



An
Coimisiún
Pleanála

FSC Report ABP-322628-25

Appeal v Refusal or Appeal v Condition(s)

Appeal v Conditions

Development Description

Construction of new residential building,
Block E, Hacketstown, Skerries, Co. Dublin.

Building Control Authority Fire Safety Certificate application number:

SN3022408 / FSC 772/25

Appellant

The Land Development Agency

Appellant's Agent

Michael Slattery Associates

Building Control Authority:

Fingal County Council

Inspector

Jamie Wallace

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1.0 Introduction

- 1.1. A Fire Safety Certificate application was submitted to Fingal County Council for the construction of the residential building named Block E at Hacketstown, Skerries, Co. Dublin.
- 1.2. The application relates to **construction of a new building**.
- 1.3. Block E is a residential building, comprising a variety of dwelling types including one and two bed flats and duplexes, arranged around a podium. The podium provides access to some units at the upper levels and there is a carpark situated at ground floor level under the podium.
- 1.4. The application was for a Fire Safety Certificate that was Granted with 14 conditions. The appeal is against Conditions 3, 8 & 9.

Condition 3: The parts of the podium roof forming the escape route, together with any opening within three metres of the escape route, are to be fire resisting, to achieve compliance with Clause 1.2.6.2 of Technical Guidance Document B 2006 (Reprinted Edition 2020).

Reason: To comply with Part B1 of the Second Schedule to the Building Regulations, 1997 to 2024.

Condition 8: Hose reels are to be provided in the car park area in accordance with Section 1.4.16 of Technical Guidance Document Part B.

Reason: To comply with Part B1 of the Second Schedule to the Building Regulations, 1997 to 2024.

Condition 9: The car park is to be provided with an automatic sprinkler system throughout in accordance with I.S. EN 12845:2015 + A1:2019 Fixed firefighting systems – Automatic Sprinkler Systems – Design, installation and maintenance.

Reason: To comply with Part B of the Second Schedule to the Building Regulations, 1997 to 2024.

2.0 Information Considered

The information considered in this appeal comprised the following:

- Drawings and report submitted with the application on 12/08/2024.
- Further information and Drawings received by the BCA on 18/12/2024, 20/02/2025 and 21/02/2025.
- Copy of BCA decision with conditions of 29/04/2025.
- Appeal by Michael Slattery Associates on behalf of the appellant received on 27/05/2025.
- Submissions received from the BCA on the appeal on 22/07/2025.
- Further submissions by Michael Slattery Associates on behalf of the appellant received on 11/09/2025.

3.0 Relevant History/Cases

- 3.1. I am not 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 Commission decisions at other locations may be of assistance to the Commission in determining the decision in relation to **Condition 9**.

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

ABP-319294-24 Fire Safety Certificate: Hampton Apartments, construction of a four-storey block over basement.

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

4.0 Appellant's Case

4.1. The appellant is appealing the attachment of conditions 3, 8 and 9 to the grant of the fire safety certificate largely on the basis that the proposed building was designed in accordance with BS 9991: 2015. The following points are set out in support of the appeal:

- In regard to Condition 3, the appellant case is that the implications / impacts of attaching the condition are imposing requirements that are not recommendations of BS 9991: 2015 so therefore the BCA is seeking to impose a level of fire safety above what is required. It is further noted that notwithstanding the above the recommendations of Clause 1.2.6.2 of TGD Part B do not prohibit an escape route by way of an external podium.
- In regard to Condition 8, the appellant case is that the provision of hose reels in car parks is not a recommendation of BS 9991:2015. It is further noted that notwithstanding the above, as the car park is ancillary to the main residential use of this building then the provision of hose reels in a building of this type is also surplus to the requirements of TGD Part B.
- In regard to Condition 9, the appellant case is that the proposed design is fully compliant with BS 9991: 2015 and to attach a condition to provide a sprinkler system is imposing a level of fire safety above what is required of that standard. It is further noted that notwithstanding the above, there is no requirement in TGD Part B, for provision of sprinklers in car parks in buildings of this type.

5.0 Building Control Authority Case

5.1. The BCA claims that Conditions 3, 8 & 9 should remain in place so that an adequate level of fire safety protection is provided primarily to mitigate against the fire load and rate of fire spread associated with modern vehicles. It is claimed that research available to Dublin Fire Brigade coupled with the first-hand experience of operational staff in tackling fires involving modern vehicles indicates that past assumptions in respect to car park fires can no longer be relied upon in respect of achieving

adequate levels of fire safety. The following points are set out in support of their case:

- In regard to Condition 3, the BCA case is that TGD Part B remains the primary guidance document and while it recognises that the use of alternative design standards (such as BS 9991:2015) is acceptable, it must also be recognised that this is only the case “provided that the level of fire safety achieved is adequate to satisfy the requirements of the Building Regulations”. It is the BCA case that the presented design does not demonstrate that “adequate means of escape in case of fire from the building to a place of safety outside the building, capable of being safely and effectively used” has been provided from all the dwellings particularly the second floor units on the Eastern side of the building, accessed solely from the podium level by external stairways.
- In regard to Condition 8, the BCA case is that TGD Part B remains the primary guidance document and a building designed in compliance with alternative design standards (such as BS 9991:2015) “does not necessarily indicate compliance with Part B of the Building Regulations”. It is the BCA case that TGD B indicates that, where a building is compartmented, a purpose group can apply to a compartment in a building and should be taken from the main use of the compartment. Therefore, in this case, the BCA argues that the car park should be considered as a stand-alone compartment (of purpose group 7(a), 7(b) where the floor area exceeds 500 square metres) and should be provided with hose reels as per the requirements of TGD Part B for buildings/compartments of this type.
- In regard to Condition 9, the BCA case is that current guidance documents including TGD Part B can no longer be relied upon and based on recent research available and the first-hand experience of Dublin Fire Brigade they claim that they are justified in looking for a sprinkler system to be provided in the car park.

6.0 **Assessment**

6.1. ***De Novo* assessment/appeal v conditions**

- 6.1.1. Having regard to the nature of the appeal which is solely against Conditions 3, 8 & 9 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.

6.2. **Content of Assessment**

- 6.2.1. The basis of my assessment is outlined below-
- 6.2.2. The assessment considers the following regulations as they are deemed relevant to Conditions 3, 8 & 9.
- B1: Means of warning and escape in case of fire
 - B5: Access and facilities for the fire service
- 6.2.3. The assessment considers the requirements of Art 39 of the Building Control Regulations and the extent to which the design of the building complies with the requirements of Part B of the second schedule to the Building Regulations including guidance set out in Technical Guidance Document B 2006.
- 6.2.4. In consideration of the arguments put forward by the appellant and the BCA in relation to Condition 3, it is clear that while the BCA accepts that the design is compliant with BS 9991: 2015 it is not convinced that this is sufficient evidence in the case of this particular building to prove compliance with Part B1 of the building regulations.
- 6.2.5. In consideration of the arguments put forward by the appellant and the BCA in relation to Condition 8, it is clear that while the BCA accepts that the design is compliant with BS 9991: 2015 it is not convinced that this is sufficient evidence in the case of this particular building to prove compliance with Part B1 and B5 of the building regulations.

- 6.2.6. In consideration of the arguments put forward by the appellant and the BCA in relation to Condition 9, it is clear that the BCA has formed an opinion that the current Technical Guidance Document is insufficient in its guidance as recent research and first-hand experience has not been taken into consideration in relation to risks associated with modern vehicle fires.
- 6.2.7. The appellant argues that in relation to all 3 conditions being appealed they have proven that the proposed design is fully compliant with BS 9991:2015 therefore there is no justification for the BCA to seek to enforce the conditions subject to appeal.
- 6.2.8. In relation to Condition 3 and the arguments put forward by both sides, I consider that the BCA is reasonable in expressing concerns that the single escape route via external escape stairs from the second-floor dwellings on the Eastern side of the building, discharge at a point that is only 2.1m approximately from carpark vents. The appellant claims that the arrangement is compliant with both BS 9991:2015 and with Section 1.3.6.6 and Diagram 7 & 8 of TGD Part B. My interpretation of Diagram 8 is that a zone of fire resisting construction should be provided within 3m of the bottom step of external escape stairways. I therefore would agree that the proposal as presented is not compliant with TGD Part B.
- 6.2.9. In relation to Condition 8 and the arguments put forward by both sides, I accept the appellants argument that the provision of hose reels in what is effectively a private residential development is surplus to the requirement of the regulations. I agree that the car park is ancillary to the main use of the building in this case. I also agree that it would be unlikely that adequately trained personnel would be present in the event of an outbreak of fire in the car park and would agree and that it would potentially put persons at risk if they were to attempt to fire fight instead of evacuating the building.
- 6.2.10. In relation to Condition 9 and arguments put forward by both sides, I accept the appellant argument that the provision of a sprinkler system in a car park in a building of this type is surplus to the requirements of the regulations.

7.0 Recommendation

Direct the BCA to retain Condition 3 and to remove Condition 8 and 9 for the reasons and considerations set out below:

8.0 Reasons and Considerations

Having regard to the presented design for construction of the residential building in connection with the Fire Safety Certificate application, the appeal and to further submissions made in relation to the appeal, and to the report and recommendation of the reporting inspector, it is considered that **Condition 3** as originally attached by the Building Control Authority to the fire safety certificate is reasonably necessary to satisfy the requirements of Part B, specifically B1 (Means of escape in case of fire) of TGD Part B 2006 (2020 Reprint). The Board concluded with respect to this condition that it has not been demonstrated by the first party appellant in the fire safety application and appeal that the means of escape from second floor units on the Eastern side of the building is compliant the requirements of TGD: Part B 2006 (reprint 2020). The Board was therefore satisfied that it would be appropriate to attach **Condition 3**.

Having regard to the presented design of the residential building and the 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 it has been demonstrated by the first party appellant in the fire safety application and appeal that the basement car park does not require hose reels to meet the requirements of the Regulations. It was decided that it had been demonstrated adequately that the car park is ancillary to the main residential use of the building in this case. Therefore **Condition 8** as originally attached by the Building Control Authority to the fire safety certificate is not necessary to meet the guidance set out in TGD: Part B or accordingly to demonstrate compliance with Part B of the Second Schedule to the Building Regulations 1997, as amended. The Board was satisfied that, subject to the attachment of the remaining conditions (excluding conditions 8 & 9), 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.

Having regard to the presented design of the residential building and the 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 it has been demonstrated by the first party appellant in the fire safety application and appeal that the basement car park does not require sprinkler protection to meet the requirements of Part B of Technical Guidance Document B - Fire Safety 2006 (reprinted 2020). Therefore it was decided that **Condition 9** as originally attached by the Building Control Authority to the fire safety certificate is not necessary to meet the guidance set out in TGD: Part B or accordingly to demonstrate compliance with Part B of the Second Schedule to the Building Regulations 1997, as amended. The Board was satisfied that, subject to the attachment of the remaining conditions (excluding conditions 8 & 9), 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.

9.0 Conditions

Condition 3: The parts of the podium roof forming the escape routes, together with any opening within three metres of the escape route, are to be fire resisting, to achieve compliance with Clause 1.2.6.2 of Technical Guidance Document B 2006 (Reprinted Edition 2020).

Reason: To comply with Part B1 of the Second Schedule to the Building Regulations, 1997 to 2024.

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

12/11/2025