

Report to An Bord Pleanála

on

Appeal against Condition No 3

Regularisation Certificate (Cert No. 17/8090/REG)

by

Dun Laoghaire Rathdown County Council

for

Material Change of Use: Material alterations/material change of use of existing office unit to provide a two bedroom apartment to let,

at

125 Braemor Road, Newtown Little, Dublin 14, D14 PX96

CLIENT	:	AN BORD PLEANALA
AN BORD PLEANALA REF NO	:	ABP-301441-18
BCA CERT No.	:	17/8090/REG
OUR REF.	:	18121_ABP- 301441-18_R01
DATE	:	21 September 2018

1.0 Introduction

1.1 Subject Matter of Appeal

This report sets out my findings and recommendations on the appeal submitted by FCC Fire Cert Ltd [hereafter referenced as FCC] on behalf of their Client, Mr David Whelan against Condition No 3 attached to the Regularization Certificate (Ref No. 17/8090/REG) granted by Dun Laoghaire Rathdown County Council [hereafter referenced as DLRCC] in respect of Material Change of Use: Material alterations/material change of use of existing office unit to provide a two bedroom apartment to let, at 125 Braemor Road, Newtown Little, Dublin 14, D14 PX96.

The Regularisation Certificate was granted on 29th March 2018 with 6 conditions attached. Condition 3, which is the subject of the appeal, reads:

Condition 3

There shall be an AOV located at the top of the protected stairs enclosure and it shall have a clear and openable area of not less than 1 metre square and shall be linked to the fire detection and alarm system in the stairway so that it shall be automatically opened by activation of smoke detectors in the stairway enclosure and it shall also be manually openable for fire brigade use

With the stated reason for the condition being:

Reason:

To comply with Part B1 of the Second Schedule to the Building Regulations 1997.

The appeal is against a single condition. De novo consideration is not warranted and the Board can rely on the provisions of Article 40(2) of the Building Control Regulations and deal with the appeal on the basis of condition only.

1.2 Documents Reviewed

- 1.2.1 Fire Safety Certificate Application and Supporting Documentation submitted by FCC on behalf of their Client
- 1.2.2 Decision and grant by DLRCC on 29.03.2018 with 6 conditions attached
- 1.2.3 Appeal submission to An Bord Pleanala by FCC dated 09.04.2018.
- 1.2.4 Appeal submission to An Bord Pleanala by DLRCC dated 10.05.2018.

2.0 Condition 2 – Consideration of Arguments by Appellant and BCA

2.1 Condition 3

There shall be an AOV located at the top of the protected stairs enclosure and it shall have a clear and openable area of not less than 1 metre square and shall be linked to the fire detection and alarm system in the stairway so that it shall be automatically opened by activation of smoke detectors in the stairway enclosure and it shall also be manually openable for fire brigade use

Case made by FCC in respect of Condition 3

FCC contend that the apartment in question is subject to Clause 6 of BS9991 2015 on the basis that it is entered directly from outside the building at ground level and refer to Clause 7.1 of BS9991 2015 in support of same.

FCC go on to note that Clause 6 of BS9991 does not require the provision of a vent within the internal staircase of a dwelling.

Case made by DLRCC in respect of Condition 3

For their part, DLRCC argue that Clause 6 of BS9991 is not the relevant clause and they contend that the relevant clauses are 7.5, 14.1.2, and 14.2.2.4 of BS9991.

I disagree with the DLRCC interpretation of the code in this regard as it is clear that Clause 7.5 is concerned with common staircases and not with the internal stairs within an individual dwelling. This is evident from Figure 8 to which Clause 7.5 refers which clearly identifies that the stairs being referenced in Clause 7.5 is in fact a common stairs shared by a number of apartments.

DLRCC also contend that the provision of an AOV would assist the fire service in fighting a fire. As noted above I am satisfied that the BS9991 code does not required a vent within the internal hallway/stairs of an individual apartment for the assistance of fire-fighting. It is further noted that the reason stated in the Regularisation Certificate for the imposition of Condition 3 is to comply with Part B1 (Means of Escape) of the Building Regulations. The authority has not identified Part B5 (Access and facilities for the fire service) to be a reason for the imposition of the condition.

In conclusion in my opinion there is no justification for the position being adopted by the BCA in imposing this condition and they have not provided sufficient argument to justify the condition in their appeal submission to the Board.

3.0 Recommendations

Having considered the submissions made by the Appellant and BCA I consider that the BCA should be directed to remove Condition 3.

MAURICE JOHNSON

Managing Director | Chartered Engineer | BE(Hons), CEng., MIStructE, MIEI, MSFPE

Date : _____