



## **Appeal Against Conditions attached to Fire Safety Certificate (FSC) Ref. FSC3948/19**

<b>Project</b>	Queen of Peace Nursing Home, Garville Place, Rathgar, Dublin 6
<b>Local Authority</b>	Dublin City Council
<b>Date</b>	27 <sup>th</sup> March 2020

## Contents

- 1.0 INTRODUCTION**
- 2.0 INFORMATION REVIEWED**
- 3.0 DISCUSSION**
- 4.0 RECOMMENDATIONS**

## 1.0 INTRODUCTION

The project involves material alterations and an extension to the Queen of Peace nursing home in Garville Place, Rathgar, Dublin 6.

A Fire Safety Certificate application for the works was granted by Dublin City Council on the 16<sup>th</sup> October 2019. The following conditions were attached: -

### Condition 1

Additional information requested 15<sup>th</sup> May 2019 and received 19<sup>th</sup> September 2019 is to be incorporated in the development.

#### Reason:

To comply with the provisions of Part B of the Second Schedule to the Building Regulations, 1997 to 2019.

### Condition 2

Stairs 2 is to be provided with dry riser inlet valves to the front and the rear of the building. The inlet valves are to be located, installed, signposted and maintained in accordance with BS 9990: 2015.

**Reason:** To comply with the provisions of Part B5 of the Second Schedule of the Building Regulations, 1997-2019.

### Condition 3

One of the following provisions is to be incorporated into the building –

- a) Provide a sprinkler system in accordance with I.S 12845:2015 Fixed firefighting systems- Automatic sprinkler systems- Designs, installation and maintenance including Annex F Additional Measures to improve system reliability and availability, incorporating at least one single superior water supply.
- b) Provide a Category 3 sprinkler system in accordance with BS 9251: 2014 Fire sprinkler system 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 shall be 60-minutes.

**Reason:** To comply with the provisions of Part B3 of the Second Schedule of the Building Regulations, 1997-2019.

### Condition 4

Self-closing devices for bedroom fire doorsets or equal equivalent (free swing closers or care free plus closers or similar) are to be provided.

**Reason:** To comply with the provisions of Part B3 of the Second Schedule to the Building Regulations, 1997 to 2019.

### Condition 5

Fire resisting dampers for ventilation ductwork that penetrates compartment construction or fire resisting construction are to be smoke activated in addition to being thermally activated.

**Reason:** To comply with the provisions of Part B3 of the Second Schedule of the Building Regulations, 1997-2019.

### Condition 6

Any furniture placed in corridors & Rest Bays are to be made of non-combustible materials and be permanently fixed in positions which do not reduce the width of the escape route or obstruct final/storey exits. Management procedures are to be put in place to minimise the fire load within corridors.

**Reason:** To comply with the provisions of Part B1 of the Second Schedule of the Building Regulations, 1997-2019.

Condition 3 is the subject of this appeal.

## 2.0 INFORMATION REVIEWED

In assessing this appeal, the following information was considered: -

- Fire safety certificate application including report and drawings received.
- Additional Information submissions dated 15<sup>th</sup> October 2018, and the 26<sup>th</sup> October 2018.
- Fire safety certificate grant letter (Ref: FSC3948/19) dated 16<sup>th</sup> October 2019.
- Appeal submission from John A. McCarthy dated 14<sup>th</sup> November 2019.
- Fire Officers Report on Fire Safety Certificate appeal dated 29<sup>th</sup> November 2019.
- Response to Fire Officers Report from John A. McCarthy dated 24<sup>th</sup> January 2020.

## 3.0 DISCUSSION

### 3.1 Condition No. 3

#### Condition 3

One of the following provisions is to be incorporated into the building –

- a) Provide a sprinkler system in accordance with I.S 12845:2015 Fixed firefighting systems- Automatic sprinkler systems- Designs, installation and maintenance including Annex F Additional Measures to improve system reliability and availability, incorporating at least one single superior water supply.
- b) Provide a Category 3 sprinkler system in accordance with BS 9251: 2014 Fire sprinkler system 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 shall be 60-minutes.

**Reason:** To comply with the provisions of Part B3 of the Second Schedule of the Building Regulations, 1997-2019.

#### DFB Case

Dublin Fire Prevention have the position that the TGD-B has not been updated in 13 years and the fire safety requirements for new residential care homes is outdated. They substantiate this argument by stating that the results published by the Building Research Establishment (BRE) of a project “The effectiveness of sprinklers in residential premises” concluded that an automatic sprinkler system is probably cost-effective for residential care homes. Subsequently, the Scottish Executive made the provision of sprinklers in care homes a mandatory requirement. Similarly, they point to the case where Welsh Assembly signed into law that all residential care homes were to install an automatic fire suppression system from 30/04/14 based on research from another BRE study in 2012 regarding the cost effectiveness of sprinklers in new Welsh care homes. DFB also reason that there are issues with evacuating due the nature of the occupancy requiring assistance to escape. DFB note that that UK data from PD7974: 7:2003 suggest that in a fire situation fire doorsets could fail to act as intended in over 40% of installations. They have concerns that the current TGD B guidance for care homes relies solely on passive fire protection measures.

#### Appellant's Case

John A. McCarthy note that similar appeals (Ref 29B.FS.0525, 29B.FS.0530 & 29B.FS.0572) for nursing homes have identical Conditions that were successful in getting the appeal set aside. John A. McCarthy argues that the provision of sprinkler protection is not a recommendation of Technical Guidance Document B 2006 and the TGD B is the current prima facie design guidance issued by the Department of the Environment, Community and Local Government in relation to compliance with Part B of the Second Schedule of the Building Regulations, and states “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 of the Building Regulations”. John A. McCarthy note compliance with B3 of Part B is achieved without recourse to the provisions of sprinklers. John A. McCarthy note if sprinklers are required, the project will not be financially viable. Existing floor-to-floor heights do not readily accommodate retrofitting of a sprinkler installation in existing areas of the subject development.

#### Discussion

The appellant makes a strong case that the building is essentially fully compliant with the guidance in the current TGD B without the provision of sprinklers. While we agree that the current 2006 version of TGD B is in need of an update; it is worth noting that there is a new revision of the TGD B set to come into effect on 1<sup>st</sup> July 2020. Reviewing the 2020 reprint revision that was issued, there appears to be no such mention of sprinklers being a requirement in new care homes. If there were concerns about the sprinklers being a necessity, then this surely would have been brought up in discussions as a key point that needed addressing. Considering the guidance on new care homes in the TGD B remains the same in the 2020 reprint, then the argument that the guidance given in the TGD B is outdated by 13 years and doesn't represent the current requirements for new residential care homes is null and void.

If BCA feel that the cost benefit analysis carried out in Wales would apply to the current Irish market, then we are of the opinion that they should pursue BRE on carrying a similar study that is specifically tailored towards the Irish market. Otherwise, it is speculative to suggest that the Welsh and Irish markets are identical and do not have significant differences such as cost of housing and sprinkler materials. One would assume that if concerns are raised then a cost benefit analysis for the Irish market will be carried out and if deemed

appropriate the requirement for sprinklers will be incorporated. Until such time as this due process is complete the current minimum standards in TGD B do not require sprinklers in residential care homes in Ireland. DFB may have their own 'in-house policy document' but it is not considered appropriate that DFB should, in effect, set requirements (without a statutory basis) that go beyond the recommendations set out in the current (or pending 2020 revision), which do have a statutory basis. In doing so, they are suggesting that compliance with the recommendations of TGD B is no longer accepted as prima facie evidence of compliance with Part B. This would be an issue as any recommendations issued in compliance with Part B should be consistent across all Building Control Authorities and it would not be reasonable to have different standards applied across different counties.

## 4.0 RECOMMENDATIONS

On the basis of the above considerations, the BCA should be directed to remove Condition 3 from the granted Fire Safety Certificate.

Signed



Martin Davidson  
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Date: 27<sup>th</sup> March 2020

