



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

Report 3550

**An Bord Pleanála Appeal regarding the attachment of Condition No. 2
by Dun Laoghaire-Rathdown County Council to grant of
Fire Safety Certificate for construction of 4 no. apartments at
No. 2 Stillorgan Park Avenue, Blackrock, Co. Dublin**

Client: An Bord Pleanála,
64 Marlborough Street,
Dublin 1

FAO: The Secretary

FENNELL'S BAY, CROSSHAVEN, CO. CORK, IRELAND
TEL: +353 (0) 21 4832882 EMAIL: RConnolly@FireRiskSolutions.com

PRINCIPAL: DR R CONNOLLY BE, PhD, CEng, MIEI, MIFireE, MSFPE
Registered in Ireland No. 334019

BUILDING CONTROL ACT, 1990 – APPEAL

**FIRE SAFETY CERTIFICATE APPLICATION FOR
CONSTRUCTION OF 3 NO. 3 BEDROOM DUPLEX APARTMENTS
AND 1 NO. 2 BEDROOM DUPLEX APARTMENT
AT NO. 2 STILLORGAN PARK AVENUE, BLACKROCK, CO. DUBLIN**

**APPEAL AGAINST THE ATTACHMENT OF CONDITION NO. 2
TO FIRE SAFETY CERTIFICATE (REG. REF. 18/8180) ON 12th NOVEMBER 2018**

AN BORD PLEANÁLA APPEAL REFERENCE 3079-18

Local Authority: Dun Laoghaire – Rathdown County Council

Appellant: Oliver & Brigette McGettigan
c/o ACCA Engineering Consultants

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. 2 be removed in its entirety.

The remaining 2 no. Conditions (Conditions No.'s 1 and 3) attached to the granted Fire Safety Certificate are not subject of this appeal and should remain. The granted Fire Safety Certificate should therefore be subject of 2 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 Oliver & Brigette McGettigan to Dun Laoghaire - Rathdown County Council dated 27th August 2018.
- ii. Written Submission (FSCA-18-120) by ACCA Engineering Consultants and associated drawings.
- iii. Letter of additional information from ACCA Engineering Consultants to Dublin Fire Brigade dated 1st October 2018.
- iv. Letter of additional information from ACCA Engineering Consultants to Dublin Fire Brigade dated 17th October 2018 including written Submission (FSCA-18-120A) and associated drawings.
- v. Fire Safety Certificate (18/8180) granted by Dun Laoghaire - Rathdown County Council dated 12th November 2018 (subject of 3 no. Conditions).
- vi. Letter of appeal from ACCA Engineering Consultants on behalf of Oliver & Brigette McGettigan to An Bord Pleanála dated 20th November 2018.

2. BACKGROUND

ACCA Engineering Consultants acting as agent for Oliver & Brigette McGettigan made an application to Dun Laoghaire - Rathdown County Council for a Fire Safety Certificate for a construction of 3 no. 3 bedroom duplex apartments and 1 no. 2 bedroom duplex apartment at No. 2 Stillorgan Park Avenue, Blackrock, Co. Dublin. The Fire Safety Certificate was granted by Dun Laoghaire - Rathdown County Council (under Reference 18/8180/Rev) on 12th November 2018 subject to 3 no. Conditions including *inter-alia*:-

Condition No. 2

The maisonettes 8 and 9 as indicated on the floor plans shall have:

- a) *An alternative exit from any habitable room that is not on the entrance level of the maisonette (see Figure 2 BS 9991:2015);*
or
- b) *A protected stairway enclosure serving all habitable rooms and one alternative exit from every floor level other than the entrance level (see Figure 3, BS 9991:2015);*
or
- c) *A protected stairway enclosure and an LD1 fire detection and alarm system in accordance with IS:3218:2013, if no floor is more than 7.5 metres above or below the level of the entrance of the maisonette;*
and
- d) *An AWFSS (see 11.2, Table 2, BS 9991:2015).*

Reason:

To comply with Part B1 of the Second Schedule to the Building Regulations, 1997 to 2017.

On 20th November 2018, ACCA Engineering Consultants acting as agent for Oliver & Brigette McGettigan appealed to An Bord Pleanála against the attachment of this Condition (Condition No. 2) to the Fire Safety Certificate. The residual Conditions (Conditions No.'s 1 and 3) are not subject of the current appeal.

3. REPRISE OF APPEAL (AS PRESENTED)

The subject works comprise the construction of a block of 4 no. duplex flats.

The appellant highlights that the proposed extension is designed in accordance with BS 9991:2015 *Fire safety in the design, management and use of residential buildings – Code of practice* and more specifically Clause 9.2.5 therein. This Clause requires maisonettes (multi-storey flats) comprising a floor higher than 4.5 metres above ground or access floor level to include protection options (a) or (b) or (c) or (d), whereas Condition No. 2 attached to the granted Fire Safety Certificate requires protection options (a) or (b) or (c) and (d).

The appellant confirms that no storey level within the subject maisonettes are in excess of 7.5 metres above or below the entrance of the maisonette and therefore it has been proposed to provide a protected stairway enclosure (30 minutes fire-resisting construction) and an LD1 fire detection and alarm system in accordance with BS 5839:Part 6:2013. The appellant highlights the enhancement that LD1 systems represent compared to LD2 systems, i.e. detection in all rooms as opposed to detection in escape routes and high risk rooms.

The proposed design includes automatic fire detection (Type L3X to IS 3218:2013) to the common stairway with integrated heat detectors and sounders inside each flat. The appellant highlights that this provision is in excess of the requirements of BS 9991.

The appellant highlights that the fact that there is no storey in excess of 7.5 metres above entrance level to the maisonette *de facto* offers a control on the maximum travel distance and the maximum number of rooms within the maisonette.

The Fire Authority does not offer any commentary regarding the appeal.

4. CONSIDERATION

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

The Fire Authority has attached Condition No. 2 to require the internal layouts of the maisonette flats to be configured in a manner most suitable in their view to assuring the safe means of escape of persons from the upper levels within maisonettes no.'s 8 and 9. In practical terms, they are offering the choice of either reconfiguring the design to introduce additional escape facilities from the upper levels of both maisonettes or installing Automatic Water Fire Suppression Systems (AWFSS) within the maisonettes as currently configured. The AWFSS would typically comprise installation of a category 1 residential sprinkler system to BS 9251:2014, an automatic sprinkler installation to BS EN 12845 or an automatic water mist suppression system to BS 8458:2015.

The background to the Condition is presented by the appellant in his commentary regarding Dublin Fire Brigade's Guidance Note 12. This Note suggests that the difference between Type LD1 and Type LD2 automatic fire detection and alarm systems within flats is not significant and therefore should not be relied upon in combination with a protected stairway enclosure to assure the safe means of escape of persons from the upper levels of maisonettes. The additional safety provided by provision of an AWFSS is deemed to be necessary by the Fire Authority in the absence of alternative escape routes from the upper levels.

The Fire Authority is seeking to impose a design solution that in their view is sufficient to permit omission of the secondary (upper level) exit. Their design solution comprises a combination of a protected stairway, Type LD1 automatic fire detection and an automatic water fire suppression system complying with Table 2 of BS 9991:2015. There is no explicit basis in BS 9991 for this specific combination of fire precautions given that it is in excess of the code's own recommended package of fire precautions that adequately cover the subject maisonette (duplex) scenario.

It is clear from the references to BS 9991:2015 contained with Condition No. 2 that the Fire Authority are agreeable to use of said British Standard within its jurisdiction. The issue in this case is that the Fire Authority does not consider the combination of measures outlined in Clause 9.5.2 of BS 9991 to be sufficient to achieve compliance with Part B1 to the Building Regulations. This represents a departure from the tradition whereby compliance with BS 5588:Part 1:1990, (which has since been superseded by BS 9991:2015), was accepted as a legitimate means of demonstrating *de facto* compliance with Part B1 to the Building Regulations, as inferred by Clause 1.1.2 of Technical Guidance Document B, 2006.

It is recognised that the fire precautions recommended in BS 9991:2015 are routinely enhanced when adopted in Ireland by the inclusion of a Type L3X automatic fire detection and alarm within the common stairway and extended into the hallways of flats. This is the approach being proposed at No. 2 Stillorgan Park Avenue with the agreement of the applicant.

However, there is no agreement with the applicant/appellant to further enhance the recommendations of BS 9991:2015 to include provision of AWFSS systems within Maisonettes No.'s 8 and 9. The design solution that the Fire Authority is seeking to impose through the attachment of Condition No. 2 is not sufficiently well founded on published fire safety guidance in either the United Kingdom or Ireland. In the absence of the publication of an updated Technical Guidance Document B that recognises the replacement of BS 5588:Part 1:1990 by BS 9991:2015 and that offers guidance on the adequacy or otherwise of the fire safety measures contained therein, it is reasonable to entitle the appellant to design using the guidance contained in BS 9991:2015 and for same to be accepted as a basis for demonstrating compliance with Building Regulation B1 in a similar manner to which BS 5588:Part 1:1990 has been used heretofore.

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. 2 be removed in its entirety.

The remaining 2 no. Conditions (Conditions No.'s 1 and 3) attached to the granted Fire Safety Certificate are not subject of this appeal and should remain. The granted Fire Safety Certificate should therefore be subject of 2 no. Conditions.

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