



An  
Bord  
Pleanála

## Board Order ABP-314643-22

---

### Building Control Acts 1990 to 2014

**Building Control Authority: Fingal County Council**

**Building Control Authority Register Reference Number: FSC/293/22**

**Appeal** by Cairn Homes Properties Limited care of Michael Slattery Associates of 19 Windsor Place, Lower Pembroke Street, Dublin in relation to the decision made on the 15<sup>th</sup> day of August, 2022 by Fingal County 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 new duplex over duplex building at Ballymastone, Donabate, County Dublin in accordance with plans and particulars lodged with the said authority:

**WHEREAS** the said appeal relates only to condition number 2 attached to the decision of the Building Control Authority:

**AND WHEREAS** An Bord Pleanála is satisfied, having regard to the nature of the 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 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 delete condition number 2 and the reason therefor:

## **Reasons and Considerations**

Given that the basis of design for the proposed duplex building is BS 9991: 2015 and that this is an acceptable alternative approach as per Section 0.2 of Technical Guidance Document-B 2006 (AMD 2020), the use of Section 9.5.2 of BS 9991: 2015 for the design of the maisonettes is a reasonable design approach. As the appellant has demonstrated that the proposed means of escape from the duplexes are in compliance with Clause (c) of Section 9.5.2 of BS 9991: 2015, it is considered therefore, that condition number 2 should be removed from the granted Fire Safety Certificate.

Accordingly, the requirements of condition number 2 are not necessary in the case of the building that is the subject matter of the fire safety certificate to demonstrate compliance with Part B of the Second Schedule of the Building Regulations 1997, as amended.

  
Stephen Bohan

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

Dated this 4<sup>th</sup> day of December 2023