



An  
Bord  
Pleanála

**Board Order**  
**ABP-312641-22**

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**Building Control Acts 1990 to 2014**

**Building Control Authority: Dublin City Council**

**Building Control Authority Register Reference Number: FSC2105399DC/7DN.**

**Appeal by** M.B. McNamara Construction care of Jensen Hughes of 16 Clanwilliam Terrace, Grand Canal Quay, Dublin in relation to the decision made on the 7<sup>th</sup> day of January, 2022 by Dublin City Council to grant subject to conditions 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, in respect of construction of new six-storey apartment building and associated works, commercial units to be located on the ground floor of the apartment building, ground floor commercial units to be presented to a shell and core standard and will be subject to the tenants submitting their own fire safety certificate for the fit-out of the units at 25 to 27 Donnybrook Road and 1 to 3 The Crescent, Dublin in accordance with plans and particulars lodged with the said authority:

**WHEREAS** the said appeal relates only to condition number 13 attached to the decision of the Building Control Authority:

**AND WHEREAS** An Bord Pleanála is satisfied, having regard to the nature of the said conditions, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted:

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 7 of the Building Control Act 1990, as amended by section 6 of the Building Control Act, 2007, and by Article 40 (2) of the Building Control Regulations, 1997, and based on the reasons and considerations set out below, hereby directs the said authority to amend the condition number 13 so it they shall be as follows for the reasons set out and:

13. External walls located within one metre of the relevant boundary shall be fire resisting from both sides with the only permitted exceptions being unprotected areas as described in Diagram 27 (Unprotected areas which may be disregarded for space separation purposes) of Technical Guidance Document - Part B: 2006 (reprinted in 2020) (noting that within the text of the key of the diagram, the unprotected area should read '1m<sup>2</sup> maximum' and not '0.1 m<sup>2</sup> maximum' which is evidently a clerical error on that diagram) and shall be formed from passive in-situ fire rated construction and be fire rated in accordance with the provisions of Section 5(a) of Table A1 of Technical Guidance Document - Part B: 2006 (reprinted in 2020). External walls located at a greater distance than one metre from the relevant boundary shall be designed in accordance with Section 4.2.8 of Technical Document - Part B:2006 (reprinted in 2020) and any parts of these walls requiring fire resistance shall be formed from passive in-situ fire rated construction and fire rated as per item 5(b) of Table A1 of Technical Guidance Document - Part B:2006 (reprinted in 2020).

**Reason:** To comply with Part B4 of the Second Schedule to the Building Regulations, 1997, as amended.

## Reasons and Considerations

Having regard to the design of the mixed use development, to the submissions lodged in connection with the Fire Safety Certificate application and the appeal, and to the report and recommendation of the reporting Inspector, it is considered that the Building Control Authority has demonstrated that condition number 13 attached to the fire safety certificate, and hereby amended, is justified and reasonably necessary to satisfy the requirements of Part B4 of the Technical Guidance Document B - Fire Safety (2006, reprinted 2020) whilst allowing unprotected openings to facilitate ventilation in respect of the relevant boundary. As set out on page 3 of the guidance document, where works are carried out in accordance with the guidance in the document, this will, prima facie, indicate compliance with Part B of the Second Schedule of the Building Regulations.



**Patricia Calleary**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

**Dated this 23 day of November 2023**