



An
Bord
Pleanála

Board Order
ABP-317203-23

Building Control Acts 1990 to 2014

Building Control Authority: Donegal County Council

Building Control Authority Register Reference Number: FSC/23/003

Appeal by GDC Ireland Limited care of Clarke Engineering and Consultancy Services of 12 Copperfield Drive, Kilfennan, County Derry, Northern Ireland in relation to the decision made on the 28th day of April 2023 by Donegal 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 creche including onsite parking, secure toddlers play areas and storage enclosures at 1 Crieve Mór Avenue, Crievesmith, Letterkenny, County Donegal in accordance with plans and particulars lodged with the said authority.

WHEREAS the said appeal relates only to conditions numbers 2, 5 and 8 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 remove conditions numbers 2, 5 and 8 for the reasons therefor.

Reasons and Considerations

Condition 2

The maximum travel distance when measured from the furthest point to the entrance to the stairs is 18.5 metres is marginally above that recommended maximum (18 metres) travel distance in Technical Guidance Document B, 2006 (TGD: B) and Building Bulletin 100 (BB100) and is considered acceptable having regard to the following matters:

- The area where the marginal excess occurs is in a staff room and not a classroom,
- 0.5 metres will have negligible impact of the escape time of the occupants of the staff room,
- The majority of the travel distance is within a protected corridor and lobby, and this will reduce the potential negative impact of the single direction of travel.

The Board was therefore satisfied that condition 2 is not a reasonable requirement and decided to remove this condition accordingly.

Condition 5

Given that no lift access is proposed within the building, and that the ground floor and first floor both contain a 'school age children' room, being a room to be used for the provision of after school care of school age children, it is considered reasonable that the first floor is not required to be provided with a disabled refuge space in accordance with the requirements of Section 1.4.15 (Provisions for People with Disabilities) of Technical Guidance Document B, 2006. Therefore, the Board was satisfied that Condition 5 is not a reasonable requirement and should be removed. Of relevance to the consideration of this condition, and on the matter of vertical access, the Board noted that the building will separately be subject to the requirements of Part M (Access and Use) of the current Building Regulations and that the matter before the Board in this case relates solely to Part B (Means of Escape) of the current Building Regulations. The Board was therefore satisfied that condition 5 is not a reasonable requirement and decided to remove this condition accordingly.

Condition 8

Having regard to the guidance contained in section 4.4.2.1(b) of Building Bulletin 100, which the Board considered to be relevant on the basis of the rationale set out in the Inspector's report, whereby the first floor of the proposed premises can be served by a single stair once it would not have an occupancy of above 120 pupils plus supervisors. The proposed occupancy of the first floor meets this requirement. The Board also noted, as set out in the Inspector's report, that the condition requiring compliance with section 3.3.4 of Fire Safety in Pre-Schools (Department of Environment, 1999) and to limit the maximum number of children (who are not sleeping) accommodated at first

floor level to 20, is onerous given the proposed use of the floor for after school care (rather than pre-school care) and the age of the children (school going age rather than pre-school age) that will be using this space at first floor level. Therefore, the Board was satisfied that Condition 8 is not a reasonable requirement and should be removed.



Patricia Calleary

Patricia Calleary

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

Dated this *23* day of *April* 2024.