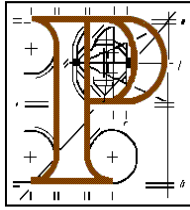


An Bord Pleanála



Inspector's Report

Appeal Reference No: PL29S.245893

Development: Demolition of 2 existing houses and construction of a 3 storey apartment building comprising 9 apartments with all associated site works at 189-190 Rathgar Road, Dublin 6.

Planning Application

Planning Authority: Dublin City Council
Planning Authority Reg. Ref.: 3308/15
Applicant: Frank McNerney
Planning Authority Decision: Permission

Planning Appeal

Appellant(s): Rathgar Residents' Association
Type of Appeal: Third Party
Observers: None
Date of Site Inspection: 25th of February 2016

Inspector: Angela Brereton

1.0 SITE LOCATION AND DESCRIPTION

The application site is located on the eastern side of the Rathgar Road close to the intersection with Grosvenor Road and to Rathmines. The development site consists of two property sites opposite the petrol station. The existing period buildings are semi-detached and both have been modified and extended in the past. External finishes include brick painted over to the front and pebble dash to the rear. No.189 has steep steps up to the front door which is at first floor level. This property is divided up into 5no. bedsits with a large 2 storey extension to the rear. No.190 has been in use as a single residential unit and has been extended to the side and rear, the front door has been altered so as to have access from the ground floor. Neither property is now occupied, and both contain damp and no.189 in particular appears in a state of disrepair.

At present both sites have large east facing gardens divided by a stone wall, which are largely overgrown. There is a wall and high railings and tall leylandi cypress trees around the eastern boundary at the rear of the site. There is on-site parking in front of the properties and a vehicular access for each property, no.190 being to the north closer to the junction and no.189 to the south.

The site backs onto the 5 storey City Council flats on Rathmines Avenue and is not far from Rathmines Garda Station. A modern two storey red brick mews property is situated to the rear of no.188 Rathgar Road, the latter a period property is in use as a Dental Practice. The property to the north No.191 is in use by The Legion of Mary.

2.0 PROPOSED DEVELOPMENT

This is for the following:

- The demolition of the existing buildings, no. 190 being a 2 storey semi-detached house and no. 189 a 2 storey semi-detached building divided into 5 flats, and
- Construction of a 3 storey over basement apartment building with 9 apartments, comprising 4x3 bed, 4x2 bed and 1x1 bed; with balconies or roof terraces at first and second floor level; and a caretakers room.
- Alterations to front boundary treatment including widening of existing vehicular entrance to no.189, 15 basement car parking spaces, bin storage, cycle parking, service connections, landscaping and all associated site works.

The application form provides that the total area of the development site is 1,278sq.m, the floor area of new buildings proposed within the development is 1,855.7sq.m and to be demolished is 584.22sq.m. The proposed plot ratio is 0.89 and site coverage is 41%. Whereas the g.f.a of the proposed development is given as 1,855.7sq.m, the total net floor area is given as 930sq.m.

Collins Maher Martin Architects have submitted Details regarding the proposed design and layout of the development. This also has regard to the demolition of the existing buildings and a Design Rationale for that proposed.

A Site Layout Plan, Floor plans, Sections and Elevations have been submitted. These show the existing and proposed development. 3D images of the proposed apartment block and contiguous elevations and photographs showing the existing interiors and the site in context of surrounding views have been submitted. Drainage Details and a Landscape Plan have also been submitted.

3.0 PLANNING HISTORY

Reg.Ref.3106/97 – Permission refused for two no. houses to the rear of nos.189/190 Rathgar Road for reasons of would result in substandard form of backland development, would be an overdevelopment of the site and would be contrary to the proper planning and sustainable development of the area. This decision was upheld by ABP on appeal Ref: PL29S.105692 refers.

4.0 PLANNING AUTHORITY APPLICATION

Planning and Technical Reports

Roads & Traffic Planning Division Report

They have regard to the proposed access arrangements and note that the one-way access ramp to the proposed basement car park will need to be controlled by traffic signals. They note that adequate car and cycle parking is to be provided in compliance with DCDP 2011-2017 standards. They have no objection to the proposal and recommend a number of conditions.

Engineering Department – Drainage Division

They have no objection to the proposed development subject to recommended conditions.

Submissions have been received from Rathgar Residents' Association and the adjacent property with concerns including the following:

- This is not a suitable development nor is there precedent for a three storey development for this part of Rathgar Road.
- The apartment block would not be in character with and would adversely impact on the area.
- It would cause overlooking and loss of privacy of no.191 Rathgar Road.
- The existing late 19th century houses could be restored and the gardens appropriately landscaped.
- With a sensitive extension to the rear each house could accommodate 4no. apartments.
- It should be refused with an appropriate re-appraisal incorporating the preservation of these two early Victorian houses.

It is also noted that a letter of support has been received from the owner of The Mews at no.188 Rathgar Road.

Planner's Report

The Planner has regard to the locational context, planning history and policy and to the submissions made. They noted that the applicant has set out a justification for

demolition of the existing buildings and a design rationale for the proposed development and provide an assessment of the proposed units relative to Residential Quality Standards in the DCDP 2011-2017. They had some concerns regarding the demolition of existing buildings and the proposed design and layout. Further Information was sought to include the following:

- A Conservation Report relative to the buildings to be demolished, identifying any significant features and details of their significance to the streetscape.
- To address concerns regarding the bulk, scale and massing of the 3 storey block to the rear and its visual implication for the neighbouring mews property. A Shadow Analysis was also recommended.
- Concerns regarding the timber louvered screening proposed for the two apartments at first floor level to the front of the site and to consider a more permanent solution which would incorporate the balconies into the main frame of the building.
- To review public open space requirement directly adjoining one of the apartments private terrace areas.

Further Information response

Collins Maher Martin has submitted a response (including some revisions to the drawings) on behalf of the Applicant which includes the following:

- A Conservation Report and Impact Statement have been submitted, this includes photographs showing external and internal features of the properties. A drawing has also been submitted showing subsequent additions.
- The rear block has been altered to address the concerns raised by the PA and they provide details of these.
- The implications for the Mews building have been carefully considered.
- A Shadow Study Analysis has been carried out.
- They provide details of the external finishes.
- They consider that the materials and design are of high quality, appropriate to this type of development and location.
- The screening of the two balconies has been redesigned to provide a solid brick wall of 1.95m above the balcony.
- The boundary between the proposed public open space and the ground floor front terrace to apartment no.1 has been redesigned.
- They believe that privacy and amenity of the occupants will be sufficiently protected while maintaining a viable public open space.
- The privacy of neighbours on either side at no.188 and no.191 has been enhanced.
- They consider that the proposal is an appropriate response to its context and is in keeping with the DCDP 2011-2017 and will enhance its surroundings.

Planner's response

The Planner had regard to the F.I submitted. They noted the detail in the Conservation Report submitted and that the buildings are not Protected Structures or located in a Conservation Area. They had regard to the modifications to the design of the proposed development shown in the revised drawings. This includes changes in

fenestration having regard to the proximity of the Mews development. They also note that the Shadow Analysis does not show undue overshadowing, the redesign to some of the balcony screening to reduce overlooking, and redesign of the public open space. They conclude that justification for the demolition of the properties has been given and that the proposed development can now be considered to be acceptable and will not seriously impact on the residential amenity of the area. They note that the development will provide for a higher density of residential development on the site which is within the Rathmines Key District Centre. They consider that the proposal is consistent with the proper planning and sustainable development of the area.

5.0 PLANNING AUTHORITY DECISION

Dublin City Council granted permission for the proposed development subject to 15no.conditions on the 27th of November 2015. These include the following:

- Condition no.1 – Proposed development to be carried out in accordance with the plans and particulars submitted, including the revised plans.
- Condition no.2 – Development Contribution.
- Condition no.3 – Details of external finishes to be submitted.
- Condition no.4 – Restriction on working hours of construction.
- Condition nos.5 & 6 – Demolition and Construction management in accordance with good practice.
- Condition no.7 – Compliance with Roads and Traffic Planning Division conditions relative to access ramp, entrance and footpaths.
- Condition no.8 – Compliance with Drainage Division condition relative to drainage works, including prevention of basement flooding, and incorporation of SUDS.
- Condition nos.9 &10– Relates to the provision of car parking spaces for the development.
- Condition no.11 – Landscaping scheme to be implemented.
- Condition no.12 – Relates to map showing areas for taking in charge.
- Condition no.13 – Naming and Numbering of units/scheme.
- Condition no.14 – Lodgement of cash bond/deposit.
- Condition no.15 – Part V condition.

6.0 GROUNDS OF APPEAL

Rathgar Residents' Association has submitted a Third Party Appeal and their grounds of appeal include the following:

- This is not a suitable development for this area of Rathgar.
- The objective of the development plan put as a priority the conservation and retention of existing buildings over replacement stock.
- These are two structurally sound late 19th century buildings that could be restored and inappropriate alterations removed. A positive proactive conservation approach should be followed.
- The gardens could be appropriately landscaped.
- With a sensitive extension to the rear each house could accommodate 8no. apartments in total without recourse to demolition.

- They note that a sensitive restoration has been done to other properties in the area and consider that there is no precedent for a three storey structure along this part of Rathgar Road.
- The design and scale of the development would not be in keeping with the character of the area and should not be permitted.
- Other modern developments in the form of apartment blocks in the area have been substandard and have not been sensitive to the scale and character of the area. They should not be used as a precedent for such development.
- They are concerned that the character of this part of the Rathgar road will be seriously adversely impacted.
- This modern development as proposed would destroy the existing traditional streetscape of discrete detached, semi-detached and terraced houses along this part of Rathgar Road.
- Such developments, along with the demolition of two structurally sound buildings are not in accordance with development plan policies and objectives and the principles of proper planning and development.
- The development by virtue of its size, height and no. of bed spaces proposed would constitute an overdevelopment of the site and would increase overlooking.
- It should be refused so that an appropriate re-appraisal for this area can be made incorporating the preservation of these two earlier Victorian houses.
- The fact that these houses are not protected structures or in an area of architectural conservation is no justification for their demolition.
- They provide details of previous precedent cases where ABP refused permission for demolition in respect of such properties.
- While not within a Z2 Conservation Area they are proximate to such and the total disruption of this streetscape and sight lines of this terrace by virtue of this development would have a serious adverse impact on the residential amenity of such conservation zones.
- It is a failure of the planning process that this area has not been included in the conservation zoning area and this can be attributed to inappropriate development that has been allowed in the area in the past.
- It is now time to stop the further decline of this part of Rathgar Road by ensuring that the existing character and historic streetscape is maintained.
- This is a very prominent site which does not need the type of treatment proposed. The removal of the units destroys the balance of the streetscape.
- The site needs protection and conservation and maintenance of the setting and scale of existing building stock.
- This proposal should not be permitted and suitable sustainable alternatives involving restoration of the existing properties should be followed.

7.0 RESPONSES TO GROUNDS OF APPEAL

7.1 Planning Authority response

Dublin City Council has not responded to the Grounds of Appeal.

7.2 First party response

Collins Maher Martin response to the grounds of appeal includes the following:

- The demolition of the existing building is a reasonable and appropriate approach to the proper sustainable development of the site.
- These buildings are not Protected Structure and are not within the Z2 land use zoning.
- The context for these two buildings is a petrol station, modern apartment buildings, 5 storey local authority flats and the Garda Station with a large communications mast, and diverse commercial/mixed use properties.
- The Tesco site at the rear is also identified in the LAP as a site suitable for a 5 storey development and there are a no. of 3 and 4 storey developments in the area.
- The nearby site at Charleville Road is also identified as a key development site in the Rathmines Local Action Plan.
- The true context for this site is part of the Rathmines Key District Centre KD7.
- The nearest P.S at nos.184 and 185 Rathgar Road have large full three storey rear extensions to the rear of those houses and are as tall as the building proposed in this application.
- It would not be possible to achieve 8no. apartments in accordance with standards in the existing buildings.
- They have considered that option of retaining and refurbishing these two sub-standard buildings, but have come to the conclusion that this is not a feasible or sustainable option.
- They have had a number of pre-planning meetings with the Council prior to the submission of this application.
- The development as proposed will be accessible to all users and fully compliant with part M of the building regulations and can be organised around a single lift and core.
- One of the current vehicular entrances is unsafe, a single safe entrance and exit is required.
- Currently no. 189 has been subdivided into 5 substandard apartment units which are deficient in planning, fire safety and building regulation terms.
- No.190 has a number of substandard extensions and has been renovated in the 1970's and 1980's with almost every original feature removed and replaced with modern fittings.
- They refer to the Planning Conservation Report which shows that few original features remain.
- This is a modern infill scheme which would contribute positively to the streetscape and meet all modern standards.
- They believe that a measured case has been made for the demolition of these buildings and their replacement with a more sustainable modern development which plays its part in improving the quality of the streetscape. They consider that the points made by the Appellant have been reasonably addressed and that the proposal is in accordance with the proper planning and sustainable development of the area.

- They consider that the only viable option is the demolition of the existing buildings and replacement with a modern building suited to its context and built to all current standards.

8.0 POLICY CONTEXT

National Spatial Strategy 2002-2020

The NSS sets out a national planning framework to co-ordinate future development and planning throughout the country in a sustainable manner and to consolidate the physical growth of Dublin while recognising its national and international importance.

Regional Planning Guidelines for the Greater Dublin Area 2010-2022.

The Guidelines, which provide a long term planning framework for the development of the Greater Dublin Area, seek to consolidate development, increase overall densities and facilitate the provision of improved public transport.

Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009

These seek to encourage high quality sustainable residential development, urban form and design. They are concerned to promote a sequential approach to development and to create an overall design framework with linkages to the existing developed area. They support Local Area Plans and the phasing of development, also having regard to the availability of infrastructure. Regard is had to the availability of community facilities, public transport and the quality of open space. Chapter 3 concerns the role of design and has regard to the context and quality of the development proposal. Chapter 4 provides for planning for sustainable neighbourhoods and has regard to public open space, traffic safety, drainage issues etc. Chapter 5 refers to Cities and Larger Towns (i.e towns with 5,000 or more people) and provides the criteria for appropriate locations for higher density developments. Section 5.9 refers to Inner suburban/infill sites and has regard to residential infill. Chapter 7 concerns the home and its setting and discusses issues such as daylight, sunlight, privacy, open space and communal facilities.

Regard is had to the accompanying DOEHLG 'Urban Design Manual-A best practice guide 2009' and to the 12 criteria to promote quality sustainable urban design discussed in this document. Regard is also had to the application of these criteria, which are divided into three sections: Neighbourhood/ Site and Home reflecting the sequence of spatial scales and order of priorities that is followed in a good design process.

Sustainable Urban Housing Design Standards for New Apartments 2007

This provides guidelines on the design and layout of new apartments to ensure that they provide satisfactory living accommodation. This also includes guidance on daylight and sunlight, communal and private open space and recreational needs. The Appendix includes recommended minimum floor areas and standards.

Updated Apartment Guidelines 2015

Note is had to Circular letter PL 1/2016 where regard is had to the updated guidelines. The purpose of these guidelines includes; to enhance the viability of new apartment construction, ensure consistency, as regards the minimum planning requirements and expand the provisions of the 2007 guidelines on qualitative aspects concerning areas such as amenities, provision of play facilities, cycle parking and related matters.

The guidelines have been prepared taking account of related provisions of the Planning and Development (Amendment) Act 2015, which amended Section 28 of the Act as regards Ministerial Guidelines distinguishing between 'specific planning policy requirements' which must be applied by planning authorities and other aspects that planning authorities must also have regard to, in the exercise of their functions.

Design Manual for Urban Roads and Streets 2013

The DMURS document must be taken into consideration in examining planning applications. Within the DMURS document the application of the principles to existing streets must require a flexible approach. The document calls for a safer more attractive and vibrant street and the creation of a permeable network from a multi-layered process. The process should begin with a site analysis that identifies any constraints the proposal may have on the existing network, including points of access, major destinations and strategic connection (existing and proposed). The street hierarchy in terms of trips generated, access etc.

Architectural Heritage Protection Guidelines for Planning Authorities issued by the DoEHLG in 2004/2011

This has regard to development within Protected Structures and within an ACA. A Protected Structure includes the interior of the structure and all fixtures and features which form part of the interior or exterior and within the curtilage of the structure. An ACA is used to protect groups of structures of distinctiveness or visual richness or historical importance including the setting of Protected Structures where it is more extensive than its curtilage.

Chapter 6 provides policies and objectives for Development Control, which seek to ensure the protection of the architectural heritage so that these structures retain their character and special interest and continue to contribute to the social and economic mix of the area. This also provides that any proposed change of use should be carefully considered and its implications for the fabric and character of the structure. The Conservation Principles provide that it is generally recognised that the best method of conserving a historic building is to keep it in active use. The sensitive restoration of the character of a Protected Structure is also supported.

Part 2 includes Detailed Guidance Notes relative to works to the Interior and Exterior and Access to Protected Structures. Chapter 13 refers to *Curtilage and Attendant Grounds* and Chapter 16 refers to *Making Good Disaster Damage*.

Dublin City Development Plan 2011-2017

The site lies within the 'Z1' Residential Land Use Zoning where the, land use zoning objective is: *To protect, provide and improve residential amenities.*

A copy of the relevant section of the Land Use Zoning Map H is included in the Appendix to this Report.

Chapter 11 concerns 'Providing Quality Homes in a Compact City'. Section 11.4.6 promotes sustainable Apartment Living.

Policy QH15 seeks: *To promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, achieving appropriate target average floor areas and levels of amenity within each apartment development; and ensuring that suitable social infrastructure and other support facilities are available in the Neighbourhood.*

Policy QH16 seeks to promote a range of optimum quality apartments.

Section 17.9 refers to Standards for Residential Accommodation and S.17.9.1 Part (A1) refers to the unit - all residential development and (A2) refers specifically to standards for apartments. Standards applicable to the scheme- all residential development are contained in (B1) and additional standards applicable only to apartments (B2).

S.17.9.7 refers to and supports sustainable Infill Housing (also S.11.4.7 and 17.1.1) Section 17.10.5 provides for retention and re-use of older buildings of significance which are not protected.

Section 5.2.4.3 and Appendix 16 relate to Waste Management and Guidelines for Waste Storage facilities.

Section 5.1.4.7 includes policies and objectives relative to sustainable car parking. Section 17.40 provides the Car Parking Standards. Table 17.1 refers.

9.0 ASSESSMENT

9.1 Principle of Development

The proposed development involves the demolition of the existing properties on site and the provision of a residential apartment development of 9 apartments. Residential use is permitted in principle in the 'Z1' land use zoning in the current Dublin City Development Plan where the objective is: *To protect, provide and improve residential amenities.* Section 11.4.6 refers to Apartment Living which includes that: *Successful apartment living requires that the scheme must be designed as an integral part of the neighbourhood.* There is concern that the proposed development will demolish two adjoining period properties that could be sensitively renovated and restored. Also, that the apartment block is excessive in scale and height and is not in character with the traditional streetscape of Rathgar Road and would lead to an over intensification of development on this site. The First Party submit that the proposal will demolish two sub-standard properties that are not fit for purpose and will enhance the character of the area and reinforce the street

view from this area of Rathgar Road. It is also noted that the site is opposite a petrol station and Rathmines Key District Centre is to the north – (S3.2.3 KDC 7 refers).

In this case having regard to the residential land use zoning it is considered that the principle of such development is acceptable on this site. The issue is whether the existing properties should be retained and renovated for re-use and if the proposed intensification is considered to be sustainable. Regard is had to issues of intensification, design and layout including the modifications to the design submitted with the further information, access and parking and to other issues raised by the Parties. There is also a need to ensure that the proposed development would not have an adverse impact on the character and amenities of both the adjacent properties and of the surrounding area and would be in the interests of the proper planning and sustainable development of the area. These issues are discussed in more detail in the Assessment below.

9.2 Regard to Justification for Demolition

This proposal involves the demolition of the two existing properties on site. The floor area as given on the application form is 584.22sq.m. While these are not listed as Protected Structures or located in a Conservation Area or ACA they are period properties constructed in the late 19th century, as are the properties on either side. The Rathgar Residents' Association who are the Third Party consider that the subject properties form part of the traditional character of the area and could be sensitively renovated and restored and converted into 8no. apartments. They refer to Policy FC26 which seeks: *To protect and conserve the city's cultural and built heritage sustaining its unique significance, fabric and character to ensure its survival for future generations.* Regard is also had to Section 17.10.5 which provides for retention and re-use of older buildings of significance which are not protected. Such buildings may be of local or historic interest and make a positive contribution to the streetscape. The First Party refutes the need for retention, providing that the buildings are substandard and would not meet with current standards and guidelines for apartments, including the Building Regulations. They provide details relative to the state of the current buildings including access and fire safety issues in the information submitted with their application.

As part of the Planning Authority's F.I request they asked that a Conservation Report by a conservation expert with the relevant expertise be submitted. This was to identify any significant features and detail their significance to the streetscape. In response a Conservation Report and Impact Statement have been submitted prepared by a Grade 1 accredited Conservation Architect. This has regard to archive research and notes that the properties were originally shown on the 1865 map and were built as two storey semi-detached villas and that later mapping shows the development of the Rathmines suburb with tramlines showing the busy junction. Both properties have been subsequently extended and renovated. A drawing has been included with the F.I. showing the extent of the original fabric and subsequent

additions. These include rear and side extensions to both properties and the front steps to no.189 Rathgar Road.

Details are given in the Conservation Report submitted of external and internal features and this includes regard to the interventions over time, many of which are noted to be of substandard construction. This finds little of the original fabric remaining, which includes masonry walls and three render pilasters to the front façade, the historic door case remains to no.189. The windows proportions have been changed with no original cills with the exception of the round windows at the rear (photo no.19 relates). Internally both buildings have been modernised, with no original staircases, fireplaces etc. No. 189 which was in 5 flats has been altered more than no.190 which has been use as a single dwelling unit. Both properties are now unoccupied and no.189 in particular has been subdivided and is internally not in good repair.

Regard is had to the Architectural Heritage Protection Guidelines. Chapter 1 considers *Why Protect our Architectural Heritage* and includes regard to sympathetic, maintenance, adaption and re-use. Chapter 13 refers to *Curtilage and Attendant Grounds* – however it is noted that these are not Protected Structures or in an ACA. However the Conservation Report refers to Chapter 16 *Making Good Disaster Damage*. This Report considers that all features of interest have been removed and that the structures have suffered such loss that retention would be inappropriate. It believes that there is scope for the removal of these houses and the insertion of a well-designed contemporary structure which avoids pastiche. It provides that the height of the façade, the rear boundary walls to the overall site in rubble stone, the height of the front boundary and the building line should be maintained. Also some lessons in proportion might usefully be taken from the context such as vertically proportioned doors and windows. It considers that the proposal to replace the existing render finish block wall to the front with railings of good quality design quality will improve the street face. In conclusion the Report provides: *The removal of the subject structures, and a calm contemporary new build is a wholly appropriate solution to the state of the buildings at present, and as such we commend the scheme for approval.*

Having regard to these issues it would appear that the Conservation Report and Impact Statement is supportive of the demolition rather than the restoration of these properties. Regard is had further to the impact on the Character and Amenities of the Area and to Precedent Cases raised by the Third Party in the relevant sections of this Assessment below.

9.3 Design and Layout

It is proposed to provide 9no. apartments in a three storey block, with a central lift core on the subject site. As shown on the Site Layout Plan it is proposed that the apartment block take up a greater area of the site than the existing extended buildings proposed for demolition. The block is to extend further out into the existing rear garden area. Open space is proposed to the front and rear of the building. Private open space is provided by way of balconies and terraces. It is proposed to

provide a caretakers room and bike storage area on ground floor level. The existing access to no.190 is to be closed off and a widened single access provided in a similar location to that to the south for no.189 Rathgar Road. A traffic controlled ramp is to be provided to the basement carparking area. Refuse storage is also to be provided at basement level.

The application form provides that the g.f.a of the new build is 1,855.7sq.m and the n.f.a is 930sq.m. Details submitted with the application provide that it is proposed to provide 4no. 3 bed apartments, 4no.2 bed apartments and 1no.1 bed apartment. Apt no.3 is a 3bed duplex apartment on ground and first floor levels. The 1bed (Apt no.9) is to be provided at second floor level. It is noted that while the other apartments are dual aspect nos.3 and 9 have a single south east facing aspect. The Table submitted shows that all of the apartment floor areas exceed the minimum floor areas provided in the Residential Quality Standards in S17.9.1 A1 of the DCDP 2011-2017. It is considered that an appropriate mix of unit types has been provided.

The Elevations show that the proposed height of the block is c.9.6m, with the lift core area being c.10.4m. Sections and Block Plans have also been submitted. The latter showing the proposed external finishes. A Contextual Elevation has been submitted showing the proposed block in the context of the two period properties either side. It is noted that the 3 storey block extends well into the site and is shown proximate in particular to the north eastern site boundary. There is concern about the impact of the design in relation to scale, height, massing and bulk of the proposed development both on adjacent properties and the streetscape/character of the area.

In this respect the First Party response provides that the penthouse apartment will be set back at the front and sides, thus diminishing the appearance and mass of the building. This includes that the roof of the penthouse apartment will be level with the apex of the adjacent villas and being finished in dark aluminium cladding will blend with the slate roof finish of these adjacent buildings. The projecting eaves and fascia form a canopy to terminate the overall form, which is positioned to line up with the roof lines of the two adjacent Victorian style villas. They also provide that the main finishes proposed (brick façade with natural stone cladding at the entrance) will reflect the predominant materials existing on the road. Regard is had to the proposed contiguous elevation in this respect. A list of proposed external finishes has been given and it is important to note that the proposed development is contemporary in form relative to the period properties either side. If the Board decides to permit it is recommended that it be conditioned that details of external finishes be submitted, prior to the commencement of the development.

9.4 Impact on adjoining properties

In response to the Council's F.I concerns in relation to the bulk, scale and massing of the 3 storey block to the rear and its visual implication for the neighbouring Mews property to the south, the applicants have submitted further details and revised plans which they consider address the issues of overlooking and overshadowing. These include changes to the windows to provide projecting angled bays to the three bedrooms of Apt.no.3 and the single bedroom of Apt.9 on the second floor. It is

provided that the resulting windows are at an angle of 72deg from the back wall of the Mews building to the rear of no.188 and so not directing overlooking. Obscure glass is to be fitted to the balustrade screens of the 1st and 2nd floor balconies on the southern elevation facing the rear of the Mews building. The floor plans also show the distances from the proposed southern elevation to the angled windows in the Mews building. They also provide that the perceived bulk, scale and mass of the rear block has been reduced by removing the roof overhang from the balcony of Apt. no.8 and also reducing the eastern side wall of the balcony to 1.6m. It is considered that the issue of overlooking towards the Mews property and the rear garden area of no.188 (which is in use as a Dental practice) has been addressed in the revised plans.

There are also concerns that it would cause overlooking and loss of privacy to no.191 Rathgar Road to the north. This period property is in use by The Legion of Mary and they are particularly concerned about overlooking to their rear garden area from the proposed rear balcony to Apartment no.5. In this respect the revised plans include 'enhanced permanent screening' to the northern elevation first floor balcony of no.5. In response to the F.I it is noted that there has been some redesign to balconies to provide a solid brick wall of 1.95m above balcony level relative to both the first floor northern and southern elevations of the building. However it is noted that there is a railed terrace as shown on the Second Floor Plans., which may cause overlooking. If the Board decide to permit I would recommend that it be conditioned that in addition to the rails that there be an opaque 1.8m screen along the northern and southern boundaries of this terrace.

In relation to the matter of overshadowing the design of schemes should be guided by the principles of good site planning to allow for access to daylight and sunlight for the proposed development and in particular the residential units and also neighbouring residential properties. Section 17.9.1 of the Residential Quality Standards includes regard to sunlighting/daylighting. In response to the F.I request a Shadow Analysis has been carried out for the proposed development. This also notes that as the Mews faces North East and as a result is not overshadowed by the proposed development. The Shadow Analysis shows that some overshadowing will occur to the rear garden area of no.191 to the north and to the area within the boundary of the 5 storey flats on Rathmines Avenue to the east, particularly in March and to the part of the Mews property in October. While it is not considered that substantial overshadowing to these properties occurs, there may also be some perceived loss of amenity/outlook due to the substantial nature of the proposed block, relative to the existing buildings.

9.5 Contextual and Landscaping issues

As given on the application form the proposed plot ratio is 0.89 and proposed site coverage is 41%. Section 17.4 of the Dublin CDP 2011-2017 refers to plot ratio of 0.5 -2.0 permitted in the Z1 zoning. Section 17.5 refers to site coverage of 45-60% being permitted in this zoning. While the plot ratio and site coverage comply with standards, it is considered that it would be preferable in view of the site context and proximity to adjoining buildings if the bulk and massing of the proposed block were

reduced in size. This is particularly having regard to proximity to the northern and eastern site boundaries at the rear and to the issue of overshadowing. I would therefore recommend that if the Board decide to permit that it be conditioned that the proposal be modified so that the eastern (rear) projection of the block shown 4.6m in length and 11.3m in width be omitted. This would reduce the overall floor area of the block and would allow for additional and more usable open space area at the rear of the block. It would also allow for more space for landscaping and boundary treatment. This would impact on the overall apartment floor areas and it is recommended that revised plans be submitted showing 8no. apartments in the overall Block.

A Landscaping plan has been submitted, showing the main areas of landscaping to the front and rear of the building. It is noted that in view of the proximity of the block to the rear of the site that it is proposed to remove the Leyland cypress trees that provide screening of the block of flats in Rathmines Avenue to the rear. This will open up the vista to these flats. At present there is a wall and railings along the rear boundary of the site and it is recommended that if the Board decide to permit that it be conditioned that this be retained and that a landscaping scheme be submitted. The existing walls, including the high wall along the boundary with the Mews property to the south should also be retained. It is noted that as shown on the Context Elevation the front boundary wall along the site frontage is to be replaced by a lower wall and rails and that this is welcomed in the Conservation Report. In view of the demolition works as indicated in the Site Layout Plan it will also be necessary to rebuild the wall along the side boundary with no.191 Rathgar Road.

9.6 Access and Car Parking issues

There is an on-site parking area (which is not marked out) but would accommodate about 7 spaces on the tarmacked site frontage. There are currently two accesses to the sites, the one for no.190 is closer to the traffic light controlled junction to the north. In view of the proximity to the junction and the bend this is the least safe entrance. The one to the south for no.189 has better visibility in both directions but its usability is currently more restricted due to the location of the steps to no.189 and the narrow width of the entrance. Both entrances are opposite the two accesses to the ESSO Petrol Station on the opposite side of the Rathgar Road. It is considered that the current on-site parking arrangement is restricted and not very satisfactory. There is a footpath along each side of the road. As this is a very busy road there is no on-street parking. It is also noted that there are cycle lanes on both sides of the road and signage providing for this use.

It is proposed to widen the existing vehicular entrance to no.189 Rathgar Road to 6.0m. The existing vehicular entrance to no.190 will be decommissioned. Access to the basement carpark is via a 3.635m wide ramp. As advised by the Council's Roads and Traffic Planning Division the ramp will operate as one-way and traffic signals will be required to control entry to the ramp. It is important that this be well monitored as queuing onto the Rathgar Road would not be in the interests of traffic safety.

Car parking for 15 vehicles is proposed in the basement area with 2 visitor car parking spaces proposed at ground level. The development is in area 3 for car parking standards. The Dublin CDP outlines a maximum car parking standard in this area of 1.5 spaces per unit. This equates to a maximum provision of 14 spaces. There are 15no. spaces proposed at basement level. There are 2 no. visitor car parking spaces provided at ground floor level. It is considered that given the pressure on on-street car parking in the area there is no objection to the provision of visitor car parking. The cycle parking standard for residential developments in this area is a minimum of 1 space per unit – 16 spaces are to be provided which is considered to be acceptable.

9.7 Impact on the Character and Amenities of the Area

The issue at contention here is whether having regard to the impact on the streetscape the existing period properties should be demolished and the new block constructed in its place. The concerns of the Rathgar Residents Association regarding the impact on the character of the area have been noted. As shown on Map H of the DCDP 2011-2017, the site is in the Z1 land use zoning, and the buildings are not Protected Structures or in an ACA. The site is however proximate to the Z2 land use zoning and the buildings to the south i.e. from no.185 southwards are Protected Structures. As noted above a Conservation Report and Impact Statement has been submitted which concludes that the existing buildings are substandard and are not fit for purpose and supports their demolition. It considers that a contemporary new build is an appropriate solution in this case. The First Party provide details of the design and layout and consider that the proposed building is designed to fit into its context and to reflect the general scale and nature of the streetscape along Rathgar Road which is predominantly defined by terraces of Victorian houses.

A plan has been submitted indicating views of proximate development. This includes the back elevation to the Mews to the rear of and no.188, view to the back of no.191 Rathgar Road and views to the 5 storey Rathmines Avenue Flats to the rear. Regard is also had in particular to the views from this area of Rathgar Road. The subject site is opposite an ESSO petrol station and close to the centre of Rathmines. It is close to a mixed use commercial area and as shown on the land use zoning Map H, and proximate to Key District Centre (KDC 7) Rathmines. It is noted that there are 5 storey local authority apartments in Rathmines Avenue to the rear of the site. There is a three storey apartment block 'Rathgar Court' on the opposite side of the Rathgar Road to the south and a two storey apartment block know as nos. 1-3 Roland Court to the south of no.188. Therefore it is considered that there is a precedent for apartment blocks in the area. However these have been built in the past and may not be up to current standards.

Regard is had to the precedent cases noted by the Third Party, and while the context of each of these is noted (copies of the Inspector's Reports and Board decisions are included in the Appendix to this Report), it is considered that they are relevant to their individual case circumstances. Each case needs to be considered on its merits relative to its locational context and it needs to be ascertained that the proposed

demolition of the existing period houses and erection of the replacement contemporary build is acceptable and would not detract from the amenities or character of the area.

Nevertheless the contemporary new build will provide an entirely new vista in the streetscape. In this case it is noted that the front building line will be retained and while higher than the existing properties the height of the proposed block is restricted to three stories and will not be out of character with adjoining properties. Having regard to the documentation submitted and to my site visit and to the submissions made I would consider that in view of the locational context of the site that the proposed development as a well-designed contemporary new build would not detract from the character of the streetscape.

9.8 Drainage issues

Drainage details including a Site Drainage Evaluation and a Site Layout Plan showing Proposed Drainage have been submitted. The Council's Engineering Department Drainage Division has no objections subject to recommended conditions. These include that the development be drained on a completely separate system with separate connections to the public foul and surface water systems. The development is to incorporate Sustainable Drainage Systems in the management of stormwater. They provide that all surface water discharge from the development is to be attenuated. It is recommended that to minimise the risk of basement flooding, all internal basement drainage must be lifted via pumping to a maximum depth of 1.5m below ground level before being discharged by gravity from the site to the public sewer. Also that an appropriate petrol interceptor, be installed on the internal drain from the car park. If the Board decide to permit it is recommended that appropriate drainage conditions be included.

9.9 Appropriate Assessment

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

9.10 Other Issues

Construction Works: The main impact that would arise to the amenities of this area would result from the demolition/construction phase. During these phases the works would inevitably result in noise, dust, building debris and so forth. There is also potential for obstruction of traffic movements along this busy area of Rathgar Road during deliveries etc, notwithstanding, such nuisances would be of a temporary nature and would be required to be carried out in compliance with standard codes of practice. It is also standard planning practice to include conditions that seek to minimise such impacts in the event of a grant of permission.

Development Contribution: Having examined the terms of the City Council's applicable development contribution scheme it is noted that the proposed development sought under this application is required to pay a S48 financial contribution in the event of a grant of permission.

Part V: It is noted that the Council has included a Part V Condition relative to provision of Social and Affordable Housing. As the Urban Regeneration and Housing Act 2015 has now been passed, *Section 97(3)(a) of the Planning and Development Act 2000 is amended by substituting '9 or fewer' for '4' or fewer.* This exempts the developer from the obligation to comply with Part V. In this case the developer will have to apply retrospectively for a Social Housing Exemption Certificate (SHEC). Therefore I would recommend if the Board decides to permit that Condition no.15 of the Council's permission relative to this issue not be included.

10.0 CONCLUSIONS AND RECOMMENDATION

I have read the submissions on file and visited the site and have had regard to the locational context and to the character and amenities of the area. The Board may decide that the existing buildings should be retained. However having regard to the documentation submitted and to the provisions of the Development Plan, together with all other issues arising, I recommend that permission be granted to include the modifications to the design and layout discussed in this Assessment and subject to conditions below.

11.0 REASONS AND CONSIDERATIONS

Having regard to the residential zoning of the site in the current Dublin City Development Plan and to the pattern of development in the area and the design and layout of the scheme, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not be detrimental to the character of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 30th day of October 2015 and by the further plans and particulars received by An Bord Pleanála on the 19th day of January, 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) The footprint of the proposed development shall be reduced in depth so that eastern rear projecting element of the block (shown 4.6m x 11.3m) shall be omitted.

- (b) Revised plans shall be submitted showing a mix of 8no. apartments in the reduced floor area.
- (c) Measures shall be taken to prevent overlooking and the proposed second floor terrace area shall include 1.8m opaque screening to the northern and southern elevations.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of future occupants of the scheme and to protect the amenities of adjoining properties.

- 3. Details of the materials, colours and textures of all the external finishes to the proposed building, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

- 4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:200 showing –
 - (i) Details of Landscaping including to provide screening along the site boundaries of the rear garden area.
 - (ii) The species, variety, number, size and locations of all proposed trees and shrubs on site including site frontage landscaping.
 - (iii) Hard landscaping works, specifying surfacing materials, furniture and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

5. Prior to the commencement of development details of all boundary treatment shall be submitted for the written agreement of the planning authority.
- (a) Existing boundary walls including the wall with high rails along the eastern (rear) boundary of the site and side boundary walls shall be retained.
 - (b) Any stone walls damaged by the works shall be rebuilt and walls of a minimum 1.8m in height shall be provided along the side boundaries.
 - (c) Railings shall be provided along the roadside frontage as shown on the Context Street Elevation Drawing submitted.

Reason: In the interests of residential and visual amenity.

- 6.(a) The developer shall consult with the Planning Authority in respect of the detailed requirements regarding the vehicular entrance to the site from Rathgar Road and parking layout and circulation in the basement area serving the proposed development, car parking, bicycle parking, footpaths and kerbs and shall be agreed in writing with, the planning authority prior to commencement of development.
- (b) The proposed one-way basement ramp shall be controlled by traffic signals and shall ensure a flow of traffic.
 - (c) The basement carparking shall be reserved for occupants of the apartments and none of the car parking spaces shall be sold, leased or sub-leased or otherwise assigned separate to the use as residential.
 - (d) Details of pedestrian access, including lighting and security measures to the residential block shall be agreed prior to the commencement of development.

Reason: In the interest of pedestrian and traffic safety and the proper planning and sustainable development of the area.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk including in the basement area, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant other than those shown on the submitted drawings, unless authorised by a prior grant of planning permission.

Reason: In the interest of residential and visual amenity and to protect the character and setting of the area.

9. All service cables associated with the proposed development (such as electrical, communal television, telephone and public light cable) shall be run underground within the site.

Reason: In the interests of orderly development and the visual amenities of the area.

- 10.(a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) Bin storage facilities shall be provided for the apartments in the basement area.

Reason: In the interest of amenity, and to ensure the provision of adequate refuse storage.

11. Site development and building works shall be carried out between 0700 hours and 1800 hours from Mondays to Fridays inclusive, between 0800 hours and 1400 hours on Saturdays and not at all on Sundays, Bank or Public Holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

12. (a) Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

(b) This shall include a detailed method statement to mitigate potential nuisance including noise and dust. The statement should outline how it is proposed to prevent spillage or deposits of clay, rubble or other debris on adjoining roads during construction.

Reason: In the interests of sustainable waste management and to mitigate potential construction nuisance.

13. The management and maintenance of the proposed development, following its completion, shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads, parking spaces and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

15. The developer shall pay the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act, 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Angela Brereton,
Planning Inspector,
4th of March 2016