



An
Bord
Pleanála

FSC Report – Addendum Report

ABP 316175 - 23

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

Appeal to Conditions attached to a
Granted Revised Fire Safety
Certificate

Development Description

The application refers to a proposed
extension at the rear of a Bar at 21
Bridge Street, Tralee County Kerry

An Bord Pleanála appeal ref number: 316175-23

**Building Control Authority Fire Safety
Certificate application number:** FSC 2301092KY

Appellant & Agent: Mr. Liam Lyons (Appellant) Michael
Slattery and Associates (Agent))

Building Control Authority: Kerry Council Council

Date of Site Inspection Not Applicable

Inspector/ Board Consultant: Eamon O Boyle, Eamon O Boyle and
Associates

Appendices Yes

Introduction – Addendum Report

An Bord Pleanála (ABP) have requested an Addendum Report to my previous report. This addendum report should be read in conjunction with this Inspector's original report. The original report comprised two recommendations. Two recommendations were made based upon advice from ABP to assist the board in deciding on the appeal. The appeal required the examination of the original application and the submission of the Appellant, however with the Appellant's submission introduced new elements of design which had not been included within the original application hence the requirement for two recommendations.

The assessment of the appeal is difficult due to the fact the Appellant has sought to introduce new measures not included in the original Fire Safety Certificate Application. The introduction of the new measures is further complicated by the apparent incompleteness of the appellants case (Page 6 to the Appellants letter of 31st March 2023- reproduced in Appendix B of this report). To assist ABP I have set out in this Addendum Report a summary of the submissions by the Appellant and the Building Control Authority – there are included in Appendix A.

In my initial report I considered the appeal in two parts as follows

1. Firstly, I considered the case made in the initial Fire Safety Certificate application and made a recommendation based on the information that was contained in the original Fire Safety Certificate Application and the submissions of the appellant and Building Control Authority.
2. Secondly, I considered the additional information supplied by the Appellant's agents and the impact on the Fire Safety Certificate Application had the information been furnished with the original application.

General Commentary on Submissions

The following submissions listed in the table below were submitted in connection with the appeal. The content of the submissions is summarised in Appendix 1 to this report.

It is necessary for an appellant to provide a complete and cogent case in an appeal to a condition or conditions attached to a Granted Fire Safety Certificate. In this case the assessment was inordinately difficult since the initial letter of appeal (Document 1 below) had a note on Page 6 of Appendix B (*Brendan to finalise – reproduced in Appendix B*) which shows an incompleteness of the submission.

In respect of Document No 2 below paragraph 1.0.11.2 & 1.0.11.3 appears to have text missing. These paragraphs appear to address issues central to the conditions under appeal (Means of Escape).

In respect of Documents 4 .and 5 from the BCA to ABP where the BCA on the 18th April 2023 cites Article 27 (3) of the Building Control Regulations which states

(3) Without prejudice to Article 31, an appellant shall not be entitled to elaborate upon, or make further submissions in relation to, the grounds of appeal stated in the appeal or to

submit further grounds of appeal and any such elaboration, submissions or further grounds of appeal that is or are received by the Board shall not be considered by it.

Conclusion

Based upon the initial Fire Safety Certificate Application (made on the 5th January 2023) and the subsequent Document (FSC Technical Compliance Report dated 19th January 2023) comprises the Application for a Fire Safety Certificate. The Building Control Authority was obliged to consider the documents submitted on the 5th and 19th January 2023 and any further information that was submitted to them. I am of the view that the information submitted with the appeal (Documents 1 & 7) are effectively a submission with additional design information not included in the original application except it is now being determined by ABP. Seeking to have ABP determine an appeal with additions to the design which seek to address the conditions is not the function of the appeal process. The more correct process would have been to make an application for a Revised Fire Safety Certificate or Material Alteration to a previously granted Fire Safety Certificate.

Document Number	Title	Date
1	Appeal Application prepared by MSA comprising the following <ol style="list-style-type: none"> 1. Letter of Application 2. Appendix A – reproduction of the Granted Fire Safety Certificate 3. Appendix B – Addendum Report titled “ FSC and DAC Addendum Report submitted as and addendum to the previously submitted Technical Compliance Report 	31 March 2023
2	FSC Technical Compliance Report	5 Jan 2023
3	FSC Technical Compliance Report (Rev 1)	20 Jan 2023
4	Letter to An Bord Pleanála from the Building Control Authority (BCA) citing Art 27 of the Building Control Regulations	18 Apr 2023
5	Response from the BCA to ABP in respect of the appeal	27 th April 2023
6	Letter from BCA to ABP addressing an appeal to Conditions 1 and 5 of a Disability Access Certificate (not relevant to this appeal)	20 Jun 2023
7	Letter from MSA to ABP responding to the BCA response. Included in the letter are the following <ol style="list-style-type: none"> 1. Appendix 1 – Listing the additional drawings 2. Appendix 2 Submission from Frank Curran Consulting Engineer responding to the BCA letter of the 27th April 3. Appendix 3 – report from Appellant’s Conservation Architect 	20 th June 2023

Recommendation

I now recommend to the Board that the conditions of the BCA should be upheld and the Fire Safety Certificate be granted on the basis.



Eamon O Boyle

Chartered Engineer

27 Jan 2025

Appendix 1

Summary of Submissions

APPELLANT'S SUBMISSIONS

The appellant argues that Technical Guidance Document B (TGD B) provides appropriate guidance for compliance with Part B of the Building Regulations, specifically for means of escape in public houses. They appeal Condition 10, which requires a smoke pressurization system for stairway enclosures, stating it exceeds TGD B requirements and could impact the project's financial viability. The appellant highlights that TGD B only calls for pressurization in specific cases and that their proposed measures, including additional vents and protected lobbies, meet TGD B standards. They also mention enhancements to the fire strategy not included in the original application to further reduce smoke risk.

Condition 8 requires protected stairway enclosures to have either an openable window or an openable vent of at least 1m² at the top, for fire safety.

The appellant argues that the escape routes for the extended bar comply with TGDB guidelines, including exit widths, stair widths, and travel distances. They propose the following measures, **not included** in the original application, to enhance fire safety:

- Automatically openable vents instead of openable vents.
- Escape stairs sized for simultaneous evacuation.
- An L1 fire detection and alarm system for early warning.

Additionally, they plan to reduce smoke ingress by providing a ventilated lobby and removing the direct link between the plant room and the escape route. These measures aim to enhance protection for the escape route, especially if used for residential accommodation, which would require a further fire safety certificate.

Condition 3 requires modifications to the outer final exit door and the inner lobby door for fire safety purposes.

The appellant argues that:

- The outer final exit door should remain in a fixed open position, as the current setup already meets escape capacity requirements without modifications.
- The inner lobby door should be a single leaf door with a minimum clear width of 1050 mm, opening in the direction of escape.

An addendum by Frank Curran B.E. supports these points, noting the protected status of the building and planning conditions. The appellant believes these measures satisfy the functional requirements of the Building Regulations (Regulations B1 to B5).

The appellant requests the removal of Conditions 10 and 3 and modification of Condition 8. They submitted additional documents, including responses from Michael Slattery and Associates, drawings by Frank Curran B.E., and a Conservation Architect's report, to support their appeal.

MICHAEL SLATTERY AND ASSOCIATES SUBMISSION

The supplementary information aims to propose solutions compliant with Part B of the Building Regulations without compromising conservation objectives. The appellant's agent argues against the need for pressurizing escape routes due to cost and complexity, proposing automatic opening vents (AOVs) instead.

Regarding Condition 10, the agent states that a protected 900mm exit is acceptable for a capacity of 100, noting:

- The new rear entrance can handle one third of the total occupancy.
- The central escape route is unnecessary given the total capacity of all exits.
- All exits discharge at ground level, making it unlikely an exit would be completely discounted.
- AOVs in the lobby will allow safe queuing if a new exit is cut off by fire.
- Occupants of the dwelling have an independent escape route.

The MSA submission also addresses Condition 8 with proposed AOVs and states that Condition 3 requirements are covered by the conservation architect.

CONSULTING ENGINEERS SUBMISSION

The Consulting Engineer proposes redrafting Condition 10 of the Granted Fire Safety Certificate. They suggest repositioning the accommodation door between Function Room 1 and Function Room 2 to create a double swing internal exit fire door with a 60-minute fire rating and a minimum clear opening of 1500mm. The bar counter should be at least 4m away from the party wall.

They argue that the requirement for a smoke pressurization system exceeds TGDB's minimum requirements and would necessitate a backup generator costing up to €250,000, threatening the project's viability.

The report details escape provisions from Function Room 1 and Function Room 2 to Marketplace and specifies exit dimensions from the existing bar to Bridge Street, supported by a conservation specialist's submission.

CONSERVATION ARCHITECT SUBMISSION

The report addresses the granted Planning Permission, Fire Safety Certificate, and Disability Access Certificate, and describes the existing building and general conservation principles. To meet Condition 3, the Conservation Architect proposes carefully altering and widening the internal double doors to provide a clear width of 1050mm, though this may negatively impact the overhead stained glass fan light. They suggest a holistic review and a technical case to demonstrate the adequacy of the existing 900mm clear opening width of the inner lobby doors.

BUILDING CONTROL AUTHORITY'S SUBMISSION

The Building Control Authority expressed concerns about new and revised documents submitted with the appeal, noting differences from the initial Fire Safety Certificate. They referenced Article 27 (3) of the Building Control Regulations, suggesting appellants cannot elaborate or make further submissions during the appeal process.

Condition 10:

- The Building Control Authority highlighted that the 900mm Bridge Street entrance limits escape provision to 100 persons.
- They were concerned about the central escape route traversing three stairways and potential smoke logging.
- They concluded that a pressurization system is necessary to maintain tenable conditions in escape routes and protected spaces.

Condition 8:

- The Authority noted that the original submission did not address ventilation requirements, such as openable windows or vents, as per TGDB guidelines.

Condition 3:

- They suggested rehinging the door to increase the clear width to 945-950mm, allowing one-third of the ground floor occupancy to exit via Bridge Street.
- They emphasized that doors on escape routes should open in the direction of escape, with some exceptions for small rooms or buildings.

The Authority also measured the main entrance door on Bridge Street, finding it to be 1110mm wide, questioning the 900mm clear opening mentioned in the application.

Appendix B

Extract from letter of appeal 31st March 2023.



MOTION



NOTES & Comment on Capacity
of TGD B

ROOM	AREA	Occupancy Load Factor	Occupancy No. Persons & Comment
<u>Existing Front Bar</u>			
a) <u>Free floor area</u>	17.38	0.5	35
b) <u>Seated in front snugs</u>	*	*Seats counted in each snug area.	35
c) <u>Seated in rear snugs</u>			20
			Total: 90 Persons. This is catered for by the exit capacity of 220 Persons shown above.
<u>Function Room No. 1</u>			
a) <u>Free floor area</u>	84.5	0.5	169
b) <u>Seated area</u>	13	1.0	13
c) <u>Kitchen & Bar Staff</u>	30	10	3
			Total: 185 Persons This is catered for by the exit capacity of 520 Persons shown above.
			Exit
<u>Function Room No. 2</u>			
a) <u>Entire Free Floor Area</u>	41.79	0.5	Say: 84 Total: 84 Persons This is catered for by the exit capacity of 300 Persons shown above.

AND

2. FIRST FLOOR: addressed elsewhere in the appeal.

BRENDAN TO FINALISE:

PROPOSAL FOR THE FRONT ENTRANCE LOBBY: FSC AND DAC CONDITIONS.

Regarding the further points of appeal listed in the two attached word documents for the FSC and DAC can we review these; one in particular, do we need to:

- Appeal Condition 3 (b) of the FSC (i.e. this is also condition 5(b) of the DAC)? in the context that: this is a *Designated as Protected Structure No. 91, in the Record of Protected Structures in the Kerry County Development Plan.*

This is reflected in the planning conditions, in particularly in condition 4(e) of the Planning No. 22/271 granted on 30th August 2022 for this development. (See Pl Condition 4(e) in the FSC and the DAC APPEAL word document attached - requiring a "conservation methodology" to be submitted and agreed with the conservation section of KCC) etc. The full list of Planning conditions are about two thirds of the way down in one of the two On-line Planning Files attached.

Condition No.3 of the FSC which reads as follows:

(a) The outer final exit door leading on the Bridge Street from the premises shall be rehinged to maximise the clear opening of the door.

John Hegarty in association with Frank Curran Consulting
Engineers Limited, Cahersiveen, Co. Kerry