



An
Bord
Pleanála

Inspector's Report

61.FS0544

DEVELOPMENT:	Three storey residential development at 51 St. Brendan's avenue, Woodquay, Galway.
Building Control Authority:	Galway City Council
Building Control Authority Reg. No:	FS/43/16
Applicant/Appellant:	Peadar Monaghan
Application Type:	Fire Safety Certificate
Building Control Authority Decision:	Grant
Type of Appeal:	First Party –v- Conditions.
Date of Site Inspection:	N/A
INSPECTOR:	Patricia Calleary

1.0 SUBJECT MATTER OF APPEAL

Galway City Council Building Control Section granted a Fire Safety Certificate on 22nd day of July 2016 for a three storey residential development at 51 St.Brendan's Avenue, Woodquay, Galway subject to 6 conditions. An appeal was lodged against the attachment of Conditions No.s 3, 4 and 5 which are as listed under as follows:

Condition No.4: *The doors from the dwellings to the front and rear of the area to be openable in the direction of escape without the use of a key*

Condition No.3: *The balcony to be extended to provide egress from the rear bedroom window at first floor.*

Condition No.5: *The door and window from the first floor bedroom to rear stair to have fire resistance of 30 minutes.*

In their response to the appeal, the BCA also referred to Condition No.2 which is set out under:

Condition No.2: *The rear first floor bedroom window is to be an escape window in accordance with Section 1.4.5 of Technical Guidance Document B 2006 (with fall protection in accordance with Technical Guidance Document K or other relevant standards).*

The reason stated for each of these four conditions was as follows:

Reason: *In order to comply with B1 of the Building Regulations.*

2.0 DESCRIPTION OF WORKS

The works would comprise the construction of a new 3 storey residential development. Having regard to the definitions provided in TGD: Part B:2006, it would consist of a **Flat** at ground floor and a **Maisonette** over first and second floors. Both units which fit purpose group 1(c) of Table 0.1 of TGD:B 2006.

3.0 DOCUMENTS REVIEWED

The following documents were reviewed as part of my assessment of this appeal.

- Fire Safety Certificate application and supporting maps, drawings and fire safety compliance report;
- Further information requests and responses;
- Fire Safety Certificate decision;
- Grounds of appeal by First Party;
- BCA response to appeal.

4.0 FIRE SAFETY CERTIFICATION HISTORY

My attention has not been brought to any previous relevant fire certificate appeal history.

5.0 GROUNDS OF APPEAL

The appeal submission sets out background details of the FSC application. The specific grounds of the appeal are stated under. Condition No.4 is outlined first and Conditions No.s 3 and 5 are dealt with together as it is submitted that they are interdependent.

Condition No.4

- Having regard to Item c of Section 1.4.3.3 of TGD:B 2006, doors are not required to open in the direction of escape where the occupancy which is estimated at 12, would be less than 50.

Condition No.3 and No.5

- Having regard to guidance provided in BS 5588-1:1990, dwellings entered directly from outside the building at ground floor level are no different to houses and accordingly Section 2 is applicable and Clause 11,12,13 and 14 do not apply;

- Section 1.5.4 – Dwelling houses and Diagram 9(a) of TGD:B 2006 are referenced as is Section 1.5.8 (general provisions for dwelling houses);
- Compliance with the relevant provisions of BS 5588-Part 1 (1990) and TGD:B obviate the need for conditions 3 and 5;
- Rear stairs are not required to serve vertical escape and functions only as a communication stairs. Its use could lead to confusion in the event of emergency evacuation as it is not intended to deliver users to a final exit or place of safety.

In conclusion, it is stated that conditions No.s 3, 4 and 5 are not required to achieve compliance with Part B and could in fact worsen matters by, for example, causing a potential public hazard if Condition 4 were complied with.

6.0 APPEAL RESPONSES

6.1 Building Control Authority (BCA) Response

- **Condition No.4** - The condition meant the door should open as a keyless operation. It was not intended to imply the doors would open outwards;
- **Condition No.3** – Recognising the escape windows exit are proposed, it can be difficult to use these to the rear without ladder access. As the balcony and stairs are proposed, it would be reasonable to require these elements to be extended to facilitate escape from the first floor. The rear yard is landlocked and may not be a place of relative safety. Ground floor is a separate compartment and would offer a place of relative safety for anyone escaping through the rear stairs;
- **Condition No.5** – Given the lack of ladder access, it is reasonable to require the external stairs to be protected in accordance with Diagram 8 of TGD:B 2006 and the protection is required for one room only;

- **Condition No.2** – BCA intended to state ‘ground floor windows’ but in error referred to ‘first floor windows’. Requests this would be rectified through the appeal;
- **Other:** As accessibility is improving, consideration should be given to improving egress for vulnerable persons.

7.0 BUILDING REGULATIONS and TECHNICAL GUIDANCE

The following are considered relevant in my assessment of the appeal.

1. **Part B (Fire Safety) of the 1997-2014 Building Regulations.**
Specifically, **B1** (Means of escape in case of fire) which requires:

‘A building shall be so designed and constructed that there are adequate means of escape in case of fire from the building to a place of safety outside the building, capable of being safely and effectively used’.

2. **Technical Guidance Document (TGD) B: Fire Safety (2006)** is relevant, specifically B1- Means of escape in case of Fire
3. **BS5588: Part 1 1990.** Fire precautions in the design, construction and use of buildings. Code of practice for residential buildings.

BS5588: Part 1: 1990 has been superseded by **BS9991: 2015:** Fire safety in the design, management and use of residential buildings. Code of practice but it is still cited in TGD:B 2006 and continues to be relevant in the Irish context until the TGD:B review process, currently underway, is complete. For ease of reference, I have included copies of relevant guidance extracts referred to throughout my appeal assessment within the appendix to this report.

8.0 ASSESSMENT

The first party appealed **Conditions No.s 4,3 and 5**. In their response to the appeal, the BCA also made reference to **Condition No.2** and requested that it would be amended. Notwithstanding that the original appeal was

made against 3 conditions only, I have considered each of the 4 conditions referenced collectively in both the appeal and the BCAs response to the appeal. In doing so, I have had regard to Art 40(2) of the Building Control regulations 1997, as amended which allows the Board to consider the conditions to which the appeal relates or other conditions.

8.1 Consideration of Condition No.4

The effect of Condition No.4 is to require doors to open **in the direction of escape and without a key**. This would ordinarily be interpreted as opening outwards, however, the BCA stated in their appeal response that it was not meant to be construed as such but rather as being openable without a key. I am satisfied, having regard to the provisions of Section 1.4.3.3 (c) of TGD:B 2006, that doors are required to open in the direction of escape but only if more than 50 people are expected to use them. With a stated occupancy of 12 and having regard to the limited extent of the development, I am satisfied that compliance with Section 1.4.3.3 (c) can be achieved without the need for doors to open in the direction of escape.

In relation to door fastenings and having regard to Section 1.4.3.1 and 1.4.3.2 of TGD:B, I consider it is reasonable to require doors on escape routes to either not be fitted with lock, latch or bolt fastenings, or alternatively be fitted with simple fastenings that can be readily openable without the use of a key. This would ensure the time taken to negotiate a closed door in an escape situation would be kept to a minimum and achieve appropriate compliance with this section TGD:B and B1 of the second schedule to the Building Regulations.

Therefore, I consider that Condition No.4 should be amended to read:

Condition No.4: *Doors on escape routes should either not be fitted with lock, latch or bolt fastenings, or they should only be fitted with simple fastenings that can be readily operated from the escape side without the use of a key.*

Reason: *In order to comply with B1 of the Building Regulations*

8.2 Consideration of Conditions No.s 3 and 5

Conditions No.s 3 and 5 are interdependent. Collectively they would require the rear balcony to be extended to offer alternative escape from the rear bedroom window at first floor and the door and window from the first-floor bedroom to have a fire resistance of 30 minutes. The first party considers these provisions are not warranted and states that the rear stairs functions as a communication stairs as it is not required or intended to serve as a means of vertical escape.

Section 1.1.2 of TGD:B 2006 refers to supporting guidance given in BS5588: Part 1: 1990 for escape from buildings containing **flats and maisonettes**. Within **Section 3 (Flats and Maisonettes)**, Section 7.2 of BS5588: Part 1 (Internal planning of dwellings) provides guidance that dwellings (flats/maisonettes) which are entered directly from outside of a building at ground level are effectively no different to houses and that Section 2 of BS5588: Part 1 (Single Family Dwelling houses) should be applied.

Within Section 2 of BS5588: Part 1, Section 4.3 (Recommendations for houses exceeding 4.5m in height by one floor level) is relevant. Specially S.4.3 (b) infers that where 3 specific criteria are met in relation to an internal stairway, there is **no requirement for an alternative escape route**. These criteria are as follows:

- 1) Be constructed as a protected stairway;
- 2) Connect the ground and all upper storeys; and
- 3) **Either** (i) deliver directly to a final exit **or** (ii) afford access to not less than 2 independent routes delivering to alternative final exits.

The design and layout of the appeal building shows the internal arrangement meeting 1, 2 and 3 (i) above. Escape from the first and second floor of the maisonette is available via a protected stair which connects the upper floors to the ground floor and leads directly to a final exit. Accordingly, I am satisfied that there is no requirement for an alternative escape and hence neither Condition No.3 or 5 are necessary to

achieve compliance with the requirements of Part B1 of the second schedule to the Building Regulations. Having regard to the above, I consider that Conditions 3 and 5 should be deleted from the schedule of conditions.

8.3 Consideration of Condition No.2 – New Issue

In their response to the appeal, the BCA also stated that Condition No.2 should have read '**ground floor rear bedroom**' instead of '**first floor rear bedroom**'. I consider that an escape window is warranted from Bedroom 02 located at the rear of the building, having regard to Section 4.2 (within Section 2) of BS5588:Part 1 where it states that a habitable room should not be an inner room unless it is provided with a door or window complying with 4.7 for escape or rescue purposes. The specific requirements of an escape window are set out under Section 4.7 of BS5588: Part 1 and are mirrored under Section 1.5.6 of TGD:B 2006.

I note the points made on Page 8 of in the applicant's fire safety compliance report as updated at further information stage. However, there is only escape route with an exit door, i.e. that which leads from the open plan livingroom/kitchen. The provision of an escape window in Bedroom 02 would offer an alternative escape from the inner room/ rear bedroom at ground floor level (similar to that already proposed in Bedroom 01) which in turn would minimise the risk to occupants in the event of a fire. I am aware that this could involve escape to a rear garden which is landlocked but I note the points of the BCA in their response whereby there is fire separation proposed between the bedrooms and the living room/kitchen. I suggest that in all probability one safe route would be available from the rear garden to the front of the building and in the interim, the rear garden would offer a place of reasonable safety from which rescue may become possible.

It is of relevance to note that there are no inner rooms at either first floor or second floor level where instead escape is offered via a protected stairs

connects directly to a final exit and accordingly escape windows are not required at those upper levels.

Having regard to the above, I consider that **Condition No.2** should be amended to read:

The rear ground floor bedroom window shall be an escape window in accordance with Section 1.5.6 of TGD:B 2006

Reason: *In order to comply with B1 of the Building Regulations*

The BCAs response raises a new issue in relation to comments provided on Condition No.2. However, the outcome of my assessment of this condition would only require a very minor alteration to the design, i.e. to change the escape window requirement from first floor to ground floor. In addition, I am satisfied that there is sufficient information available on the appeal file, including the compliance report, such as to allow my assessment and resultant recommendation on this matter. Accordingly, I do not consider it is necessary to recommend to the Board that they invite comments from the applicant on this issue, although this would be an option for the Board prior to making its decision on this case.

9.0 CONCLUSIONS AND RECOMMENDATION

Arising out of my assessment above, I consider that the BCA should be directed to **amend conditions numbers 2 and 4** and to **delete conditions numbers 3 and 5** from the schedule of conditions.

REASONS AND CONSIDERATIONS

Having regard to the design and layout of the proposed building, to the guidance given in **Technical Guidance Document B: Fire Safety (2006)**, to the supporting guidance given in **BS5588-Part 1 (1990)**, to the submissions made in connection with the Fire Safety Certificate application and appeal and to the report and recommendation of the appointed

inspector, it is considered that, notwithstanding the omission of conditions numbers 3 and 5 and having regard to the amendment of Conditions numbers 2 and 4 as set out above, the proposed development would achieve an adequate level of fire safety which would ensure compliance with Part B1 (Means of Escape in case of fire) of the Second Schedule to the Building Regulations 1997-2014.

Patricia Calleary
Senior Planning Inspector
25 October 2016

Appendix:

1. Extracts from TGD: B: 2006.
2. Extracts from BS 5588-Part 1, 1990