



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

**Report 2983**

**An Bord Pleanála Appeal regarding the attachment of Conditions by  
Dublin City Council to grant of Fire Safety Certificate  
for mixed use development at 1-4 Windmill Lane, Dublin 2**

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

FAO: The Secretary

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**BUILDING CONTROL ACT, 1990 – APPEAL**

**FIRE SAFETY CERTIFICATE APPLICATION  
FOR THE CONSTRUCTION OF A MIXED USE DEVELOPMENT  
AT 1-4 WINDMILL LANE, DUBLIN 2**

**APPEAL AGAINST THE ATTACHMENT OF CONDITIONS NO.s 10 and 19  
TO FIRE SAFETY CERTIFICATE (REF. FS/15/1150/7D) ON 1<sup>st</sup> MARCH 2016**

**AN BORD PLEANÁLA APPEAL REFERENCE FS29B.FS.0526**

Local Authority: Dublin City Council

Appellant: Hibernia REIT plc.  
c/o Maurice Johnson & Partners

**RECOMMENDATION**

It is recommended that this appeal be upheld and the subject 2 no. Conditions (Conditions No.'s 10 and 19) attached to the Fire Safety Certificate granted by Dublin City Council (under Reference FSC 1335/16/7D)) should be removed.

The residual 23 no. Conditions (Conditions 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24 and 25) attached to the granted Fire Safety Certificate are not subject of the subject appeal and shall remain. The granted Fire Safety Certificate should therefore be subject of 23 no. Conditions.

**Dr. Raymond J Connolly**

BE, PhD, CEng, MIEI, MIFireE, MSFPE

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**1.0 RELEVANT INFORMATION**

- (i) Application for Fire Safety Certificate by Hibernia REIT plc. to Dublin City Council dated 23<sup>rd</sup> April 2015, including Compliance Report (dated 2<sup>nd</sup> April 2015) and drawings by Maurice Johnson & Partners.
- (ii) Fire Safety Certificate (FSC 1335/16/7D) granted by Dublin City Council in respect of Application No. FA/15/1150/7D) issued on 1<sup>st</sup> March 2016.
- (iii) Letter of appeal from Maurice Johnson & Partners on behalf of Hibernia REIT plc. to An Bord Pleanála dated 1<sup>st</sup> March 2016.
- (iv) Letter sent by Dublin City Council to An Bord Pleanála dated 25<sup>th</sup> April 2016 outlining observations/comments by Fire Prevention Officer.
- (v) Letter from Maurice Johnson & Partners to An Bord Pleanála, dated 17<sup>th</sup> May 2016, responding to submission by Fire Authority.

## **2. BACKGROUND**

Maurice Johnson & Partners on behalf of Hibernia REIT plc. made an application to Dublin City Council for a Fire Safety Certificate for the construction of new building (mixed use development consisting of 4-6 storey office building including setback penthouse levels with roof terraces at 3<sup>rd</sup> and 4<sup>th</sup> floor levels, ground floor foyer and associated rooftop plant. A 4-5 storey residential building with retail space at ground floor level and residential development on the upper floors all above a 58 space single storey basement car park) at 1-4 Windmill Lane, 1-3 Hanover Street East and No.'s 19-20 Creighton Street, Dublin 2 under reference FA/15/1150/7D. The Fire Safety Certificate was granted by Dublin City Council (under Reference FSC 1335/16/7D) on 1<sup>st</sup> March 2016 subject to 25 no. Conditions including *inter-alia*:-

### Condition No. 10

*An L1 voice alarm (evacuation) fire detection and alarm system complete with associated manual call points shall be provided in all parts of the premises except the residential areas and it shall be designed, installed and maintained in accordance with IS 3218:2013. The system in the residential areas shall be L3X fire detection and alarm system complete with associated manual call points shall be provided to cover the common areas to the stairs and the stair enclosure. It shall also have an interlinked heat detector located inside the lobby of each apartment in the premises and it shall be designed, installed and maintained in accordance with IS 3218:2013. Furthermore it shall be interlinked to the fire detection and alarm system for the rest of the premises to give adequate warning of a fire in these locations. Each individual flat/apartment shall be provided with a minimum Type LD1 Grade B fire detection and alarm system in accordance with BS 5839:Part 6:2013 and it shall achieve 75 decibels at the bedheads.*

### Reason:

*To comply with Part B1 of the Second Schedule to the Building Regulations, 1997 to 2014.*

### Condition No. 19

*All doors to and within apartments shall be FD30S fire doors.*

### Reason:

*To comply with Part 1 of the Second Schedule to the Building Regulations, 1997 to 2014.*

On 1<sup>st</sup> March 2016, Maurice Johnson & Partners appealed on behalf of Hibernia REIT plc. against the attachment of these 2 no. Conditions (Conditions No.'s 10 and 19) to the Fire Safety

Certificate. The residual 23 no. Conditions (Conditions No.'s 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12,13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24 and 25) are not subject of the subject appeal.

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

The subject works comprise the construction of a mixed use development consisting of a max. 6 storey office building including setback penthouse levels with roof terraces and a max. 5 storey residential building with retail space at ground floor level all above a 58 space single storey basement car park) at 1-4 Windmill Lane, 1-3 Hanover Street East and No.'s 19-20 Creighton Street, Dublin 2.

#### Condition No. 10

*An L1 voice alarm (evacuation) fire detection and alarm system complete with associated manual call points shall be provided in all parts of the premises except the residential areas and it shall be designed, installed and maintained in accordance with IS 3218:2013. The system in the residential areas shall be L3X fire detection and alarm system complete with associated manual call points shall be provided to cover the common areas to the stairs and the stair enclosure. It shall also have an interlinked heat detector located inside the lobby of each apartment in the premises and it shall be designed, installed and maintained in accordance with IS 3218:2013. Furthermore it shall be interlinked to the fire detection and alarm system for the rest of the premises to give adequate warning of a fire in these locations. Each individual flat/apartment shall be provided with a minimum Type LD1 Grade B fire detection and alarm system in accordance with BS 5839:Part 6:2013 and it shall achieve 75 decibels at the bedheads.*

#### Reason:

*To comply with Part B1 of the Second Schedule to the Building Regulations, 1997 to 2014.*

The appellant has appealed the attachment of this Condition on the grounds that it is in excess of code requirements.

The Fire Authority confirm that their approach has been informed by the fact that the building contains a number of different Risk Profiles and in such circumstances Clause 6.4 of BS 9999 requires the fire precautions associated with the higher risk profile to be adopted. The mixture of sleeping risk, assembly and office uses "necessitates the enhance [sic] requirements" per the subject conditions.

The appellant contends that the car park and office parts of the proposed building (Risk Profile A2) only require the minimum BS 9999 (Table 8) recommended Type M (manual) fire alarm

system. Given the travel distances and exit widths being proposed are compatible with a minimum package of fire precautions, there is no basis for an enhancement from the proposed Type L2/L3 system to a Type L1 system or indeed a voice alarm system. The appellant quotes An Bord Pleanála precedent in this regard.

The appellant suggests that IS 3218:2013 recommends a minimum Grade D Type LD2 system in residential units of this type and the absence of a linkage between the internal systems within individual flats and the wider non-residential areas offers no basis for the requirement to upgrade the system to Grade B Type LD1.

Condition No. 19

*All doors to and within apartments shall be FD30S fire doors.*

Reason:

*To comply with Part B1 of the Second Schedule to the Building Regulations, 1997 to 2014.*

The appellant has appealed the attachment of this Condition on the grounds that it is in excess of code requirements.

The Fire Authority confirm that their approach has been informed by the fact that the building contains a number of different Risk Profiles and in such circumstances Clause 6.4 of BS 9999 requires the fire precautions associated with the higher risk profile to be adopted. The mixture of sleeping risk, assembly and office uses "necessitates the enhance [sic] requirements" per the subject conditions.

The appellant rejects the connection being made between the inclusion of smoke seals on fire doors within flats and the wider mixed usage of the building. The appellant acknowledges that the doors leading to flats are designed by agreement as FD30S and as such are not subject of dispute between the parties.



#### **4. CONSIDERATION**

The appeal may be considered as presented and no new issues arise as would demand a *de novo* consideration.

##### Condition No. 10

*An L1 voice alarm (evacuation) fire detection and alarm system complete with associated manual call points shall be provided in all parts of the premises except the residential areas and it shall be designed, installed and maintained in accordance with IS 3218:2013. The system in the residential areas shall be L3X fire detection and alarm system complete with associated manual call points shall be provided to cover the common areas to the stairs and the stair enclosure. It shall also have an interlinked heat detector located inside the lobby of each apartment in the premises and it shall be designed, installed and maintained in accordance with IS 3218:2013. Furthermore it shall be interlinked to the fire detection and alarm system for the rest of the premises to give adequate warning of a fire in these locations. Each individual flat/apartment shall be provided with a minimum Type LD1 Grade B fire detection and alarm system in accordance with BS 5839:Part 6:2013 and it shall achieve 75 decibels at the bedheads.*

##### Reason:

*To comply with Part B1 of the Second Schedule to the Building Regulations, 1997 to 2014.*

The appellant has appealed the attachment of this Condition on the grounds that it is in excess of code requirements. The Fire Authority suggests that their design of alternative and more onerous fire detection and alarm requirements is justified by Clause 6.4 of BS 9999 given the mixture of sleeping risk, assembly and office uses.

In his Compliance Report, the appellant confirms that the non-residential parts of the building comprise Risk Profiles A2 and B3. These attract requirements under Table 8 of BS 9999 for fire detection and alarm systems of a Type M and Type L2 respectively. The appellant proposes a Type L2/L3 system and same is a correct interpretation of the BS 9999 requirements when viewed in both the absolute sense but also given the Clause 6.4 requirement that the most onerous condition to be applied throughout, i.e. instead of having two different categories of system within the different parts of the building a single system (of the higher category is installed throughout).

The appellant addresses that residential parts of the building separately. In accordance with BS 9999, these parts of the building would be categorised as a Risk Profile Ci2 (occupants in long term occupancy who may be asleep). The multiple occupancy within the building is dealt with in Clause 16.2 of BS 9999 which requires simply that there shall be a common detection and alarm system appropriate to the individual risks, which by definition would be satisfied by a common (or inter-linked systems) specified to the highest applicable standard, i.e. a Type L2/L3M system in the office, retail and residential common areas.

Given that BS 9999 does not deal with specification of fire detection with residential units other than to state that automatic fire detection is required, the appellant's use of BS 9991:2011 is reasonable.

Clause 22.2 of BS 9991:2011 confirms that "where any part of a mixed use building is expected to have non-residential occupancy groups, the occupancy groups should be separated by fire-resisting construction and have independent escape routes". This is the case here. The code goes on to clarify that "each type of occupancy should be provided with the appropriate fire alarm system in accordance with the relevant part of BS 5839". As the appellant suggests, the equivalent Irish Standard IS 3218:2013 would allow justification of a design recommending a minimum Grade D Type LD2 system in residential units of this size and type.

Condition No. 19

*All doors to and within apartments shall be FD30S fire doors.*

Reason:

*To comply with Part B1 of the Second Schedule to the Building Regulations, 1997 to 2014.*

The appellant has appealed the attachment of this Condition on the grounds that it is in excess of code requirements.

The Fire Authority confirm that their approach has been informed by the fact that the building contains a number of different Risk Profiles and in such circumstances Clause 6.4 of BS 9999 requires the fire precautions associated with the higher risk profile to be adopted. The mixture of sleeping risk, assembly and office uses "necessitates the enhance [sic] requirements" per the subject conditions.

The appellant rejects the connection being made between the inclusion of smoke seals on fire doors within flats and the wider mixed usage of the building. The appellant acknowledges that the doors leading to flats are designed by agreement as FD30S and as such are not subject of dispute between the parties.

Clause 9.4.2 of BS 9991 are clear in their specification of FD30 fire-resisting doors. No requirement for smoke containment is imposed (nor indeed is a requirement for a self-closing device).

## **5. CONCLUSION**

It is recommended that this appeal be upheld and the subject 2 no. Conditions (Conditions No.'s 10 and 19) attached to the Fire Safety Certificate granted by Dublin City Council (under Reference FSC 1335/16/7D)) should be removed.

The residual 23 no. Conditions (Conditions 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24 and 25) attached to the granted Fire Safety Certificate are not subject of the subject appeal and shall remain. The granted Fire Safety Certificate should therefore be subject of 23 no. Conditions.

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