



An
Bord
Pleanála

Board Order
ABP-316175-23

Building Control Acts 1990 to 2014

Building Control Authority: Kerry County Council

Building Control Authority Register Reference Number: FSC2301092KY

Appeal by Liam Lyons of Playmore Limited care of Michael Slattery Associates, Fire Safety Engineers of 19 Windsor Place, Lower Pembroke Street, Dublin in relation to the decision made on the 2nd day of March 2023, by Kerry 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 the demolition of existing toilet blocks and stores; retention, as per planning, by judiciously reducing / refurbishing / modifying / altering / upgrading the final position of the elements being reconstructed depending on the results of the geotechnical investigation in association with ongoing archaeological monitoring findings and reconstructing those elements of both out-buildings, rear entrance, and side stone walls at the southern end and western side of the site which cannot be retained for structural reasons and to dovetail into the new single and part two-storey, (traditional masonry/timber / modern proprietary products and structural steel), rear extension of the ground floor public bar with ancillary toilets, kitchen, keg store, electrical switch room and external designated covered smoking and non-smoking areas on the ground floor with plant / storage room over on the first floor, and access stairways and walkway at first

floor level, to serve both the new open roof terrace access route to the existing vacant upper floors over the existing bar and to provide emergency escape from the public areas, at 21 Bridge Street, Tralee, County Kerry in accordance with plans and particulars lodged with the said authority:

WHEREAS the said appeal relates only to conditions numbers 3, 8 and 10 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 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 the said conditions numbers 3 and 10 and the reasons therefor, and to amend the said condition number 8 so that it shall be as follows for the reason set out.

8. The protected stairway enclosure leading to the first-floor escape route (i.e., Compartment “D” as shown on drawing 04_LL_FSC/DAC_08A_2) and the protected stairway enclosure leading to the ground floor exit (i.e., Compartment “F” as shown on drawing 04_LL_FSC/DAC_08A_2) shall be provided with
- a) Automatic openable vents in each compartment, i.e., Compartments D, G and F linked to the Fire Detection and Alarm System, and
 - b) A L1 Fire Detection Alarm System in accordance with IS 3218.

Reason: To comply with Part B of the Second Schedule of the Building Regulations.

Reasons and Considerations

Having regard to the proposed development, a protected structure, to the presented design, compliance report and submissions lodged in connection with the Fire Safety Certificate application and appeal including the Conservation Architect’s Report, to the guidance contained in the Building Regulations Technical Guidance Document B 2006 (Reprint edition 2020) and to the report and addendum report and recommendations of the reporting Inspector, the Board is satisfied that it has been adequately demonstrated through the proposed design that the proposed works if constructed in accordance with the design presented with the application and appeal and subject to the removal of conditions numbers three and ten and amendment of condition number eight attached to the fire safety certificate would comply with the requirements of Part B of the second schedule to the Building Regulations 1997, as amended.

In determining this appeal, the Board also noted guidance contained in the Building Regulations Technical Guidance Document B 2006 (Reprint edition 2020) which sets out that 'in the case of material alterations or changes of use of existing buildings, the adoption of the guidance in this document without modification may not, in all circumstances, be appropriate. In particular, the adherence to guidance including codes, standards or technical specifications, intended for application to new work may be unduly restrictive or impracticable. Buildings of architectural or historical interest are especially likely to give rise to such circumstances' and that 'alternative approaches based on the principles contained in the document may be more relevant and should be considered.' (Page 6 – Existing Buildings). The Board was satisfied that the current building, a protected structure, located along the streetscape, was such that warranted an alternative practical approach and that the proposal for maintaining the existing front door in the open position and the proposal for inner double doors capable of opening in the direction of escape to be a reasonable proposal to meet regulation B1 (Means of escape) and accordingly the Board decided to remove condition number three.

In deciding not to accept the Inspector's recommendation to grant the FSC with the attachment all three conditions the subject matter of the appeal on the basis that the information received by the Board under Article 27(3), the Board was satisfied the submission and accompanying details provided by the Applicant on appeal constituted the initial grounds of the appeal as per Article 27(1)(d) and not an elaboration of same as per 27(3) of the Building Control Regulations 1997, as amended. Similarly, the Board noted the response of the Building Control Authority to the grounds of appeal.

Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board**



Dated this 3rd day of March, 2025