

Material alterations to the previously approved Level 1 for the Dean Hotel, Horgan Quay Development, Cork

Appeal against Refusal by Cork City Council to Grant of Fire Safety Certificate (Application Reg Ref: FSCA/5326/20)

MSA Reference > 21000

ABP Reference > 309863-21

For An Bord Pleanála

MSA

CONTENTS

/1	INTRODUCTION	1
1.1	Subject of Appeal	1
1.2	Documents Reviewed	1
/2	REVIEW OF APPEAL SUBMISSIONS	2
2.1	Case made by the Building Control Authority	2
2.2	Case Made by the Appellant	2
/3	FINDINGS	2

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/1 INTRODUCTION

This report sets out my findings and recommendations on the appeal submitted by Maurice Johnson & Partners against the refusal by Cork City Council to grant a Fire Safety Certificate (Reg Ref No. FSCA/5326/20) for proposed material alterations to the previously approved Level 1 design for the Dean Hotel, Horgan's Quay Development, Cork.

1.1 Subject of Appeal

A Fire Safety Certificate application was made by Maurice Johnson & Partners on 15/12/2020 to Cork City Council for proposed material alterations to the Level 1 design of the Dean Hotel so as to address a Condition attached to the previously granted Fire Safety Certificate for this development, which imposed a restriction on the size and occupant capacity of the Level 1 function room. In the application an analysis was submitted to show that stairs emergency egress capacity was sufficient to cater for the proposed occupancy level of the Level 1 function room.

Cork City Council issued a refusal to grant on 16/03/2021 with the stated reason for refusal being:

"The maximum emergency egress capacity of the stairs must match or exceed the maximum occupancy of the first-floor public assembly area, to prove compliance with B1 of the Building Regulations"

1.2 Documents Reviewed

- Application for a Fire Safety Certificate to Cork City Council submitted on 15th December 2020 comprising of;
 - Fire Safety Certificate Compliance Report; prepared by Maurice Johnson & Partners
 - Plans, Sections and Elevations; by Wilson Architecture/Maurice Johnson & Partners.
- Appeal submissions to An Bord Pleanala
 - Submission dated 31/01/2021 by Maurice Johnson & Partners
 - Submission dated 28/04/2021 by Cork City Council Chief Fire Officer
 - Submission dated 24/04/2021 by Maurice Johnson & Partners

/2 REVIEW OF APPEAL SUBMISSIONS

2.1 Case made by the Building Control Authority

In the original Fire Safety Certificate grant (FSCA/4961/18) Cork City Council attached Condition 2 relating to the First-Floor which read as follows:

“Condition 2: First Floor Public Assembly Area

- a) The available public access floor area of the first-floor function room shall be reduced by 15 square meters
- b) Meeting Room 1 and Meeting Room 2 at first floor level shall not be used for public access while the function room is at its maximum capacity of 270 persons
- c) The total occupancy of the first-floor public assembly areas is to be limited to a maximum of 270 persons.

Reason: the maximum floor capacity of the first floor must match the stairs emergency egress capacity of the first floor.

In seeking to reduce the public access floor area of the first-floor function room/meeting room by way of 2(a) the Building Control Authority as noted in their Appeal submission are adopting an average occupant density factor of 0.8 m²/p in the function room/adjoining meeting room. This is on the basis of their concerns regarding reliance on management controls in the area over the lifetime of the building particularly as the space does not contain fixed seating/furnishings.

2.2 Case Made by the Appellant

The Appellant's case relies on

- a) Written commitment from the hotel operator that they would be adhering to a 270 person occupancy limit in the operation of the function/meeting rooms
- b) The proposition that an average occupant density figure of 1.05 m²/p across the function/meeting rooms is an appropriate and reasonable figure having regard to the range of uses proposed and commitment given by the hotel operator and having regard to the recommendations in the Technical Guidance.

The appellant further notes that in the context of the current pandemic and ongoing requirements for social distancing that it is considered imprudent to be imposing increased occupant densities in the use of this premises as proposed by the Building Control Authority.

The Appellant also notes that in any event Cork City Council as the Fire Authority have extensive powers under the Fire Services Act 1981 – 2003 which they can use to enforce the fire safety standards including in particular operating within the design occupancy limit and that accordingly they should be relying on these powers rather than seeking to impose an arbitrary reduction in net floor area.

/3 FINDINGS

The concerns being raised by the Building Control regarding the potential peak occupancy levels in the function room and ancillary meeting rooms exceeding the emergency egress capacity of 270 persons, have some validity in my opinion given:

- The overall floor areas available for public assembly

- The statement by Press Up Entertainment Group in relation to the 1st floor function room that it will be used for a range of functions ranging from conferences to weddings. While they note that they have advised a maximum figure of 270 persons to Maurice Johnson & Partners, I am not satisfied that with some of the potential uses within the range given, that the 270 aggregate occupancy limit of the function room and ancillary meeting rooms could not be exceeded in practice in some instances. While the appellant is citing Table 1.1 of Technical Guidance Document B and the Code of Practice for the Management of Fire Safety in Places of Assembly, in support of the appeal case the following points are noted from these references:

- o Occupancy load factors are given as follows in these documents:

TGD-B

- Standing areas in assembly buildings 0.3 m²/p
- Lounge bar/bar 0.5 m²/p
- Restaurant/dining rooms 1.0 m²/p

Alternatively, the occupant number may be taken as number of seats, if the occupants will normally be seated.

Code of Practice for the Management of Fire Safety in Places of Assembly

- Premises with fixed seating: determined by number of seats
- Other premises including those occupied by loose seating:
 - Standing areas 0.3 m²/p
 - Bar 0.3 – 0.5 m²/p
 - Restaurant/lounge bar 1.0 – 1.5 m²/p
 - Assembly area/dance area 0.55 m²/p

A further relevant guidance document which hasn't been referred to by the Appellant is the Code of Practice for Safety at Indoors Concerts published by the Department of the Environment and Local Government. This recommends for concert venues with individual seating (i.e., seating in rows) an occupancy load factor of 0.5 m²/p. I refer also to BS5588 Part 6 (cited in TGD-B) which gives the following floor space factors:

Individual seating	0.4 – 0.5 m ² /p
Dance area	0.5 m ² /p
Bars without seating	0.3 m ² /p
Standing spectator areas	0.3 m ² /p
Restaurants and similar table and chair arrangements around a dance area	1.1 – 1.5 m ² /p

It is evident from the range of possible uses proposed for the function room, the potential realistic maximum occupant capacity needs to be assessed for each of these uses and will be determined using a mixture of occupancy density factors ranging from standing, closely seated guidance (seating in rows, e.g., conference/concert use) and dining/function room seating layouts.

In my opinion the Applicant needs to demonstrate for each of the uses proposed that the overall occupancy level of 270 persons for the area will not in practice be exceeded by preparing a set of layout drawings for each category of use in which case:

- Seated areas capacity would be assessed on the basis of the number of seats or using an occupancy load factor
- Standing concert areas used for dancing etc. would be assessed using appropriate occupancy load factors from the guidance

In undertaking such an analysis, the Applicant should then be able to demonstrate that the 270 occupancy limit is a realistic manageable occupancy limit and should therefore allay the concerns of the Chief Fire Officer.

There are three options available therefore to the board in dealing with this appeal.

Option 1

Uphold the decision of the Building Control Authority in refusing the grant of the Fire Safety Certificate. The applicant then has the option to make a further Fire Safety Certificate application in which they address in detail the points made in the foregoing findings.

Option 2

Allow the appeal and direct the Building Control Authority to grant the Fire Safety Certificate with a condition attached which requires the applicant to demonstrate to the satisfaction of the Building Control Authority that the overall occupancy level of 270 persons for first floor public assembly spaces (function rooms and meeting rooms) will be not exceeded in practice by

- Preparation and submission of a set of detailed layout drawings for each category of use within the range of uses proposed with supporting capacity analysis in which
 - o Seated area capacity is assessed on the basis of the number of seats or using an appropriate occupancy load factor from the guidance
 - o Standing areas are assessed using appropriate occupancy load factors from the guidance
- Preparation and submission of a detailed event management plan which details the approved layouts and the protocols being adopted by the hotel management to ensure the permitted occupancy limit of 270 persons will not be exceeded in practice

Option 3

Invite the Appellant to address the issues identified in the findings and addressed under Option 2 by way of a further submission to the Board of detailed layout drawings with supporting capacity analysis for each category of use within the range of possible uses and of a detailed event management plan.

Signed: _____

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