



An  
Bord  
Pleanála

## FSC Report ABP-318953-24

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

Appeal v Condition (No. 5)

### Development Description

Fire safety certificate application in relation to Block L, consisting of 9 storeys over a basement car park at The Grange, Brewery Road, Stillorgan, Co. Dublin.

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

FSC2206910DR

### Appellant

Kennedy Wilson

### Agent

Jensen Hughes

### Building Control Authority:

Dun Laoghaire Rathdown County  
Council

### Inspector

Jamie Wallace

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## 1.0 Introduction

- 1.1. The fire safety certificate (FSC) application subject to this appeal was made to Dun Laoghaire Rathdown County Council for the construction of a 9-storey residential development over a basement car park at Block L, The Grange, Brewery Road, Stillorgan for Kennedy Wilson.
- 1.2. The application relates to the construction of a new building.
- 1.3. The case relates to an appeal v condition No. 5 attached to the granted FSC.

**Condition 5:** A suitable automatic sprinkler system shall be installed throughout the building and the basement car park. The sprinkler coverage to these spaces shall be sufficient to protect against the fire hazards within both the residential and non-residential areas. In this regard, the residential parts of the building shall be protected in accordance with BS 9251:201 and non-residential parts using IS EN 12845:2015 + A1: 2019 as advised by Clause 4 of BS 9251:2021.

**Reason:** To comply with Part B of the Second Schedule to the Building Regulations, 1997 to 2022.

**Note:** The appeal is against the requirement for a sprinkler system to be provided in the basement car park. The appellant accepts that a sprinkler system is required to protect the residential floors of the building, and this is included in the proposed building design and covered by Condition 6 of the Granted FSC.

## 2.0 Information Considered

The information considered in this appeal comprised the following:

- Drawings and associated particulars submitted with the FSC application on 09/12/2022.
- Further information and particulars received by the BCA on 14/10/2023.
- Copy of BCA 'Decision To Grant' With Conditions on 05/01/2024.

- Appeal received by ABP on 31/01/2024, lodged by Jensen Hughes on behalf of the appellant.
- Submissions received from the BCA on the appeal on 29/02/2024.
- Further submission received by Jensen Hughes on behalf of the appellant on 27/03/2024.

### **3.0 Relevant History/Cases**

3.1. There are other buildings adjacent to this proposed (Block L) building within the same development site. Blocks H, J, M & Q have all been granted FSCs and are connected to an underground car park without a sprinkler system. It is proposed that the existing carpark at the development will be connected to the basement car park proposed to be built with Block L.

3.2. The following ABP cases may be of assistance to the Bord in determining the case.

ABP-316079-23      Fire Safety Certificate for apartment building over a basement carpark.

ABP-314945-22      Construction of four storey apartment building over a basement carpark.

ABP-312605-22      Fire Safety Certificate application for a Single storey basement and six storey residential block above (Block A).

### **4.0 Appellant's Case**

4.1. The appellant is appealing the attachment of condition 5 to the grant of the fire safety certificate largely on the basis that a sprinkler system is not required in the basement car park to comply with Part B of the Building Regulations. While the appellant is appealing condition 5 they state in their appeal letter that they only seek to remove the requirement for a sprinkler system in the basement and outline that they propose to comply with the requirement for a sprinkler system in the residential parts of the building. The following points are set out in support of the appeal:

- It is claimed that this building forms part of a development that includes similar buildings that have already been granted FSCs without the requirement to provide sprinkler coverage to the basement car park.
- It is claimed that the building design as presented is compliant with the requirements of TGD Part B 2006 (2020 Reprint).
- It is claimed that the proposed basement car park falls under the definition of a “normal” car park as means of escape provisions, surface linings, compartmentation, ventilation and fire fighter access and facilities are all to be provided in line with TGD Part B 2006. It is claimed that the provision of a sprinkler system in the basement car park is therefore surplus to any statutory or regulatory requirement for a building of this type. They reference section 3.5.2 of TGD Part B 2006 that states that “car parks are not normally expected to be fitted with sprinklers”.

## 5.0 Building Control Authority Case

5.1. It is the BCA case that a sprinkler system is necessary throughout the building and the basement car park to comply with the Second Schedule to the Building Regulations. The following points are set out in this regard:

- It is claimed that the relevant design standard (BS 9251:2021) for a domestic sprinkler system requires that it should extend to all areas including throughout the basement car park.
- It is claimed that TGD Part B 2006 does not adequately consider or address new hazards in car parks due to recent changes in vehicle technology and materials.
- It is claimed that there is evidence from international studies that demonstrates increased fire risks associated with modern vehicles and the effectiveness of sprinklers as a mitigation measure.
- It is claimed that it is appropriate to seek provision of a sprinkler system to allow the suppression and control of fire development to allow for both safe means of escape for occupants and to allow fire crews to safely access the basement car park for firefighting.

## **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 (TGD Part B 2006 (2020 Reprint)) 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:

- The appellant claim, that the design of the building is compliant with Building Regulations without provision of a sprinkler system in the basement car park, has been adequately demonstrated.
- The BCA claim that the relevant guidance in the TGD Part B 2006 is invalid due to recent changes in vehicle design is not an argument for this forum. The proper forum for this argument is the consultation period for the next edition of TGD Part B. By attaching the condition looking for sprinkler system coverage to the basement car park the BCA were deemed to be in effect seeking to impose a greater level of fire safety than is required under the relevant Building Regulations.
- While detailed investigations on the impact of modern advancements in vehicles on risks associated with building design remain desirable, it remains the case that evidence of compliance with the relevant TGD Part B will, prima facie, indicate compliance with Part B of the Second Schedule of the Building Regulations.
- I do not agree with the BCA claim that sprinkler protection is necessary because of Clause 5.4 of BS 9251:2021. BS 9251:2021 is a code of practice, not a specification, and provides guidance and recommendations. The system's specification, including the extent of required sprinkler coverage, is determined by

the sprinkler designer. This is outlined in Clause 4.2.2 of BS9251:2021, which states that the specification should consider the premises' fire strategy. In this case, the fire strategy does not rely on full sprinkler coverage throughout the building, as might be required if the building's top floor exceeded 30 meters in height. Instead, it is based on partial sprinkler coverage to address means of escape requirements within individual apartments and the common corridors serving them. Within BS 9251:2021 it is stated that it includes “recommendations for non-residential occupancies in protected buildings”. It is my opinion that this building would only fall under the scope of these recommendations if it was over 30m in height as TGD Part B would then recommend sprinkler protection (i.e. only then would it be considered a “protected building”).

## **7.0 Recommendation**

Direct the BCA to remove condition No. 5 for the reasons and considerations set out below.

## **8.0 Reasons and Considerations**

Having regard to the presented design of the development and the accompanying technical compliance report, and to the further submission made to the BCA in connection with the FSC application, to the initial appeal and the BCA submission to ABP and the appellant's further submission to ABP, it is considered appropriate that the Building Control Authority be directed to remove condition 5. As condition 6 outlines the requirement for a sprinkler system in the residential areas of the building then condition 5 is not required. It has been demonstrated that the building, if constructed in accordance with the design presented with the application and appeal, would comply with the requirements of Part B of the Second Schedule to the Building Regulations 1997, as amended without a sprinkler system in the basement car park.

## **9.0 Conditions**

The BCA should be directed to remove condition No. 5 attached to 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.

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Jamie Wallace BEng CEng MIEI

24/01/2025