



An  
Coimisiún  
Pleanála

## FSC Report ACP-323887-25

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

Appeal v Condition 3

**Development Description**

Construction of a storage unit and ancillary office space to be known as site 30C Naas Enterprise Park, Naas, County Kildare.

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

FSC 2512604KE

**Appellant**

Mr. Jason Lee

**Appellant's Agent**

Maurice Johnson & Partners

**Building Control Authority:**

Kildare County Council

**Inspector**

Jamie Wallace

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## 1.0 Introduction

- 1.1. A Fire Safety Certificate application was submitted to Kildare County Council for the construction of a storage unit and ancillary office space at Naas Enterprise Park, Naas, County Kildare.
- 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 3 conditions. The appeal is against Condition 3.

### **Condition 3:**

The building, or part thereof, shall not be used to accommodate high rack storage (i.e. storage greater than 7 metres in height), unless a suitable automatic sprinkler system is designed, installed and maintained in accordance with IS EN 12845:2015 (+AC:2016) (+A1:2019) including Annex F requirements.

### **Reason:**

To ensure compliance with the Building Regulations.

## 2.0 Information Considered

The information considered in this appeal comprised the following:

- Drawings and report submitted with the Fire Safety Certificate application on 30/04/2025.
- Further information and drawings received by the BCA on 16/05/2025 and 25/09/2025.
- Copy of BCA decision with conditions of 28/10/2025.
- Appeal by Maurice Johnson & Partners on behalf of the appellant received by ACP on 21/11/2025.
- Submissions received from the BCA on the appeal on 15/12/2025.
- Further submission by Maurice Johnson & Partners on behalf of the appellant received by ACP on 03/02/2026.

### 3.0 Relevant History/Cases

3.1. I am not aware of any **relevant** building control history relating specifically to the building subject to the appeal, however there are 2 other similar adjacent buildings that are currently subject to similar appeals to ACP.

3.2. The following Commission decisions at other locations may be of assistance to the Commission in determining the decision in relation to **Condition 3**.

ABP-319296-24      Unit 31, Naas Enterprise Park, Newhall, Naas, Co. Kildare

**Note:** It was recommended in the case above that the BCA be instructed to retain the condition subject to the appeal, however the Board decided to amend the wording of the condition.

### 4.0 Appellant's Case

4.1. The appellant is appealing the attachment of Condition 3 to the grant of the fire safety certificate largely on the basis that the provision of sprinkler protection in the proposed building 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 the building as designed and submitted in the fire safety certificate application is in accordance with Technical Guidance Document Part B 2006 (2020 Reprint) and that is noted as achieving prima facie compliance with Part B of the building regulations.
- The appellant does not agree with the argument put forward by the BCA that the possible presence of high rack storage should automatically lead to this building being classed as high risk therefore resulting in a requirement to be sprinkler protected because of this classification.
- The appellant argues that the standards and codes referenced by the BCA, that require sprinklers, are not relevant to this application on the basis that it was submitted using a design that was compliant with TGD Part B 2006 (2020 Reprint). They note that TGD Part B 2024 which was cited by the BCA and includes specific requirements for high rack storage is not the relevant technical guidance document here.

- The appellant states that the BCA has attached similar conditions to other similar applications and is in effect trying to enforce a local standard that is at odds with the national standard.

## 5.0 **Building Control Authority Case**

5.1. The BCA claims that Condition 3 should remain in place so that an adequate level of fire safety protection is provided to mitigate against the fire load and rate of fire spread associated with high rack storage. Furthermore, they state that Regulation B5 includes the requirements for provision of “such other facilities as may be reasonably required to assist the fire service in the protection of life **and** property.” The following points are set out in support of their case:

- The BCA states that they consider high rack storage to be “high risk” under Appendix E of TGD Part B 2006 (2020 Reprint).
- The BCA outline some extracts from various international codes of practice demonstrating when sprinklers are required in what they argue are similar buildings.
- The BCA outline that there is no universally accepted definition of high-racking but explain that based on a number of design codes it is generally accepted that a storage height in excess of four metres would be considered “high hazard”.
- The BCA outlines an analysis of the smoke ventilation system proposed to be provided and claims that this will have no beneficial contribution to firefighting operations.

## 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 3 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 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).
- 6.2.3. In consideration of the arguments put forward by the appellant and the BCA in relation to Condition 3, there is a clear difference of opinion as to whether the capability of a building to facilitate high rack storing automatically means that building should be considered as being high risk.
- 6.2.4. The appellant claims that a building of this design does not become “high risk” until materials defined as “High Risk” at Appendix E of TGD Part B 2006 (2020 Reprint) become stored within. Furthermore, it is claimed that the capability to facilitate high rack storage or even the presence of high rack storing in a building is not enough to mean that it should be considered as “high risk” and designed as such.
- 6.2.5. The BCA has formed an opinion that as the building could facilitate high rack storing it should be considered as “high risk” and therefore argues that the requirement for sprinklers to be installed is justified.
- 6.2.6. It is my view that a fundamental issue in the determination of this case is establishing a clear definition of “high risk” in Industrial and Storage Buildings within the relevant guidance document. As **TGD Part B 2006 (2020 Reprint)** has clearly been established as the relevant guidance document then the answer must lie within. **Appendix E Assessment of Risk in Industrial and Storage Buildings** therein gives guidance based primarily on the type of materials being stored rather than the method or arrangement of storage of those materials.

- 6.2.7. It is my opinion that the appellant has proven that the building as designed meets the requirements of the relevant Building Regulations as long if it does not contain any materials that meet the definition of “high risk” as outlined in Appendix E.
- 6.2.8. In relation to Condition 3 and the arguments put forward by both sides, I consider that the BCA is unreasonable and disproportionate in attaching Condition 3 as currently worded.
- 6.2.9. I therefore consider it reasonable to reword Condition 3 in line with the requirements of TGD Part B (2020) to ensure that the type of goods stored in the building is controlled in accordance with the guidance on risk classification as outlined in Appendix E.

## 7.0 Recommendation

Direct the BCA to amend Condition 3 to read as follows for the reasons and considerations set out below:

### **Condition 3:**

The building or part thereof shall only be used to store “normal risk” goods and shall not store “high risk” goods (as assessed by reference to Appendix E Assessment of Risk in Industrial and Storage Buildings of TGD Part B 2006 (2020 Reprint)) unless a suitable automatic sprinkler system is designed, installed and maintained in accordance with IS EN12845:2015 (+AC:2016) (+AC:2019) (or any relevant updates to the standard) or an equivalent relevant sprinkler system.

### **Reason:**

To ensure compliance with Part B of the Building Regulations 1997, as amended.

## 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 3** as originally attached by the Building Control Authority to the fire safety certificate was unnecessary to satisfy the requirements of TGD Part B 2006 (2020 Reprint). The Board was therefore satisfied

that amending the relevant condition is appropriate to capture the requirements for the current intention for storage of “normal risk” goods and any potential change to storage of “high risk” goods that may occur within the building.

## 9.0 Condition

### Condition 3:

The building or part thereof shall only be used to store “normal risk” goods and shall not store “high risk” goods (as assessed by reference to Appendix E Assessment of Risk in Industrial and Storage Buildings of TGD Part B 2006 (2020 Reprint)) unless a suitable automatic sprinkler system is designed, installed and maintained in accordance with IS EN12845:2015 (+AC:2016) (+AC:2019) (or any relevant updates to the standard) or an equivalent relevant sprinkler system.

### Reason:

To ensure compliance with Part B of the Building Regulations 1997, as amended.

## 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

15/04/2026