



An
Bord
Pleanála

FSC Report

ABP 314483 - 22

Appeal v Refusal or Appeal v Condition(s)	Appeal to Conditions attached to a Fire Safety Certificate
Development Description	Construction of a nine storey office building
An Bord Pleanála appeal ref number:	314483 - 22
Building Control Authority Fire Safety Certificate application number:	FSC1372/22/REV
Appellant & Agent:	Mr Luke Fegan, Managing Director, Maurice Johnson and Partners
Building Control Authority:	Dublin City Council 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 21st of June 2022. The application sought to demonstrate compliance with Part B of the Second Schedule of the Building Regulations (S.I. 497: 1997). The application is concerned the construction of a nine storey office building which had previously been granted a Fire Safety Certificate for nine storeys with conditions. The previously Granted Fire Safety Certificate was appealed and has been reported upon by this inspector previously.
- 2.2. The Revised Fire Safety Certificate Application concerns the following:
- The rearrangement of the plant area and the introduction of a universal accessible toilet at basement
 - The introduction of a Fire Brigade access corridor at ground floor level
 - The removal of a light well for the ventilation of the basement
- 2.3. The appeal relates to two conditions (Conditions 3 and 5) attached to the grant of the Revised Fire Safety Certificate by the Building Control Authority. The reason for conditions 3 and 5 was to ensure compliance with Part B of *the Second Schedule of the Building Regulations 1997 to 2021*".

3.0 Information Considered

The following information was considered in assessing the appeal.

- 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 3 and 5 of the Granted Revised Fire Safety Certificate were outlined in their submission to ABP on the 25th August 2022. The appellant considers that both conditions apply to a building greater than 30m in height and that the height of the building is less than 30m. The implication of the height of the being less than 30m is the requirements of sprinklers and a fire resistance of 120 minutes is not required. The appellant further seeks to apply a risk-based approach to ensure the design exceeds the requirements of the B3 and B5 requirements of the Building Regulations. The appellant further states that the functional requirements of Regulations B3 and B5 are exceeded by a combination of both external and internal firefighting facilities as follows:

- Extensive Fire Brigade Access on the perimeter of the building negating the need to deploy internally in the event of it not being a search and rescue event
- Comprehensive internal Fire Fighting facilities
- Additional rising main in the non-firefighting core
- Automatic smoke ventilation in the basement
- The highest-grade fire detection and alarm system which will be externally monitored.

6.0 Building Control Authority Case

6.1. The Building Control Authority responded to ABP , their response was received on 17th October 2022 with their file on the application together with a commentary on their assessment and the necessity to attach Condition 3 and Condition 5 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 3 and 5 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 the information is sufficient to enable ABP to make a determination in respect of this 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 3 and 5 to the Granted Revised Fire Safety Certificate. Our consideration is based upon the following:

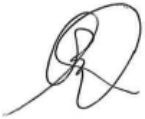
- Clause 3.66 of BS9999:2017 refers the “fire service access level” which means the level at which fire crews enter the building not the finished floor level. Drawing No. 22081 – FSC3 – 008 (Section Drawing shows clearly that the height being considered by the Appellant as 29.945m, however this is measured from the finished floor level 12.160). The finished floor level is at least 500mm above the access level which means the building height is above 30m.

8.0 Conclusion / Recommendation

8.1. My overall conclusion in this appeal is the Condition 3 and 5 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
14th February 2023