

An
Bord
Pleanála

FSC Report

ABP 313027 - 22

Appeal v Refusal or Appeal v Condition(s)	Appeal to Conditions attached to a Granted Revised Fire Safety Certificate
Development Description	Construction of a nine-storey office building
An Bord Pleanála appeal ref number:	313027 - 21
Building Control Authority Fire Safety Certificate application number:	FSC1070/22/REV
Appellant & Agent:	Mr. David Keenan (Appellant) Justas Dvylaitis (Agent)
Building Control Authority:	Dublin City Council
Date of Site inspection	Not Applicable
Inspector/ Board Consultant:	Eamon O Boyle, Eamon O Boyle and Associates
Appendices	Not Applicable.

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2.0 Introduction

- 2.1. A Revised Fire Safety Certificate application was received by the Building Control Authority (Dublin City Council) on the 5th of October 2020. The application sought to demonstrate compliance with Part B of the Second Schedule of the Building Regulations (S.1. 497: 1997). The application is concerned the construction of a nine-storey office building which had previously been granted a Fire Safety Certificate for eight storeys. We understand that there is no appeal to the previously granted Fire Safety Certificate.
- 2.2 The Revised Fire Safety Certificate Application concerns the addition of a floor (sixth floor) to the building.
- 2.3. The appeal relates to two conditions (Conditions 5 and 7) attached to the grant of the Revised Fire Safety Certificate by the Building Control Authority. The reason for conditions 5 and 7 was to ensure compliance with Part B of *the Second Schedule of the Building Regulations 1997 to 2019*.

3.0 Information Considered

The following drawings were also furnished for consideration:

Drawing Number	Revision	Title	Scale
RFSC – 19B1090-97	0	OS Map	1:1000@A1
RFSC – 19B1090-98	0	Site Plan	1:500@A1
RFSC – 19B1090-99	0	Basement Floor Plan	1:50@A1
RFSC – 19B1090-100	0	Ground Floor Plan	1:50@A1
RFSC – 19B1090-101	0	Mezzanine Floor Plan	1:50@A1
RFSC – 19B1090-102	0	First Floor Plan	1:50@A1
RFSC – 19B1090-103	0	Second Floor Plan	1:50@A1
RFSC – 19B1090-104	0	Third Floor Plan	1:50@A1
RFSC – 19B1090-105	0	Fourth Floor Plan	1:50@A1
RFSC – 19B1090-106	0	Fifth Floor Plan	1:50@A1
RFSC – 19B1090-107	0	Sixth Floor Plan	1:50@A1
RFSC – 19B1090-108	0	Seventh Floor Plan	1:50@A1

RFSC – 19B1090-109	0	Eight Floor Plan	1:50@A1
RFSC – 19B1090-110	0	Roof Plan	1:50@A1
RFSC – 19B1090-200	0	Section AA	1:50@A1
RFSC – 19B1090-201	0	Section BB	1:100@A1
RFSC – 19B1090-302	0	North and South Elevations	1:100@A1
RFSC – 19B1090-FFO	0	Fire Operations Plan	As Shown

Other information considered included the following:

- Original Revised Fire Safety Certificate Application
- Submissions by the Appellant
- Submission by the Building Control Authority

4.0 Relevant History/Cases

4.1. I am not aware of any previous appeals that have been submitted in respect of similar issues have arisen.

5.0 Appellant's Case

The appellants grounds for appeal to Condition 5 and 7 of the Granted Revised Fire Safety Certificate were outlined in their submission to ABP on the 9th of March 2022. The appellant considers that both conditions apply to a building greater than 30m in height. The Appellant submits that the access level for fire services should be measured from where the tender is parked (in this case the front of the building). The height of the front of the building is 29.945m which is less than 30 m. The appellant further submits that the height at the rear of the building (on Protestant Row) which accesses the Fire Fighting core is 30.945m. additionally the Appellant submits detailed analysis which demonstrates that the travel time to escape in the Fire Fighting stair is less than the time required to escape from Stair 1 (located at the front of the building), the analysis shows that the additional 0.945m does not have a detrimental effect. The Appellant submits that is the site were not sloping the building would not exceed 30m and the conditions would not apply. Additionally, the appellant states that the increase in height is based upon the provision of shower facilities at a small mezzanine level which increases the ground floor height from 3.6m to 4.75m. The Appellant also states that as the building has been

designed in accordance with BS 9999:2017 that the additional safety measures a have been incorporated as follows:

- a. Fire Detection and Alarm system
- b. The degree of compartmentation of the building
- c. The ventilation provided at mezzanine level.
- d. Fire tender access to the Front of the building (Cuffe Street)

The appellant submits based upon their submission that it is more appropriate to measure the building at the front.

- 5.1. Subsequent to the submission of the BCA submission the appellant made additional comment on the 16th of May 2022 in respect of the BCA submission. The submission expresses the view that the height of the building should be measured from the front of the building, it further relies on a restatement of points made in their previous submission.

6.0 Building Control Authority Case

- 6.1. The Building Control Authority responded to ABP, their response was received on 11th April 2022 with their file on the application together with a commentary on their assessment and the necessity to attach Condition 5 and Condition 7 to the Granted Fire Safety Certificate.
- 6.2. The Building Control Authority (BCA) sets out its observations which is based upon the appellant using BS 9999:2017 as the basis of compliance with Part B of the Building Regulations. The BCA identifies that *“Clause 3.66 of BS 9999:2017 defines the height of a building as the distance of the surface of the highest point of the floor of the highest storey (excluding any such storey consisting exclusively of plant rooms) to the fire and rescue service access level measured at the centre of that face of the building where the distance is greatest”*. The BCA also refers to Table 23 of BS 9999:2017 which states that buildings above 30m are not permitted unless they are provided with sprinklers (in accordance with BS 5306-2 or BS EN 12845) and elements of structure achieve 120minutes fire resistance. The BCA also state that Condition 5 and 7 are necessary to comply with Regulation B5 of the Second Schedule of the Building Regulations.

7.0 Assessment

- 7.1. Details lodged with application.
 - 7.1.1. We have examined the drawings, reports and submissions submitted and consider that

appeal.

7.2. Content of Assessment

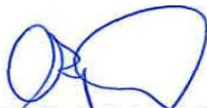
- 7.2.1. In making the assessment it is necessary to examine the appropriate method to measure the height of a building.
- 7.2.2. Having reviewed the plans and particulars lodged with the appeal as well as the commentary of the Building Control Authority, we are of the view that the particulars provided are adequate to enable the ABP to establish compliance with Part B of the Building Regulations.
- 7.2.3. Having considered the case made by the appellant and the commentary of the Building Control Authority I consider that the Building Control Authority were correct in attaching Conditions 5 and 7 to the Granted Revised Fire Safety Certificate. Our consideration is based upon the following:
- Clause 3.66 of BS9999:2017 refers the “fire service access level” which means the level at which fire crews enter the building not where the fire tender parks.
 - The appellant accepts that the height at “fire service access level” exceeds 30m.

8.0 Conclusion / Recommendation

- 8.1. My overall conclusion in this appeal is the Condition 5 and 7 should be retained.

9.0 Reasons and Considerations

Having regard to the form and nature of the condition, the submission lodged with the Revised Fire Safety Certificate Application and the Appeal, the reports from the Building Control Authority and the Appellant and to the report and recommendations of the reporting inspector and in particular the issues raised by the Building Control Authority, the Board is satisfied that it has been fully demonstrated that the condition should remain.



Eamon O Boyle

Chartered/Engineer
Consultant/Inspector
29th January 2023

