



An
Bord
Pleanála

FSC Report ABP-320256-24

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

Appeal v Condition (Condition No.
11(ii))

Development Description

Fire Safety Certificate for a residential
development Block A, Ard Valley, Old
Bray Road, Cabinteely, Dublin 18

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

FSC2307775DR

Appellant

Dean Neville

Agent

SCA Planning

Building Control Authority:

Dun Laoghaire Rathdown County
Council

Inspector

Jamie Wallace

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1.0 Introduction

- 1.1. The application relates to a Fire Safety Certificate for a five storey residential development Block A, Ard Valley, Old Bray Road, Cabinteely, Dublin 18.
- 1.2. The application relates to a Fire Safety Certificate (FSC) for the construction of a new building.
- 1.3. The Appeal is against Condition No. 11(ii) attached to the granted FSC.

Condition 11(ii): A sprinkler protection system shall be provided throughout the car park which shall be designed, installed, and commissioned in accordance with BS EN 12845:2015 + A1 2019.

Reason: To ensure compliance with Part B of the Second Schedule to the Building Regulations, 1997-2022.

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 on 06/11/2023.
- Correspondence between the Building Control Authority (BCA) and the applicant agent during the FSC application process including relevant additional information submitted to the BCA.
- Copy of BCA decision.
- Appeal received by An Bord Pleanála (ABP) on 24/07/2024 on behalf of the appellant.
- Submission by BCA to ABP on 25/09/2024.
- Further submission made to ABP on behalf of the appellant on 16/10/2024.

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.

ABP-312605-22 Fire Safety Certificate application for a Single storey basement and six storey residential block.

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

ABP-315378-22 Fire safety certificate for the construction of a single storey basement and 2 no. blocks overhead.

ABP-315985-23 Fire Safety Certificate: Block EF consisting of 120 apartments ranging in 6-7 storeys, communal facilities at ground floor, basement level containing water storage rooms, car parking and bicycle parking.

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

Note: In all the cases listed here, it was recommended that ABP instruct the BCA to remove conditions relating to sprinklers in carparks that had been attached to the granted Fire Safety Certificates.

4.0 Appellant's Case

The appellant's case is that the attachment of condition No.11(ii) to the grant of the fire safety certificate is surplus to the requirements of TGD Part B 2006 (2020 Reprint). The following points are set out in support of the appeal:

- It is claimed that the design of the proposed building meets the requirements of TGD Part B 2006 (2020 Reprint) so prima facie compliance has been demonstrated.

- It is claimed that TGD Part B 2006 (2020 Reprint) makes no reference to the inclusion of sprinkler systems in basement car parks in buildings of this type that are less than 30m in height to the top floor.
- It is claimed that the updated TGD Part B (2024 Fire Safety – Volume 1 Buildings other than Dwelling Houses) also makes no reference to providing sprinklers in basement car parks for this type of development.
- It is claimed that the design of the building was amended during the application process following a Request for Further Information (RFI) from the local authority. The proposed building now includes a second dry riser outlet and all EV charge points within the basement car park are now proposed within 10m of the entrance point to the car park.
- The car park is provided with 5% free open area for ventilation which is more than the 2.5% natural ventilation requirement as set out in TGD Part B 2006 (2020 Reprint).

5.0 Building Control Authority Case

The BCA case is that the attachment of Condition No.11(ii) is appropriate and should remain without modification. The following points are set out in support of this position.

- The BCA claims that a building designed in accordance with TGD Part B 2006 (2020 Reprint) does not prove compliance with the functional requirements of the building regulations. It is their view that new hazards due to changes in technology and materials are not adequately considered and addressed in the relevant guidance.
- The BCA claims 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.
- The BCA has concerns with the link between the car park and the corridor serving as an escape route from two apartments (A-105 & A-106) at ground floor level.

- The BCA considers it appropriate to seek provision of a sprinkler system in the car park 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 access the basement for firefighting.

6.0 Assessment

6.1. Appeal v condition

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.

- As the FSC application for the construction of a new building was lodged with the BCA on 06/11/2023 then the relevant technical guidance document is TGD Part B 2006 (2020 Reprint).
- 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 TGD Part B 2006 (2020 Reprint).
- On assessment of the submission to ABP by the BCA it is evident that they consider the relevant guidance to be inappropriate and are seeking to impose a greater level of fire safety than is required under TGD Part B 2006 (2020 Reprint).
- I note the concern raised by the BCA with regards to the link between the carpark and the internal escape route from the ground floor apartments (from apartments A-105 & A-106) but have judged this risk to be adequately

mitigated by the provision of ventilation to the corridor, the provision of a protected lobby between the car park and the internal escape route, the provision of sprinklers along the escape route (imposed by Condition 11(ii)) and the fact that these apartments have direct access via external doors to balconies.

- On review of TGD Part B 2024 that has recently been published it is evident that the “Transitional Arrangements” are currently in force and that TGD Part B 2006 (Reprint 2020) remains the relevant document in this case.

7.0 Recommendation

I recommend the Board to direct the BCA to remove condition number 11(ii) 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 additional information submissions made in connection with the Fire Safety Certificate application, the BCA decision, the appeal to ABP, the response by the BCA to ABP, the further submission to ABP on behalf of the appellant and to other relevant decisions made by ABP, it is considered that it has been demonstrated by the appellant that the proposed building design as presented meets the relevant requirements of TGD Part B 2006 (2020 Reprint). By attaching the condition subject to the appeal, it was considered that the BCA had in effect imposed 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 No. 11(ii) to the granted Fire Safety Certificate.

9.0 Conditions

The BCA should be directed to remove Condition No. 11(ii) 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

12/05/2025