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**Report to An Bord Pleanála**

on

**Appeal against Condition No 1, 2, 3, 12 and 16**

**Fire Safety Certificate (Reg Ref No. 18/6126F/7D)**

Granted by

**South Dublin County Council**

for

**Construction of Three-Storey, over basement, residential  
care centre,**

at

**Lexington House, Monastery Park, Monastery Road,  
Clondalkin, Dublin 22**

CLIENT	:	AN BORD PLEANALA
AN BORD PLEANALA REF NO	:	ABP-304319-19
BCA REG REF No.	:	18/6126F/7D
OUR REF.	:	19200_AB.P. 304319-19_R01
DATE	:	09 December 2019

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## 1.0 Introduction

### 1.1 Subject Matter of Appeal

This report sets out my findings and recommendations on the appeal submitted by Greaney Fire Safety [hereafter referenced as GFS] on behalf of their Client, GN Lexington Property Limited, against Condition No 1, 2, 3, 12 and 16 attached to the Fire Safety Certificate (BCA Reg Ref No. 18/6126F/7D) granted by South Dublin County Council [hereafter referenced as SDCC] in respect of a new Three-Storey, over basement, residential care centre, at Lexington House, Monastery Park, Monastery Road, Clondalkin, Dublin 22

The conditions under appeal state the following:

#### **Condition 1**

*1(a) Provide a sprinkler system in accordance with I.S.EN 12845:2015. Fixed firefighting systems – Automatic sprinkler systems – Design, installation and maintenance including Annex F additional Measures to improve system reliability and availability, incorporating at least one single superior water supply.*

*OR*

*(b) Provide a Category 3 sprinkler system in accordance with BS9261:2014 Fire sprinkler systems for domestic and residential occupancies – Code of practice, including the design philosophy of Annex F of IS EN 12845, incorporating at least one single superior water supply. The minimum duration of supply for the stored water capacity for the system shall be 60-minutes.*

With the stated reason for the condition being:

#### **Reason:**

*To comply with Part B1 of the Second Schedule to the Building Regulations, 1997 to 2018*

#### **Condition 2**

*Provide self-closing devices for bedroom fire doorsets or equal equivalent (free swing closers or care free plus closers or similar)*

With the stated reason for the condition being:

#### **Reason:**

*To comply with Part B1 of the Second Schedule to the Building Regulations, 1997 to 2018*

**Condition 3**

*Provide smoke activated fire resisting dampers for ventilation ductwork in addition to being thermally activated where the ductwork penetrates compartment construction or fire resisting construction.*

With the stated reason for the condition being:

**Reason:**

*To comply with Part B1 of the Second Schedule to the Building Regulations, 1997 to 2018*

**Condition 12**

*The escape stairs serving the upper stories are to be designed and constructed so that any landing has a width not less than 2800mm and a depth clear of obstructions not less than 1950mm in accordance with Section 1.3.4 of TGD B.*

With the stated reason for the condition being:

**Reason:**

*To comply with the provisions of Part B1 of the Second Schedule to the Building Regulations, 1997 to 2018*

**Condition 16**

*Each compartment of the basement level is to be provided with adequate ventilation as per the guidance of Section 5.4.3.1 of TGD B.*

With the stated reason for the condition being:

**Reason:**

*To comply with Part B5 of the Second Schedule to the Building Regulations, 1997 to 2018*

The appeal is against 5 of the 16 conditions imposed by SDCC. 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 GFS on behalf of their Client
- 1.2.2 Appeal submission to An Bord Pleanala by GFS dated 26.04.2019.

1.2.3 Documentation furnished by SDCC to An Bord Pleanala by cover of SDCC letter dated 14.05.2019.

It is noted that SDCC in their response to ABP dated 14.05.2019 did not avail of the opportunity to make observations on the appeal lodged by GFS - as invited in the ABP letter to SDCC dated 30.04.2019.



## 2.0 Consideration of Arguments by Appellant and Building Control Authority.

It is noted that SDCC did not avail of the opportunity to make any observations on the appeal submission by GFS and therefore the only information provided by SDCC in support of the imposition of the various conditions is as expressed in a generalised way in the Reasons cited on the Grant of Fire Certificate as noted in 1.1 above .

### 2.1 Condition 1

*1(a) Provide a sprinkler system in accordance with I.S.EN 12845:2015. Fixed firefighting systems – Automatic sprinkler systems – Design, installation and maintenance including Annex F additional Measures to improve system reliability and availability, incorporating at least one single superior water supply.*

OR

*(b) Provide a Category 3 sprinkler system in accordance with BS9261:2014 Fire sprinkler systems for domestic and residential occupancies – Code of practice, including the design philosophy of Annex F of IS EN 12845, incorporating at least one single superior water supply. The minimum duration of supply for the stored water capacity for the system shall be 60-minutes.*

GFS argue that the design which they have prepared is based on Technical Guidance Document B 2006 and that they correctly note that the guidance contained therein does not require the provision of a sprinkler installation in buildings of this type/size.

GFS also correctly note that this issue has been previously adjudicated upon by ABP in at least 4 appeals which they list as FS.29B.FS0525, FS.29B.FS0530, FS.29B.FS0572, ABP-301450-18. It is noted that these appeals were reviewed by a number of different Inspectors and all concluded that the imposition of a condition requiring sprinklers was not justified. All of these appeals related to FSC applications which were assessed by Dublin City Council Fire Prevention Section and essentially amount to an ongoing policy to apply this condition notwithstanding the outcome of various appeals listed above.

It is noted that there have been no changes to Technical Guidance Document B since these appeals were adjudicated upon and therefore the conclusion which was correctly reached in those appeals – i.e. that the sprinkler condition should be removed - remains valid. It is further noted that the Draft New Guidance to TGD-B which was issued out for public consultation by the Department of Housing,

Planning and Local Government in June 2019 does not include any changes which would impact this issue.

Accordingly I conclude that the Building Control Authority should be directed to remove this condition

## 2.2 Condition 2

*Provide self-closing devices for bedroom fire doorsets or equal equivalent (free swing closers or care free plus closers or similar)*

GFS argue that this condition is unjustified for the following reasons:

- GFS note that the Guide to Fire Safety in Nursing Homes issued by the Department of Environment in 1996 states that consideration can be given to the omission of a self-closer on a bedroom door where:

*“-the doors are latched and are generally closed: and  
-provision is made for a procedure to ensure that in the event of a fire in a bedroom, a door is closed after evacuation of the occupants”*

It is noted however that the DOE Guide specifically applies only to premises which were built prior to the introduction of the Building Regulations in 1992 and is therefore concerned with compliance with the Fire Services Act 1981-2003 and not with the Building Regulations. Technical Guidance Document B includes no such relaxation in relation to the provision of self-closers on bedroom doors in care homes. Accordingly the reference to the DOE Guide is not considered relevant in this instance. Furthermore the expectation that bedroom doors would normally be closed is not realistic in my experience.

- GFS argue that the presence of self-closers is an impediment to the day to day activities whereby there is regular staff/resident movement from and to bedrooms. This is however readily addressed by the use of free swing type closers which only engage in response to fire alarm activation.
- GFS appear to contend that free swing closers are expensive and therefore are not justified. However, GFS offer no cost-benefit analysis to support this assertion.
- GFS state that the risk of fatalities in fire occurrences in care homes is low. They offer no information however on whether this low occupant risk is based on the presence or otherwise of self-closers on bedroom doors.
- Having considered the case made by GFS and noting that self-closers are required for bedroom doors in care homes in TGD-B I consider that GFS have not made sufficient case in their appeal submission to justify this departure from the guidance in TGD-B. Accordingly I recommend that the condition be retained albeit reworded slightly to remove reference to a specific proprietary product i.e. reference to *“Carefree plus”* closers.



### 2.3 Condition 3

*Provide smoke activated fire resisting dampers for ventilation ductwork in addition to being thermally activated where the ductwork penetrates compartment construction or fire resisting construction.*

GFS argue that this condition is unjustified for the following reasons:

- GFS argue that this issue is dealt with in TGD-B in respect of Section B3 (Internal Fire Spread) and does not fall within the scope of Section B1 (Means of Escape) being the stated reason for the condition in the grant of certificate. This is an incorrect interpretation of TGD-B as ventilation systems are also dealt with in Section 1.4.11 of TGD-B which relates to Part B1 (Means of Escape). Designers are directed to the guidance contained in BS5588 Part 9 which it is noted has now been superseded by BS9999 2017 which incorporates guidance on ventilation systems in Section 32.5.2. Specifically where ducts penetrate the enclosure of protected escape routes in buildings with sleeping risks – i.e. Occupant Characteristic C – they must be fitted with fire alarm actuated fire and smoke dampers.
- Insofar as it appears from the GFS submission to ABP that there are ducts penetrating the partitions enclosing the corridors – i.e. a common extract system serving the en-suites – the imposition of the said condition is considered justified. Accordingly I consider that the condition should be retained

### 2.4 Condition 12

*The escape stairs serving the upper stories are to be designed and constructed so that any landing has a width not less than 2800mm and a depth clear of obstructions not less than 1950mm in accordance with Section 1.3.4 of TGD B.*

GFS argue that this condition is unjustified for the following reasons:

- GFS correctly identify that the landing dimensions referenced in Section 1.3.4 of TGD-B are concerned with ensuring that the stairs are suitable for evacuation by mattress of non-ambulant residents or patients in Residential Institutional buildings. GFS argue that mattress evocation is unlikely to be the mode of evacuation which will be adopted and therefore argue that these landing dimensions are not necessary. However GFS do not set out the intended method of evacuation other than to note that there are various techniques available including evacuation sheets, blankets etc. Furthermore GFS do not justify the proposed landing depths in their design as being adequate for the mode of evacuation which their client intends to employ. It is noted that all modes of evacuation can be catered for if

the stairs is sized for the worst case scenario being mattress evacuation per the existing condition 12. It is also my experience that many operators of Care Homes do elect to employ mattress evacuation for non-ambulant residents.

- Accordingly I conclude that the condition should be retained but with the option that the Applicant can propose an alternative set of landing dimensions subject to those dimensions being justified for the intended mode of evacuation i.e. if the operator intends to employ a method other than mattress evacuation. This however should be agreed in writing with the Building Control Authority in advance of the building being completed/occupied.

## 2.4 Condition 16

*Each compartment of the basement level is to be provided with adequate ventilation as per the guidance of Section 5.4.3.1 of TGD B.*

It is noted that Section 5.4.3.1 of TGD B prescribes that all basements be provided with smoke/heat ventilation to assist the fire service except basements with a floor area of less than 200sqm and depth below ground of less than 3m.

GFS argue that venting is not necessary in this instance as the basement is less than 3m deep and is subdivided into 4 fire compartments each of which is considerably less than 200sqm in plan area.

GFS also argue that the fire hazard in the basement is limited and confined in the main to the kitchen. GFS note that the kitchen fire hazard is mitigated by the proposal to install a dedicated fire suppression system on the cooking island.

It is considered that the arguments advanced by GFS have merit having regard in particular to the following additional considerations applying in this particular case:

- The availability of external access to basement level via Stairs 4 i.e. the fire service do not have to approach a basement fire by way of an internal stairs
- The fact that the laundry (which is a high fire hazard space) and the staff canteen have external windows which can be used to vent those spaces
- The availability of external doors from the basement corridor will enable the fire service to vent the remaining enclosed rooms to outside via the corridor

In light of the foregoing I consider that Condition 16 should be removed.



### 3.0 Recommendations

In light of the foregoing I advise as follows:

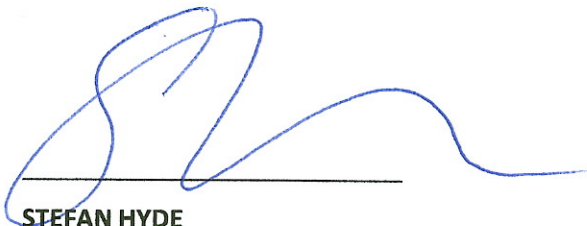
- I. The Building Control Authority should be directed to remove Conditions 1 and 16 in their entirety
- II. Condition 3 should be retained as is
- III. Condition 2 to be retained but reworded as follows:

*Provide self-closing devices for bedroom fire doorsets which may include a swing free device which releases on smoke detector activation.*

- IV. Condition 12 to be retained but reworded as follows:

*The escape stairs serving the upper stories are to be designed and constructed so that any landing has a width not less than 2800mm and a depth clear of obstructions not less than 1950mm in accordance with Section 1.3.4 of TGD B.*

*Alternatively, the Applicant may propose an alternative landing size subject to confirming in writing the intended mode of evacuation of non-ambulant residents and subject to demonstrating to the satisfaction of the Building Control Authority that the proposed landing dimensions will cater for the intended mode of evacuation. This shall be approved in writing by the Building Control Authority in advance of the works being completed and in advance of occupation of the building.*



**STEFAN HYDE**

Director | Chartered Engineer | BA, BAI, PDip FSP, MA, CEng, MIEI

Date : 28/01/20 .