



An
Bord
Pleanála

FSC Report ABP-317569-23

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

Appeal v Conditions (Conditions No. 1
& 2)

Development Description

Construction of 3 storey nursing home
at Arden Road Tullamore Offaly.

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

FCS/22/35

Appellant

Eamon Power of Whitebox Property
Developments

Agent

GSP Fire Limited

Building Control Authority:

Offaly County Council

Inspector

Jamie Wallace

Contents

1.0 Introduction	3
2.0 Information Considered	3
3.0 Relevant History/Cases	4
4.0 Appellant's Case	4
5.0 Building Control Authority Case	6
6.0 Assessment	7
7.0 Recommendation	9
8.0 Reasons and Considerations	9
9.0 Conditions	9
10.0 Sign off	10

1.0 Introduction

- 1.1. The application relates to a Fire Safety Certificate for the Construction of a 3 storey nursing home at Arden Road, Tullamore, Co. Offaly.
- 1.2. The application relates to a Fire Safety Certificate (FSC) for the construction of a new building.
- 1.3. The Appeal is against Conditions No.1 and No. 2 attached to the granted FSC.

Condition 1: Stairs 1,2,3 are to be provided with dry riser inlet valves to the front and the rear of the building. The inlet valves are to be located, installed, signposted and maintained in accordance with BS 9990: 2015.

Reason: To comply with the provisions of Part B5 of the Second Schedule of the Building Regulations, 1997-2019.

Condition 2: One of the following provisions is to be incorporated into the building-

- a) Provide a sprinkler system in accordance with IS 12845:2015 Fixed firefighting systems- Automatic sprinkler systems- Designs, installation and maintenance including Annex F Additional Measures to improve system reliability and availability, incorporating at least one single superior water supply.
- b) Provide a Category 3 sprinkler system in accordance with BS 9251: 2014 Fire sprinkler system for domestic and residential occupancies – Code of practice, including the design philosophy of Annex F of IS EN 12845, incorporating at least one single superior water supply. The minimum duration of supply for the stored water capacity shall be 60-minutes.

Reason: To comply with the provisions of Part B3 of the Second Schedule of the Building Regulations, 1997-2020.

2.0 Information Considered

The information considered in this appeal comprised the following:

- Drawings, Report and application form submitted with the Fire Safety Certificate (FSC) application.

- Correspondence between the Building Control Authority (BCA) and the applicant agent during the FSC application process.
- Copy of BCA decision.
- Appeal received by An Bord Pleanála (ABP) on behalf of the appellant.
- Submission by BCA to ABP.

3.0 Relevant History/Cases

- 3.1. I have not been made aware of any **relevant** building control history relating to the appeal site, including any previous FSC, Revised FSC, Regularisation FSC or/and any dispensation or relaxation of the Building Regulations.
- 3.2. The following Board decisions at other locations may be of assistance to the Board in determining the case.

FS29B.FS0503	Nazareth House, Malahide Road, Dublin 3
FS29S.305934	Garville Place, Rathgar, Dublin 6
29B.FS.0572	Navan Road, Cabra, Dublin
29B.FS.0525	Smurfit Kappa Site, Coolock

4.0 Appellant's Case

The appellant is appealing the attachment of condition 1 to the grant of the fire safety certificate, largely on the basis that the proposed provisions for vehicular access to the building far exceed the minimum provisions outlined in the requirements of Section B5 of TGD Part B 2006 (2020 Reprint). The following points are set out in support of the appeal:

- It is claimed that the minimum provision for vehicle access in TGD Part B 2006 (2020 Reprint) is 15% (36.6m) while the proposed extent of vehicle access provided is 73% (178m) therefore as the provision is more than what is required by the technical guidance document then prima facie compliance is achieved.

- It is claimed that the type, size and arrangement of the proposed building is such that it does not meet the criteria as outlined at Section 5.1.2 of TGD Part B 2006 (2020 Reprint) for the provision of internal fire mains.

The appellant is appealing the attachment of condition 2 to the grant of the fire safety certificate, largely on the basis that sprinkler coverage is not a requirement of TGD Part B 2006 (2020 Reprint) for a building of this type, size and arrangement and the proposed provisions for compartmentation within the building far exceed the minimum provisions outlined in the requirements of Section B3 of the technical guidance document. Furthermore, they claim that to impose this condition would jeopardise the financial viability of the project. The following points are set out in support of the appeal:

- It is claimed that the ground floor level has a floor area of 2,002 square metres and is subdivided into 5 compartments. Furthermore, the first and second floor levels have floor areas of 1,729 and 1,555 square metres respectively and are subdivided into 4 compartments. All compartments are less than 600 square metres which is approximately one third of the permitted compartment size limit as outlined in TGD Part B 2006 (2020 Reprint).
- It is claimed that the proposed height of the top storey is 6.3m, therefore significantly less than 30m, where the TGD Part B 2006 (2020 Reprint) requirement for sprinkler protection would be applicable.
- It is claimed that the imposition of Condition 2 will render the project financially unviable as in addition to the capital costs, to facilitate the inclusion of a sprinkler system at this stage will require a complete redesign of the current building including additional service cavities, an increase in overall building height and associated planning permission implications.

5.0 Building Control Authority Case

The BCA case is that the attachment of Condition No.1 is appropriate and should remain without modification. The following points are set out in support of this position.

- The BCA claims that although they agree that there is no requirement in the regulations for dry risers it is the view of the BCA that the regulations do not consider the local needs of the responding fire service in Offaly.
- The BCA claims that by and large the Irish Regulations are derived from the England and Wales Building Control Fire Regulations and the response of the Fire Services there is superior to that which can be provided in Ireland.

The BCA case is that the attachment of Condition No.2 is appropriate and should remain without modification. The following points are set out in support of this position.

- The BCA claims that scientific evidence exists that evacuation of residents from nursing homes leads to higher mortality rates.
- The BCA claims that there is evidence from international studies that demonstrates the effectiveness of sprinklers in residential premises and that Offaly Fire and Rescue recommends that all new residential care homes be provided with an automatic sprinkler system.
- The BCA claims that a cost benefit analysis has been carried out in Scotland which determined that sprinklers are cost effective in this situation.
- The BCA claims that the current guidance in Ireland relies totally on compartmentation and fire resisting doors sets to contain fires in the room of origin. Furthermore, the BCA claims that the provision of sprinklers reduces the risks from fire within buildings of this type and can compensate if other fire safety measures including compartmentation fail to act as intended.
- The BCA claims that the next revision of TGD Part B will require the provision of sprinklers in all nursing homes.
- The BCA claims that there are challenges associated with the full or partial evacuation of residential care homes in the event of a fire. Furthermore, it is

claimed that the provision of sprinklers would ensure that escape routes remain tenable for longer, facilitating more controlled evacuation therefore reducing risks to residents.

6.0 **Assessment**

6.1. **Appeal v conditions**

Having considered the drawings, details and submissions on the file and having regard to the provisions of Article 40 of the Building Control Regulations 1997, as amended, I am satisfied that the determination by the Board of this application as if it had been made to it in the first instance would not be warranted. Accordingly, I consider that it would be appropriate to use the provisions of Article 40(2) of the Building Control Regulations, 1997, as amended.

6.2. **Content of Assessment**

On analysis of the relevant regulations, the relevant technical guidance document and all the information on the case file including the arguments put forward by the appellant and the BCA, I have arrived at my recommendation based on the following rationale.

- As the FSC application for the construction of a new building was lodged with the BCA on 12/08/2022 then the relevant technical guidance document is TGD Part B 2006 (2020 Reprint).

Condition 1:

- On assessment of The Building Regulations, it is evident that the Relevant Regulation is **Regulation B5: Access and facilities for the fire service.**

A building shall be so designed 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.

- On assessment of the submission to ABP on behalf of the appellant it was evident that the proposed design meets the relevant requirements outlined in Section 5 of TGD Part B 2006 (2020 Reprint).
- On assessment of the submission to ABP by the BCA it was evident that they accept that there is no requirement for dry risers in the relevant regulations.

Condition 2:

- On assessment of The Building Regulations, it is evident that the Relevant Regulation is **Regulation B3: Internal Fire Spread (Structure)**.
 - (1) A building shall be so designed and constructed that, in the event of fire, its stability will be maintained for a reasonable period.
 - (2) (a) A wall common to two or more buildings shall be so designed and constructed that it offers adequate resistance to the spread of fire between those buildings.
 - (b) A building shall be sub-divided with fire resisting construction where this is necessary to inhibit the spread of fire within the building.
 - (3) A building shall be so designed and constructed that the unseen spread of fire and smoke within concealed spaces in its structure or fabric is inhibited where necessary.
 - (4) For the purposes of sub-paragraph 2(a), a house in a terrace and a semi-detached house are each to be treated as being a separate building.

Note: In consideration of Condition No.2, then requirements B3(1) and B3(2)(b) are most relevant.

- On assessment of the submission to ABP by the appellant's consultant it is evident that they have provided sufficient evidence of compliance with the relevant requirements of Section B3 of TGD Part B 2006 (2020 Reprint).
- On assessment of the submission to ABP by the BCA it is evident that they are seeking to impose a greater level of fire safety than is required under the relevant requirements of Section B3 of TGD Part B 2006 (2020 Reprint). The

BCA claim that the guidance in the current technical guidance document is not appropriate and that the next version of the technical guidance document will require a sprinkler system to be provided in all residential care homes. Even though this new document (TGD Part B 2024 – Fire Safety Volume 1) has now been published, the transitional arrangements clearly state that TGD Part B 2006 (2020 Reprint) remains the relevant guidance until 1st May 2025.

7.0 Recommendation

I recommend the Board to direct the BCA to remove condition number 1 and condition number 2 for the reasons and considerations set out below:

8.0 Reasons and Considerations

Having regard to the presented design of the development and the compliance report, drawings and application form, to the submissions made in connection with the Fire Safety Certificate application and the appeal and to other relevant decisions made by the Board, it is considered that it has been demonstrated by the appellant that the proposed building meets the relevant requirements of both Section B3 and Section B5 of TGD Part B 2006 (2020 Reprint). It was considered that the BCA had been unreasonable in looking for measures that were in addition to those required by TGD Part B 2006 (2020 Reprint) and as it is accepted that evidence of compliance with the relevant technical guidance document will, prima facie, indicate compliance with Part B of the Second Schedule of the Building Regulations then there is no justification to attach Condition 1 and Condition 2 to the granted Fire Safety Certificate.

9.0 Conditions

The BCA should be directed to remove Condition 1 and Condition 2 from the granted FSC.

10.0 Sign off

I confirm that this report represents my professional assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.



Jamie Wallace BE CEng MIEI

26/09/2024