



Building Control Acts 1990 to 2014

Building Control Authority: Kildare County Council

Building Control Authority Register Reference Number: FSC2304498KE

Appeal by Gerard Kelly care of Maurice Johnson and Partners of The Anchorage, Charlotte Quay, Dublin in relation to the decision made on the 20th day of February, 2024 by Kildare 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 storage unit and office space at Naas Enterprise Park, Naas, County Kildare 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 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:

P.C.

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 amend the said condition number 2 to read as follows, and the reason therefor.

2. The building or part thereof shall only be used to store 'normal risk' goods and shall not store 'high risk' goods (as assessed by reference to Appendix E Assessment of Risk in Industrial and Storage Buildings of TGD Part B 2006), unless a suitable automatic sprinkler system is designed, installed and maintained in accordance with IS EN 12845:2015 (+AC:2016) (+A1:2019) (or any relevant updates to this standard) or an equivalent relevant sprinkler system.

Reason: To ensure compliance with Part B of the Building Regulations 1997, as amended.

Reasons and Considerations

Having regard to the presented design of the building and the accompanying technical compliance report, to the submissions made in connection with the Fire Safety Certificate application and the appeal and the relevant guidance in Technical Guidance Document Part B (2006 + A1 2020), the Board was satisfied that the Building Control Authority be directed to amend Condition number 2 and the reason therefor on the basis that the storage building can be treated as 'normal risk' by reference to the information on file and the specific guidance contained in Section E1 of Appendix E (Assessment of Risk in Industrial and Storage Buildings) of TGD Part B 2006 +A1 2020. The Board was further satisfied that, subject to the attachment of the amended Condition number 2, it has been demonstrated that the subject building, if constructed in accordance with the design presented with the application and appeal, would

P.C.

comply with the requirements of Part B of the Second Schedule to the Building Regulations 1997, as amended.

In disagreeing with the inspector to attach Condition 2, the Board did not share the view of the inspector that the attachment of the condition is reasonably necessary to meet the requirements of Part B of the Schedule to the current Building Regulations.

The Board agreed with the appellant's case that a number of the standards/codes referenced by the Building Control Authority in its mandate for sprinklers are not relevant in this instance on the basis that the appellant's application was submitted on the basis of compliance with TGD B 2006 + A1 2020 and adherence to the guidance demonstrates prima facie compliance with Part B of the Building Regulations. In particular, the Board noted that TGD B 2024, referred to by the BCA, and which includes for un-sprinklered racking where the topmost shelf has a height greater than seven metres above floor level being categorised as 'high hazard' (D2 of Appendix D – Assessment of Fire Hazard and associated life risk), came into effect on the 1st day of May 2025 (and with transition periods that effectively mean a later effective application date and that apply in this instance). The Board was satisfied that TGD Part B 2006 +A1 2020 is the relevant statutory guidance to be applied in its adjudication on the current appeal and it would be premature to adopt TGD Part B 2024 which has not yet come into effect.

In assessing the appeal, the Board noted the guidance contained in Section E1 of Appendix E (Assessment of Risk in Industrial and Storage Buildings) of TGD Part B 2006 +A1 2020, which sets out that industrial and storage buildings should be treated as "normal risk" unless identified, by reasons of the criteria outlined in the appendix, as being "high risk." The Board also noted that, notwithstanding the speculative nature of the development and that the specific goods to be stored in the building are not identified, the appellant has clearly stated that goods intended to be stored would fall within

the category of "normal risk" and would not fall into a "high risk" category as defined in Appendix E. The Board was satisfied that, should the situation change in the future, resulting in bringing the building into a "high risk" category, then the building would at that point require sprinkler protection. Accordingly, the Board decided to amend condition number two to capture the requirements for the current intention for storage of "normal risk" goods and any potential change to storage of "high risk" goods that may occur within the building.



Patricia Calleary

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

Dated this 14 day of May 2025.