

Residential Development, Sarsfield Road, Doughcloyne, Wilton, Cork

Consideration of Appeal against Refusal to
Grant Fire Safety Certificate (Reg Ref:
FSC2103500CY)

MSA Reference > 23000

ABP Reference > ABP-312775-22

For An Bord Pleanála

MSA

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INTRODUCTION

This report sets out my findings and recommendations on the appeal submitted by O'Shea Leader Consulting Engineers against the refusal to grant a Fire Safety Certificate (Reg Ref No FSCA2103500CY by Cork City Council on 24/01/2022 for the construction of four units consisting of 2No ground floor apartments with 2No maisonettes overhead at Unit No 42 – 45 Sarsfield Road, Doughcloyne, Wilton, Cork.

1.1 Subject of Appeal

A Fire Safety Certificate application was made to Cork City Council on 24th November 2021 for the construction of four units consisting of 2No ground floor apartments with 2No maisonettes overhead at Unit No 42 – 45 Sarsfield Road, Doughcloyne, Wilton, Cork.

The refusal to grant the Fire Safety Certificate was issued on 24th January 2022:

Reasons for Refusal:

The separating wall used to separate Apartment 43 from Apartment 45, is not constructed of non-combustible materials in accordance with Sub-Section 3.2.5.5 of Technical Guidance Document Part B 2006.

1.2 Documents Reviewed

- Application for a Fire Safety Certificate to Cork City Council submitted on 31st May 2021 comprising of;
 - Fire Safety Certificate Compliance Report; prepared by O'Shea Leader Consulting Engineers
 - Plans, Sections and Elevations; by O'Shea Leader Consulting Engineers
 - Supplementary submissions dated 19th September 2021 by O'Shea Leader Consulting Engineers to Cork City Council
- Appeal submissions to An Bord Pleanála
 - Submission dated 16th February 2022 by O'Shea Leader Consulting Engineers
 - Submission dated 4th April 2022 by Cork City Council.
 - Submission dated 24th April 2022 by O'Shea Leader Consulting Engineers.

/2 FINDINGS

2.1 Case made by the Building Control Authority

In the reason for refusal of the grant, Cork City Council state that the separating wall used to separate apartment 43 from apartment 45 is not constructed of non-combustible material in accordance with 3.2.5.5 of Technical Guidance Document B.

In this submission dated 4th April 2022 to An Bord Pleanála the Chief Fire Officer reiterates their position and goes to make the following additional points:

- While they note that the term duplex can be interpreted slightly differently they state for their purposes they are defining a duplex as a building having two separate dwelling units one above the other each having its own entrance, i.e., a two store maisonette over apartment
- They applied the principle that each “duplex” (maisonette over apartment) is a separate building in its own right and on that basis the compartment walls between the units comes within the definition of a separating wall in accordance with 3.0.5 of TGD-B.

2.2 Case Made by the Appellant

The appellant notes that the Fire Safety Certificate application was clearly for a 3 storey building comprising apartment units constructed of block work and render façade with block work at ground floor and timber frame construction at first and second floors. They further note that the dwelling units clearly come within the definition of flat or maisonette (duplex) and not dwelling house by reference to TGD-B and also refer to sub-paragraph (4) of Regulation B3 which states that for the purposes of sub-paragraph 2(a) a house in a terrace and semi-detached house are each to be treated as a separate building.

The appellant also notes that in Part B (B6 – B11 of the Second Schedule to the Building Regulations (provisions for dwelling houses), B11 defines a dwelling house as a dwelling that is not a flat.

B8(4) states that a dwelling house in a terrace and a semi detached dwelling house are each to be treated as being a separate building.

It is noted that TGD-B ??? the following definitions are given:

“Dwelling – a house or flat, forming a separate unit of residential accommodation

Dwelling House – means a dwelling that is not a flat (as defined in S.I.497 of 1997)

Flat – separate and self-contained premises constructed or adapted for residential use and forming part of a building from some other part of which it is divided horizontally”

/3 FINDINGS AND RECOMMENDATIONS

In my opinion the building at No 42 – 45 Sarsfield Road, Doughcloyne, Wilton, Cork can be considered as a single building for the purposes of application of Technical Guidance Document B Volume 1 being a building containing a number of flats and maisonettes. The requirement in Section B3(4) that a house in a terrace and a semi detached house each be treated as being a separate building does not apply to a building containing flats/maisonettes as in this case.

This is brought out more clearly in 3.2.4.2 and 3.2.4.3 which state:

“3.2.4.2 Dwelling houses – any wall separating semi-detached dwelling houses, or houses in a terrace, should be constructed as a compartment wall, and the dwelling houses should be considered as separate buildings.”

“3.2.4.3 Flats and maisonettes – in buildings containing flats (purpose group 1(c)) the following should be constructed as compartment walls or compartment floors:

- (a) Any floor (unless it is within a maisonette, i.e., between one storey and another within one dwelling), and
- (b) Any wall separating a flat from any other part of the building, and
- (c) Any wall enclosing a refuse storage chamber.”

Accordingly the recommendations in 3.2.5.5 or 3.2.5.6 relating to separating walls apply only to dwelling houses and not to a building containing flats and maisonettes as in this instance.

The applicable recommendations in Technical Guidance Document B relating to compartment walls and floors in this building are contained 3.2.5.2 and 3.2.5.4 where the requirement construction in non-combustible/limited combustible materials only arises

- Where the height of the top storey is 10 m or more, and
- The required fire resistance is 60 mins or more

In this case the top storey height is significantly below 10 m and accordingly the requirement for non-combustible/limited combustibility construction does not arise.

3.1 Recommendation

I recommend that the appeal be allowed and that the Building Control Authority be directed to grant the Fire Safety Certificate.

Signed: _____

Michael Slattery, BE MSc (Fire Eng) CEng FIEI MSFPE EUR ING

Date: 20.06.2023