



Building Control Acts 1990 to 2014

Building Control Authority: Dublin City Council

Building Control Authority Register Reference Number: FA/19/1524/7D

Appeal by BO Vision Capital care of OCFPM Limited of Unit 19, Charleville Town Centre, Charleville, County Cork in relation to the decision made on the 23rd day of April, 2020 by Dublin City Council to refuse a fire safety certificate under section 6 (2)(a)(ii) of the Building Control Act, 1990, as amended by section 5(a) of the Building Control Act 2007 for material alterations and change of use and extension to existing upper ground floor plan (protected structure). Change of part of use of the upper ground floor restaurant use, construction of a new extension at the rear of the property for enclosed access stairs. Minor alterations for a lobby located on the upper ground floor level at the front of the property at 37 Harcourt Street, Saint Kevin's, Dublin in accordance with the plans and particulars lodged with the said authority:

Decision

Pursuant to the powers conferred on it by section 7 of the Building Control Act, 1990, An Bord Pleanála hereby allows the appeal, based on the Reasons and Considerations set out below, and directs the Building Control Authority to grant a fire safety certificate in accordance with the said plans and particulars and subject to the conditions set out under.

Reasons and Considerations

Having regard to the nature of the existing building as a protected structure, to the proposed material change of use, to the submissions lodged in connection with the Fire Safety Certificate Application and the appeal, and to the report of the Inspector, the Board is satisfied that the design of the building or works would comply with Section 5.4.2 (d) of the Guide to Fire Safety in Flats, Bedsitters and Apartments issued by the Department of Environment in 1994, and would achieve an adequate level of fire safety that would comply with Section B1 of the Second Schedule to the Building Regulations 1997-2019 – Means of Escape in Case of Fire and Section B3 – Internal Fire Spread (Structure) by means of the provision of dual means of escape, the provision of a protected lobby between the protected stairway and the non-residential ground and lower ground floor, the location of the internal stairway between ground and basement, and the provision of 60 minutes fire resisting construction between non-residential and residential parts of the building.

In not agreeing with the Inspector's recommendation to refuse the appeal, the Board had regard to Section 0.1.4 and Section 0.1.5 of Technical Guidance Document B, and to the amendments proposed by the applicant as part of the appeal submission, and considered that the applicant had demonstrated compliance with the requirements set out under Section 5.4.2 (d) of the Guide to Fire Safety in Flats, Bedsitters and Apartments issued by the Department of Environment in 1994, and that the solutions proposed by the applicant in the context of the existing building which is a protected structure would provide for an adequate level of fire safety.

Conditions

1. The fire safety design shall be carried out and completed in accordance with the plans and particulars lodged with the fire certificate application, as amended by the further plans and particulars submitted to the Building Control Authority on the 24th day of October 2019 and the 13th day of January 2020, and by the further plans and particulars received by An Bord Pleanála on the 8th day of June 2020, and the 11th day of August, 2020, except as may otherwise be required in order to comply with the following conditions.

Reason: In order to comply with the provisions of Part B of the Second Schedule to the Building Regulations.

2. The door at ground floor level shall be fitted with a powered access control system which will automatically open the door inward in the event of a fire and shall be interconnected with the overall building fire detection and alarm system.
 - (i) A FAAC 950 or equal system with independent power supply shall be fully installed by a specialist subcontractor in compliance with EN16005 European Standard.
 - (ii) The door shall comply with Technical Guidance Document - B1.4.3.2 in compliance with the Fire Safety in Places of Assembly (Ease of Escape), Regulations 1985.
 - (iii) The automatic door opening system shall be activated only during the hours of business of the proposed restaurant.

Reason: In order to comply with Section B1 of the Second Schedule to the Building Regulations 1997-2019 – Means of Escape in Case of Fire.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Building Control Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.



Michelle Fagan

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this 18th day of June 2021.