DESIGN AND ACCESS STATEMENT – OPEN FRONTED VIEWING ROOM AND ROOF COVERED SHELTER OVERLOOKING THE ELEPHANT ENCLOSURE FOR TWYCROSS ZOO

ISSUE DATE: 19TH SEPTEMBER 2008

PROJECT

This Access Statement covers the open fronted viewing room and roof covered shelter overlooking the elephant enclosure.

PRIMARY REFERENCE STANDARDS:

THE DISABILITY DISCRIMINATION ACT 1995

THE DISABILITY DISCRIMINATION ACT 2005

BS 8300: 2001 THE DESIGN OF BUILDINGS AND THEIR APPROACHES TO MEET THE NEEDS OF DISABLED PEOPLE – A CODE OF PRACTICE

PLANNING & ACCESS FOR DISABLED PEOPLE: A GOOD PRACTICE GUIDE

APPROVED DOCUMENT TO PART M OF THE BUILDING REGULATIONS (2004)

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INTRODUCTION

Open fronted viewing room and roof covered shelter.

This application forms part of the overall renovation of the Asian elephants' enclosure at Twycross Zoo, with the objective of improving a previously unattractive area for the benefit of both the animals in our care and the public.

The external enclosure has already been upgraded to include a sanded floor which is a much better surface for the elephants. A pool provides beneficial facilities enriching their environment and improving their wellbeing.

The Zoo now wishes to enhance the footpath route for the public, providing them with opportunities to view the animals in attractive surroundings, and to feel part of the elephants' environment without actually being in the enclosure.

As part of this re-landscaping, two small covered viewing areas are proposed. They will be constructed of wood with a very naturalistic design in a simple Sri Lankan style to complement the elephant enclosure they overlook. The viewing areas will increase the educational value for visitors, and widen the overall public awareness of this important species.

This minor project will be undertaken in-house, using our own Facilities Team, as is normal for this type of work.

The Zoo has several other planning applications pending but in the view of the minor nature of this work and, we hope, the non-contentious nature of this application, we have included it separately as there is a sense of urgency as we hope to integrate these small shelters within the current planting and pathway works.

Please note that this area would be open to the general public during normal Zoo hours, but would be used by staff and special visitors out of these hours at any time.

Overall, the work (of which the viewing areas are a part) will create an area of natural beauty and be a benefit to the area.

BACKGROUND

The Disability Discrimination Act 1995 came into force in the United Kingdom on 2 December 1996. The Act was introduced with the intention of changing the way that disabled people and others viewed their place in society. This was primarily associated with changes in attitudes, and the promotion of inclusive environments, whereby an individual should have equal access to employment, goods, facilities, services, education and transport, regardless of whether or not they have a disability. The Act has been introduced progressively over time, with key dates in 1996, 1999, 2004 and 2010. In addition there have been Codes of Practice issued, and additional associated legislation has been introduced; including the Special Educational Needs and Disability Act 2001, and the Disability Discrimination (Providers of Services) (Alterations to Premises) Regulations 2001.

When the Disability Discrimination Act 1995 was first introduced, it relied on people with disabilities who considered that they had been discriminated against because of their disability to seek compensation under the provisions of the DDA through the Magistrates Courts. In 1999, Act of Parliament established the Disability Rights Commission, and the DRC has been pursuing landmark cases of discrimination to help to clarify the scope and limitations of the Act. Most cases of discrimination are settled by compensation, although it is not unusual for employers and service providers to be required to demonstrably change policies, practices and procedures to improve provisions for access.

The Disability Discrimination Act 2005 received Royal Assent on 7 April 2005, and is expected to come into force in stages between December 2005 and December 2006. The new Act includes all of the provisions of the 1995 Act in addition to:

- Cover public transport and allow a date to be set by which time all rail vehicles must be accessible to disabled people.

- Oblige public bodies to promote equality of opportunity for disabled people and bring those bodies' functions under the scope of the DDA. Local authorities will be obliged to make reasonable adjustments to support disabled councillors.

- Oblige landlords and property managers of rented accommodation to make reasonable adjustments to ensure that disabled people could enjoy the use of their property. Private clubs of 25 or more members would be brought within the scope of the DDA.

- Extend the definition of disability within the Disability Discrimination Act to cover people with HIV, cancer and multiple sclerosis. The requirement that a mental illness must be 'clinically well recognised' would be removed from the DDA's definition of disability.

- Provide a regulation-making power to rectify situations where case law shows the definition of disability is not operating as intended.

Definition of Disability

For the purposes of the Disability Discrimination Act 1995, a person has a disability (and protection against discrimination) if s/he has a sensory, mental or physical disability that has a substantial and long-term affect on his/her ability to carry out normal day to day activities.

Disabilities are wide ranging and include wheelchair users (full-time, part-time and occasional use), people with ambulant mobility impairments such as amputations, artificial limbs, walking aids and excessive pain, people with sensory impairments such as hearing loss and reduced vision (excluding the use of spectacles), and increased or decreased sensitivity to temperature, mental health problems including depression, and others including disfigurement, epilepsy, diabetes, asthma, some migraine, some cancer, HIV and Aids. Additions and drug or alcohol abuse, pregnancy and temporary conditions (less than 12 months) are not considered to be disabilities. The Disability Discrimination Bill received Royal Ascent on 7 April 2005 and is now the Disability Discrimination Act 2005; it is expected to come into force in stages between December 2005 and December 2006. One of the changes will be to expand the definition of disability to specifically include Cancer, HIV and Multiple Sclerosis from the time of diagnosis even before there are any symptoms that may affect the person's ability to carry out day-to-day activities.

Day-to-day activities are normal activities carried out by most people on a regular basis, and must involve one of the following broad categories:

- mobility - moving from place to place
- manual dexterity - for example, use of the hands
- physical co-ordination
- continence
- the ability to lift, carry or move ordinary objects
- speech, hearing or eyesight
- memory, or ability to concentrate, learn or understand
- being able to recognise physical danger.

The following conditions are not to be treated as impairments for the purposes of the Act:

- Addiction to or dependency on alcohol, nicotine or any other substance (unless the addiction resulted from the substance being medically prescribed).
- Seasonal allergic rhinitis (e.g. hayfever) except where it aggravates the effect of another condition.
- A tendency to set fires.
- A tendency to steal.
- A tendency to physical or sexual abuse of others.
- Exhibitionism.
- Voyeurism.

It is clear that some of the excluded conditions may result from a mental health disorder; mental impairments including learning disabilities and mental illness (if it is recognised by a respected body of medical opinion) are covered by the act and are considered to be

disabilities. Where the excluded condition is a symptom of a recognised and diagnosed mental health problem, the condition would be considered to be a disability covered by the Act. Furthermore, the long term effects of substance misuse such as brain, liver and lung damage where the effect has a physical affect on the person's ability to carry out day to day activities would be considered to be a disability.

Employment

Part II of the Disability Discrimination Act 1995 relates to the prevention of discrimination against disabled people in the workplace. It supersedes the provisions for disabled people included within the Employment Act 1994, which gave disabled employees certain advantages in selection and constructive dismissal procedures, as this was seen as positive discrimination. Instead, the DDA gives disabled people the right to be considered fairly and equally in the way in that a vacancy is offered (advertised and response procedures), in interviews, selection, terms and conditions, promotions and opportunities and dismissal. Each individual should be assessed equally for qualifications, experience and skills against predefined criteria that are essential to the requirements necessary for the job function.

In 1996, the Act applied to employers of 20 or more employees in total, including part-time, full-time, temporary, voluntary and full-time employees employed across the company as a whole. This was reduced to employers of 15 or more employees in 1999, and the exemption for small employers was removed in October 2004; part II of the Act now applies to all employers regardless of the size of the company.

Employers that fall within the Act are required to take such steps as is reasonable to prevent an arrangement or feature from having a discriminatory effect. That is, an employer must ensure that the terms and conditions, physical features, provision of auxiliary aids and services are changed or altered to prevent such arrangements or features from making it impossible or unreasonably difficult for a disabled employee to carry out their employment duties. There is no requirement for the provisions for a particular employee to be suitable for use by any other employee or any other disabled person, although neither is this precluded. It is not necessary to make provisions for disabled employees in case an employee becomes disabled, or a disabled person is employed. The provisions are only necessary to suit the needs of the disabled employee in employment.

Regulation 8 of the Disability Discrimination (Employment) Regulations 1996 gave an exemption to employers of 15 or more employees not to alter any physical characteristic of a building, which was adopted with a view to satisfying the requirements of Part M of the Building Regulations and met those requirements at the time the building works were carried out and continues substantially to meet those requirements. It is important to note that this exemption only applied to the employer not to the provider of services, goods and facilities. From 1 October 2004 the exemption ceased to apply and now includes partners in partnerships and qualifications organisations.

Although Part II of the Disability Discrimination Act 2004 does not place an anticipatory obligation on employers to make the workplace accessible to people with disabilities in case a person with disabilities is employed at some time in the future, the implication of the 2004 edition of the Approved Document to Part M of the Building Regulations is that minimum provisions including an accessible lift should be provided where there is a new

building, major refurbishment or material change of use. It is sometimes possible to use an 'Access Statement' and Part II of the Disability Discrimination Act 1995 to reduce the requirements of the Building Regulations for employers but this will depend on circumstances.

(There is an 'Access to Work' grant available from the Disability Employment Advisor at the local Jobcentre, that will cover the cost of provisions for disabled employees, although employers may be required to make a small contribution in certain instances. This is unrelated to the provisions of the Disability Discrimination Act 1995, and is available to all employers.)

Access to Services, Goods and Facilities

The aim of Part III of the Disability Discrimination Act 1995 is to ensure that disabled people are not treated less favourably than others when accessing services, goods and facilities that are offered to the public. Since 2 December 1996, it has been unlawful to refuse a service, goods or facilities to an individual because of their disability. There are no exemptions for small businesses, and there is no Crown immunity, except for the Armed Forces (this exemption was removed in October 2004). There are a few grants available through the Lottery fund, Charities, the Arts Council and the Sports Council; but the provisions of this part of the Act are generally expected to be at the Service Providers cost.

This part of the Act was first introduced in December 1996, when anyone who provides services, goods and facilities to the public (by telephone, internet, in writing or in person) must ensure that they changed any policies practices or procedures that would make it impossible or unreasonably difficult for any person with a disability to access those services, goods or facilities. These would include changing policies that prevent access for people with visual impairments with their guide dogs, or provision of information in large print, electronic or audible formats, or enabling telephone communication by use of BT Typetalk, or textphones, fax and e-mail, disability awareness and etiquette training of those that interact with the public.

In addition, since October 1999, providers of services, goods and facilities are required to provide reasonable auxiliary aids and services to assist access by people with disabilities. This would include provision of sign language interpreters and induction loops or other sound enhancement systems, suitable seating, magnifiers and task lighting.

Since 1 October 2004, anyone providing a service, goods or facilities must reasonably remove, alter or avoid any physical barrier that prevents access or makes it unreasonably difficult for a disabled person to access services, goods and facilities available or offered to others. This will include alterations to building features, electrical and mechanical installations, fixtures and fittings and decorations. In meeting this provision there are some justifications for failure to alter specific features where there is other legislation that prevents the alteration, such as planning and listed building consents, building regulations, fire regulations and health and safety regulations, and related statutes. However, justifications for not making a specific alteration does not exempt a provider of services, goods or facilities from ensuring that they provide reasonable access to the service, goods or facilities by a reasonable alternative means.

The provisions of Part III of the DDA are anticipatory, that is, the provision of reasonable accessible services, goods and facilities should be available in case a disabled person requires access. The extent of the reasonable provisions will depend on the size and nature of the business or service, availability of funds and grants and the amount of provisions already undertaken to improve access.

It should be noted that there is no link between the provisions of the Disability Discrimination Act 1995, and the provisions of the Building Regulations. It is not possible to ensure compliance with the Disability Discrimination Act, as it relies on policies, practices, procedures, availability of equipment and services, training and attitudes of individuals in addition to physical access. The approved document to part M of the Building Regulations was revised in May 2004 to incorporate the recommendations of BS 8300: 2001 The design of buildings and their approaches to meet the needs of disabled people – Code of practice; the accessibility requirements for dwellings remain unchanged from the 1992 and 1999 requirements, the revised approved document also applies to material change of use.

The Building Regulations are not retrospective; however, since the Disability Discrimination Act 1995 requires that access is provided to services, goods and facilities, the implication to physical alterations is retrospective. However, the Disability Discrimination (Providers of Services) (Alterations to Premises) Regulations 2001, determines that any feature provided since 1994 with the purpose of providing access for disabled people that met the requirements of the approved document to Part M of the Building Regulations at the time of construction, will not be required to be adjusted for ten years from the date of construction. This means that construction completed from 1994 that meets the guidance given in the approved document to part M of the Building Regulations would not need to be modified to meet the requirements of Section 21 (physical alterations) for ten years from the date of construction. i.e. work completed in 2002 would not need to be modified until 2012, provided it complies with the recognised design standard. *A similar provision for employers afforded by Regulation 8 of the Disability Discrimination (Employment) Regulations 1996 has been removed under the building regulations.*

Education

The Disability Discrimination Act 1995 requires that education providers undertake an assessment and prepare a statement of Special Educational Needs for pupils or students. The Special Educational Needs Framework for England and Wales introduces a timescale and determines the criteria for change in mainstream schools to achieve inclusive education so far as the education of disabled children would not affect the education of others. The Special Educational Needs and Disability Act 2001 and associated codes of practice for children under 16, and post 16 provide a further timetable for change. All extra curricula activities and community uses must meet the provisions of Part III of the Disability Discrimination Act 1995, and employers must also respond to Part II of the Act.

Transport

Section V of the Disability Discrimination Act 1995 details provisions for accessible public transport, including taxis and private hire cars, this part has not yet come into force. This will require all vehicles to be accessible, carers and assistance dogs to be carried with a disabled individual, and assistance provided on request, without additional charges.

However, the infrastructure must be modified to meet the provisions of Part III of the Act. The Disability Discrimination Act 2005 provides the regulatory authority for this to come into force between December 2005 and December 2006.

Public Authorities

Under section 49A of the Disability Discrimination Act 2005, public authorities have general duties in carrying out its functions to have due regard to the need to eliminate harassment and discrimination against people with disabilities as defined by the Act; and the need, where opportunities for people with disabilities are not as good as those for others, to promote equality of opportunity by improving opportunities for people with disabilities (positive discrimination).

This requirement is to be enforced through Notice by the Disability Rights Commission, and failure to comply with a Notice will lead to a County Court Order.

A Code of Practice is to be published by the Disability Rights Commission to detail the provisions of Section 49 of the Disability Discrimination Act 2005.

Where We Are

All employers and providers of services, goods and facilities are required to meet the 1996 provisions of parts II and III of the Disability Discrimination Act and providers of services, goods and facilities are required to meet the 1999 provisions of part III of the Act. That is an employer may not treat a disabled person less favourably than others because of a disability; and providers of services, goods and facilities must provide reasonable equivalent services to disabled people, may not treat a disabled person less favourably because of a disability, and must provide auxiliary aids and services to assist access to the services, goods and facilities offered or available to others.

Designers are reasonably required to meet the physical requirements for provision of accessible buildings that will enable an employer or provider of services, goods or facilities to meet their obligations under the Disability Discrimination Act 1995. It is reasonable to expect that designers will comply with the Building Regulations and the approved documents current at the time that the building is designed, and that designers and contractors will use good practice guidelines in the construction of new buildings and significant refurbishments. It is understood that the guidance included in BS 8300: 2001 will be considered to be an indication of good practice, and would reasonably be expected to be considered in designs commenced since February 2002, when the Code of practice became readily available. The latest approved document to Part M of the Building Regulations will apply to all new building works, extensions, refurbishments, alterations and material change of use, since 1 May 2004. It is recommended that designers use the approved document as the recognised standard from the date of publication.

It is essential to understand that the Disability Discrimination Act is not concerned with access to premises as such, but with accessibility of employment, services, goods, facilities, education and transport. Where this is not achieved by design and construction; changes to practice, policy and procedure, provision of auxiliary aids and equipment or use of

alternative premises or services should be used to ensure reasonable equivalent accessibility for all users. The provisions for access must be clear and obvious to everyone.

The introduction of the Disability Discrimination Act 2005 has not altered the requirements of the Disability Discrimination Act 1995 but has extended the duties to include transport vehicles, private clubs and associations (with a membership greater than 25 people), and the functions of public authorities. Further guidance on the implications for these additional bodies will be published in the form of Codes of Practice and regulations that are expected come into force in stages between December 2005 and December 2006.

Status of the Access Statement

The Access Statement is a living document that needs to be developed as part of the continuing review of Access for people with disabilities and should form the basis of the Access Policy and Disability Equality Scheme that is required to be prepared by all public bodies by December 2006.

Although the Access Statement can be used to justify and explain particular access issues relevant to Building Control requirements, the statement has no authority to impose improvements for access on the building designer, owner or occupier. However, acting in accordance of recommendations contained within the Access Statement will assist in the prevention of claims of discrimination and compliance will assist in the defence of such claims.

It is the responsibility of the Building Control authority to satisfy themselves that the requirements of Part M of the Building Regulations are achieved in the design and construction. The Building Control authority is not responsible for ensuring that adequate means of access is achieved under the provisions of the Disability Discrimination Act 1995 and 2005. There is however a new obligation on all local authority departments to promote disability equality, although the extent of this obligation in terms of the design of buildings is yet to be determined.

Description of the Buildings

The buildings are two small viewing areas, one enclosed and the other an open type shelter. The buildings are used as viewing areas for the public.

There are no mechanical or electrical services to the building. Lighting will be provided via motion sensor lights on pathways adjacent to the buildings.

Details of the material used are all as the drawing No's: 1000/101/A to 1000/104/A inclusive.

External Access

All gradients are to have a maximum gradient of 1:40 with a crossfall of 1:60 wherever possible. There are no approaches to entrances that have a gradient greater than 1:20.

There is no car parking for staff or visitors in the immediate vicinity of the buildings, however, there is a known Trustee that can gain access via a mobility scooter.

Wheelchair access is provided via a ramp to the enclosed shelter and the open shelter has been designed to allow full access for wheelchair users.

A handrail is provided to the ramped entrance to the part enclosed shelter.

One of the shelters is totally open to all users for full and unencumbered access including wheelchair users, the finished floor level being the same internally and externally.

Access during Construction

Access during construction will be via the West Entrance of the Zoo off Orton Road, which is not used by the public.

Access by the Public

Access by the public will be via existing and new footpaths which are all flat and well within a 1:20 gradient.

Access by Infirm and Disabled Visitors

Access will be via the same footpath as the public. These paths are all a minimum of 1200mm in width to allow for full wheelchair access. In most cases these paths are greater than 2000 mm in width. Paths to be aggregate construction with a surface of 'Wayfarer' crusted stone.

Employment

For employees with disabilities, the Disability Discrimination Act 1995, Part II requires that reasonable adjustments are made to facilitate access to employment in recruitment and opportunities for people with disabilities. The Disability Employment Adviser at the local Jobcentre Plus (Atherstone or Nuneaton) may be able to provide practical and financial assistance in making reasonable adjustments for a specific employee with a disability.

Conclusion

The design and construction of the scheme is proposed to achieve inclusive access to the buildings for people of all abilities for employees and visitors, within the limitations of safety and security specific to the nature of the service.

Legislation

The Disability Discrimination Act 1995
The Disability Discrimination (Meaning of Disability) Regulations 1996
The Disability Discrimination (Employment) Regulations 1996
The Disability Discrimination (Sub-leases and Sub-tenancies) Regulations 1996
The Disability Discrimination (Description of Insurance Services) Regulations 1999
The Disability Discrimination (Services and Premises) Regulations 1999
Disability Rights Commission Act 1999
The Disability Discrimination (Providers of Services) (Adjustment of Premises) Regulations 2001
Code of Practice for the elimination of discrimination in the field of employment against disabled persons or persons who have had a disability
Code of Practice for Rights of Access to Goods, Facilities, Services and Premises 2002
Health and Safety (Workplace) Regulations 1992
Code of Practice for Lighting at Work
The Energy Efficiency (Ballasts for Fluorescent Lighting) Regulations 2001