

Material alterations to the previously approved Level 6 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/5327/20)

MSA Reference > 21000

ABP Reference > 309864-21

For An Bord Pleanála

MSA

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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/5327/20) for proposed material alterations to the previously approved Level 6 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 23/12/2020 to Cork City Council for proposed material alterations to the Level 6 design of the Dean Hotel so as to address a Condition attached to the previously granted Fire Safety Certificate for this development, which prescribes that the public access area of the 6th floor be reduced by 25 sq m with the stated reason being to ensure that the floor capacity of the 6th floor does not exceed the staircase emergency egress capacity..

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 sixth-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 23rd 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 31/03/2021 by Maurice Johnson & Partners
 - Submission dated 27/04/2021 by Cork City Council Chief Fire Officer
 - Submission dated 24/05/2021 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 1 relating to the Sixth Floor which read as follows:

“Condition 1: Sixth Floor Public Assembly Area

- a) The available public access floor area of the sixth floor function room shall be reduced by 25 square meters

Reason: the maximum floor capacity of the 6th floor must match the stairs emergency egress capacity of the 6th floor.

In the appeal submissions Cork City Council highlight their concerns that the 270 occupancy is an unrealistically low figure for the 6th floor bar/restaurant and terrace having regard

- To their experience with existing bar/restaurants in Cork City
- To their view that the terraces are part of the occupancy of the building for bar/restaurant dining and drinking purposes. They note that the terraces are designed for year-round use suitably fitted with weather protection as acknowledged in FSCA/4981/18
- Their view that the sixth floor has the potential to be used as a venue for events, parties etc. as well as during traditionally high use periods such as the Jazz Festival, Christmas etc.

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 bar/restaurant and terraces
- b) The proposition that an average occupant density figure of 1.24 m²/p across the bar/restaurant and terraces is an appropriate and reasonable figure having regard to the uses and floor layouts 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.

FINDINGS

The concerns being raised by the Building Control regarding the potential peak occupancy levels in the bar/restaurant and ancillary terraces exceeding the emergency egress capacity of 270 persons, have some validity in my opinion given:

- The overall floor areas available for public assembly which equates to 335 m² between the bar/restaurant and the two terraces which could in some circumstances yield a significantly higher occupant capacity
- The statement by Press Up Entertainment Group in relation to the 6th floor restaurant emphasises that based on their experience that the max figure of 270 proposed is the maximum they could operate to from a functional viewpoint. However, they acknowledged the potential for overcrowding at special occasions such as the Jazz Festival and note their policy in those instances to put security on lifts to ensure the max numbers are not exceeded. They have not however identified how the max numbers would be monitored in practice on such occasions and how this process would be managed
- While 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 m ² /p
Lounge bar/bar	0.5 m ² /p
Restaurant/dining rooms	1.0 m ² /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 m ² /p
Bar	0.3 – 0.5 m ² /p
Restaurant/lounge bar	1.0 – 1.5 m ² /p
Assembly area/dance area	0.55 m ² /p

It is evident from the aggregate areas available for public assembly that in some circumstances the maximum occupancy could exceed the emergency exit capacity of 270 persons notwithstanding the commitments given by the hotel operators. While this may be considered to be a relatively low risk given

- The extent of fixed seating combined with loose seating in the layout plan
- The limited potential for the terraces to be simultaneously fully occupied with the bar/restaurant. Clearly there is greater potential for this in the summer months and with measures to protect against adverse weather (heaters/canopies). However, the Appellants and their Clients have not in my opinion provided sufficient reassurances that the risk of overcrowding

has been sufficiently considered and can be protected against by management control measures.

- The proposed sixth floor plans submitted with the Appeal Submission and with the original Fire Safety Certificate application to Cork City Council raises a serious concern in this regard in so far as it illustrates a total potential holding capacity including seating and standing of 320 persons and where it appears to underestimate the potential standing capacity in terrace area (C) when compared with terrace area (A).

While I note the hotel operator's commitment on special occasions "to put security staff in place at the lifts to ensure that maximum numbers are not exceeded" this control measure in the absence of means to count numbers entering the 6th floor is not sufficient to ensure that maximum occupancy number is not exceeded during high demand events.

There are three options available 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 sixth 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 the bar and restaurant and for each terrace in which
 - o The extent of fixed tables and seating is shown
 - o It is then demonstrated in the case of the combined use of the bar/restaurant and the two terraces that the realistic aggregate holding capacity in practical terms will not exceed 270 persons
- 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 under Option 2 by way of a further submission to the Board of detailed layout drawings and of a detailed event management plan.

Signed: _____

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