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Report 3087

**An Bord Pleanála Appeal regarding the attachment of Condition by
Dublin City Council to grant of Fire Safety Certificate
for proposed material alterations and fit out of existing retail building at
Unit 7, The Park, Carrickmines, Dublin 18**

Client: An Bord Pleanála,
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BUILDING CONTROL ACT, 1990 – APPEAL

**FIRE SAFETY CERTIFICATE APPLICATION
FOR PROPOSED MATERIAL ALTERATIONS AND FIT OUT OF EXISTING RETAIL
BUILDING AT UNIT 7, THE PAK, CARRICKMINES, DUBLIN 18**

**APPEAL AGAINST THE ATTACHMENT OF CONDITION NO. 2
TO FIRE SAFETY CERTIFICATE (REF. 16/1801/7DAY) ON 6th SEPTEMBER 2016**

AN BORD PLEANÁLA APPEAL REFERENCE 06D.FS0546

Local Authority: Dun Laoghaire Rathdown County Council

Appellant: IKEA Property Investments Limited c/o Maurice Johnson & Partners

RECOMMENDATION

In my opinion, the Board may rely on Article 40(2) of the Building Control Regulations and consider the subject appeal on the basis of Conditions only.

It is recommended that this appeal be rejected.

The subject Condition No. 2 attached to the Fire Safety Certificate granted on 6th September 2016 by Dun Laoghaire Rathdown County Council (Reference 16/8101/7DAY) should remain.

The remaining 1 no. Condition (Conditions No. 1) attached to the granted Fire Safety Certificate is not subject of this appeal and should also remain.

The granted Fire Safety Certificate should therefore remain subject of 2 no. Conditions.

Dr. Raymond J Connolly

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1. RELEVANT INFORMATION

- (i) Application for Fire Safety Certificate by IKEA Property Investments Ltd. to Dun Laoghaire Rathdown County Council dated 14th July 2016.
- (ii) Fire Safety Certificate (16/8101/7DAY) granted by Dun Laoghaire Rathdown County Council issued on 6th September 2016 (subject of 2 no. Conditions).
- (iii) Compliance Report 16314 FSC R01 Issue 01 (dated 12th July 2016) by Maurice Johnson & Partners and drawings by Hadfield Cawkwell Davidson.
- (iv) Letter of appeal from Maurice Johnson & Partners on behalf of IKEA Property Investments Ltd. to An Bord Pleanála dated 28th September 2016.
- (v) Letter sent by Dublin City Council to An Bord Pleanála dated 28th October 2016 outlining observations/comments by Fire Prevention Officer.
- (vi) Dun Laoghaire Rathdown County Council case History File 06/8217 in respect of Fire Safety Certificate FSC/DR/06/8217.

2. BACKGROUND

Maurice Johnson & Partners on behalf of IKEA Property Investments Ltd. made an application to Dun Laoghaire Rathdown County Council for a Fire Safety Certificate for the proposed material alterations and fit out of existing retail building at Unit 7, The Park, Carrickmines, Dublin 18. The Fire Safety Certificate was granted by Dun Laoghaire Rathdown County Council (under Reference 16/8101/7DAY) on 6th September 2016 subject to 2 no. Conditions including *inter-alia*:-

Condition No. 2

Floors including the proposed first floor/mezzanine floor shall have a minimum period of fire resistance of 60 minutes in accordance with Table A1 and Table A2 of technical guidance Document B.

Reason:

To comply with Part B3 of the Second Schedule to the Building Regulations, 1997 to 2014.

On 21st April 2016, Maurice Johnson & Partners appealed on behalf of IKEA Property Investments Ltd. against the attachment of this Condition (Condition No. 2) to the Fire Safety Certificate. The residual Condition (Condition No. 1) is not subject of the current appeal.

3. REPRISE OF APPEAL (AS PRESENTED)

The subject works comprise the proposed material alterations and fit out of an existing retail unit as an IKEA furniture store. The appellant has proposed that it is not necessary to provide fire resistance to the mezzanine floor on the basis that it is for use as a storage area and has been designed in accordance with Section 3.1.7 of Technical Guidance Document B to the Building Regulations. Section 3.1.7 permits reduced levels of fire resistance (or even little fire resistance as to permit unprotected steel structure) subject to the following conditions:-

- (a) the structure has only one tier and is used for storage purposes
- (b) the number of persons on the floor at any one time is low and does not include members of the public
- (c) the layout is such that persons on the floor would be readily aware of any fire starting at lower level
- (d) at least one stairway serving the raised floor discharges within 3 metres of an exit from the building (at ground floor level)

The appellant suggests that each of the above requirements are met in the current instance and in particular that:-

- (a) the structure has only one tier and is used for storage purposes
- (b) the number of persons on the floor at any one time is low (5 persons) and does not include members of the public
- (c) any persons on the floor would be readily aware of any fire starting below due to the open connection and the fire alarm system covering all areas below
- (d) the mezzanine level is served by three separate stairways including one protected stair and one external stair discharging directly to the outside

The appellant also highlights that the storage area and back-of-house facilities are separated from the public access retail space by a 60 minutes rated compartment wall.

The Fire Authority responds that Section 3.1.7 of Technical Guidance Document B states that *"whether the structure is considered as a gallery or is of sufficient size that it is considered as a floor forming an additional storey, the provisions for fire resistance of elements of structure set out in Appendix A, Table A1, would apply to the fire structure"*. The Authority conclude that the requirement for 60 minutes fire resistance to the floor is appropriate to ensure the safety of staff and fire-fighting personnel operating in this area.

4. CONSIDERATION

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

The case history of the building is relevant and is summarised hereafter.

In 2007 FSC/DR/06/8217 was granted in respect of the fit-out of Unit No. 7 for use as a Currys retail outlet. As part of that application, it was proposed to provide a new mezzanine level store room. The application documentation (prepared by Messrs. Jeremy Gardner & Associates) includes a specific undertaking in a letter to Dun Laoghaire Rathdown Council dated 7th February 2007 that "*the mezzanine floor will achieve 60 minutes fire resistance*".

A comparison of the applicant's general arrangement plans showing the existing and proposed arrangements would suggest that the first floor storage area is existing and is to be altered only in respect of the construction of inner rooms at first floor level. There is no information contained in the application documentation to suggest that the first floor is being replaced. If the floor is existing and not fitted with 60 minutes fire-resistance (as was required under the original Fire Safety Certificate FSC/DR/06/8217) then the absence of fire resistance should have been addressed by means of a Regularisation Certificate.

It is clear from the introductory text to Section 3.1.7 of Technical Guidance Document B is aimed at the consideration of single storey industrial and storage premises. The motivation behind the guidance is to address the scenario unrated structural elements (whether same be racking or members supporting the roof) in single storey industrial/storage premises requiring upgraded structural fire resistance ratings to support galleries, mezzanines, picking platforms and raised racked storage areas were same to be regarded as "floors above ground" attracting the full requirements of Table A1.

The proposed scenario in this retail unit is significantly different from that being addressed in Section 3.1.7 and is missing a key feature that permit the omission of structural fire resistance, i.e. the layout is such that any person on the upper floor would be readily aware of any fire starting at the lower level.

Whilst the unloading area includes an open connection to above facilitating the conveyor and open stairway, the occurrence of fire in any other ground floor location would not be apparent to the occupants of the first floor - except by means of the L2/L3 fire detection and alarm system as would routinely be installed in buildings of this type and indeed as was undertaken to be provided in the original Fire Safety Certificate FSC/DR/06/8217.

The absence of sufficient open voids to unambiguously spatially connect upper and lower levels is considered to be an unfavourable arrangement, which precludes occupants being readily aware of "any" fire starting at lower level. Reliance on automatic fire detection and alarm together with the inherent delays associated with time to detection and pre-movement marks a significant difference between the proposed design and the open raised storage areas envisaged in Section 3.1.7. Open connections between levels are important not only to give rise to alarm in the event of fire, but also to give occupants sight of risks developing and to motivate escape.

Furthermore and of far more serious concern is that the limited open connection and circulation between lower and upper levels would not make occupants of the upper level aware of the fact that they were residing on a floor plate of significantly inferior fire resistance to the upper floors typically within buildings. Members of the Fire Service entering the upper level storage area for fire-fighting would not be necessarily aware of the limited load-bearing characteristics of the floor in the event of fire. Arriving directly from a protected stair enclosure directly onto the mezzanine store room floor does not permit any advance appreciation of the nature of the construction in place nor any indication that construction standards in this locality of the building may be inferior to normal expectations - unlike say an open raised storage area supported by metal racking in an industrial/warehouse building.

In this context, it is highlighted that the requirement for fire-resisting structure under Building Regulation B3 is in support of both Building Regulation B1 (means of escape in the case of fire) and Building Regulation B5 (facilities for the Fire Service in protection of life and property).

5. CONCLUSION

It is recommended that this appeal be rejected.

The subject Condition No. 2 attached to the Fire Safety Certificate granted on 6th September 2016 by Dun Laoghaire Rathdown County Council (Reference 16/8101/7DAY) should remain.

The remaining 1 no. Condition (Conditions No. 1) attached to the granted Fire Safety Certificate is not subject of this appeal and should also remain.

The granted Fire Safety Certificate should therefore remain subject of 2 no. Conditions.

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