



An  
Bord  
Pleanála

## FSC Report

**ABP 315143-22**

**Appeal v Refusal or Appeal v  
Condition(s)**

Appeal v Conditions 7 & 11

**Development Description**

Charlemont Aparthotel, Construction  
of a new 6 storey over lower ground  
floor 47 unit aparthotel

**An Bord Pleanála appeal ref  
number:**

ABP-315143-22

**Building Control Authority Fire  
Safety Certificate application  
number:**

FSC2200026DC

**Appellant & Agent:**

Appellant : Aidan O'Brien

Agent: EOBA

**Building Control Authority:**

Dublin City Council

**Date of Site Inspection**

NA

**Inspector/ Board Consultant:**

Stefan Hyde

**Appendices**

NA

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## 2.0 Introduction

### 2.1 Subject Matter of Appeal

This report sets out my findings and recommendations on the appeal submitted by Eamon O'Boyle & Associates (EOBA) on behalf of Mr. Aidan O'Brien, against Conditions 7 & 11 of the granted Fire Safety Certificate (Reg Ref No. FSC2200026DC) issued by Dublin City Council [hereafter referenced as DCC] in respect of the "*Construction of a new 6 storey over lower ground floor 47 unit aparthotel at Charlemont Place, Dublin.*"

The Fire Safety Certificate was granted on 27<sup>th</sup> October 2022 with 11 conditions attached. The appeal to the Board relates to Condition 7 & 11 – the other conditions are not being appealed.

The conditions read as follows:

#### **Condition 7:**

*The cooking hobs within the bedrooms shall be of the induction hob type and they shall be sited such that occupants escaping shall not have to approach within 1.8m of them.*

With the stated reason for the condition being:

**Reason:** *To comply with the provisions of Part B of the Second Schedule to the Building Regulations, 1997 to 2021.*

#### **Condition 11:**

*Fire brigade access shall be provided in accordance with Section 5.2.2 and Table 5.1 of TGD-B. Access routes and hard standings for high reach appliances shall be provided in accordance with Section 5.2.4, Table 5.2 and Diagram 32 of TGD-B.*

With the stated reason for the condition being:

**Reason:** *To comply with the provisions of Part B of the Second Schedule to the Building Regulations, 1997 to 2021.*

De novo consideration is not warranted and the Board can rely on the provisions of Article 40(2) of the Building Control Regulations and deal with the appeal on the basis of conditions 7 and 11 only.

## **2.2 Documents Reviewed**

- 2.2.1 Fire Safety Certificate Application and Supporting Documentation submitted by the applicants agent EOBA on behalf of their Client
- 2.2.2 Granted Fire Safety Certificate issued by DCC on 27.10.2022
- 2.2.3 Appeal submission to An Bord Pleanála by EOBA dated 18.11.2022
- 2.2.4 Appeal submission to An Bord Pleanála by DCC dated 16.12.2022
- 2.2.5 Appeal submission to An Bord Pleanála by EOBA, in response to DCC submission referenced in 2.2.4 above, dated 20.01.2023

### 3.0 Consideration of Arguments by Appellant and BCA

#### Condition 7:

*The cooking hobs within the bedrooms shall be of the induction hob type and they shall be sited such that occupants escaping shall not have to approach within 1.8m of them.*

With the stated reason for the condition being:

**Reason:** *To comply with the provisions of Part B of the Second Schedule to the Building Regulations, 1997 to 2021.*

#### **Case made by EOBA in respect of Condition 7**

The key points made by EOBA in the appeal submission dated 27<sup>th</sup> October 2021 are summarised as follows:

- 1) The case made by DCC that the travel distance in the rooms is in excess of 9m is incorrect and the maximum travel distance in any of the room types is <9m. Therefore Section 1.1.2 of TGD-B and Section 9.5 (3) of BS 5588-1 ought to apply.
- 2) They acknowledge the location of the cooking facilities is not considered “remote” from the escape route in certain bedrooms.
- 3) The risk posed by the location of the cooking facilities is mitigated by the following:
  - a. Reduced risk associated with induction hobs when compared to traditional hobs
  - b. The provision of sprinkler protection in accordance with BS 9251 in the bedrooms
  - c. The provision of an L1 fire detection and alarm system vs a Grade D system in flat
  - d. An aparthotel bedroom contains much less risk when compared to an open plan flat
- 4) It is noted that taking the above into account sufficient consideration has not been given to these mitigating measures.

In response to the DCC letter of 18<sup>th</sup> November 2022 EOBA noted the following main points:

- 1) EOBA confirm that the travel distances in the bedrooms are <9m and therefore Section 1.1.2 of TGD-B and Section 9.5 (3) of BS 5588-1 should apply.
- 2) EOBA again note the mitigation proposed regarding the location of the cooking facilities
  - a. Reduced risk from induction hobs
  - b. Entire building is provided with sprinkler protection in accordance with BS 9251: 2021
  - c. Fire alarm coverage type
  - d. Comparative review vs an open plan apartment fire load

## Case made by DCC in respect of Condition 7

The DCC letter dated 18<sup>th</sup> November 2022 reiterates the assertion that Section 1.6.3 and Diagram 9 (a) of TGD-B 2006 + A1 2020 applies. It refutes the measurement noted on the drawings submitted and states a total distance of 9.84m within Room Type M and therefore Section 1.1.2 of TGD-B and Section 9.5 (3) of BS 5588-1 should not apply.

There is no further commentary in respect of Condition 7 and DCC do not address rooms where the travel distance is clearly <9m, i.e. Room Type A which has a travel distance noted of 7.4m.

### **Condition 11:**

*Fire brigade access shall be provided in accordance with Section 5.2.2 and Table 5.1 of TGD-B. Access routes and hard standings for high reach appliances shall be provided in accordance with Section 5.2.4, Table 5.2 and Diagram 32 of TGD-B.*

With the stated reason for the condition being:

**Reason:** *To comply with the provisions of Part B of the Second Schedule to the Building Regulations, 1997 to 2021.*

## Case made by EOBA in respect of Condition 11

The key points made by EOBA in the appeal submission dated 27<sup>th</sup> October 2021 are summarised as follows:

- 1) a pump appliance can drive down the access lane and connect to the dry riser inlet at the building. it can also turn and drive out.
- 2) a high reach appliance can drive down the lane and reverse back out as demonstrated on a video submitted as part of the FSC application
- 3) if firefighters wish to deploy from Charlemont Place they can connect to a proposed dry riser inlet that serves the site located at Charlemont Place to provide for connection at that location
- 4) both stairs will be fitted internal mains therefore it can be argued using numerous design standards that fire tender access is not required other than to within 18m of the inlet for a pump appliance
- 5) the entire building is provided with sprinkler protection to BS 9251 2021
- 6) a ventilated lobby is provided to Stair 01 to allow firefighter to muster at each level
- 7) EOBA referenced a report from a retired firefighter confirming the bone fides of the design approach

In response to the DCC letter of 18<sup>th</sup> November 2022 EOBA refute the points made by DCC in particular noting the following:

- 1) The building volume is <7,000m<sup>2</sup> and therefore only 15% perimeter access is required for a high reach appliance
- 2) They reiterate the position vis a vis compliance with B5 of Part B of the Building Regulations
- 3) EOBA proceed to provide a recent example of a nearby building where reduced access was accepted on the basis of the provision of internal fire mains.

### **Case made by DCC in respect of Condition 11**

The key points of the DCC letter dated 18<sup>th</sup> November 2022 are summarised as follows:

- 1) 50% High reach appliance access is required by reference to TGD-B
- 2) EOBA are not correct in stating the buildings fitted with mains only require access to within 18m of the inlet
- 3) Provision of mitigation measures such as internal fire mains does not remove the requirements of Table 5.1 and 5.2 of TGD-B
- 4) The horizontal dry main from Charlemont place does not comply with relevant standards
- 5) High reach appliance access allows for rescue above 10m
- 6) Using Section 0.2.1 of TGD-B is not appropriate for this type of building

DCC note that from early on in the application they had stated this was a requirement and should be provided. They are of the opinion that the design does not meet the requirements of B5 of Part B of the Building Regulations.

## 4.0 Assessment

### Condition 7:

*The cooking hobs within the bedrooms shall be of the induction hob type and they shall be sited such that occupants escaping shall not have to approach within 1.8m of them.*

The main issue in relation to this condition from the BCA perspective is the provision of a safe escape route to the room exit. They seek to impose Section 1.6.3 of TGD-B 2006 + A1 2020 for an open plan unit specifically refuting the EOBA approach of applying Section 1.1.2 of TGD-B and Section 9.5 (3) of BS 5588-1.

EOBA correctly note that Section 1.1.2 of TGD-B and Section 9.5 (3) of BS 5588-1 is applicable given the travel distances are <9m and the bedrooms. They acknowledge however that BS 5588-1 does note *“(ii) the position of any cooking facilities is remote from the dwelling door and does not prejudice the escape route from any point in the flat”*. EOBA noted a number of mitigation measures to address this.

The BCA did not accept these and imposed a condition that *“occupants escaping shall not have to approach within 1.8m”* of the cooking facilities.

Whilst EOBA do make a number of proposals in relation to mitigating the risk they do not address what would be considered a safe distance to pass by the hob. Room Type A which is the most common room type in the proposed development (30 out of 47 bedrooms), has the hob located within 800mm of the leading edge of the bedroom door when open in a corridor that is 1,000mm in width.

On the basis of all the information reviewed from both the applicant and the BCA, I conclude that the proposed mitigation measures submitted do not justify the location of the hob in such close proximity to the escape route and final room exit. The BCA were therefore justified in imposing this condition.

### **Condition 11:**

*Fire brigade access shall be provided in accordance with Section 5.2.2 and Table 5.1 of TGD-B. Access routes and hard standings for high reach appliances shall be provided in accordance with Section 5.2.4, Table 5.2 and Diagram 32 of TGD-B.*

The main issue at here is compliance with B5 of Part B of the Building Regulations. B5 states the following:

*“A building shall be so design and constructed that there is adequate provision for access for fire appliances and such other facilities as may be reasonably required to assist the fire service in the protection of life and property”*

Following a review of all of the information it is clear that the proposed design has been adequately enhanced to meet the functional requirements of B5 of Part B of the Building Regulations. This is based on the following main points:

- 1) The building has been provided with internal fire mains in both stairs. This is considered on its own merits to be an accepted approach in many jurisdictions for buildings with limited or no fire appliance access. The provision of internal fire mains allows for a quicker response time for fire fighters in the areas of the building with no perimeter access given that firefighters can set up a bridgehead closer to the fire inside the building rather than carrying hose up internally. This is particularly important when residential type buildings are factored in due to the single aspect of apartments/hotel bedrooms.

It was also included by the Department of House & Local Government in the recently published draft TGD-B 2023. Whilst the draft is not a statutory document the current TGD-B also contains the same text as in the proposed draft. Below is the extract from the current TGD-B with the relevant commentary highlighted:

#### **Provision of Vehicle Access**

**5.2.2** For effective firefighting operations, fire brigade appliances should be able to get within easy reach of a building. For small buildings it is generally only necessary to have access to one external elevation, but larger buildings will require access to all or a number of elevations.

Vehicle access should be provided in accordance with the criteria indicated in Table 5.1. Any elevation to which vehicle access is provided in accordance with Table 5.1 should contain a door giving access to the interior of the building.

In the case of a building fitted with a dry internal fire main, access for a pump appliance should be provided to within 18 m and within sight of the inlet connection point.

DCC have also accepted this approach on a number of buildings in the past both including large residential schemes. EOBA note a recent school (FSC1921/18) on Harcourt Terrace which had a design accepted on this basis.

- 2) The entire building is proposed to be sprinkler protected to BS 9251: 2021. This will ensure that in the event of a fire the chances of fire growth or spread are significantly reduced.

When compared to what would be classified a code compliance building with only 15% high reach perimeter access and no sprinkler protection this measure is a significant enhancement for the protection of life and property.

One of the main points by DCC is that the requirement for high reach appliance access is to fight the fire externally and rescue people. With the provision of the sprinkler system throughout the building the requirement for either of these is reduced significantly.

- 3) Whilst not strictly achieving the requirements set out in Table 5.2 and Diagram 32, it is noted that the applicant has demonstrated that fire appliances (both pump and high reach) can access the site. This allows for direct access to the building.

It is noted that DCC and other BCAs regularly accept autotrack submissions for appliances utilising much tighter spaces than Table 5.2 would require. The narrow laneway is still in excess of minimum gate widths and therefore the appliances can travel along it.

- 4) Condition 7 which is being upheld will ensure that occupants are afforded adequate safe routes to escape from the bedrooms therefore reducing significantly any possible need for ladder rescue (4 bedrooms noted above 10m on the accessible façade).

## 5.0 Conclusion/Recommendation

In light of the foregoing, I recommend that following:

### **Condition 7:**

On the basis of my assessment, I consider that Condition 7 is necessary and I recommend that the Bord disallow the appeal of this condition.

### **Condition 11**

In relation to condition 11, I recommend that it be amended to state the following:

### **Condition 11:**

*Fire Brigade vehicle access provisions shall be provided in accordance with the submissions made in the Fire Safety Certificate application including all enhancements proposed.*

### **Reason:**

*To comply with the provisions of B5 of Part B of the Second Schedule to the Building Regulations 1997 to 2021.*

## 6.0 Reasons and Considerations

The applicant did not provide an appropriate justification to allow for the relocation of the cooking facilities in such close proximity to the escape route and room exit. Therefore, I agree that the BCA are correct in asserting a requirement for separation from the cooking facilities to provide a safe escape route to the flat entrance door.

In relation to Condition 11, in my opinion the proposed design submitted by the applicant demonstrates compliance with the requirements of Part B5 of Part B of the Building Regulations and the BCA are not justified in imposing Condition 11. Condition 11 to be amended as suggested.

## 7.0 Conditions

Direct the Building Control Authority to amend Condition 11 to read as follows:

**Condition 11:**

Fire Brigade vehicle access provisions shall be provided in accordance with the submissions made in the Fire Safety Certificate application including all enhancements proposed.

**Reason:**

To comply with the provisions of B5 of Part B of the Second Schedule to the Building Regulations 1997 to 2021.

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**STEFAN HYDE**

Chartered Engineer I BA, BAI, PDip FSP, MA, CEng, MIEI  
Consultant/Inspector

Date : 18<sup>th</sup> August 2023