



Fire Engineering Consultants

**Appeal Against Decision to Refuse a
Regularisation Fire Safety Certificate
(FSR2595/16/REG)**

Appeal Ref: 29B. FG0021

**Project Café Nero, 51-52 King Street
South, Dublin 2**

Local Authority Dublin City Council

Date 26th January 2017

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1.0 INTRODUCTION

The project involves a Regularisation Fire Safety Certificate for material alterations carried out during the transition of an existing restaurant to a café at 51-52 King Street South, Dublin 2.

A Regularisation Fire Safety Certificate application for the works was refused by Dublin City Council on the 11th October 2016. The following reason was attached: -

Reason

The design of the building or works does not satisfy the requirements of article 9(1)(a) of the **Building Regulations, 1997 to 2014** in that it does not comply with Part B of the Second Schedule thereto in particular Section B1 – Means of escape in case of fire.

The appeal is against the reason of refusal.

2.0 INFORMATION REVIEWED

In assessing this appeal the following information was considered:-

- Fire safety certificate application including
- Drawings submitted 19th October 2015
 - Location Map
 - Site Plan
 - Ground Floor and Basement
 - Shopfront
 - Ground Floor Layout
 - Basement Layout
 - Electrical Services Lighting & Ancillaries
 - Survey Ground Floor Plan no. 51
 - Survey Basement Floor Plan (51-52)
- Fire Safety Certificate refusal dated 11th October 2016
- Appeal submission from Buchan Kane & Foley dated 27th October 2016
- Fire Officers report on the Fire Safety Certificate appeal dated 18th November 2016
- Letter from Dublin Fire Brigade dated 14 December confirming no further comments.

3.0 DISCUSSION

3.1 Reason for Refusal

The reason stated on the official refusal was

“The design of the building or works does not satisfy the requirements of article 9(1)(a) of the Building Regulations, 1997 to 2014 in that it does not comply with Part B of the Second Schedule thereto in particular Section B1 – Means of escape in case of fire.”

BCA

The BCA gave a more detailed reason for the application refusal in their report on the application appeal as follows:

“The application was refused as a protected escape stair was removed and the new means of escape failed to show compliance with the second schedule of building regulations 1997-2014.”

It appears that the main concern from the BCA is that the means of escape has been negatively affected; however from review of the file it should be noted that no protected escape stairs appeared to have been changed, included or removed as part of the alterations to the café.

Appellant

The appellant states that one of two arguments apply.

1. The works carried out were not material alterations and the existing Fire Safety Certificate remains valid and no Regularisation Fire Safety Certificate application was ever required. or
2. The works carried out were in fact material alterations and have improved the overall standard of safety. They point to the fact that the risk has been reduced with the removal of the kitchens, the provision of a protected corridor leading to the rear exit in the basement and a new fire alarm system has been installed.

Discussion

The original reason for the refusal was that the Regularisation Fire Safety Certificate application was not in compliance with article 9(1)(a) of the Building Regulations 1997. Article 9 is concerned with commencement notices, with article 9(1)(a) stating that “A commencement notice shall be filed electronically on the Building Control Management System or set out in the form for that purpose included in the Second Schedule”. The article in question is not directly related to the means of escape in case of fire, as the Fire Officer suggested.

However, works were carried out which would be deemed as material alterations and as such a Regularisation Fire Safety Certificate is required.

The appeal report by the BCA states that the application was refused due the removal of a protected escape stair. The material alterations to the unit did not include altering or removing any escape stairs. The basement is served by two existing escape routes, one via the main open stair and the other via the rear external escape stair. These routes were existing and shown on the survey drawings. The open

escape stair is acceptable and complies with the recommendations of Section 10.2.4 of BS 5588: Part 11, the code guidance which the unit is designed to. This states that “a stair may be open if it does not connect more than two storeys and delivers into the ground storey not more than 3m from the final exit, and the storey is also served by a protected stairway”. The alternate exit from the basement is via an existing external escape stair.

Compared to the previous situation however, where only one means of escape was provided from the dining areas at basement, the proposals in my opinion significantly improved the standard of safety with a protected escape corridor bypassing the pantry area. Occupants at basement now have a protected alternative escape route in addition to the open stair up to ground.

Where material alterations are carried out in buildings, the onus to comply with Building Regulations is to ensure that no new or greater contravention is created than previously existed. In my opinion the appellant is correct in that the overall standard of safety in the unit is improved as a result of these works.

I am of the opinion therefore, that the works carried out were material alterations and therefore a Regularisation Fire Safety Certificate was in order. However no new or greater contravention than previously existing has been created and therefore, the Regularisation Fire Safety Certificate application should be granted.

4.0 RECOMMENDATIONS

It is recommended that the appeal is upheld and the BCA is directed to grant the Regularisation Fire Safety Certificate.

Signed.....
Martin Davidson
B.Eng MSc (Fire Eng) CEng MIEI

Date: 25 January 2017