



An  
Bord  
Pleanála

## FSC Report

**ABP 304976-19.**



**Appeal v Refusal or Appeal v  
Condition(s)**

Appeal v Refusal

**Development Description**

The works falling within the scope of the application is proposed material alterations and change of use of an existing warehouse to provide a performing arts centre for a period of three years.

**An Bord Pleanála appeal ref number:**

ABP.304976-19

**Building Control Authority Fire Safety  
Certificate application number:**

FA/19/1113(FSR2796/19)

**Appellant & Agent:**

Appellant : Complex Productions Ltd

Agent : Michael Slattery & Associates

**Building Control Authority:**

Dublin City Council

**Date of Site Inspection**

NA

**Inspector/ Board Consultant:**

Rory McShane

**Appendices**

NA

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## 2.0 Introduction

- 2.1. The proposed development comprises is proposed material alterations and change of use of an existing warehouse to provide a performing arts centre for a period of .three years, at 21-25 Arran Street East, Smithfield, Dublin
- 2.2. The application relates to alterations / material change of use of an existing building.
- 2.3. The application was for a FSC, and was refused by the Building Control Authority. This appeal is an appeal v refusal, with the conditions for refusal stated as follows;

### **Reason:**

*The building or works do not comply with the requirements of Part B of the Second Schedule to the Building Regulations 1997-2017, with respect to the following.*

### **B4 External Fire Spread**

*Roof construction is insufficiently restricted with respect to the spread of flame and / or fire penetration from an external source.*

*There is a lack of clarity of information provided with regard to the construction of the roof system and its component parts. Dublin Fire Brigade is therefore not satisfied that it has been fully demonstrated that the works proposed would achieve an adequate level of fire safety that would comply with Part B4 of the Second Schedule to the Building Regulations 1997-2017*

### 3.0 Information Considered

3.1. The following list of all drawings and documents (as revised) which were received by the BCA in the first instance and forwarded with the appeal.

Drawing / Report No	Name	Rev <sup>(1)</sup>
1910.SK.001	Site Location Map	-
1910.SK.002	Existing Site Layout Plan	-
19056-003-FSC	Ground Floor	A
19056-004-FSC	First Floor	A
19056-005-FSC	Section AA & BB	A
19056-006-FSC	Section CC & DD	A
19056-007-FSC	Section EE & FF	-
19056-008-FSC	Proposed Elevation (Marys Abbey / Meeting House Lane)	A
19056-009-FSC	Proposed Elevation (Arran Street East)	-
19056-010-FSC	Roof Plan	-
19056R001	Fire Safety Certificate Application Report	Issue A
19056c001	Further information letter (Dated 17.05.19)	
19056c005a	Further information letter (Dated 02.07.19)	

3.2. The following documents were received by the board in relation to the Appeal

- Appeal of Refusal correspondence dated 24<sup>th</sup> July 2019 from Michael Slattery Associates (MSA) on behalf of Complex Productions Ltd setting out the case for appeal
- BCA response to appeal dated 21<sup>st</sup> August 2019.
- Further response dated 09<sup>th</sup> September 2019 from Michael Slattery Associates

### 4.0 Relevant History/Cases

4.1. No relevant history / cases noted

## 5.0 Appellant's Case

5.1. The Appellant has appealed the decision to Refuse the application for an FSC, and sets out a case summarised as follows;

- The roofing construction was detailed as comprising two distinct roof types
  - a) A profiled double skin metal sheet with pvc coated mild steel on both faces and a polyurethane core (noted as being a modern Kingspan roof cladding system) which achieves an AA designation in accordance with Table A5 of TGD-B 2006 permitting its use in accordance with Table 4.4 of TGD-B 2006. The appellant notes that the area of roof comprising the above construction type is highlighted in “yellow shading” in Fig 1 of their appeal letter.
  - b) Corrugated asbestos sheeting, which with reference to Table A5 Part II of TGD-B1991 (extract provided) is confirmed as achieving an AA designation. Reference is further made to Schedule 9 of Part II of the UK (England & Wales) 1976 Building Regulations which further supports the designation of corrugated asbestos sheeting as AA rated.
- The appellant notes that Dublin Fire Brigade have appeared to base their decision on the fact that the current edition of TGD-B (TGD-B 2006) does not include corrugated asbestos sheeting in the list of roof coverings achieving an AA rating in Table A5, the appellant notes that
  - a) Asbestos sheeting is no longer used in construction of new buildings / extensions, and therefore this is explanation as to why it is no longer explicitly noted in Table A5, and
  - b) Asbestos sheeting would come within the family of fibre cement sheeting and thus (in the view of the appellant) is therefore covered by the reference to fibre cement sheeting which is listed in Table A5 as an AA designated roof covering.
- The appellant further notes that in relation to the roof build up, most of the roof build up is the above roofing without underlay, and therefore in accordance with the provisions of the previously aforementioned tables. The appellant notes that one section of the roof comprises an underlay of solid timber

boarding which is being surface treated to meet the requisite surface spread of flame rating.

## 6.0 Building Control Authority Case

6.1. The following is a summary of the BCA case based on documents lodged.

- The BCA note that the TGD-B 1991 were revoked by the Building Regulations 1997, and similarly that the reference to the UK (England & Wales) 1976 Building Regulations have “long since been revoked”
- The use of asbestos was banned in the 1970s and any reference to it was removed from the 1997 and 2006 editions of TGD-B.
- Given that the application was for material alterations / material change of use, the building is required to conform with current Building Regulations

## 7.0 Assessment

### 7.1. Details lodged with application

7.1.1. The drawings and associated report / correspondence (including all revisions thereto included in the additional information submissions during the course of the application) have been thoroughly reviewed and it is my view that they are sufficient to enable the Board to establish compliance with Part B in addition to the determination of the merits of the appeal

### 7.2. De Novo assessment/appeal v conditions

7.2.1. As the appeal is against a refusal imposed on non compliance with a specific aspect of B4 of TGD-B, and *having considered the drawings, details and submissions on the file in their entirety, I am satisfied that the determination by the Board of this application as if it had been made to it in the first instance would not be warranted. Accordingly, I consider that it would be appropriate to use the provisions of Article 40(2) of the Building Control Regulations, 1997-2015.*”

### 7.3. Content of Assessment

The basis for the appeal against the refusal is that the BCA are of the view that the applicant has not demonstrated compliance with the functional requirements of TGD-B 2006 in addressing the specific issue of the performance requirements of the roof build up vs B4 functional requirements ;

The basis of the Refusal by the BCA appears to be solely on the pretext that the current Table A5 of TGD-B 2006 does not refer to corrugated asbestos sheeting as a roof covering which meets the requirement for an AA rated roof designation. However, in this instance the applicant notes, in their submission of 24th July 2019, and 09<sup>th</sup> September 2019, that whilst the current Table A5 of TGD-B 2006 does not make direct reference to corrugated asbestos sheeting, the proposed roof build up

- a) Has previously been accepted as an AA rated roof construction by reference to Table A5 of TGD-B 1991, supported by the 1976 UK (England and Wales) Building Regulations (extracts provided), and
- b) Asbestos would come within the family of fibre cement sheeting , which are listed in Table A5 of TGD-B 2006 as an AA rated roof system
- c) that the requirements of TGD-B 2006 are therefore being satisfied

It is my opinion that the omission of corrugated asbestos sheeting the current list of AA designated roof in Table A5 of TGD-B 2006 was in recognition of asbestos no longer being used within the construction industry due to the exposure to carcinogenic risks associated with working with asbestos. However, this does not imply that where asbestos is retained within a building structure, it cannot continue to be considered to meet the functional requirements of Part B. Indeed, the lists of common roof coverings included in Table A5 is not considered to be a definitive list, and it is considered reasonable that where it can be demonstrated by test or otherwise that a roof covering achieves the required performance, this should be considered acceptable. In this context, the applicant has, in my view, provided sufficient documentary evidence by way of reference to previously accepted standards, that the product was deemed to have achieved an AA roof designation by reference to the guidance available in 1991. Given that the performance of asbestos as a roofing product would not have changed in the interim, it is considered

reasonable to accept that the roof designation of AA rating is being achieved in this instance. On the basis of the foregoing, it is my consideration that the appeal against refusal should be upheld.

## 8.0 Conclusion / Recommendation

8.1. On the basis of the commentary and consideration in Section 7.3 of this Report, it is my opinion that the appellant has sufficiently demonstrated that the in retaining the existing roof material / build up, in addition their previously stated commitment that any roof lights would meet the prescriptive requirements of Part B2 and B4 of TGD-B 2006 in respect of performance of thermoplastic roof lighting or lighting diffusers, that the appellant has demonstrated that the roof build up meets the requirements of Part B4 of the Building Regulations and that the appeal should be upheld.

## 9.0 Reasons and Considerations

9.1. For the reasons and considerations in Section 7 and 8 above, it is considered that the appeal against refusal should be upheld

## 10.0 Conditions

None



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Consultant / Inspector  
03.12.2019