



An
Coimisiún
Pleanála

FSC Report

ACP-322889-25

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

Appeal against Condition

Development Description

Construction of two residential blocks known as Westbury Hall and Clonmore Hall and the completion and re-configuration/material alterations of three existing part-constructed basement levels at Sandyford Business District, Dublin 18

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

FSC2304541DR/7DN

Appellant

Expert Eye Property Company Ltd.

Appellant's Agent

Michael Slattery Associates

Building Control Authority:

Dún-Laoghaire Rathdown County
Council

Inspector

Raymond Connolly

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1.0 Introduction

- 1.1. On 26th July 2023 Mr. Barry Comer made a Fire Safety Certificate application to Dún-Laoghaire Rathdown County Council for the construction of two residential blocks, known as Westbury Hall (Block 1) and Clonmore Hall (Block 2), and the completion and re-configuration/material alterations of three existing partially-constructed basement levels at Rockbrook Central, Carmanhall Road/Blackthorn Drive, Sandyford, Dublin 18.
- 1.2. The application relates to the construction of a new mixed-use residential-led building and material alterations to complete pre-existing basement car parking levels.
- 1.3. Both residential blocks are relatively tall, i.e. top floor heights in excess of 30 metres above ground level, and extend to 14 no. and 12 no. storeys.
- 1.4. The ground floor level includes shops, an office and various ancillary spaces.
- 1.5. The 3 no. levels of basement (referenced as B1, B2(South) and B3) comprise car-parking and ancillary spaces and are connected to the commercial/residential levels overhead by circulation cores containing stairways and lifts.
- 1.6. The application was granted Dún-Laoghaire Rathdown County Council subject to 20 no. conditions on 27th May 2025.
- 1.7. The subject appeal, now by Expert Eye Property Company Limited, is against the attachment of Condition No. 16, i.e. requiring that the 3 no. basement levels be fitted with sprinkler protection.

Condition 16:

Basements B1, B2 & B3 shall be provided with a sprinkler protection system designed, installed and commissioned in accordance with IS EN 12845: 2015 + A1: 2019 which shall provide the following minimum coverage:

- i) To the entirety of the Basement B1 car park and all new ancillary accommodation;*
- ii) To the entirety of the proposed works at Basement B2 South (separated from Basement B2 North via 120-minute fire rated construction); and,*
- iii) To the entirety of Basement B3.*

Reason:

To ensure compliance with Part B of the Second Schedule to the Building Regulations, 1997 to 2024.

1.8. In my opinion, the specific nature of the appeal versus the attachment of Condition No. 16 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:

- Fire Safety Certificate application to Dún-Laoghaire Rathdown County Council by Mr. Barry Comer dated 25th July 2023.
- Michael Slattery Associates Compliance Report and drawings submitted with the Fire Safety Certificate application on 14th July 2023.
- Further information and drawings submitted by Michael Slattery Associates dated 25th July 2023.
- Further information and drawings submitted by Michael Slattery Associates dated 20th March 2024.
- Further information and drawings submitted by Michael Slattery Associates dated 25th September 2025.
- Dún-Laoghaire Rathdown County Council decision to grant Fire Safety Certificate FSC/174/2025 on 27th May 2025 (subject of 20 no. conditions).
- Letter of Appeal from Michael Slattery Associates (on behalf of Expert Eye Property Company Limited) to An Bord Pleanála [*sic*] dated 25th June 2025.
- Dublin Fire Brigade's Fire Officer's Report dated 17th July 2025.
- Letter from Michael Slattery Associates to An Bord Pleanála [*sic*] dated 14th August 2025 containing observations regarding the Fire Officer's Report.

3.0 Relevant History/Cases

3.1. I have not been made aware of any relevant building control history relating to the appeal site.

3.2. Whilst there have been many appeals to the An Bord Pleanála (as predecessor to An Comisiún Pleanála) relating to the removal of a requirement to provide sprinkler protection within basement car parks, the nature of the issues involved remain unsuited to simple application of a generic policy and in my opinion requires An Comisiún Pleanála to give bespoke building specific consideration in this instance. Therefore 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

4.0 Appellant's Case

4.1. The appellant's agent (Michael Slattery Associates) is appealing the attachment of Condition No. 16 to the grant of the fire safety certificate largely on the basis that the chosen basis for demonstrating compliance with Part B to the Building Regulations (1997-2023), namely Technical Guidance Document B (2006 Edition as reprinted in 2020), does not make explicit the requirement to provide sprinkler protection. The following points are set out by the appellant in support of the appeal:

- Whilst Clause 0.3.8 of Technical Guidance Document B suggests that sprinklers may be required in residential buildings taller than 30 metres in height (as is the case for the subject building), the relevant details of domestic sprinkler systems (as outlined in Clause 1.8.1 of the same document) relate to compliance with BS 9251:2014.
- The appellant suggests that the proposed specification of sprinklers within open-plan flats and residential corridors to the standards contained in BS 9251:2021 would meet the requirements of Clause 1.8.1.
- The appellant is specific in his assertion that the combined effect of Clauses 0.3.8 and 1.8.1 of Technical Guidance Document B does not lead to a requirement to install sprinkler protection outside of any individual flat and specifically would not extend to basements, even where residential buildings exceed 30 metres in height.
- The appellant furthers his assertion with reference to Clauses 3.5.2 and 5.4.3.1 of Technical Guidance Document B which states that "car parks are not normally expected to be fitted with sprinklers". The appellant suggests that this

expectation is predicated on the “facts car park [sic] are well ventilated and the fire load is well defined and not particularly high”.

- The appellant notes that the 2024 update to Technical Guidance Document B did not change the long-standing advice regarding the need for provision of sprinklers in car parks and reports from anecdote that the absence of change to the advice was a deliberate decision of the Building Regulations Advisory Committee.

5.0 Building Control Authority Case

5.1. The Fire Prevention Section of Dublin Fire Brigade submitted a lengthy report to An Comisiún Pleanála on 17th July 2025 regarding the appeal. The Fire Officer’s Report includes appendices containing technical information regarding car park fires and fire severities associated with burning vehicles. These appendices are generic and are not specific to the subject building. Accordingly, whilst familiar with their contents, I do not propose to *precis* these technical appendices for An Comisiún Pleanála other than to summarise that fires in enclosed car parks can be more severe than fires in open-sided car parks and that fires involving electric cars are likely to be more difficult to control than fires involving traditional combustion engine cars.

The Fire Officer states Condition No. 16 and its reason as follows:-

Condition 16:

Basements B1, B2 & B3 shall be provided with a sprinkler protection system designed, installed and commissioned in accordance with IS EN 12845: 2015 + A1: 2019 which shall provide the following minimum coverage:

- To the entirety of the Basement B1 car park and all new ancillary accommodation;*
- To the entirety of the proposed works at Basement B2 South (separated from Basement B2 North via 120-minute fire rated construction); and,*
- To the entirety of Basement B3.*

Reason:

To ensure compliance with Part B of the Second Schedule to the Building Regulations, 1997 to 2024.

5.2. The Fire Officer's Report outlines the following generalised justification for the attachment of Condition No. 16:-

- Whilst Article 7 of the Building Regulations allows for publication of generic guidance to assist individuals in complying with the requirement to comply with Part B to the Building Regulations, in this instance Technical Guidance Document B (2006), such guidance does not deal with every aspect of building design nor indeed does it necessarily address new and emerging fire hazards.
- Fire safety design to achieve compliance with Part B to the Building Regulations needs to consider the health, safety and welfare of persons in a building, which includes both building occupants and Fire Brigade personnel.
- The requirement for provision of sprinklers to the basement levels is therefore justified with reference to compliance with both Part B1 (means of escape) and Part B5 (access and facilities for the Fire Service).

5.4 In terms of the specific building subject of this appeal, the Fire Officer explains the detailed basis for the attachment of Condition No. 16 as comprising:-

- The increased risk arising from the fact that the residential blocks that are connected to the subject basement levels have top floors that are in excess of 30 metres above ground level.
- The large sizes of each basement level (ranging from c.9,000 m² to c.14,600 m²) and the associated fire-fighting challenges arising are such that the provision of sprinkler protection (in addition to the provisions of Technical Guidance Document B) meets the criteria of "reasonable and proportionate" to the risks presented as outlined in Clauses 0.1.5 and 0.3.8 of Technical Guidance Document B (2006).
- The extended distances of travel (up to 68 metres) arising within Basement Level B3 need to be mitigated by the provision of local sprinkler protection.
- The guidance contained in BS 9251:2021 directs designers to use IS EN 12845:2015 + A1:2019 for protection of the non-residential parts of the building. Section 5.3 of IS EN12845 in turn advises that with limited exceptions "no part of an unsprinklered building or section should be located vertically below a sprinklered building or section". The list of exceptions does not include car parks.

- The Fire Officer considers the guidance contained in Clause 3.5.2 of Technical Guidance Document B (2006) to be outdated given that the fire load associated with modern cars is no longer “not particularly high”, more so in the case of electric vehicles, which also pose increased fire-fighting hazards. The Fire Officer suggests that the reliance being placed by Technical Guidance Document B (2006) in its Clause 3.5.2(b) identifying mechanical ventilation as a means of reducing the risk of fire spread between vehicles is undermined by the limiting maximum operating temperature of smoke fans (300°C) being set at a threshold that relies on the local activation of sprinklers.

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 Condition No. 16 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 Fire Officer references Clause 0.1.5 of Technical Guidance Document B which states that for tall residential buildings adequate provisions (additional to those outlined in TGD B) should be considered. Clause 0.3.8 clarifies that tall residential buildings comprise those more than 30 metres in height and also clarifies that the additional provisions might include provision of sprinklers. The Fire Officer recognises that Table A2 in Technical Guidance Document B (2006) does not explicitly identify residential buildings in excess of 30 metres height as requiring sprinkler protection – unlike other building types of such heights. In this context, there is an apparent disconnect within Technical Guidance Document B (2006) between the content of its Clause 0.3.8 and Table A2. It is noted that this disconnect has been partially rectified in the subsequent 2024 version of Technical Guidance Document B, wherein Clause 8.2.1 explicitly requires provision of sprinklers within residential buildings taller than 15 metres. I do not think too much can be read into

the absence of a distinction in Table A2 between sprinklered and unsprinklered blocks of flats in Technical Guidance Document B (2006) given that the same lack of distinction is retained in the 2024 version of the document despite the explicit requirement to provide sprinklers elsewhere within the document.

6.2.2 In my experience, the Board has generally allowed appeals to remove Conditions requiring the provision of sprinklers in car parks on the basis of designers should reasonably expect to rely on following guidance contained in Technical Guidance Document B as delivering *prima facie* compliance with Part B. Typically arguments have centred around the wording of the phrase used in Clause 5.4.3.1 of Technical Guidance Document B (2006) that “basement car parks are not normally expected to be fitted with sprinklers”. The key word in this phrase being “normally” given that its removal would greatly clarify the guidance. Many previous appeals have centred on what constitutes a “normal” car park. However, given the fact that the subject building is not a car park, whether those parts of it serving as a car park are “normal” or not is secondary in this case to the fact that the subject residential building exceeds 30 metres in height and as such has been explicitly identified in Clause 0.1.5 of Technical Guidance Document B (2006) as potentially requiring fire safety provisions additional to those contained in the document.

6.2.3 The appellant is not arguing against this principle, but suggests that the proposed installation of sprinklers within open-plan flats and residential corridors at upper levels of the building discharges the requirements of Clause 1.8 of Technical Guidance Document B (2006) and by inference any obligations that might arise from Clause 0.1.5 or 0.3.8.

6.2.4 In fact, Clause 1.8 of Technical Guidance Document B (2006) simply directs the designer towards compliance with BS 9251:2014, i.e. the product standard for residential sprinkler systems. The Fire Officer has adopted the more current 2021 version of BS 9251 (as is normal practice when product standards become superseded) to justify the attachment of Condition No. 16. The Fire Officer’s analysis (supplemented by reference to IS EN 12845:2015+A1:2019 – the product standard for commercial sprinkler systems) offers a robust logic for requiring

sprinkler protection to the car park, i.e. unsprinklered parts of buildings should not sit beneath sprinklered parts of buildings.

- 6.2.5 Section 5.4 of BS 9251:2014, i.e. the document specifically referenced in Clause 1.8 of Technical Guidance Document B (2006), gives sufficient guidance in respect of the extent of sprinkler coverage required. BS 9251:2014 advises that “sprinkler protection should be provided in all parts of the premises” with limited exceptions that include “attached buildings such as garages and boiler houses without direct access from within the protected building”.
- 6.2.6 The appellant is therefore incorrect in his assertion that his provision of sprinklers within open-plan flats and residential corridors discharges his obligations under Clause 1.8 of Technical Guidance Document B (2006). Both the 2014 and 2021 versions of BS 9251 support the Fire Officer’s assertion that the building requires sprinkler protection throughout if it is to be considered as being sprinkler protected. There are identified exceptions permitted within the term “throughout”, e.g. bathrooms, but these exceptions do not extend to basement car parks. The fact that the three basement levels communicate with the residential levels overhead (via the protected stairways and lifts shafts) is a fundamental part of the reason for the requirement that the basement levels be fitted with sprinklers in order that the overall residential building achieves compliance with Part B1 to the Building Regulations.
- 6.2.7 The disagreement between the appellant and the Fire Officer regarding the travel distances at Basement B3 is noted. It is somewhat surprising that this critical issue has not been resolved during the two year application process. It is entirely unreasonable for the appellant to assume that all occupants of Basement B3 (estimated by the appellant himself to potentially comprise 293 persons) will be mobile to an extent that will permit them to negotiate steps. The building designer clearly recognises a more appropriate reality as exemplified by the provision of access ramps and disabled refuges throughout Basement B3. The absence of allocated disabled parking spaces is not material to the obligation arising from Building Regulation B1 to provide appropriate means of escape for all building occupants and in such a context the presence of steps on an escape route serving a car park is not appropriate. Notwithstanding the importance of this issue, there is no

requirement to consider the matter *de novo* because it has already been addressed by the attachment of Condition No. 4 as follows:-

Condition 4:

The travel distances throughout Basements B1, B2 & B3 shall comply with Table 1.2 of TGD-B 2006 + A1: 2020. This shall include the travel distances being measured along accessible routes including the ramps accessing the stair cores at Basement B3.

Reason:

To ensure compliance with Part B of the Second Schedule to the Building Regulations, 1997 to 2024.

- 6.2.8 The appellant is incorrect in his assertion in response to the Fire Officer's Report that "Dublin Fire Brigade for the most part suggests that the requirement for sprinkler protection within the basement is due to the risk of fire from modern vehicles including EV car vehicles and car charging points etc.". This does not accurately reflect the breadth of analysis presented by the Fire Officer. In my opinion, the appellant is seeking to "piggy-back" on the Board's historic preference to endorse guidance contained in Technical Guidance Document B rather than to expect designers to exercise judgement, skills and expertise in understanding the fire hazards as might arise in their specific building – regardless of its complexity.
- 6.2.9 Indeed, the appellant makes such a position explicit in his clarification that "the main basis of the appeal from MSA perspective is that the recommendations contained within TGD-B 2006 (Reprint 2020) would not look for the inclusion of sprinkler protection within a basement car park given the level of smoke and heat ventilation present".
- 6.2.10 Smoke and heat ventilation within car parks is required to facilitate fire-fighting operations, primarily smoke clearance, to achieve compliance with Building Regulation B5. In this context is noted that the three car park storeys comprise a total of 727 no. parking spaces and have a combined floor area of c.35,000 m². Notwithstanding the welcome provision of fire curtains to separate individual levels at vehicular ramps, the Fire Officer is right to be concerned about the potential fire-fighting challenges that may arise regardless of the specific issues that may arise with electric vehicles. Whilst the appellant has sought to justify the omission of

sprinklers based on the “levels of smoke and heat ventilation present”, no details were submitted as part of the appeal process.

6.2.11 Within the case history files, the most recent Michael Slattery Associates Compliance Report (14th March 2025) outlines the following provisions in respect of smoke/heat venting of the basement levels:-

- Basement B1 (17,500 m²) to be fitted with c. 442 m² fixed natural ventilation (roof openings) on three elevations. The ventilation is not distributed as would be required to achieve cross-ventilation and therefore unspecified mechanical impulse fans are proposed to be introduced. Such fans may also assist in addressing the significant difficulties that arise in ventilating car parks where many locations are significantly remote from the ventilation openings.
- Basement B2(South) is to be fitted with mechanical ventilation in accordance with Clause 9 of BS 7346:Part 7:2013.
- Basement B3 is to be fitted with mechanical ventilation in accordance with Clause 9 of BS 7346:Part 7:2013.

6.2.12 This information sheds no light on whether or not heat/smoke ventilation is sufficient to justify the omission of sprinkler protection. Notwithstanding, the Building Control Authority retains the right of approval of the basement’s smoke/heat ventilation systems due to their attachment of Condition No. 15:-

Condition No. 15:

- The proposed design of the Basement B1 car park permanent natural ventilation strategy assisted with impulse fans shall be fully validated by a site specific CFD analysis to be approved by the Design Team.*
- The proposed design of the mechanical ventilation smoke clearance systems in the Basement B2 North car park, the Basement B2 South car park and the Basement B3 car park shall comply with Clause 9 of BS 7346-7: 2013 and be fully validated by a site specific CFD analysis to be approved by the Design Team. The fire and smoke curtains compartmenting Basements B1, B2 & B3*

(including the Basement B2 North & South car parks) shall descend automatically on fire alarm activation within any car park.

- iii) *The “temporary” car park ventilation strategy to the existing and occupied areas of Basements B1 & B2 shall ensure adequate smoke ventilation is maintained during the course of the proposed works.*

Reason:

To ensure compliance with Part B of the Second Schedule to the Building Regulations, 1997 to 2024.

6.2.13 This validation exercise would typically include confirmation that the system performs despite the loss of an individual impulse fan, e.g. due to excessive temperatures, and confirmation that volumetric extraction fans are not exposed to temperatures beyond their operational capacity. These system vulnerabilities can be significantly mitigated but not necessarily eliminated by the provision of sprinkler protection.

7.0 Recommendation

- 7.1 The appeal against the attachment of Condition No. 16 does not require *de novo* consideration under Article 40(1).
- 7.2 It is recommended that The Board direct the Building Control Authority to retain Condition No. 16 (unchanged) and the reason therefor as follows and for the reasons and considerations set out below.

Condition 16:

Basements B1, B2 & B3 shall be provided with a sprinkler protection system designed, installed and commissioned in accordance with IS EN 12845: 2015 + A1: 2019 which shall provide the following minimum coverage:

- iv) *To the entirety of the Basement B1 car park and all new ancillary accommodation;*
- v) *To the entirety of the proposed works at Basement B2 South (separated from Basement B2 North via 120-minute fire rated construction); and,*
- vi) *To the entirety of Basement B3.*

Reason:

To ensure compliance with Part B of the Second Schedule to the Building Regulations, 1997 to 2024.

8.0 Reasons and Considerations

8.1 Having regard to the presented design of the residential development 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 Building Control Authority that the basement car park levels require sprinkler protection to meet the requirements of Part B of Technical Guidance Document B - Fire Safety 2006 (reprinted 2020). Therefore Condition No. 16 as originally attached by the Building Control Authority to the Fire Safety Certificate is necessary 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 all 20 no. conditions (including Condition No. 16), it has been demonstrated that the two residential blocks known as Westbury Hall and Clonmore Hall, 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.

9.0 Conditions

9.1 The 20 no. conditions as attached by Dún-Laoghaire Rathdown County Council to FSC/174/2025 should remain unchanged.

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.

Dr Raymond Connolly 7th January 2026