



**Fire & Risk Solutions Ltd.**  
*Chartered Engineers*  
*Professionals in Fire and Safety*

**Report 3359**

**An Bord Pleanála Appeal regarding the refusal by Dublin City Council to grant of Regularisation Certificate for proposed material alterations to existing office building at Bishop's Court, Kevin Street, Dublin 8.**

Client: An Bord Pleanála,  
64 Marlborough Street,  
Dublin 1

FAO: The Secretary

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**BUILDING CONTROL ACT, 1990 – APPEAL**

**REGULARISATION CERTIFICATE APPLICATION FOR PROPOSED MATERIAL ALTERATION TO EXISTING OFFICE INCLUDING FIRE-RESISTING (INTEGRITY ONLY) GLAZING TO ATRIA AT BISHOP'S COURT, KEVIN STREET, DUBLIN 8.**

**APPEAL AGAINST THE REFUSAL TO GRANT A REGULARISATION CERTIFICATE (REF. FSR1797/17/REG) ON 10<sup>th</sup> MAY 2017**

**AN BORD PLEANÁLA APPEAL REFERENCE 29B.FG0170**

Local Authority: Dublin City Council

Appellant: Hines GREIT Ireland Fund ICAV  
c/o Maurice Johnson & Partners

**RECOMMENDATION**

It is recommended that this appeal be rejected. The subject Regularisation Certificate should be refused.

**Reason:**

*Failure to comply with Part B of the Second Schedule to the Building Regulations, 1997 to 2014. Section B3: Internal Fire Spread (Structure).*

**Dr. Raymond J Connolly**

BE, PhD, CEng, MIEI, MIFireE, MSFPE

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**1. RELEVANT INFORMATION**

- i. Application for Regularisation Certificate by Maurice Johnson & Partners on behalf of Hines GREIT Ireland Fund ICAV to Dublin City Council dated 6<sup>th</sup> November 2015.
- ii. Compliance Report No. 12363\_R01\_RCReport (dated 11<sup>th</sup> December 2015) by Maurice Johnson & Partners and associated drawings.
- iii. Letter of additional information (dated 5<sup>th</sup> January 2016) by Maurice Johnson & Partners and associated drawings
- iv. Notice of Refusal to grant a Fire Safety Certificate (FSR1797/17/REG) by Dublin City Council issued on 10<sup>th</sup> May 2017.
- v. Letter of appeal from Maurice Johnson & Partners on behalf of Hines GREIT Ireland Fund ICAV to An Bord Pleanála dated 31<sup>st</sup> May 2017.
- vi. Letter from Dublin City Council to An Bord Pleanála dated 27<sup>th</sup> June 2017 including observations of Fire Authority.
- vii. Letter from Maurice Johnson & Partners to An Bord Pleanála dated 17<sup>th</sup> August 2017 responding to Fire Authority comments.

## **2. BACKGROUND**

Maurice Johnson & Partners on behalf of Hines GREIT Ireland Fund ICAV made an application to Dublin City Council for a **Regularisation Certificate** for a proposed material alterations to existing atria to retain 60 minutes (integrity only) rated glazing at Bishop's Square, Kevin Street Lower, Dublin 8.

A **Fire Safety Certificate** was refused by Dublin City Council (FSR1797/17/REG) on 10<sup>th</sup> May 2017 for the reason that:-

*The proposed building or works does not comply with the requirements of Part B1 or B3 of the Second Schedule to the Building Regulations, 1997 to 2014.*

On 31<sup>st</sup> May 2017, Maurice Johnson & Partners on behalf of Hines GREIT Ireland Fund ICAV appealed to An Bord Pleanála against the refusal to grant a **Fire Safety Certificate**. and said appeal is subject of this Report.

The confusion and inter-changing of the discrete and different entities comprising a Regularisation Certificate and a Fire Safety Certificate may give rise to issues in respect of compliance with the Building Control Regulations. Said issues are not subject of this Report and may require independent consideration by The Board.

### **3. REPRISE OF APPEAL (AS PRESENTED)**

The subject works comprise the retention of existing 60 minutes fire-resisting (integrity only) glazing to form the enclosure of 2 no. existing atria at Bishops Square namely a two storey atrium (ground and first) at the Bishop's Street Entrance and a three storey (first to third floor) in the south east quadrant of the building.

The subject application seeks to clarify the appropriate fire safety precautions for the above 2 no. atria mindful of the condition attached to FA/99/1773 requiring that the main central four storey atrium within the building be separated from office accommodation at upper levels by a minimum 30 minutes fire-resisting (integrity only) construction. Historically these atria were shown in applications FA/99/1773, FA/01/1160 and FA/01/1650 as being 60 minutes fire-resisting (integrity only) and such is the construction stated to have been installed. It is not clear as to why this construction is being retrospectively queried, but nonetheless the application seeks confirmation of the *in-situ* performance.

In the event, Dublin City Council refused to give the necessary confirmation and indeed concluded that the *in-situ* glazing (rated 60 minutes integrity only) in the subject 2 no. atria formed compartment walls between different tenancies and as such require 60 minutes (integrity and insulation) fire-resisting performance as per Table A1 in Appendix A to Technical Guidance Document B.

The appellant contends that the Council's view in this matter is at odds with the Condition attached to FSC FA/99/1773 which allowed the central area to span between floor levels subject to enclosure at upper levels in 30 minutes (integrity only) construction. The appellant suggests that the scenario is covered by Exemplar 7 on BS 5588:Part 7:1997.

The appellant also suggests that the inclusion of glazing directly to fresh air from both atria would make it likely that the atria would vent hot gases to atmosphere in the event of a flashed over fire at low level within the atria and the expected failure/collapse of the external glazing components.

#### **4. CONSIDERATION**

The appellant is relying on the precedent establishment by the Condition previously attached to the design of the central atrium under FA/99/1773 namely:-

*The design, construction and use of the building shall embody the relevant recommendations of BS 5588:Part 7:1997. These shall include enclosure of the atrium by fire-resisting construction (capable of satisfying the integrity criteria of BS 476:Part 22 for at least 30 minutes) at first, second and third floor levels.*

The *in-situ* 60 minutes (integrity only) glazing clearly exceeds the 30 minutes standard and in that sole regard meets the requirements of the Condition. The Council have suggested that the subject 2 no. atria were "never treated as atria in any of the previous Fire Safety Certificate applications" and reject the extension of the guidance in the Condition to retrospectively justify what they consider to be an insufficient extent of fire resistance, i.e. missing the insulation performance that is unambiguously required by Table A1 of Technical Guidance Document B for compartment walls. Notwithstanding any arguments about semantics, it is clear that the presence of voids between compartment floors is being addressed by the Condition and can quite reasonably be relied upon by the appellant in the case of the subject 2 no. atria/voids. In this regard, it is highlighted that the Condition imposes a requirement to design in compliance with BS 5588:Part 7 including but crucially not limited to provision of fire-resisting enclosure of high levels.

The appellant seeks to rely on Exemplar 7 in BS5588:Part 7:1997, i.e. Occupancy Category A (awake and predominantly familiar with the building). This Exemplar relates to atria enclosed through their full height in 30 minutes fire-resisting (integrity only) construction with associated controls on the contents of the atrium base. The subject 2 no. atria are proposed to be enclosed only at their upper levels, i.e. the lowermost level of both atria, i.e. the ground level in the case of the Bishop's Street entrance atrium and the first floor office in the case of the south east quadrant atrium are open to the atria overhead, i.e. no 30 minutes fire-resisting separation to the atrium at these levels. This difference negates application of the guidance of Exemplar 7 to the subject atria. The strategy of providing 30 minutes (integrity only) enclosure to the atrium at the lower (fire) level and the upper levels means that there is a cumulative 60 minutes fire-resisting separation provided between different floor levels in Exemplar 7.

Application of alternative Exemplars from BS 5588:Part 7 as may be appropriate to atria of heights less than 30 metres are also insufficient to justify the existing atria design in that all Exemplars in BS 5588:Part 7 require the minimum measure that smoke clearance facilities be

provided to release hot gases from the atrium volume at high level. The subject 2 no. atria as existing at Bishop's Square are not stated either to be designed in accordance with BS 5588:Part 7 in this regard or indeed fitted with any form of smoke ventilation. The accidental breakage of external glazed walls or roofs during a fire as a potential means of smoke venting is not a credible basis for determining compliance with BS 5588:Part 7 in respect of smoke ventilation capacity.

The clear intent of the Council is that given the absence of a full BS5588:Part 7 design and its associated fire precautions, including smoke ventilation, the voids have not been designed as atria in the context of complying with the Code. This is permissible should the walls enclosing the atria at upper levels be designed as compartment walls in the normal sense, i.e. as summarised by Table A1 of Technical Guidance Document B and provided with 60 minutes (integrity and insulation) fire resistance.



## **5. CONCLUSION**

It is recommended that this appeal be rejected.

The subject Regularisation Certificate should be refused.

*Reason:*

*Failure to comply with Part B of the Second Schedule to the Building Regulations, 1997 to 2014.  
Section B3: Internal Fire Spread (Structure).*

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