

# **Part M**

## **Dispensations & Existing Buildings**

**Date** 20<sup>th</sup> June 2023  
**Location** Radisson Blu, Athlone  
**Presenter** Martin Moore BCO/ACFO

## Points to be Discussed

### *Pop Quiz*

- *What is a Dispensation / Relaxation*
- *Requirement M1, M2, M3.....*
- *Prima Facie Compliance*
- *Requirement Vs. Guidance*
- *BC Circular BC02 of 1992*
- *Review of Dispensations 2021 – 2022*
- *Existing Buildings Relevant Guidance*
- *Existing Entrances, Corridors, Stairs, WC's...*

### *Pop Quiz – take 2*

- *Summary*

## Pop Quiz

***Small office building with 2 rooms upstairs (occupancy 10 max) – existing building***

***Genuinely and for good reason the stairs cannot provide 1200mm width as per paragraph 1.3.4.3(a) of TGD M 2010. At best there is only 900mm in width.***

***Option 1: Apply for Dispensation from Paragraph 1.3.4.3(a) of TGD M 2010,***

***Option 2: Apply for Dispensation from Part M of the Building Regulations,***

***Option 3: Apply for Relaxation from Part M of the Building Regulations,***

***Option 4: Deal with issue as part of DAC application.***

***SLIDO - Response***

## **Dispensation / Relaxation**

*What actually is a Dispensation or Relaxation ?*

## What is a Dispensation or Relaxation

*Article 4 of the Building Control Act 1990 - 2014*

Dispensation or relaxation of building regulations.

- 4.** — (1) Subject to the provisions of this section, a building control authority may, if it considers it reasonable having regard to all the circumstances of the case, grant a dispensation from, or a relaxation of, any requirement of building regulations in respect of buildings or works which are situated within the functional area of the building control authority and—

*D/R are from the REQUIREMENTS of the Building Regulations*

## What is a Dispensation or Relaxation

### *Building Regulations*

#### **Dispensation or relaxation.**

14. Every application for a dispensation from, or a relaxation of, any requirement of these Regulations shall be in the form set out in the Fourth Schedule.

### *Application Form*

6. Requirement(s) or Building Regulations concerned

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7. Grounds for the application

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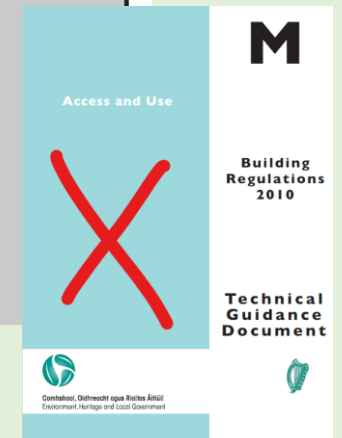
# What are the REQUIREMENTS of the Building Regulations ?

## Part M – The Requirement

Part M of the Second Schedule to the Building Regulations, (as amended), provides as follows:

- |                         |    |   |
|-------------------------|----|---|
| Access and Use          | M1 | Adequate provision shall be made for people to access and use a building, its facilities and its environs.  |
| Application of the Part | M2 | Adequate provision shall be made for people to approach and access an extension to a building.  |
|                         | 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. |

*The “Requirements” are in the Grey boxes. Everything else in the TGD are Guidance only.*



# “Prima Facie” Compliance

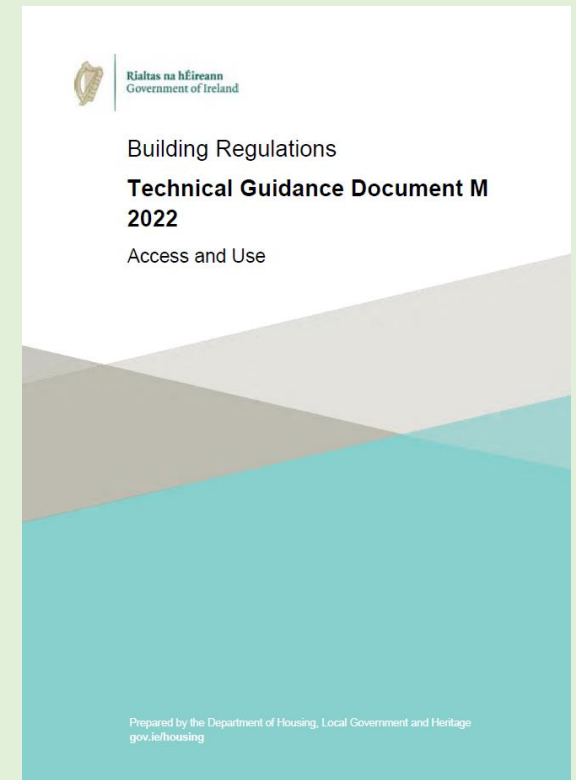
## The Guidance

The materials, methods of construction, standards and other specifications (including technical specifications) which are referred to in this document are those which are likely to be suitable for the purposes of the Regulations.

Where works are carried out in accordance with the guidance in this document, this will, prima facie, indicate compliance with Part M of the Second Schedule to the Building Regulations (as amended). However, the adoption of an approach other than that outlined in the guidance is not precluded provided that the relevant requirements of the Regulations are complied with.

Those involved in the design and construction of a building may be required by the relevant building control authority to provide such evidence as is necessary to establish that the requirements of the Building Regulations are being complied with.

*Alternative Approaches  
Compensating Measures  
Professional Judgement*





## The Requirement Vs. The Guidance

### *Paragraph 0.2 of TGD M 2022*

#### **0.2 The Requirements**

In order to satisfy the requirements of Part M, all buildings should be designed and constructed so that:

- (a) People can safely and independently approach, gain access and use a building, its facilities and its environs, and
- (b) Elements of the building do not constitute an undue hazard for people, especially for people with vision, hearing or mobility impairments.



## The Requirement Vs. The Guidance

***Requirement M1 – Adequate provision shall be made for people to access and use a building, its facilities and its environs***

***Guidance from Paragraph 1.1.3.3 of TGD M 2022***

***“minimum clear width (between walls, upstands or kerbs) should be 1500mm”***

**If the existing gently sloped access route is 950mm wide due to site constraints...what do we do?**

**Look for a dispensation from Requirement M1?....or**

**Handle it through the DAC process and receive a CERTIFIED design.**

## Origins of Dispensation / Relaxation

*Building Control Circular*

*BC02 of 1992*

## Origins of Dispensation / Relaxation

from the person concerned. This provision had originally been envisaged as operating in tandem with the type of detailed requirements which were set out in the Proposed Building Regulations published in 1984.

The redrafting of the Regulations into functional requirements (expressed in general terms and supported by Technical Guidance Documents) has radically altered the manner in which section 4 of the Act will operate. It should be noted that the power in the Act relating to relaxations and dispensations applies only to the requirements of the Regulations and does not extend to the Technical Guidance Documents which are not part of the Regulations. As previously stated, the provisions

*Initially envisaged in pre 1992 draft Building Regulations*

*Draft regulations written in prescriptive form*

*"walls must be constructed of 2 leaves of 100mm blockwork with a 100mm cavity"*

***Enacted Regulations were re written into Functional requirements***

***"Adequate provision shall ...."***

## So What happens if you grant a Dispensation from M1 ?

### Requirement M1

Access and Use

M1 Adequate provision shall be made for people to access and use a building, its facilities and its environs.

Does NOT have to

Access and Use

M1 Adequate provision ~~shall~~ be made for people to access and use a building, its facilities and its environs.

*Dispensation from Part M – does this mean the building has **inadequate provisions** for people to access and use a building, its facilities and its environs???*

## Relaxations

the Regulations. As previously stated, the provisions of the Regulations normally employ such words as "reasonable", "adequate" or "necessary". It would make little sense to relax a requirement to something which is less than reasonable, adequate or necessary, as the case may be. Building control authorities should bear in mind, however, that these terms, of their very nature, imply different levels of performance in relation to different buildings. The question of relaxing the provisions of the Regulations should, therefore, seldom arise.

*Most Requirements are stated in terms of*

- Adequate
- Reasonable
- Necessary

*By definition, any D/R of "adequate" can only be :*

*"inadequate"*

*Relaxing "adequate" is the same as dispensing with "adequate"*

*Both result in "inadequate"*

You could "Relax" Regulation 8(e) of Part L 2022 – requires boilers to be +90% efficient - could relax to 80%

## **Dispensations 2021 - 2022**

# *Review of Dispensations 2021 - 2022*

## Dispensations 2021 - 2022

### *Dispensations by Type*

- *Part B = 4*
- ***Part M = 145***
- *Part L = 34*
- *Part K = 2*

### **Part M Dispensations By Authority (31 Authorities)**

#### **Upper End**

- 4 BCA's - Granted about 101 between them (61%)
- 5 BCA's - Granted 4 - 11 each

#### **Lower End**

- 8 BCA's - Granted 2
- 7 BCA's - Only granted 1
- 7 BCA's - Granted none

***Part M being treated very differently than all other Parts of the Regulations***

***Very different approaches being take by BCA's***



## Commonly Requested Dispensations

- *Staff Use Only.....* what about adequate provision for the staff?
- *Abled Body People Only.....* what about adequate provision for able body people?
- *DAC Not Required.....* Dispensation is from the Building Regs not the Building Control Regs.
- *“Temporary” Building.....* Unless exempt under Schedule 3, why can't it comply? (worth the risk?)
- *Existing Stairs can't fully comply...* Upgrade insofar as is practicable? (Determine Adequate Provision)

## Remember the Regulations / Requirements

- |                         |    |  |
|-------------------------|----|--|
| Access and Use          | M1 | Adequate provision shall be made for people to access and use a building, its facilities and its environs.   |
| Application of the Part | M2 | Adequate provision shall be made for people to approach and access an extension to a building.   |
|                         | 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.              |
|                         | 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. |

## DAC Process Vs. Dispensations

All the previous examples could have been dealt with during the DAC process and a CERTIFIED design achieved.

“Entrance too narrow” – no reason to omit vision panels...

“Stairs rise too high” – no reason not to fix handrail, contrast etc...

“No wheelchair users within the building” – what about everyone else?



Don't throw the baby out with the bathwater

## **Part M – Existing Buildings**

# *Existing Buildings*

## Part M – Existing Buildings

*First Things First...the DAC process is not a paperwork exercise....*

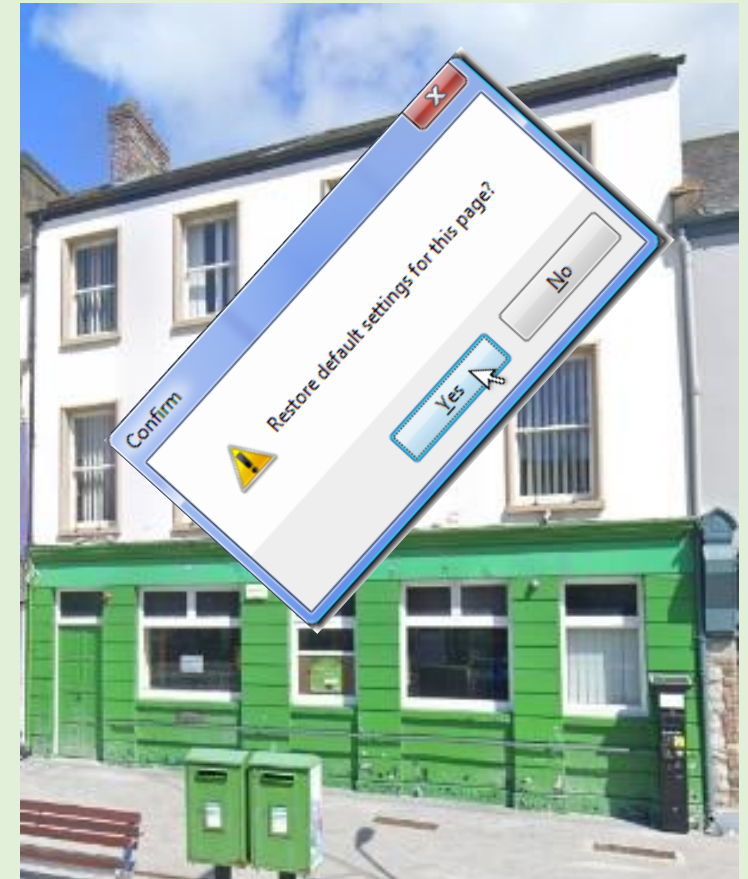
Section 2 of TGD M - fall back for individual elements *when* you cannot comply with Section 1.

### 2.2.4 Accessible Entrance Doors

The guidance in 1.2.4 should be followed except:

If Section 2 is referenced –

- Clear particular information must be provided
- Demonstrate what is “not practicable”...
- BCA must have clear details to make informed decisions...



## Part M – Existing Buildings

### *New or Greater Contravention*

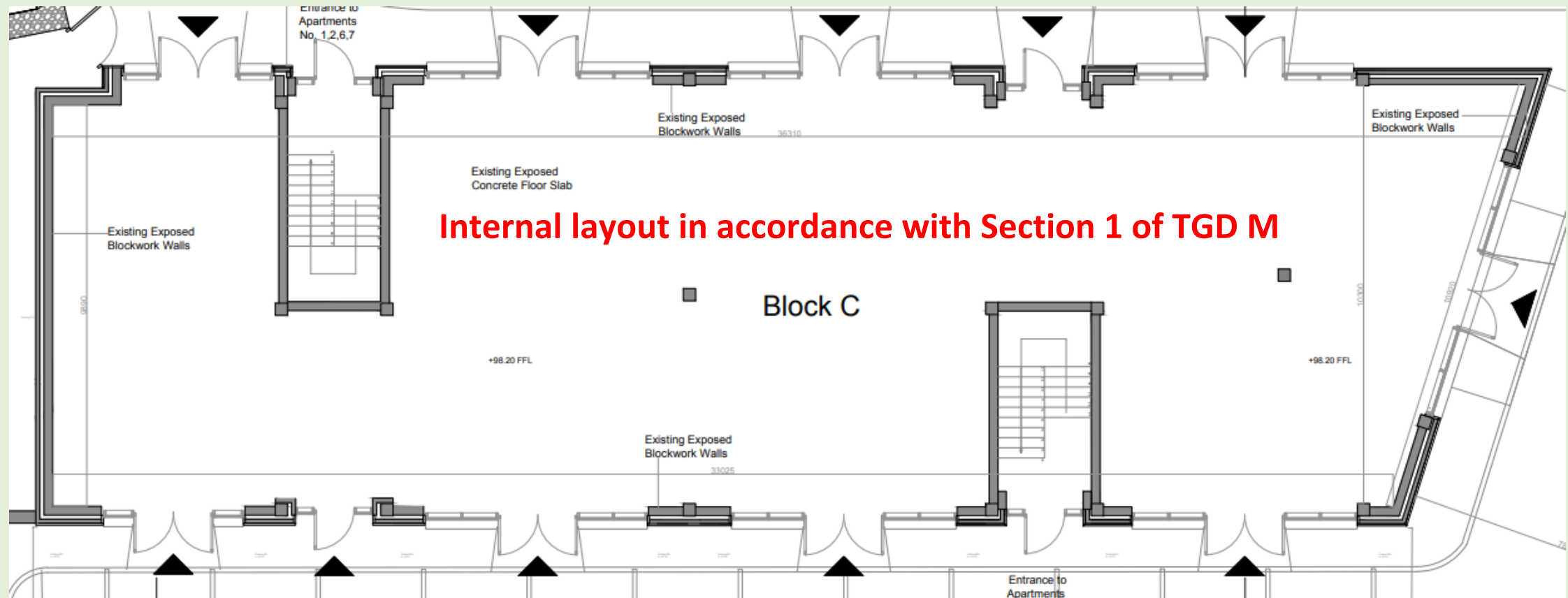
#### Article 9 – S.I. No. 497/1997 – Building Regulations

*“No works shall be carried out to a building which would cause a new or greater contravention in the building of any provision of these Regulations.”*

**Don't make the situation worse....**

# Part M – Existing Buildings

## Existing Building – Blank Canvas Internally

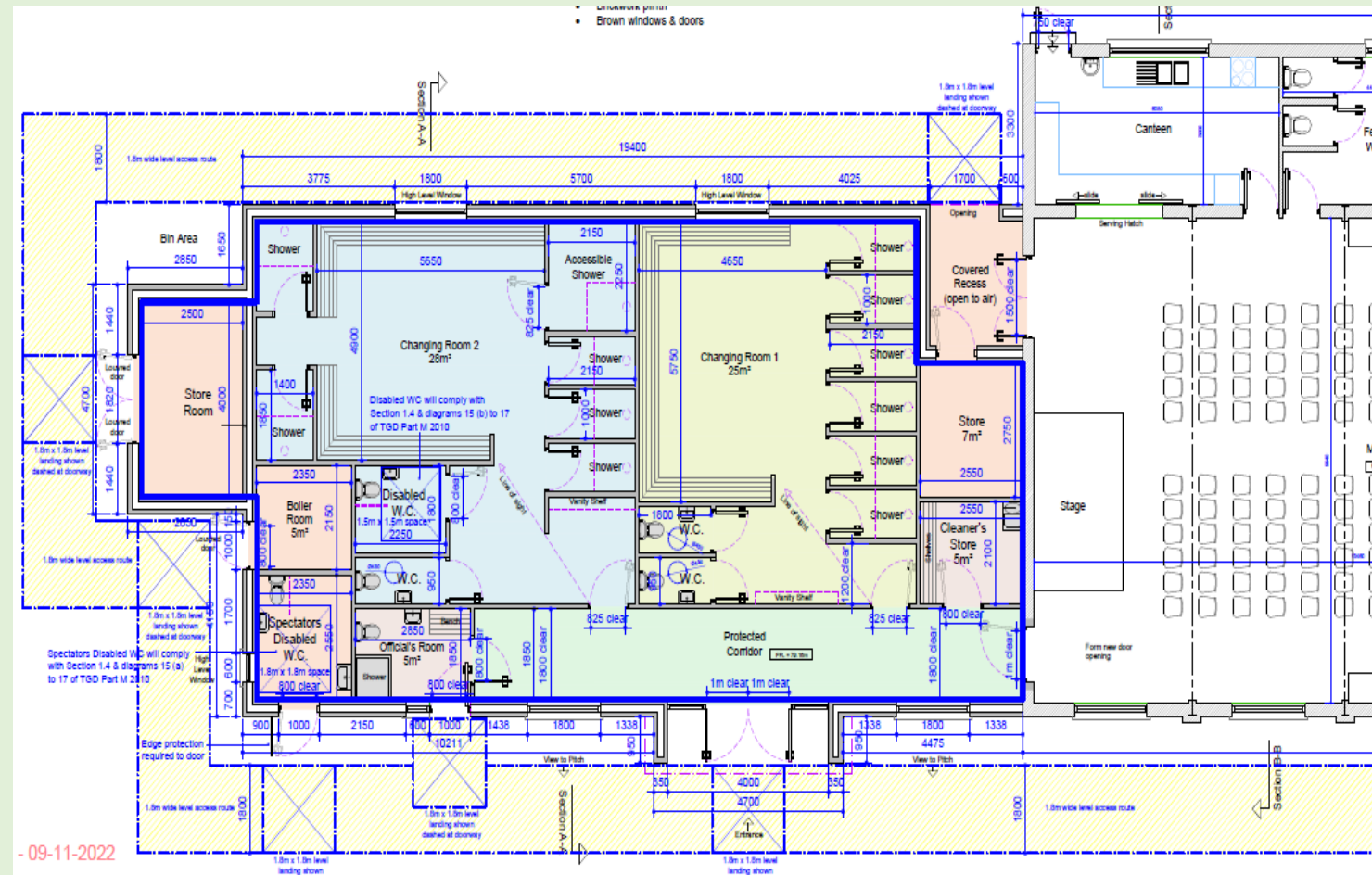


## Part M – Existing Buildings

### Extension to an Existing Building

- No new or greater contravention to the existing building
- Approach and Accessible Entrances

*New accessible entrance or ...  
upgrade existing insofar as is practicable  
provide details on practicability*



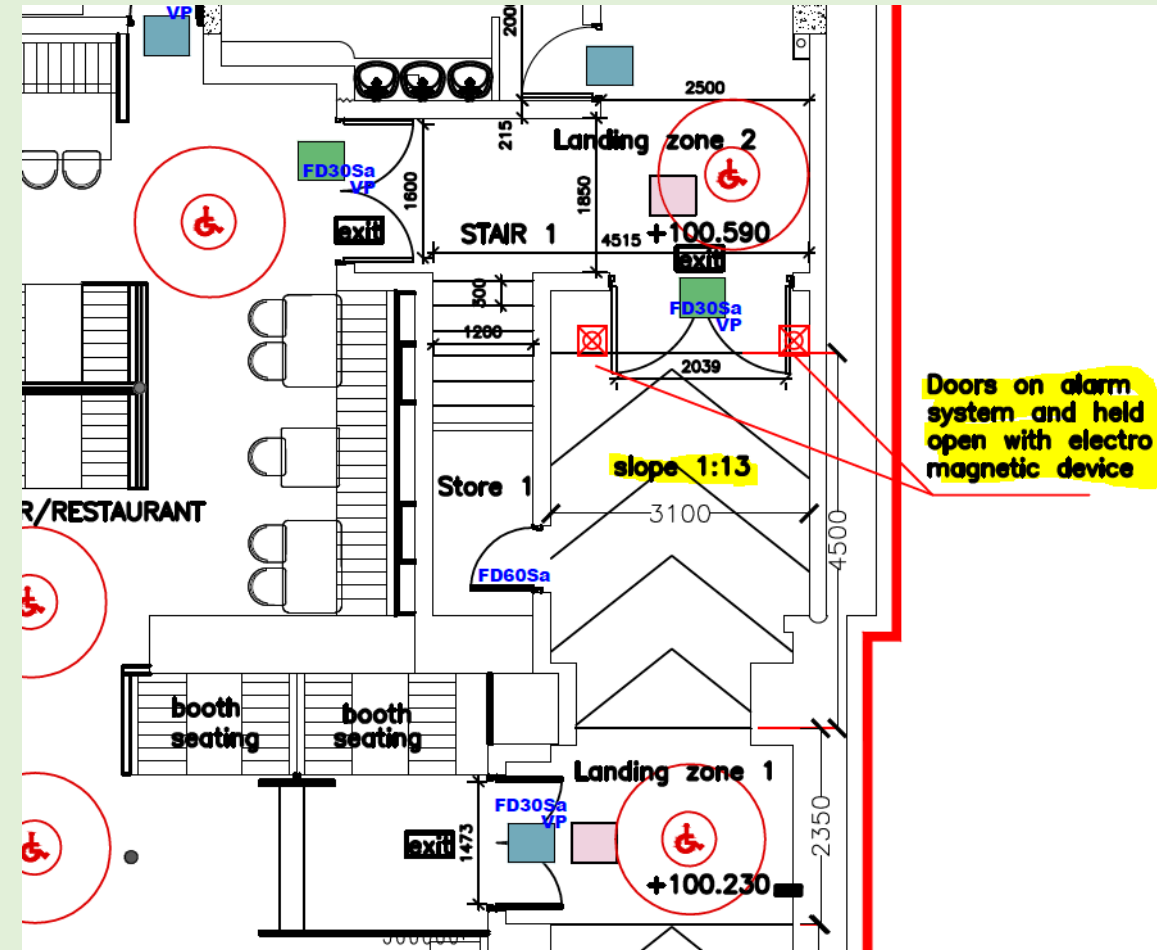


## Difficult Existing Entrance – What do we do?

*DAC for Mat. Alt. to Assembly and Recreation Building*

*Change from nightclub to restaurant*

Existing floors – difficult slopes to navigate – could not practicably provide adequate landings

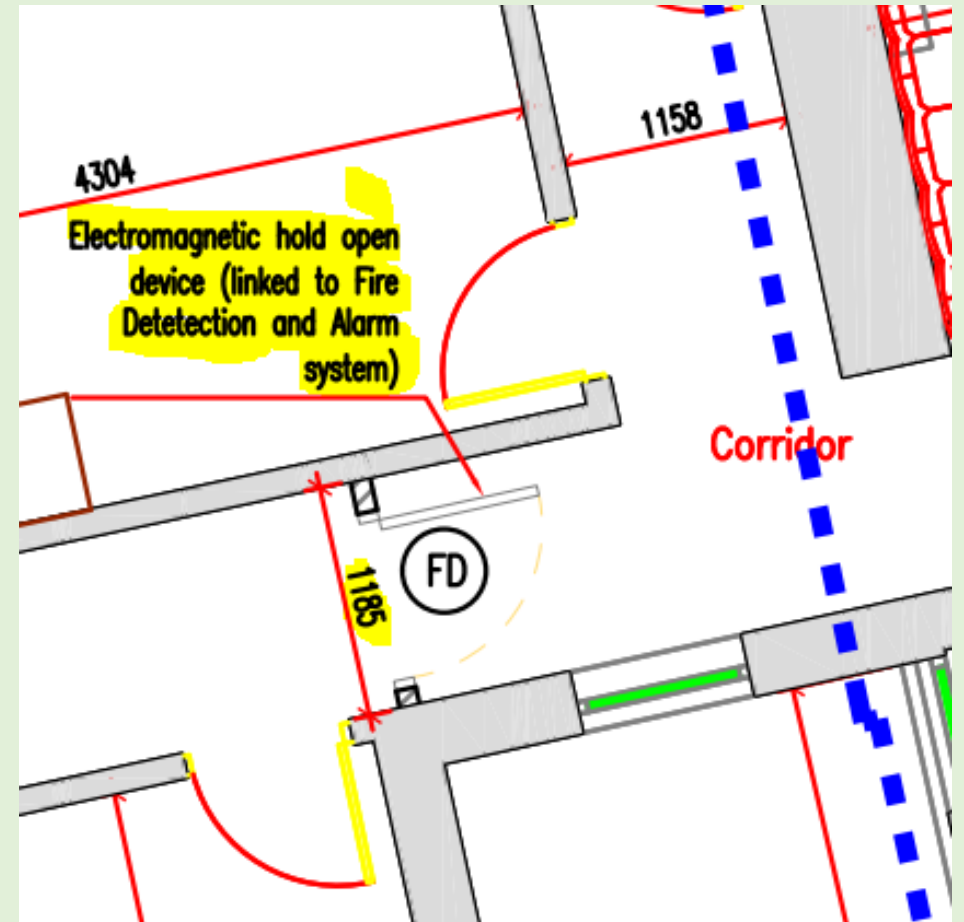


## Existing Corridors – What do we do?

*DAC for MCoU to Medical Centre from Offices*

Existing corridors below 1200mm

Certain doors not achieving 300mm leading edge



## Existing Stairs

Existing stairs to 1<sup>st</sup> floor:

- Number of non compliant features

What can we do?

1. **STOP DEVELOPMENT!**
2. **Dispensation** - “inadequate” provision of access and use
3. **DAC Process** - Come to an agreement on what is “adequate” under the circumstances

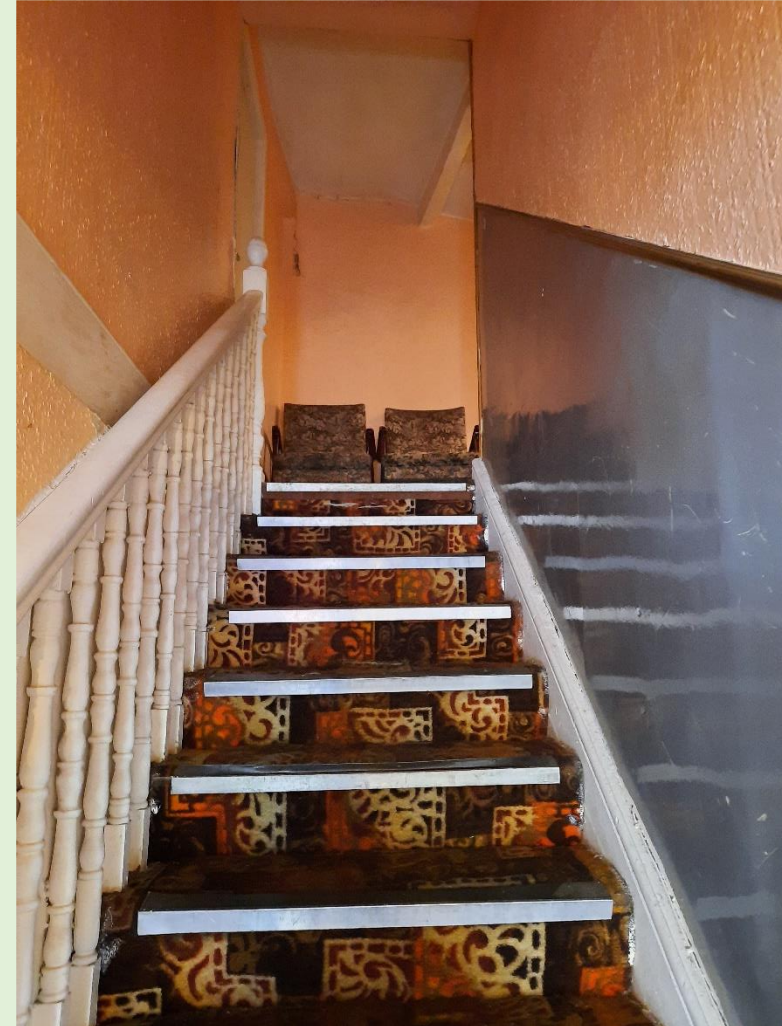


## Existing Stairs

How do we make this situation better?

- Upgrade the surface of the stairs (remove pattern)
- Upgrade the handrail,
- Add colour contrasting nosing's,
- Improve lighting levels (100 lux),
- Consider an acceptable width based on the new occupancy,
- Consider the rise and going acceptable based on number of persons likely to use it.

Is there any “New or greater Contravention”?



## Existing WC

### *Small extension to existing school – no accessible WC*

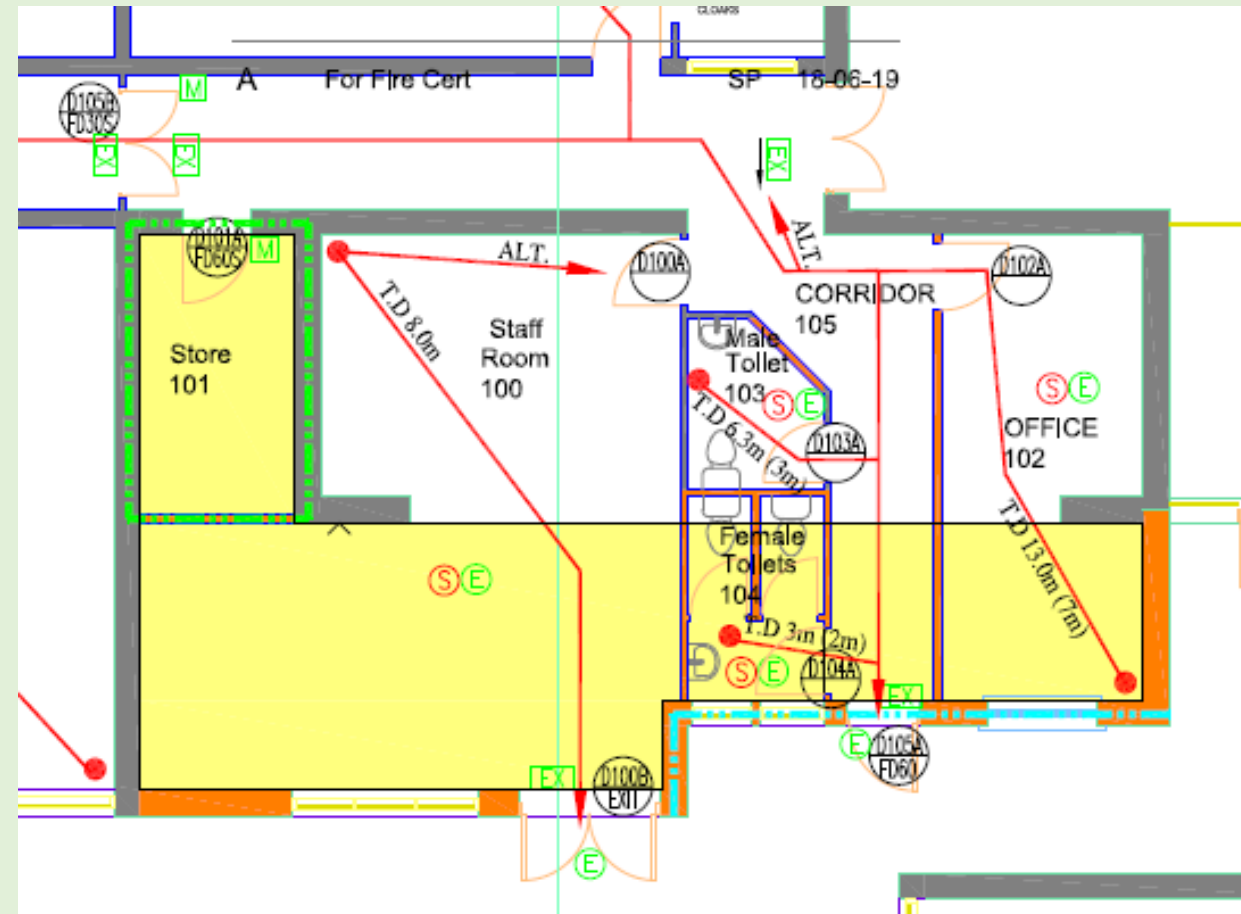
#### **Requirement M3**

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.

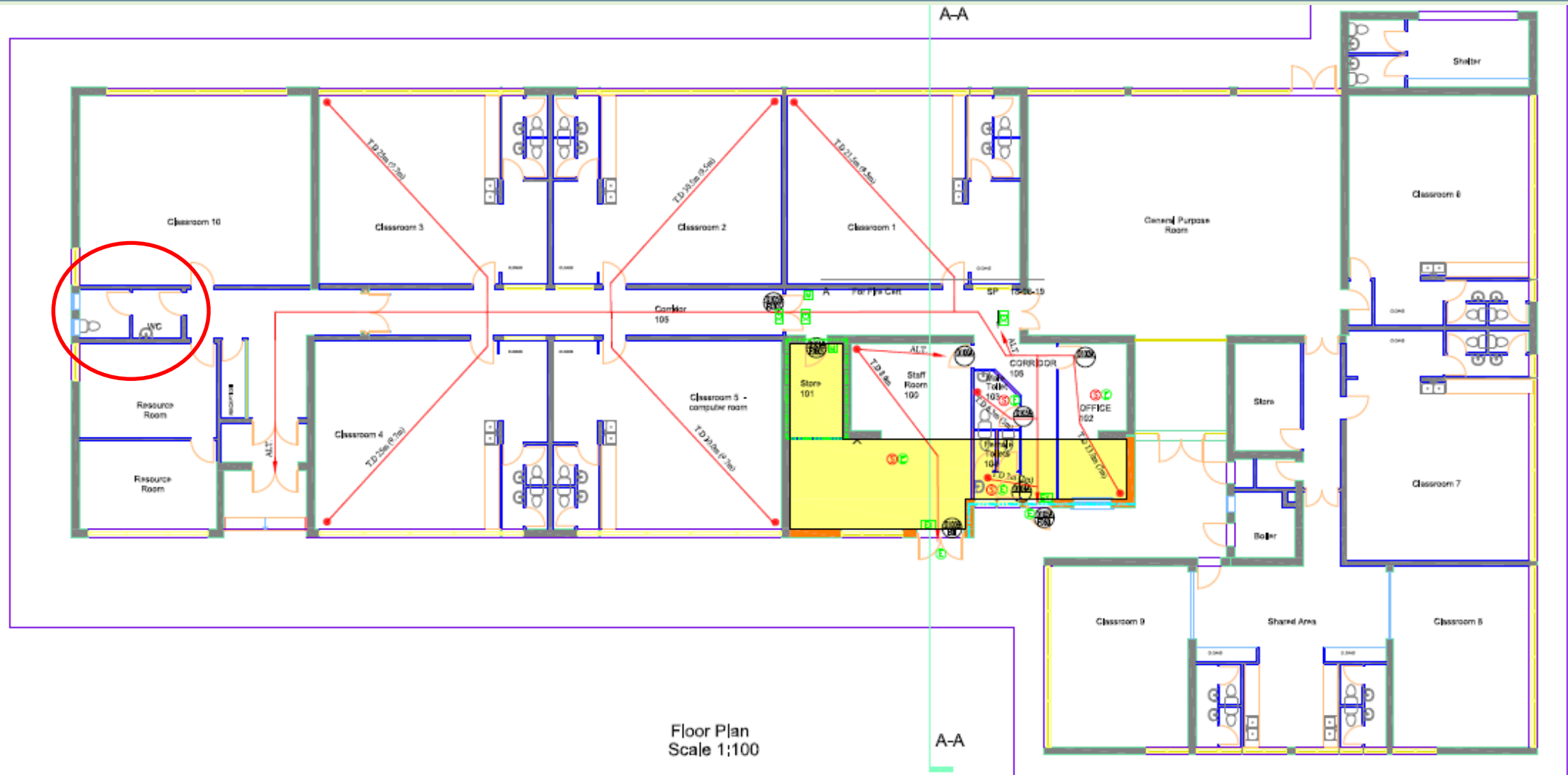
#### **Extension too small for a Diagram 15 WC**

#### **Options –**

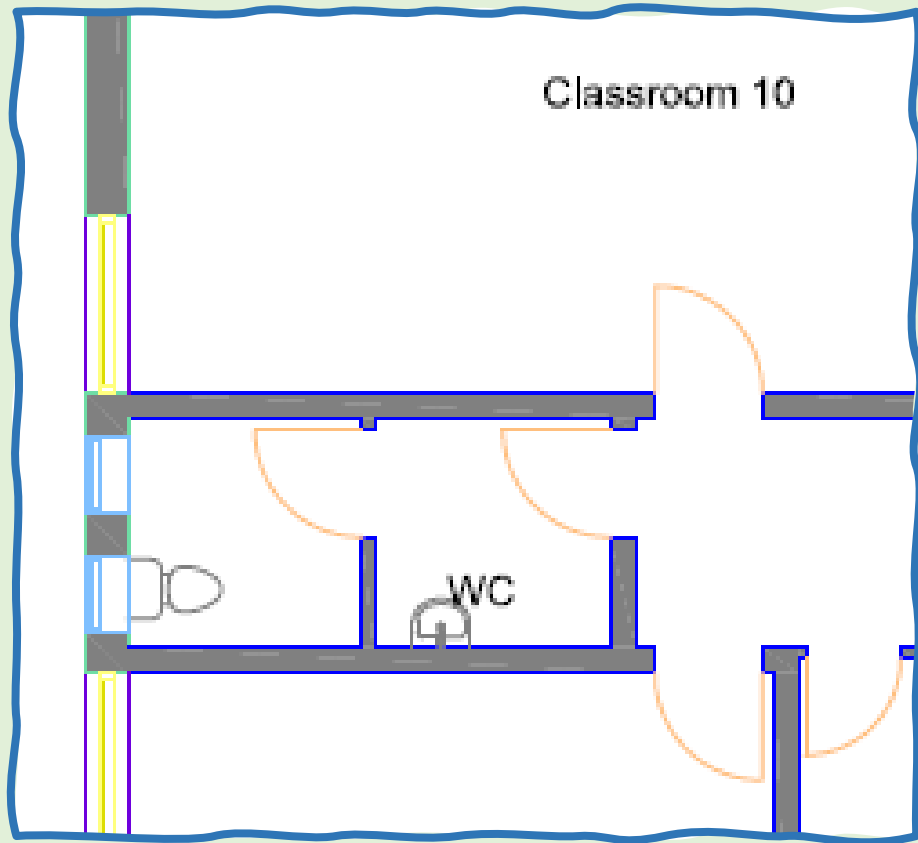
- Insist on Diagram 15 WC – which they cant give,
- Dispense with M3 Requirement,
- Agree level of compliance that is adequate



## Existing WC

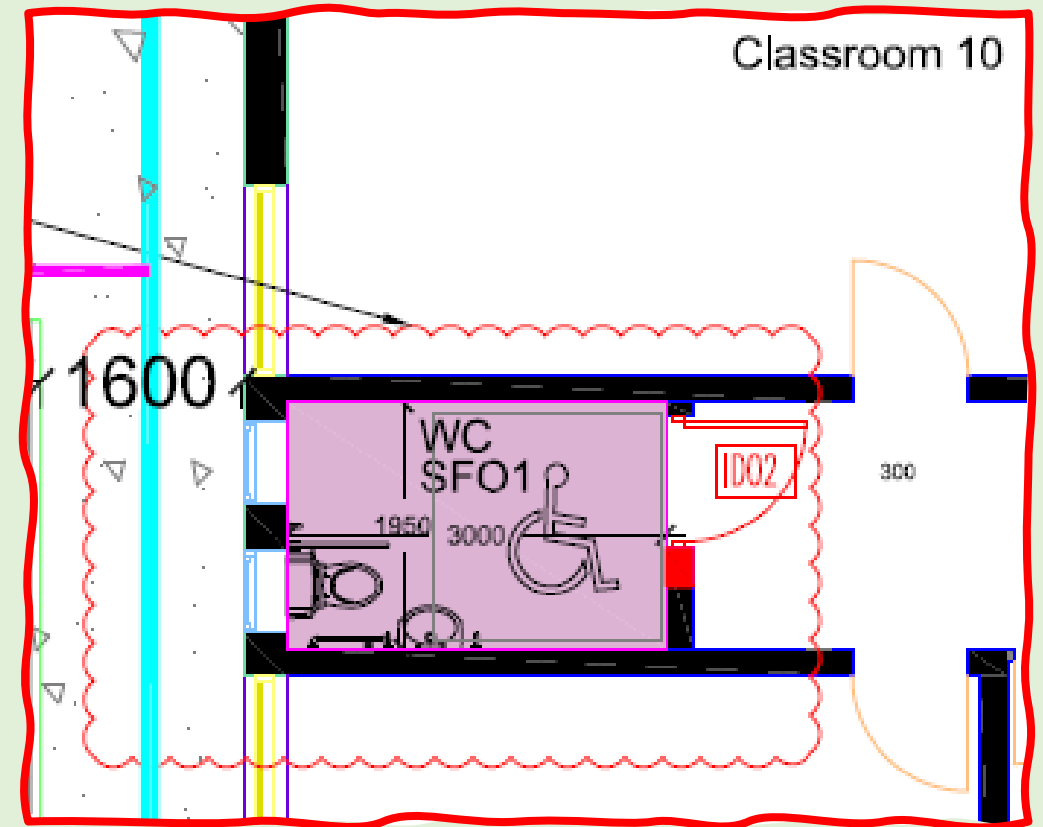


# Existing WC



Existing WC

Benefit to the whole school



WC upgraded insofar as is practicable

## Existing WC

### *Upgrading an Existing WC*

*Perhaps the room size cannot be changed*

- Rehang door to swing outward (if safe to do so),
- Replace grab rails and fixtures (if not colour contrasting),
- Fix the alarm pull chord (if in wrong position or not provided),
- Improve lighting levels,
- Improve slip resistance of floors.

Is there any “New or greater Contravention”?





## Pop Quiz – Take 2

*Small office building with 2 rooms upstairs (occupancy 10 max) – existing building*

*Genuinely and for good reason the stairs cannot provide 1200mm width as per paragraph 1.3.4.3(a) of TGD M 2010. At best there is only 900mm in width.*

- Option 1:           Apply for Dispensation from Paragraph 1.3.4.3(a) of TGD M 2010,*
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- Option 4:           Deal with issue as part of DAC application.*

*SLIDO - Response*

## Summary

- Dispensations are from the Regulations – not the Guidance
- Prima Facie Compliance and Alternative Approaches
- Building Control Circular BC02 of 1992 – Envisaged minimal use of Dispensations / Relaxations  
*“It would make little sense to relax a requirement to something which is less than reasonable, adequate or necessary..”*
- Part M being treated differently to other Parts of Building Regulations
- Existing Buildings – challenging but require professional judgement / compensating features, coming to an agreement on “adequate” provision.

Access and Use

M1 Adequate provision shall be made for people to access and use a building, its facilities and its environs.