upgraded to comply with Diagram 6.1 of technical booklet R.

3 No. children’s sized toilet cubicles have been added at first floor level.”

Department’s consideration of the appeal

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

- Regulation A7: Application to alterations and extensions and Regulation A9: Application to material change of use – therefore the application of Part R to the proposals
- the cases submitted by both the district council and the appellant
- the information gained from the site inspection

Conclusion

Contravention #1

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 this case –

- There are no practical difficulties associated with the provision of a lifting device.

- There are no internal space restrictions associated with the provision of a lifting device.
- The installation of a lifting device is not disproportionate to the accommodation provided.
- By installing a lifting device in this building there will be benefit to public/staff/others requiring access.

Contravention #2

In this case as the sanitary accommodation is provided specifically for children it would not be reasonable to require sanitary accommodation suitable for all to use.

Decision

The detailed examination and consideration of this case established that –

Contravention #1 - vertical circulation within the building by means of a stair does not satisfy the requirements of Regulation R2 and therefore the Department confirmed the Contravention Notice in relation to this issue.

Contravention #2 - as the sanitary accommodation on the first floor is provided specifically for children it would not be reasonable to require sanitary accommodation suitable for all to use therefore the Department instructed the Council to withdraw the notice in relation to this issue.

