



An  
Coimisiún  
Pleanála

## FSC Report ACP-323115-25

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

Appeal v Condition

**Development Description**

Construction of aparthotel and apartment development over basement car park and ancillary accommodation at 67 Magenta Hall, Santry Avenue, Swords Road, Santry, Dublin.

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

SN3003715 / FSC 2105254DC

**Appellant**

MKN Property Group

**Appellant's Agent**

Maurice Johnson & Partners

**Building Control Authority:**

Dublin City Council North

**Inspector**

Jamie Wallace

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## 1.0 Introduction

- 1.1. A Fire Safety Certificate application was submitted to Dublin City Council North for the construction of aparthotel and apartment development over basement car park and ancillary accommodation at 67 Magenta Hall, Santry Avenue, Swords Road, Santry, Dublin.
- 1.2. The application relates to **construction of a new building**.
- 1.3. The application was for a Fire Safety Certificate that was Granted with 21 conditions. The appeal is against Condition 14.

**Condition 14:** The basement car park is to be provided with a sprinkler system 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 B3 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 04/08/2021.
- Further information and Drawings received by the BCA on 11/09/2023 & 28/05/2025.
- Copy of BCA decision with conditions of 24/06/2025.
- Appeal by Maurice Johnson & Partners on behalf of the appellant received on 22/07/2025.
- Submissions received from the BCA on the appeal on 21/08/2025.
- Further submissions by Maurice Johnson & Partners on behalf of the appellant received on 22/09/2025.

### 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 14**.

ABP-312605-22 Construction of new 6 storey apartment building with commercial units on ground floor and associated works at 5 Second Avenue, Cookstown Industrial Estate, Tallaght, South Dublin, Dublin 24

**Note:** It was recommended in the case above that the BCA be instructed to remove the condition relating to sprinklers in the carpark however it outlines the importance of establishing the overall height of the development in arriving at that decision.

### 4.0 Appellant's Case

- 4.1. The appellant is appealing the attachment of Condition 14 to the grant of the fire safety certificate largely on the basis that the provision of sprinkler protection to the basement car park is surplus to the requirements of the relevant building regulations for the design as presented. The following points are set out in support of the appeal:

- The appellant case is that this is not a complex building and that the basement car park is single storey and has natural smoke ventilation provided at a rate of 5%. This is more than the 2.5% requirement stated in TGD Part B.
- The appellant states that the basement car park is separated from the residential parts above by a minimum of 90 minutes (120 minutes in the case of Block A & Block B) fire resisting construction. The appellant states that this provision "in our opinion meets and exceeds the requirements".
- The appellant states that while accepted that the design deviates from the requirements of TGD Part B as lifts extend to the basement it is argued that the provision of double lobby protection at car park level and the strategic siting of the terminals of the smoke extract vents away from the outer core

doors at ground level serve as adequate compensatory provisions in the design.

- The appellant states that TGD Part B clearly states that “basement car parks are not normally expected to be fitted with sprinklers”.

## 5.0 **Building Control Authority Case**

5.1. The BCA claims that Condition 14 should remain in place so that an adequate level of fire safety protection is provided based on the specific design of the proposed development and to mitigate against the fire load and rate of fire spread associated with modern vehicles in the basement car park. The following points are set out in support of their case:

- The BCA states that Block A and Block B comprise a top floor at a height greater than 30m above ground level and that Sections 0.1.5 & 0.3.8 of TGD Part B 2006 ( 2020 Reprint) advise in the case of such buildings that “adequate provisions which are reasonable and proportionate to the risks presented by this particular building design, in addition to the provisions set out in this document should be considered”. It is therefore understood that the argument of the BCA is that the provision of a sprinkler system in the basement carpark is considered “reasonable and proportionate” in this case.
- The BCA states that current guidance documents including TGD Part B can no longer be relied upon when assessing the risks associated with EV fires 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 Condition 14 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 Condition 14.

- B1: Means of warning and escape in case of fire
- B3: Internal fire spread (structure)
- 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 (2020 Reprint).

6.2.4. In consideration of the arguments put forward by the appellant and the BCA in relation to Condition 14, there is a difference of opinion as to whether the regulations require sprinkler coverage in the basement car park of a building of the type, size and arrangement presented in the design.

6.2.5. The appellant claims that “this is not a complex development” and the guidance is explicit in that it states clearly that “basement car parks are not normally expected to be fitted with sprinklers”. The BCA has formed the opinion that as the development includes blocks with floor levels more than 30m above ground level then “the complexity and risks presented to occupants and firefighters in tall and complex apartment buildings” must be considered and therefore the provision of sprinkler protection in the basement car park is a “reasonable and proportionate” request given the “risks presented by the particular building design”.

6.2.6. Furthermore, the BCA has formed an opinion that the 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. It is my view that a fundamental issue in the determination of this case is establishing if the building is greater than 30m in height. It is generally accepted that the requirement for residential buildings containing apartments to be **protected buildings** (i.e. protected by provision of sprinkler systems) arises above that height. At this height buildings are considered “tall” and the relevant guidance is clear that tall buildings present more risk for occupants and firefighters. The appellant states in their original appeal letter that “the height of the topmost story is more than 30 metres in residential Blocks A & B”. However, in the letter of 22/09/2025 it seems to contradict this (when refuting the BCA’s argument that sprinklers are required) by stating at 4) a) in their letter, that sprinkler coverage would only be required in apartment buildings in exceptional circumstances where such buildings “exceed 30m to the top floor which it is noted is not the case in this instance”. Perhaps this is a clerical error, but it is clear from the application drawings that the upper floors in parts of the building are more than 30m above ground level.
- 6.2.8. Although the application documents claim compliance with TGD Part B 2006 (2020 Reprint), the design as presented deviates from the guidance in TGD Part B. The appellant accepts that the lifts travel from upper floors into the basement which is contrary to the guidance. It is argued that the compensatory measures proposed serve as adequate mitigation measures in this regard. However, the BCA argues that the provision of a sprinkler system in the basement is in keeping with the requirements of the regulations as per the provisions of 0.3.8 of TGD Part B 2006 (2020 Reprint) and is reasonable and proportionate to the risks presented by the building design.
- 6.2.9. In relation to Condition 14 and the arguments put forward by both sides, I consider that the BCA is reasonable and proportionate in seeking sprinkler protection in the basement car park based in the proposed development as presented. The building has floors at more than 30m above ground level and the design deviates from the guidance in TGD Part B 2006 (2020 Reprint) therefore it is considered that the provision of sprinklers in the basement car park is reasonable and proportionate and in line with the intentions of the relevant guidance.

## 7.0 Recommendation

Direct the BCA to retain Condition 14 for the reasons and considerations set out below:

## 8.0 Reasons and Considerations

- 8.1. Having regard to the presented design for construction of the 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 14** 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), B3 (Internal fire spread (structure)) and B5 (Access and facilities for the fire service) 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 building is compliant with the requirements of TGD: Part B 2006 (2020 Reprint). The Board was therefore satisfied that it would be appropriate to attach **Condition 14**.

## 9.0 Condition

**Condition 14:** The basement car park is to be provided with a sprinkler system 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.

## 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

22/12/2025