



**Fire & Risk Solutions Ltd.**  
*Chartered Engineers*  
*Professionals in Fire and Safety*

**Report 3513**

**An Bord Pleanála Appeal regarding the attachment of Condition No. 1  
by Fingal County Council to grant of Revised Fire Safety Certificate for  
demolition of single storey extension of 36 no. bed spaces and  
construction of new two storey extension of 97 no. bed spaces and  
associated works at Marymount Care Centre, Westmanstown, Lucan,  
Co. Dublin**

Client: An Bord Pleanála,  
64 Marlborough Street,  
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FAO: The Secretary

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**BUILDING CONTROL ACT, 1990 – APPEAL**

**REVISED FIRE SAFETY CERTIFICATE APPLICATION FOR  
DEMOLITION OF SINGLE STOREY EXTENSION (36 NO. BED SPACES) AND  
CONSTRUCTION OF NEW TWO STOREY EXTENSION (97 NO. BED SPACES) AND  
ASSOCIATED WORKS AT MARYMOUNT CARE CENTRE, WESTMANSTOWN,  
LUCAN, CO. DUBLIN**

**APPEAL AGAINST THE ATTACHMENT OF CONDITION NO. 1  
TO FIRE SAFETY CERTIFICATE (REG. REF. 17/4215/Rev) ON 13<sup>th</sup> MARCH 2018**

**AN BORD PLEANÁLA APPEAL REFERENCE 301450-18**

Local Authority: Fingal County Council

Appellant: Humar Limited t/a Marymount Care Centre  
c/o Maurice Johnson & Partners

**RECOMMENDATION**

In my opinion, the Board may rely on Article 40(2) of the Building Control Regulations to consider the subject appeal on the basis of Conditions only.

It is recommended that the appeal be upheld and Condition No. 1 be removed in its entirety.

The remaining 3 no. Conditions (Conditions No.'s 2, 3 and 4) attached to the granted Revised Fire Safety Certificate are not subject of this appeal and should remain. The granted Fire Safety Certificate should therefore be subject of 3 no. Conditions.

**Dr. Raymond J Connolly**

**BE, PhD, CEng, MIEI, MIFireE, MSFPE**

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**1. RELEVANT INFORMATION**

- i. Application for a Revised Fire Safety Certificate by Humar Ltd. t/s Marymount Care Centre to Fingal County Council dated 25<sup>th</sup> October 2018.
- ii. Written Submission (dated 17<sup>th</sup> October 2017) by CQA Architects as subsequently updated to Revision 2 on 21<sup>st</sup> February 2018 – each with associated drawings.
- iii. Letter of additional information from CQA Architects to Dublin Fire Brigade dated 21<sup>st</sup> February 2018.
- iv. Fire Safety Certificate (FSC/177/18) granted by Fingal County Council dated 13<sup>th</sup> March 2018 (subject of 4 no. Conditions).
- v. Letter of appeal from Maurice Johnson & Partners on behalf of Humar Limited to An Bord Pleanála dated 12<sup>th</sup> April 2018.
- vi. Letter from Fingal County Council to An Bord Pleanála dated 15<sup>th</sup> May 2018 including observations of Fire Authority.
- vii. Letter from Maurice Johnson & Partners to An Bord Pleanála dated 26<sup>th</sup> September 2018 responding to Fire Authority comments.

## **2. BACKGROUND**

CQA Architects acting as agent for Humar Limited made an application to Fingal County Council for a Revised Fire Safety Certificate for a proposed two storey 97 bedroom extension to an existing residential care facility at Marymount Care Centre, Lucan, Co. Dublin. The Revised Fire Safety Certificate was granted by Fingal County Council (under Reference 17/4215/Rev) on 13<sup>th</sup> March 2018 subject to 4 no. Conditions including *inter-alia*:-

### Condition No. 1

*Provide a sprinkler system in accordance with IS EN 12845:2015 Fixed fire-fighting systems – automatic sprinkler systems – design, installation and maintenance with the special requirements for life safety systems in accordance with LPC Rules for Automatic Sprinkler Systems*

*OR*

*Provide a Category 3 sprinkler system in accordance with BS 9251:2014 Fire sprinkler systems for domestic and residential occupancies – code of practice, together with the special requirements for life safety systems in accordance with LPC Rules for Automatic Sprinkler Systems incorporating IS EN 12845:2015. The minimum duration of supply for the combined stored water capacity for the system to be 60 minutes.*

### Reason:

*To comply with the provisions of Part B of the Second Schedule to the Building Regulations, 1997 to 2017.*

On 12<sup>th</sup> April 2018, Maurice Johnson & Partners acting as agent for Humar Limited appealed to An Bord Pleanála against the attachment of this Condition (Condition No. 1) to the Revised Fire Safety Certificate. The residual Conditions (Conditions No.'s 2, 3 and 4) are not subject of the current appeal.

### 3. REPRISE OF APPEAL (AS PRESENTED)

The subject works comprise a proposed two storey 97 bedroom extension to an existing residential (institutional) care facility.

The appellant highlights that the proposed extension is designed in accordance with Technical Guidance Document B (2006) to the Building Regulations and the Guide to Fire Safety in Nursing Homes (as published by the Department of Environment Housing and Local Government. This basis for design offers *prima facie* compliance with the requirements of Part B to the Building Regulations, notwithstanding the fact that neither document makes any requirement to install an automatic fire suppression (sprinkler) system within residential care homes of the type subject of the current appeal.

The appellant suggests that the subject condition arises as the result of application of a policy by Dublin Fire Brigade and same has been previously adjudicated upon by An Bord Pleanála in a number of cases within Dublin Fire Brigade's jurisdiction including FS0530 (Nazareth House, Malahide) and FS0525 (Smurfit Kappa Site, Coolock). The appellant advises that the cost of a sprinkler installation would be in the order of €300,00, which would put the viability of the development in jeopardy.

The Fire Authority confirms its view that the guidance in Technical Guidance Document B is outdated. The Authority offer a basis for the attachment of Condition No. 1 as follows:-

1. Research undertaken by the UK Building Research Establishment (BRE) in Scotland (reported in 2005, i.e. Pre-publication of Technical Guidance Document B in 2006) suggests that installation of sprinklers within residential care homes "is probably cost effective". Further BRE research relating to Wales in 2012 concluded that installation of sprinklers is cost effective in new care homes.
2. It is likely that evacuation of nursing homes, particularly at night time, will be protracted. Tests (not referenced) are stated by the Fire Authority to have shown that "the provision of an automatic sprinkler system ensures that *all* escape routes remain tenable for longer periods of time, reducing the risks to residents".
3. Current guidance in Ireland relies on the provision of passive fire-resisting systems, .e.g. fire doors, and there is evidence to suggest that same may be compromised in performance in up to 40% of cases.

4. Dublin City Fire Prevention has evolved its own “in-house” policy document which requires installation of automatic sprinkler systems in new residential care buildings.

The appellant highlights that compliance with Technical Guidance Document B does not require installation of automatic fire suppression in residential care buildings. The mechanism for the Department updating technical guidance includes public consultation and a transitional arrangement before new measures become obligatory.

The appellant makes a number of points in support of his view that the conclusion of the Building Research Establishment’s research relating to the cost effectiveness of sprinklers in Wales is not applicable to Dublin. The appellant highlights that the Fire Authority does not offer an evidence in support of their opinion that is specific to Dublin or Ireland. The appellant queries the logic of the Authority’s lack of confidence in passive fire protection measures and highlights that the ultimate extension of such logic would lead to a requirement that all new buildings in Ireland should be fitted with sprinklers.

This same issue has been subject of appeals FS0530 and FS0525.

#### **4. CONSIDERATION**

The appeal may be considered as presented and no new issues arise as might demands *de novo* consideration.

Technical Guidance Document B is published by the Minister for the Environment, Heritage and Local Government under Article 7 of the Building Regulations, 1997, i.e. under Statutory Instrument of the Oireachtas. The document confirms on its opening page that “*where works are carried out in accordance with the guidance in this document, this will, prima facie, indicate compliance with Part B of the Second Schedule to the Building Regulations*”.

There is no dispute between the parties that the guidance in Technical Guidance Document B has been followed as appropriate and this appeal relates to an additional new fire safety measure, i.e. the installation of sprinklers, that Dublin Fire Brigade’s Fire Prevention Department believe to be necessary in the specific instance of new residential care home buildings.

The cost effectiveness of sprinklers is not relevant. The date of publication of Technical Guidance Document B is not relevant.

Dublin Fire Brigade are entitled to raise their concerns, regarding the need for updated design guidance and more specifically the need for inclusion of sprinklers in residential care buildings, directly with the Minister for the Environment, Heritage and Local Government. This is the more appropriate mechanism for achieving their preferred outcome rather than unilaterally imposing their independent design solutions on applicants within their jurisdiction.

Equally, Dublin Fire Brigade are entitled to consider the proposed extension (once it is completed) as a potentially dangerous building and in such a context they are allowed in law to serve a Fire Safety Notice on the building prohibiting its occupation. This Notice would, in the normal course of events, be open to challenge in the District Court and therefore the issue could be determined by an appropriate authority. It would not be unreasonable for Dublin Fire Brigade to make the applicant aware of their intention to pursue this course of action (which is their legal entitlement) and such a scenario may or may not inform the applicant’s decision regarding the need to install sprinklers in his new extension. However, such a decision does not relate to compliance with Building Regulations, which unambiguously do not require installation of sprinklers within the subject building. It is possible for Dublin Fire Brigade to accept that a building complies with Part B to the Building Regulations, whilst holding the view that the same building is a potentially dangerous building.



**5. CONCLUSION**

In my opinion, the Board may rely on Article 40(2) of the Building Control Regulations to consider the subject appeal on the basis of Conditions only.

It is recommended that the appeal be upheld and Condition No. 1 be removed in its entirety.

The remaining 3 no. Conditions (Conditions No.'s 2, 3 and 4) attached to the granted Revised Fire Safety Certificate are not subject of this appeal and should remain. The granted Fire Safety Certificate should therefore be subject of 3 no. Conditions.

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