

An
Bord
Pleanála

FSC Report

ABP 307142-20

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

Appeal v Conditions 3 and 4

Development Description

Construction of a new three storey apartment building at rear of 2-10 Jamestown Road, Tyrconnell Road, Inchicore, Dublin 8.

**An Bord Pleanála appeal ref
number:**

ABP-307142-20

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

FSC2339/20

Appellant & Agent:

Appellant : Mr Declan Byrne of
Glencarra Homes Ltd.

Agent : FiSCA Fire & Access on line
Consultancy

Building Control Authority:

Dublin City Council

Date of Site Inspection

NA

Inspector/ Board Consultant:

Luke Fegan

Appendices

NA

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2.0 Introduction

2.1 Subject Matter of Appeal

This report sets out my findings and recommendations on the appeal submitted by FiSCA Fire & Access on line Consultancy [hereafter referenced as FiSCA] on behalf of their Client, Mr Declan Byrne of Glencarra Homes Ltd, against Conditions No. 3 and 4 attached to the Fire Safety Certificate (Ref No. FSC2339/20) granted by Dublin City Council [hereafter referenced as DCC] in respect of the construction of a new three storey apartment building at rear of 2-10 Jamestown Road, Tyrconnell Road, Inchicore, Dublin 8.

It is noted that the building comprises a ground floor apartment and ancillary storage accommodation and two number upper floor duplex apartments accessed from first floor level. It is further noted that the building is not provided with a lift and the common stairs has an open balcony at first floor level i.e. has balustrade overlooking the entrance at ground floor level.

It is noted that the fire strategy for the development, as set out in the FiSCA Compliance Reports, is based on BS9991:2015.

The Fire Safety Certificate was granted on 21st April 2020 with 8 conditions attached.

Conditions 3 and 4, which are the subject of the appeal, read as follows:

Condition 3

Refuge spaces shall be provided with an emergency voice communication system complying with B.S. 5839 part 9

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, 1997-2019.*

Condition 4

Automatic self closing devices which are capable of closing the door from any angle against any latch fitted to the door shall be provided to all fire doors throughout the building.

With the stated reason for the condition being:

Reason: *To comply with the provisions of Part B1 & B3 of the Second Schedule to the Building Regulations, 1997-2019.*

The appeal is against the above 2 conditions.

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 Conditions 3 and 4 only.

2.2 Documents Reviewed

- 2.2.1 Fire Safety Certificate Application and Supporting Documentation submitted by FiSCA on behalf of their Client
- 2.2.2 Decision and grant by DCC on 21.04.2020 with 8 conditions attached
- 2.2.3 Appeal submissions to An Bord Pleanala by FiSCA dated 30.04.2020 and 23.06.2020
- 2.2.4 Appeal submission to An Bord Pleanala by DCC dated 08.06.2020

3.0 Consideration of Arguments by Appellant and BCA

3.1 Condition 3

Condition 3

Refuge spaces shall be provided with an emergency voice communication system complying with B.S. 5839 part 9

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, 1997-2019.*

Case made by FiSCA in respect of Condition 3

- I. FiSCA note that the only refuge space in the Fire Safety Certificate application is located adjacent the balustrade on the first floor balcony. FiSCA go onto note that this area is open to and overlooking the entrance to the building at ground floor level and therefore speech communication can be had between any persons with disabilities who may be awaiting assistance in the refuge space and responding fire service or management personnel. They therefore conclude that in these circumstances there is no need to additionally provide an electric Emergency Voice Communication [EVC] system.
- II. FiSCA also reference Clause 4 of BS 5839 Part 8 which states that *“The need for EVC in any specific building or complex will normally be determined by the appropriate regulation and/or a fire risk assessment carried out by the owner, landlord, occupier(s), employer(s) or other responsible person, as appropriate.”*
FiSCA state that they have carried out a Risk Assessment and have concluded that an EVC is not required in this particular instance having regard to:
 - The limited occupant capacity of the building
 - The spatial closeness of the first floor refuge space to the ground floor entrance and the presence of an open balustrade on the first floor landing thus enabling visual and verbal contact between an occupant of the disabled refuge space and responding fire service or management personnel
 - Familiarity of the occupants with the building i.e. as compared to a public building such as a sports centre, cinema, airport etc
 - The improbability of a person with mobility impairment – i.e. such as not to be capable of independent use of the stairs – being present in the two duplexes having regard to the fact that the buildings is not equipped with a lift.
- III. FiSCA note that BS9991:2015 only recommends refuge spaces in specialised housing accommodation and by corollary does not require EVC systems to be installed. FiSCA note that their fire strategy is based entirely on the requirements of BS9991:2015 and

on that basis they argue that additional requirements of TGDB such as EVC systems ought not to be imposed.

Case made by DCC in respect of Condition 3

- I. DCC correctly note that BS9991:2015 is based on a 'stay-put' philosophy (i.e. whereby occupants are considered safe to remain in their apartments unless directly affected by fire or the fire service direct them to evacuate) whereas the evacuation strategy for apartment blocks in Ireland, as reinforced in the Government's *Fire Safety In Ireland Report of The Fire Safety Task Force May 2018*, is to evacuate the building and thus automatic fire warning systems are installed in apartment blocks in Ireland and not in apartment blocks designed to BS9991:2015. DCC therefore argue that the consideration of the safe evacuation of persons with disabilities must take account of the Irish evacuation strategy which in turn leads to the need for refuge spaces and associated communication facilities.
- II. DCC disagree with FiSCA that compliance with BS9991:2015 is prima facie compliance and DCC note that the provisions in BS9991 must be augmented with measures to enable the Irish evacuation based strategy. DCC thus disagree with the FiSCA assertion that EVCs are not required simply because the design is based on BS9991.
- III. DCC also question the ability of responding fire service or management personnel to communicate verbally with a disabled person in the refuge space at first floor level due to smoke issuing from a fire at a ground floor level. In this regard it is noted however that there are no windows to the ground floor apartment or storerooms located such as to cause a smoke plume to impinge in the first floor balcony area.
- IV. DCC also contend that a disabled persons may be visually impaired and thus may not be able to see a person who might be available to assist at ground floor level. They further contend that a visually impaired person may not be able to use the stairs unaided and thus may rely upon assistance to evacuate.

3.2 Condition 4

Condition 4

Automatic self closing devices which are capable of closing the door from any angle against any latch fitted to the door shall be provided to all fire doors throughout the building.

With the stated reason for the condition being:

Reason: *To comply with the provisions of Part B1 & B3 of the Second Schedule to the Building Regulations, 1997-2019.*

Case made by FiSCA in respect of Condition 4

The appeal is concerned with the internal doors within the entrance halls of the apartments which are proposed as non self-closing FD30 minute rated fire doors whereas Condition 4 will require that closers be installed on these doors

- I. FiSCA refer to Clause 24.1.161 of BS99991:2015 which states that:
Self-closing devices need not be provided on fire doors within a dwelling, flat or maisonette, except between an attached or integral dwelling and on the door between a flat and communal areas.
FiSCA argue that this advice is sound having regard to the likelihood that self-closing doors within apartments will be wedged open by the occupant or the closer removed due to the impediment which closers present to normal day to day use. They therefore assert that the consequence of the door being wedged open or the closer being disabled is that the door is less likely to be closed than would have been the case with a closer fitted.
- II. FiSCA also contend that DCC are cherry-picking from one standard – i.e. from TGDB 2006 – when in fact the fire design is based on another design guide - i.e. BS9991:2015 - and FiSCA thus contend that this practice should not be pursued by DCC.
- III. FiSCA also reference 2 other FSC applications in which they say that DCC have approved non-self closing fire doors within the entrance hall of apartments.

Case made by DCC in respect of Condition 4

- I. DCC argue that the self-closers are justified on the basis of the guidance in Section 1.4 of TGDB 2006 (as amended in 2020) and the advice in the Department of Housing and Local Government *Fire Safety in Flats*. DCC note that TGDB 2006 was updated in 2020
- II. DCC also contend that the provision of self-closers results in a greater likelihood of the fire/smoke being prevented from entering the apartment entrance hallway than would be the case if no closers are fitted.
- III. DCC argue that BS9991:2015 does not constitute prima facie compliance with B1 (Means of Escape) of the Irish Building Regulations and thus argue that compliance with BS9991 does not confirm compliance with Irish Building Regulations.
- IV. DCC also contend that the refuge space at first floor landing is compromised as a consequence of not having closers on the internal apartment doors.

4.0 Assessment

Condition 3 – EVC system

I concur with the case made by the Appellant for the non-provision of an Emergency Voice Communication system at the refuge space at first floor level and ground floor level in the particular circumstances of this building having regard in particular to the following considerations:

- The open nature of the stairs enclosure on the access side
- The proximity of the refuge space to the ground floor entrance
- The improbability, given the absence of a lift in the building, that the duplex units will be occupied by a person with disabilities such as would render them incapable of independently using the stairs and/or the additional improbability that a person with such a disability would not have the benefit of the assistance of another occupant of their apartment to assist them in negotiating the stairs.

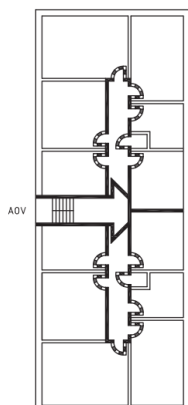
Condition 4 – Self closers on apartment internal doors

It is noted that the provision or otherwise of self-closers on internal apartment doors is an issue on which there is much ongoing debate.

It is the case that TGDB 2006 for apartments recommends the provision of self-closers, as does TGDB Volume 2 2017 (Dwellings Houses). DCC are also correct in noting that TGDB 2006 was amended and reissued in 2020. However it is noted that the 2020 update was primarily concerned with open plan apartments and not cellular apartments.

It is noted that the purpose of fitting self-closers on the internal doors of the apartments in this particular building design is twofold:

- I. To protect the route of escape for occupants of the apartment of fire occurrence
- II. To provide a second layer of fire protection to the common escape stairs as the design has been based on Figure 8(b) of BS9991:2015 – reproduced below.



b) Small building of not more than two dwellings per storey and protected internal entrance halls

The logic for the non-provision of closers is that occupants will be advised as part of the fire safety management of the block that they should close their room doors for their own safety particularly at night-time. However it is considered that this practice is less likely to occur when an apartment is unoccupied – for instance when an occupant is out at work or away on vacation - and there are no closers fitted on the doors. This in turn leaves other occupants of the block at reduced levels of safety given the part reliance on the fire rated entrance halls as protection of the common escape route.

Accordingly having regard to the particular circumstances of this design I consider that DCC are justified in imposing self-closers in this instance

5.0 Conclusion/Recommendation

In light of the foregoing I recommend that the appeal be upheld in relation to Condition 3 and refused in relation to Condition 4

6.0 Reasons and Considerations

In relation to Condition 3, I conclude that the appeal be upheld having regard to the open nature of the stairs enclosure, the proximity of the disabled refuge space to the ground floor entrance and the improbability of occupants needing fire service or management assistance to escape given the absence of a lift serving the upper floors.

In relation to Condition 4, I conclude that the appeal should be refused and Condition 4 as set out in Fire Safety Certificate remain unaltered on the basis that the protected entrance hallways in this instance form part of the protection of the common escape route from other apartments.

7.0 Conditions

Remove Condition 3 and retain Condition 4 unchanged.

LUKE FEGAN

Consultant/Inspector

Date : _____