



An
Bord
Pleanála

FSC Report

ABP-320588-24

Appeal v Condition (1 no.)

Appeal against Conditions No. 2
attached to granted Fire Safety
Certificate (Reg. Ref. No. FSC/212/24)

Development Description

Pinnock Hill Block B, Proposed
construction of 7 storey apartment
development including an undercroft
car park known as Block B

Building Control Authority Fire Safety Certificate application number:

FSC/24/212

Appellant

John McKeon

Appellant's Agent

Maurice Johnson & Partners

Building Control Authority:

Fingal County Council

Inspector

Dr. Raymond J. Connolly

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1.0 Introduction

- 1.1. The subject Fire Safety Certificate application relates to the construction of a 3 to 7 storey apartment building separated into 4 no. cores with an undercroft car park located on Block B, Pinnock Hill, Swords, Co. Dublin.
- 1.2. Each core is served by a single stair and a single lift. Cores range in height from 6.45 metres to 18.45 metres. With the exception of one core, the residential cores are connected to the car park at ground floor level. The car park sits between the residential blocks at ground floor and is overdrawn by a podium deck to form an amenity space accessible at first floor level. The car park is naturally ventilated.
- 1.3. The subject Fire Safety Certificate (Ref. FSC/212/24) was granted by Fingal County Council on 24th July 2024 subject to 18 no. conditions.
- 1.4. This appeal relates to the attachment of Condition No. 2 by Fingal County Council to the granted Fire Safety Certificate comprising:-

Condition No. 2

The undercroft car park shall be provided with an automatic sprinkler system throughout in accordance with IS EN 12845:2015 (+AC:2016)(+A1:2019) Fixed fire-fighting systems – automatic sprinkler systems – design, installation and maintenance.

Reason

To comply with the provisions of Part B of the Second Schedule to the Building Regulations 1997 to 2022.

- 1.5. In my opinion, the specific nature of the appeal versus the attachment of Condition No. 2 to the Fire Safety Certificate does not require *de novo* consideration in this instance.

2.0 Information Considered

2.1. The information considered in this appeal comprised the following:-

- Letter of Appeal to An Bord Pleanála from Maurice Johnson & Partners acting on behalf of Mr. John McKeon dated 15th August 2024.
- Fire Safety Certificate issued by Fingal County Council under reference Ref. FSC/212/24 dated 24th July 2024 and subject of 18 no. conditions.
- Maurice Johnson & Partners *Fire Safety Certificate Application - Compliance Report (No. 21081FSC1BKBR01,Issue1) - Proposed construction of 7 storey apartment development including undercroft car park known as Block B* and associated drawings submitted on 12th December 2023.
- Maurice Johnson & Partners *FSC Further Information Letter* dated 17th July 2024 including *Fire Safety Certificate Application - Compliance Report (No. 21081FSC1BKBR01,Issue02)*.

Relevant History/Cases

2.2. I am not aware of any other Board decisions in respect of other developments elsewhere that may be relevant to this appeal and accordingly I am offering my opinion to the Board in this matter solely on the basis of the information provided to me as scheduled in Paragraph 2.1 above.

3.0 Appellant's Case

3.1 The appellant includes the following points in support of the appeal:

- The proposed single storey undercroft car park is not a complex development, is small in scale (comprising 82 no. parking spaces) and is appropriately naturally ventilated.
- The residential units overhead are provided with either internal protected hallways or a residential sprinkler system to BS 9251:2021.
- The protected stair cores that connect to the car park are approached by ventilated corridors fitted with natural smoke ventilation systems at upper levels and double lobby protection between the staircores and the car park at ground floor level. The 3 no. staircores that connect to the car park are to be fitted with a residential sprinkler system to BS 9251:2021.
- There are 2 no. independent access routes into the car park, i.e. directly from fresh air.

3.2 The appellant also highlights that the design meets the guidance contained in Sections 3.5.2 and 5.4.3.1 of TGD-B 2006+A1:2020 that “car parks are not normally expected to be fitted with sprinklers” and includes additional levels of safety with provision of 5% natural ventilation and multiple escape routes.

4.0 Building Control Authority Case

4.1 Fingal County Council has not offered any commentary regarding the appeal.

5.0 Assessment

“De Novo” assessment/appeal v conditions

- 5.1 Having regard to the nature of the appeal which is solely against attachment of a condition and 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).

6.0 Content of Assessment

- 6.1 The applicant has sought to justify compliance of the proposed residential building with Part B1 to the Building Regulations by reference to BS 5588:Part 1:1990 *Fire precautions in the design, construction and use of buildings. Code of practice for residential buildings*. The basis for design presented in BS 5588:Part 1:1990 does not require provision of automatic sprinkler protection to car parks. The basis of design does require car parks to be separated from single escape stairways by protected lobbies fitted with not less than 0.4% fixed natural ventilation. The applicant has included such provisions within his design.
- 6.2 The applicant has sought to justify compliance of the proposed residential building with Part B3 to the Building Regulations by reference to Technical Guidance Document B (2006) + A1 (2020). In this regard, the basis for design presented in TGD B does not require provision of automatic sprinkler protection to car parks.
- 6.3 The applicant has sought to justify compliance of the proposed residential building with Part B5 to the Building Regulations by reference to Technical Guidance Document B (2006) + A1 (2020). The basis for design presented in TGD B does not require provision of automatic sprinkler protection to car parks.
- 6.4 The *de-facto* situation in Ireland is that adoption of those “off-the-shelf” design solutions outlined in Technical Guidance Document B allows designers to claim *prima facie* demonstration of compliance with Part B of the Second Schedule of the Building Regulations. An Bord Pleanála has been consistent in supporting this position in many appeals relating to new or changing fire safety hazards that are not recognised within the guidance contained in Technical Guidance Document B.
- 6.5 This appeal is therefore considered in the context of the proposed design demonstrating its compliance with Technical Guidance Document B (as the document deemed to demonstrate *prima facie* compliance with Part B to the Building Regulations) and also BS

5588:Part 1:1990 (as the document that could be potentially inferred to similarly demonstrate *prima facie* compliance).

- 6.6 I am satisfied that in respect of the issue subject of appeal, the requirement to provide automatic sprinkler protection to the car park is not supported by reference to either Technical Guidance Document B or BS 5588:Part 1:1990.

7.0 Recommendation

- 7.1** The appeal against the attachment of Condition No. 2 does not require *de novo* consideration under Article 40(1).
- 7.2** Having regard to the presented design of the new residential building and the accompanying technical compliance report, to the submissions made in connection with the Fire Safety Certificate application and the appeal, and to the report and recommendation of the reporting Inspector, it is considered that, by reference to the appellant's chosen basis for design BS 9991:Part 1:1990, the Board was satisfied that the Building Control Authority be directed to remove Condition No. 2 and the reason therefor. The Board was further satisfied that, subject to the removal of Condition No. 2, it has been demonstrated that the subject works, if constructed in accordance with the design presented with the application, would comply with the requirements of Part B of the Second Schedule to the Building Regulations 1997, as amended – subject to the retention of the remaining 17 no. Conditions attached to Fire Safety Certificate FSC 212/24 by Fingal County Council.

8 Conditions

- 8.1 My recommendation is that Condition No. 2 subject of the current appeal be removed.
- 8.2 The remaining 17 no. conditions as scheduled to Fire Safety Certificate FSC/212/24 shall remain as drafted by Fingal County Council.

9 Sign off

- 9.1 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.

Dr. Raymond J. Connolly

BE, PhD, CEng, MIEI, MIFireE

dated

14th June 2025