

An
Bord
Pleanála

Board Order
ABP-313487-22

Building Control Acts 1990 to 2014

Building Control Authority: Dublin City Council

Building Control Authority Register Reference Number: FSC2106578DC

Appeal by Ardstone Homes care of Jensen Hughes of 16 Clanwilliam Terrace, Grand Canal Dock, Dublin in relation to the decision made on the 7th day of April, 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 a three-storey apartment block, Block E2, Sandford Road, Dublin in accordance with plans and particulars lodged with the said authority.

WHEREAS the said appeal relates only to condition number 1 attached to the decision of the Building Control Authority,

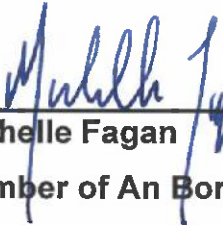
AND WHEREAS An Bord Pleanála is satisfied, having regard to the nature of the said condition, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted,

NOW THEREFORE An Bord Pleanála in exercise of the powers conferred on it by section 7 of the Building Control Act 1990, as amended, and by Article 40 (2) of the Building Control Regulations 1997, as amended, and, based on the reasons and considerations set out below, hereby directs the said authority to remove condition number 1 and the reason therefor.


Reasons and Considerations

Having regard to the form, use and layout of the building, the submissions lodged in connection with the Fire Safety Certificate application and the appeal, and the report of the Inspector, it is considered that condition number 1, as set out in the schedule of conditions attached to the Fire Safety Certificate granted by the Building Control Authority, is unwarranted by reason of the duplex/apartment above the ground floor apartment being a separate compartment and has a protected means of escape, and the height of the ground floor apartment is less than the depth of the smallest garden shown on drawing numbers DI/4541/6/3 and DI/4541/6/8, and is in compliance with Diagram 5 of TGD-B Volume 2:2017 which states that an escape route into an enclosed garden is acceptable if the length of the garden is at least the height of the building and that, subject to compliance with the other conditions set out in the Fire Safety Certificate, would provide an adequate level of fire safety and would comply with Part B of the Second Schedule of the Building Control Regulations 1997, as amended.

In deciding not to accept the Inspector's recommendation to amend condition number 1, the Board considered that the conclusion of the Inspector that the rear garden is a place of safety provided that the depth of the enclosed gardens exceeds the height of the ground floor apartment is reasonable, and that the drawings which form part of the Fire Safety Certificate application indicate that the height of the ground floor apartment is less than the depth of the shortest garden demonstrates that the provisions of the final exit and place of safety are met as defined in Section 1.0.9 of TGD-B and that a condition is not required.



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



Dated this *20th* day of *January* 2023.