

# **AN BORD PLEANALA REPORT**

**REF ABP-317295-23**

On

**Appeal against Condition 3 of Fire Safety Certificate No. FSC1224/23/REV**

**Submission No. 3007428**

For

**Residential Development - The Ormond Project**

Prepared By: Bryan Dunne  
Ref No.: ABP/2023-R05  
Date: 9<sup>th</sup> January 2024

## **1. INTRODUCTION**

This report sets out my findings and recommendations on an appeal submitted by Jensen Hughes (the appellant), acting on behalf of their client Ballymore Properties against Condition No. 3 of Granted Fire Safety Certificate Application FSC1224/23/Rev granted by Dublin City Council (the Local Authority) on the 12<sup>th</sup> May 2023 in respect of material alterations to various Blocks in the Residential Development - The Ormond Project. The Granted Fire Safety Certificate has 5 conditions. Only Condition 3 is being appealed and as such none of the other conditions have been reviewed as part of this assessment.

The development has a previously approved Fire Safety Certificate (Ref FSC3188/21/7D) for the development.

### **CONDITION SUBJECT OF THIS APPEAL**

#### **CONDITION 3:**

The Ancillary Accommodation i.e. Study Areas are not permitted in Block C so as to comply with Section 14.1.6 of BS 9991: 2015 and shall be removed prior to building occupation.

#### **Reason:**

To comply with the provisions of Part B1 one of the Second Schedule of the Building Regulations, 1997 to 2022.

## **2. DOCUMENTATION REVIEWED**

1. Letter from the appellant to An Bord Pleanála dated 7<sup>th</sup> June 2023 appealing Condition 3 of the granted Fire Safety Certificate.
2. Letter from An Bord Pleanála to Dublin Fire Brigade dated 9<sup>th</sup> June 2023 requesting a copy of the Fire Safety Certificate submission.
3. Letter from An Bord Pleanála to the appellant dated 9<sup>th</sup> June 2023 acknowledging receipt of their appeal application.
4. Copy of the appellant's compliance report ref: DI/4388/R2 Issue 1 dated the 10<sup>th</sup> May 2022.
5. Copy of the previously approved Fire Safety Certificate report (Ref DI/4388/R1 Issue 3) prepared by the appellant for the original Fire Safety Certificate.
6. Copy of the previously approved Fire Safety Certificate grant with conditions.
7. A copy of the request for additional information dated 12<sup>th</sup> August 2022.
8. Copy of the additional information submission by the appellant on the 19<sup>th</sup> August 2022.
9. A copy of the request for additional information dated 17<sup>th</sup> November 2022.
10. Copy of the additional information submission by the appellant on the 20<sup>th</sup> February 2023, including revised compliance report DI/4388/R2/issue 2 dated the 21<sup>st</sup> February 2023.
11. Granted Fire Safety Certificate Ref No. FRV2203325DC with 5 conditions issued on the 12<sup>th</sup> May 2023.
12. Fire Officers report to An Bord Pleanála dated the 23<sup>rd</sup> June 2023.
13. Further submission by the appellant to An Bord Pleanála on the 28<sup>th</sup> July 2023.

### **3. CASE PUT FORWARD BY THE LOCAL AUTHORITY**

#### **CONDITION 3**

In support of their case the Local Authority makes the following observations:

- Block C is a single stair building serving ground to 6<sup>th</sup> floor with a roof top garden on the 7<sup>th</sup> floor.
- They make the point that if Clause 14.1.6 of BS 9991 states that *'Any common stair which **does not** form part of the only escape route from a flat may also serve ancillary accommodation if it is separated from the ancillary accommodation by a protected lobby or protected corridor'* then, with only one escape stair provided from this Block the escape route cannot also serve ancillary accommodation.
- The Local Authority make reference to Clause 7.5(c) which allows a single stair to serve ancillary accommodation provided:
  - The building height is not greater than 11m, and
  - Ancillary accommodation is separated from the stair by way of a protected lobby/corridor that is provided with permanent ventilation of not less than 0.4m<sup>2</sup> for the control of smoke or protected by a mechanical smoke ventilation systemThe building in question does not comply with the above requirements as the sixth floor is 16.4m above the first-floor podium level.
- As part of their request for additional information the Local Authority raised concerns with the appellant over providing ancillary accommodation off a single escape route.
- Finally, the Local Authority make the point that Article 7 of the Building Regulations allows for the publication of Technical Guidance Documents for the purpose of providing guidance to individuals in complying with the requirements of the Building Regulations. In this instance Section 1.1.2 of the latest version of Part B (2006 (reprint 2020) version) directs the reader to BS 5588: Part 1: 1990, Fire precautions in the design, construction and use of buildings, Part 1, Code of practice for residential buildings for guidance on demonstrating prima facie compliance with Part B. Under Section 14.3.2 e) of Part 1 common stairs which form part of the only escape route from a dwelling should not connect to ancillary accommodation on the same storey as that dwelling.

It is for the above reasons that the Local Authority included Condition 3 in the granted Fire Safety Certificate.

## 4. CASE PUT FORWARD BY THE APPELLANT

### CONDITION 3

In support of their case the appellant makes the following points:

- As part of the revised Fire Safety Certificate application the appellant proposed including Study Areas in Block C from the first to sixth floor.
- This revised application was based on the building being designed in accordance with BB 9991: 2015: Fire safety in the design, management and use of residential buildings - Code of practice and BS 9999: 2017 - Code of practice for fire safety in the design, management and use of buildings. In particular reference is made to Clause 14.1.6 BS 9991: 2015 which states that *'Any common stair which does not form part of the only escape route from a flat may also serve ancillary accommodation if it is separated from the ancillary accommodation by a protected lobby or protected corridor. If the stair serves an enclosed car park or an area with a higher fire risk, the lobby or corridor should be provided with an area of permanent ventilation of not less than 0.4m<sup>2</sup> or be protected from the ingress of smoke by a mechanical smoke ventilation system'*.
- The appellant makes the point that the definition for ancillary accommodation in BS 9991 covers a wide range of uses including gas services, refuge rooms, car parks etc. and that the proposed Study Areas will not contain a fire load any where near the levels that could be found in the ancillary accommodation listed above. The point is also made that these Study Areas will not be accessible to the general public.
- The appellant states that in Clause 37 of Section 7 of BS 9991 it is accepted that "ancillary accommodation generally presents a greater fire hazard than the dwelling themselves..." and they go to lengths to point out that the fire load within these Study Areas would not be considered high risk given:
  - The nature of the furniture fit out
  - The fact that the space will be covered by CCTV and
  - The space is under the ownership of the building owner/building management
- In addition, they note that having designed the building to BS 9991 they were only required to design a 'stay put policy' into the building but having designed the building for simultaneous evacuation they say they have further enhanced the means of escape provisions from the building.
- They proposed enclosing the study areas in 60 minute fire resisting construction with a 60 minute protected lobby off the common smoke ventilated corridor, thus providing 4 door protection (fire door protection) between the study area and the protected stairs.

- As a further safety measure and to reduce the potential fire size the proposal included for the extension of the residential sprinkler system into these studio study rooms.

In their conclusion, the appellant summarises their case by noting:

- The adoption of the simultaneous evacuation strategy for the development as opposed to the 'stay put' policy adopted in BS 9991
- Travel distances are all within recommended limits
- The study areas are enclosed in 60 minute fire resisting construction and are accessed off the main smoke ventilated common corridor by way of a 60 minute fire rated lobby
- The study areas are not high risk areas
- The fire load within the study areas are comparable to that of an apartment
- The rooms are for residents of that floor only. They are fitted with CCTV and are under the ownership of the building owner/building manager
- The residential sprinkler system being installed will be extended into these study rooms.

Following receipt of the report from the Fire Officer the appellant made the following additional observations in their technical submission of the 28<sup>th</sup> July 2023.

- Having received a request for additional information from the Local Authority and reviewed the concerns of the Fire Officer the building layout was redesigned so that the Study Areas were accessed off the common corridor and not the stair lobby.

It is for the reasons mentioned above that the appellant is looking for Condition 3 to be removed from the granted Fire Safety Certificate.

## 5. ASSESSMENT

### CONDITION 3

I concur with the assessment made by the Local Authority that ancillary accommodation should not be served off a single common stairway. The requirements of both Clause 14.1.6 of BS 9991 and Clause 14.3.2e) of BS 5588-1 are very clear, see below.

### BS 9991

#### 14.1.6 Smoke control for protected lobbies and corridors

Any common stair which does not form part of the only escape route from a flat may also serve ancillary accommodation if it is separated from the ancillary accommodation by a protected lobby or protected corridor.

### BS 5588-1

e) If a common stair forms part of the only escape route from a dwelling it should not be connected to any ancillary accommodation on the same storey as that dwelling.

Whether BS 9991 or BS 5588-1 is used I would be of the view that there is no allowance for the arrangement being proposed by the appellant in either Standard. While I acknowledge both the active and passive fire safety measures being put forward by the appellant in an attempt to alleviate any fire safety concerns, the appellant provides no evidence that such measure are acceptable in any Code of Practice/British Standard/etc nor do have they provided any examples of any precedence set by any Local Authority for any similar arrangement in a similar development.

## 6. RECOMMENDATIONS

### Condition 3

On the basis of my assessment, I agree with the Fire Officers recommendation that An Bord Pleanála uphold this condition.



**Bryan Dunne**

MSc(Fire Eng), BSc(Eng), Dip(Eng), CEng, MIEI, Eur Ing

Date: 9<sup>th</sup> January 2024