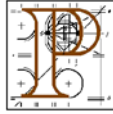


An Bord Pleanála



Inspector's Report

Appeal Reference No : PL29S.246085

Development : erection of a single storey flat roof extension to the existing floorspace at 4th floor level, with the building to accommodate nine en-suite bedrooms, with all associated site works

Location : Travelodge Building, Rathmines Road Lower, Dublin 6

Planning Application :

Planning Authority : Dublin City Co.

Planning Authority Reg.Ref.No. : 3957/15

Applicant : Smorgs Property Holdings Ltd.

Planning Authority Decision : Refuse Permission

Planning Appeal :

Appellant(s) : Smorgs Property Holdings Ltd.

Type of Appeal : 1st Party

Observers : None

Date of Site Inspection : 28th April 2016

Inspector : Leslie Howard

1. **SITE LOCATION AND DESCRIPTION :**

Comprising a 136.5m² ground level surface area of a larger parent landholding of 1170m², the application site is located centrally within the Rathmines commercial centre, at the intersection of Rathmines Road Lower and Parker Hill. Rathmines Road Lower, the main north-south thoroughfare through Rathmines, is linear in its alignment, effectively bisecting the town centre. Contextually, the local neighbourhood comprises a mix of residential, retail, commercial, social and cultural land uses, with an associated range of building styles, types and heights. A mix of older type, to more modern buildings and developments is also apparent.

Specifically, the application site is developed with an existing mixed use, multi-storey building, comprising a retail outlet at ground / street level, three storeys of accommodation above, existing as the 'Travelodge' Hotel, and with a plant room at roof level. A dance studio was noted adjacent the plant room, at the time of site visit.

Contiguously, and understood part of the same overall development, is a modern apartment development, built above a retail parade of mixed uses comprising a newsagent, a coffee shop, an estate agency and a bicycle shop. Consolidation of this apartment complex exists to the immediate east – Parker Hill apartment complex.

Rathmines Road Lower past the application site was well trafficked at the time of site visit, with a mix of public / private modes and heavy / light vehicular types apparent.

2. **PROPOSED DEVELOPMENT :**

The proposed development comprises –

- the erection of a single storey flat roofed extension to the existing floorspace, at fourth floor level within the building,
- the accommodation of 9no. en-suite bedrooms, a linen store, plant room, and
- the reconfiguration of the existing fourth floor dance studio and plant areas.

In addition, the development includes all associated drainage and site development works.

3. **PLANNING HISTORY :**

Reg.Ref.No.: 2812/15

Planning permission refused for construction of a new single storey flat roofed extension to the existing 4th floor accommodation (16no. en-suite bedrooms, a linen store, 3 no. roof windows, plant

room with associated external plant area), for two refusal reasons –

1. Serious injury to amenity consequent of :
 - Proposed height exceeded defined height for commercial development in Outer City areas.
 - Site location outside a designated location for increased building height.
 - Contravention of Policy SC17, Section 17.6.2 and Variation 14 of the Dublin City Development Plan.
2. Notwithstanding the higher plot ratio existing on site, and site location adjoining good public transport, the proposed development would significantly exceed the plot ratio set for District Centres.

Reg.Ref.No.: 2891/06 Planning permission granted for signs to the front facade of the hotel.

Reg.Ref.No.: 1471/05 Planning permission granted for the reduction of the floor area of the Hotel, to accommodate an Aldi food store.

Reg.Ref.No.: 4658/04 Planning permission granted for development at Rathmines Plaza Hotel, consisting of a change of use of a former ground floor café bar and club, with basement known as Savannah Café Bar & Club to a ground floor Aldi discount food store with on casement area. This permission granted, subject a number of Conditions

Reg.Ref.No.: 0083/97 Permission granted for extension to the existing penthouse structure on the roof of Rathmines Plaza Hotel, consisting of an additional 152m² of floor space (the additional floor space to contain a management office suite of 7 offices for the hotel

Reg.Ref.No.: 0710/95 Permission granted for a 54 bedroom hotel, with licenced restaurant and bar in the existing office block, but with a four storey over basement extension to the rear, which links with the new residential development.

Reg.Ref.No.: 0855/94 Permission granted for office and retail use in the existing office block

- Reg.Ref.No.: 2740/90** Permission granted for a 38no. bedroom hotel in the existing office block.
- Reg.Ref.No.: 2023/89** Permission granted for change of use from a shopping and office centre, to 30no. bedroom hotel, lounge bars, function rooms, food bars / restaurants.

4. PLANNING AUTHORITY DECISION

(1) Planning Authority Decision :

REFUSE PERMISSION for two Refusal Reasons :

1. Serious injury to amenity consequent of –
 - Proposed height exceeding defined height for commercial development in Outer City areas.
 - Site location outside a designated location for increased building height.
 - Contravention of Policy SC17, Section 17.6.2 and Variation 14 of the Dublin City Development Plan.

2. Notwithstanding –
 - the higher plot ratio existing on site, and
 - the site's location adjoining good public transport, the proposed development would significantly exceed the plot ratio set for District Centres.

(2) Planning Reports :

The Planning Officer's report dated 07/01/2016, recommends a refusal of planning permission, generally consistent with that set out in the Manager's Order above. This recommendation was made having regard to :

Planning Assessment of Key Issues :

(a) Zoning Objective – Z4 :

- (i) Zoned Z4, the existing hotel use, and the proposed increase in hotel floor area is acceptable in principle. However, compliance is required with supplementary policies, objectives and standards set out in the City Development Plan 2011
- (ii) Residential amenity impact consideration particularly relevant to the adjacent apartment complex to the east – threat of increased overshadowing.

- (iii) No additional car parking proposed. However, note the Council's Roads and Traffic Planning Division have no objection to no such additional provision, having regard to the site's location within the Rathmines Town Centre, and proximity to good public transport.
- (b) **Plot Ratio :**
- (i) Note the indicative plot ratio within the Z4 Zone as 2.0.
- (ii) Being a development control management tool re. the bulk and mass of buildings, the proposed hotel extension would result in an increased plot ratio of 3.66 (within the 'blue line' site).
- (iii) Acknowledge that whereas the site already benefits from a higher plot ratio, an identified extenuating consideration for increased plot ration under Section 17.4, argue that –
- the site adjoins good public transport only. It does not adjoin a major public transport termini / corridor, and
 - only additional hotel use is proposed, rather than a mix of uses as the Development Plan sets out.
- (c) **Site Coverage :**
- Noting the existing site coverage of 100%, the proposed hotel extension does not increase coverage.
- (d) **Height Policy :**
- (i) All development proposals require compliance with the Development Plan 2011 height policy.
- (ii) Whereas the applicant argues the proposed development is an extension to the existing 4th floor accommodation, the Planning Authority rather consider the existing plant room as not being hotel / commercial accommodation.
- (iii) Since the previous application refused under **Reg.Ref.No.2812/15**, the Planning Authority note a dance studio now indicated as existing at 4th floor level. Planning Authority clarify no planning history exists for this change of use. Therefore, the Planning Authority remain of view that the de facto 4th floor exists as plant and associated stairwells.
- (iii) The proposed development will result in change from –
- a four storey building, plus roof level plant, to
 - a five storey building, with
 - retail at ground floor level, and
 - four levels of hotel accommodation above.

- (iv) Locationally, Rathmines is located in area designated as a low rise area. Under Section 17.6.2 a maximum of four storeys, residential / commercial is allowed.
- (v) Note taken of the applicant's argument for acceptance of the plant room as an existing level, having regard to Section 17.6.2 which states "... plant rooms are included in the height definition".
However, the Planning Authority whilst acknowledging the inclusion of plant room in the definition for calculation of height, rather argue that in the current instance, the de facto plant area at roof level of the Travelodge, does not constitute a full floor.
Rather, conclude the existing plant area as ancillary space to the main accommodation located on the lower floors
- (e) The key planning policy consideration, under the City Development Plan 2011, is –
 - (i) the extension of hotel space to the 5th storey level, and
 - (ii) the use of this floor for purposes other than ancillary facilities.
- (f) Section 17.6.2 designates Rathmines, located in the Outer City, as in the low rise category. A maximum of four storeys – residential / commercial applies.
The Planning Authority confirm consideration in terms of Variation 14, in terms of which the wording of Section 17.6.2 was amended to broaden the 'office' definition of height within the 'low rise category', to include the mix of uses found in city district centres. Specifically, this includes 'hotel'.
- (g) Under Section 17.6.2 the existing height threshold for sites located in the 'Outer City', such as the application site, is –
 - (i) four storey residential / four storey commercial, and
 - (ii) a maximum height of below 16m.
- (h) Comparatively, the Planning Authority distinguish that whereas at present, no hotel / commercial space exists at 4th storey level, the significant extent of new hotel floor space resulting from the proposed development would be 247m².
- (i) Emphasise the Development Plan 2011 Objective in designating Rathmines as a 'low rise' area (ie. up to four floors), was in order to protect the character and amenities enjoyed in the area.
- (j) Argue the proposed development brings the existing building to five storeys, one storey more than the maximum limit.

However, the Planning Authority do acknowledge that consequent visual impact is reduced compared to the proposal refused planning permission under **Reg.Ref.No.2812/15**. In this regard, point out that visibility from Rathmines Road Lower particularly, is reduced. However, the Planning Authority assert the residential amenity currently enjoyed by the apartments located to the rear / east of the application suite, would be impacted by way of increased overshadowing. Note made that this threat has not been addressed by the applicant.

(k) Further negative visual impact argued, consequent of the extended five storey building, if permitted, directly adjoining the open space of this apartment block residential scheme.

(l) **Conclusion :**

(i) the current application for hotel extension development does not overcome the Council's refusal reasons stated under **Reg.Ref.No.2812/15**, July 2015, for a broadly similar proposed development on this application site.

(ii) as proposed, and weighting reference to the location of Rathmines in the Outer City - low rise category, wherein a maximum of four storeys residential / commercial applies (Section 17.6.2), the hotel extension would materially contravene the current City Development Plan 2011, with respect to height.

(m) **Recommendation :**

That planning permission be refused, because at five storeys in height, the proposed development is outside the parameters of acceptable plot ratio and height, as stipulated in Sections 17.2 and 17.6 respectively, of the Dublin City Development Plan 2011.

(3) **Departmental Technical Reports :**

Roads and Traffic Planning Division : No objection subject to Conditions

Environmental Health : No objection subject to Conditions

Engineering Dept. – Drainage Div. : No objection subject to Conditions

(4) **Prescribed / Statutory Bodies :**

No comments apparent.

(5) **3rd Party Objections / Submissions:**

One 3rd party objection received – ‘The Rathmines Initiative’, addressing the following :

- drawings do not show sufficient contiguous elevations to allow a proper assessment
- the refusal reasons under Reg.Ref.No.2812/15 have not been overcome
- whilst not visible from Rathmines Road Lower, the fourth floor / new floor will be visible from neighbouring and surrounding buildings to the side and rear
- the resultant 5-storey building exceeds the permitted height for buildings in a Z4 zoned area
- existing fourth floor – plant rooms and stair access, cannot be considered an existing floor of accommodation.

5. 1st PARTY GROUNDS OF APPEAL – Smorgs Property Holdings Ltd. (c/o Vincent JP Farry & Co. Ltd. – 26/01/2016) :

- (1) Applicant emphasises and substantiates that subsequent to and directly consequent of the previous, similar application refused planning permission under **Reg.Ref.No.2812/15**, the proposed development has been purposefully revised, now reduced to only 9no. en-suite bedrooms, and with the extension being smaller and more discreetly positioned than that under **Reg.Ref.No.2812/15**. Key components of the downsizing summarised as follows –

Previous Reg.Ref.No.2812/15 - Refused	Current Reg.Reg.No.3957/15
16no. en-suite bedrooms	9no. en-suite bedrooms
391.50m ²	247m ²
Increase in size of premises by c.20%	Size of extension reduced to c.2/3 that previously proposed
Front / western elevation flush with the existing front parapet facing Rathmines Road Lower	Front / western elevation recessed 3.5m-5.1m from the existing front parapet facing Rathmines Road Lower

- (2) Emphasise the following provisions of the Dublin Development Plan 2011 as relevant to the downsized hotel extension, as proposed under **Reg.Reg.No.3957/15** :

17.4 **Plot Ratio** : Whilst the indicative plot ratio standard for Z4 District Centres of 2.0 acknowledged, specific attention drawn to the set of four circumstances under which a higher plot ratio may be permitted.

17.6.1 **Areas Identified as Appropriate for High Buildings** : Whereas the application site location designated as “Rest of Outer City”, weight reference to the supplementary provision that –

“... where a site has a pre-existing height over that stipulated above, a building of the same number of storeys may be permitted subject to assessment against the standards set out elsewhere in the Development Plan”.

17.6.2 **Definition of a High Building** :

<i>Category</i>	<i>Area</i>	<i>Storeys Res / Office</i>	<i>Height (m)</i>
Low-Rise (relates to prevailing local height & context)	Outer City	Up to 4-res / 4-office	Below 13/16m

Relevant to the appeal submission, emphasise that Section 17.6.2 expressly states – “For the sake of clarity, plant rooms are included in the height definition”.

- (3) **Grounds of Appeal** :

(a) Whereas the applicant accepts the principle of Council’s decision to refuse under **Reg.Ref.No.2812/15**, assert disagreement with the actual basis for the decision, to the extent that focus was exclusively on compliance with numeric controls, with subordinate attention to qualitative issues, of which the principal is the visual impact on the Rathmines Road Lower streetscape.

(b) Whilst a material consideration, argue that compliance with Development Plan 2011 Standards is not a goal in itself. Rather, the achievement of the underlying Objectives are considerably more important from a practical perspective.

(c) Further concern argued by the applicant that, whereas the Council included reference to the “amenities of the area” in the refusal reasons, these amenities and associated impacts have

not been identified, nor substantiated in the Council's planning report.

- (d) Emphasise the argument that consequent of the changes and downsizing of the proposed hotel extension, undertaken to mitigate visual impact on the streetscape particularly, such that the revised 3.5m-5.1m setback from the western parapet at this level will result in the extension being invisible from Rathmines Road Lower, "the development for which permission is now sought differs considerably from that which was the subject of Reg.2812/15".

(e) Plot Ratio :

- (i) Existing development on site already exceeds the indicative plot ratio. The downsized extension proposed would increase the plot ratio for the applicant's landholding from 3.4 to 3.6 for the overall site
- (ii) Whilst the issue of material contravention of the Development Plan 2011 arises, the applicant points out that the Development Plan 2011 does not restrict the plot ratio to a maximum of 2.0. Rather, the applicant argues the relevant question is whether or not the proposed extension satisfies the 4no. circumstances or pre-conditions set out at Section 17.4 under which a higher plot ratio may be permitted.
- (iii) the applicant challenges the view apparent by the Council that the proposed hotel extension does not qualify for special consideration under Section 17.4. Argue the Council inadequately applied the single criteria it used in this assessment, that of locational proximity to a major public transport terminus or corridor. Specifically referencing Sections 3.2.3 and 15.10.4 of the Development Plan 2011, and the opinion of Council's Road's Department, the applicant asserts that Council is incorrect in its view that the application site does not adjoin a major public transport terminus or corridor.
- (iv) further argument made that the 4no. pre-conditions set out at Section 17.4, should be distinguished from one another, such that it is not necessary to demonstrate compliance with all 4no. pre-conditions, in order to qualify for increased plot ratio. The applicant is of the view that Council's planning report fails to adequately consider and apply Section 17.4.

- (v) With regard to plot ratio, the applicant concludes the proposed extension “is legally permissible on the basis that it does not materially contravene the provisions of adopted planning policy for this area”. In fact, whereas the Council’s planning report concludes against the proposed hotel extension in this regard, no adverse effect is identified consequent of the plot ratio, as mathematical guideline, being breached to a greater degree than it is at present.
 - (vi) Conclude that as plot ratio standards exist, “not as independent goals, but rather in order to protect town planning features”, the proposed hotel extension is acceptable.
- (f) Building Height :
- (i) Whereas the Development Plan 2011 generally envisages four storey buildings at this location, the applicant questions whether the current downsized hotel extension development would breach adopted policy, which clearly allows for taller structures in circumstances where a site already contains a structure which exceeds the envisaged four storey limit, in this instance.
 - (ii) In this regard weight reference to the fact that Section 17.6.2 clearly states that plant rooms are to be included in the height definition.
 - (iii) Argue that the opinion asserted in Council’s planning report that the existing plant room does not constitute a level, on the basis firstly of its use as a plant room and secondly that as a pop-up feature, it covers a limited area, clearly conflicts with the adopted policy text set out in the Development Plan 2011. Rather, the Development Plan 2011 “specifically states that such ancillary areas, including plant rooms, should be taken into account when calculating the number of storeys in a particular building.
 - (iv) Whilst the planning report addresses height levels, the applicant argues the report overlooks the fact that under Section 17.6 of the Development Plan 2011, allowance is enabled for new space to be created, in breach of the existing four storey limit locally, and where no new level is being created.
Therefore, put another way, the Development Plan clearly establishes, that where an existing building already

exceeds the number of floors prescribed for the location, a development can be permitted where no additional levels are being created.

In fact, the applicant points out that the Development Plan 2011 text “explicitly emphasises that a floor which contains a plant room should be treated as an existing level”.

- (v) Accordingly, because the hotel extension is to be built at the same level as the existing plant room, and because ancillary features are included within the height definition, the applicant argues that it logically follows that the proposed development would not involve the creation of a new level and therefore would not breach the height control statutorily applicable to this site.
- (vi) Conclude contrary to Council’s stated Refusal Reason No.1 that the proposed development does not contravene the provisions of the Development Plan 2011.
- (g) Visual Impact on the Rathmines Road Lower Streetscape :
 - (i) Applicant reiterates argument that the Planning Authority have not substantively linked the proposed hotel extension, directly, with any consequent negative amenity impact locally. Specific reference made to threat of negative visual externality, on the Rathmines Road Lower streetscape.
 - (ii) Emphasise the mitigation enabled by the revised, downsized proposed extension, set back 3.5m – 5.1m from the existing front parapet facing Rathmines Road Lower.
 - (iii) Having detailed regard to all of the northern, western, southern and eastern views, conclude that at best the proposed hotel extension would be invisible, or at worst when viewed from residential apartment units from the east, significant existing roof level screening ensures no disproportionate visual impact.
 - (iv) Further, contest the Planning Authority’s suggestion that residential amenity to the east is potentially threatened consequent of increased overshadowing. In this regard the applicant points out the height of the extension would be only 1.5m above the existing parapet wall, and that de facto mitigation exists consequent of the scale and mass

of the apartment blocks, each and all of which enclose and dominate this amenity area.

(h) Conclusion :

- (i) Affirm concern at Council's sole reliance on the need to satisfy certain numerical controls and standards, in substantiating its decisions to refuse planning permission.
- (ii) Rather, any application for a rooftop extension should be decided on the evaluation of real visual amenity impact. Affirm that such consideration of visual impact, substantively informed their current revised and downsized application
- (iii) Accordingly, the extension now proposed is smaller than that previously proposed and refused. This reduction in scale enables an hotel extension which would be largely invisible to passers-by.
- (iv) Invite that the Board –
 - acknowledge the changes made to the proposed hotel extension
 - apply the actual text of the Dublin City Development Plan 2011, as written, and
 - conclude that no sufficient harm to local amenity would result, warranting a refusal.

6. RESPONSES TO THE 3rd PARTY GROUNDS OF APPEAL :

(1) **Planning Authority Response – 03/02/2016 :**

- Affirm the substantive planning matters discussed, and the refusal reasons recommended, as set out in the planning report.
- Request the Board uphold the decision of the Planning Authority.

7. POLICY CONTEXT :

Dublin City Dev. Plan (2011 – 2017):

15.10 Primary Land-Use Zoning Categories:

Land-Use Zoning Objective 'Z4' – 'District Centres' – "To provide for and improve mixed-services facilities".

The General Objective incl. – "... new development should enhance their attractiveness and safety for pedestrians and a diversity of uses should be promoted, to maintain their vitality throughout the day and evening. In this regard, opportunity should be taken to use the levels above ground level for

additional commercial / retail / services or residential use with appropriate social facilities ...” (pg.195).

‘Z4’ Permissible Uses – Hotel.

17.4 Plot Ratio :

Indicative Plot Ratio Standard for the Z4 District Centres Zone – 2.0

17.4 Site Coverage :

Indicative Site Coverage for the Z4 District Centres Zone – 80%

17.6.1 Areas Identified as Appropriate for High Buildings :

Incl. Fig.21 – Building Height in Dublin

17.6.2 Definition of a High Building :

<i>Category</i>	<i>Area</i>	<i>Storeys Res / Office</i>	<i>Height (m)</i>
Low-Rise (relates to prevailing local height & context)	Outer City	Up to 4-res / 4-office	Below 13/16m

17.6.3 Assessment Criteria for High Buildings :

- Includes following
- Urban Form and Spatial Criteria
 - Environmental / **Sustainable** Criteria
 - Social Criteria
 - Economic Criteria
 - Transport and Movement Criteria
 - Cultural Criteria

See copies of relevant extracts attached.

8. ASSESSMENT :

(1) I have examined the file and available planning history, considered the prevailing local and national policies, physically inspected the site and assessed the proposal and all of the submissions. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application.

I believe that the relevant planning issues relate to :

- (a) Principle and location of the proposed development.
- (b) ‘Storeys’ vs. ‘Building Height’ – Section 17.6.2 and the Travelodge Building.
- (c) Plot Ratio.
- (d) Visual Impact on the Rathmines Road Lower Streetscape.

- (e) Residential Amenity Impact – Parker Hill apartment complex.
- (f) Appropriate Assessment.

(2) **Principle and location of the proposed development :**

I believe the planning ‘principle’ of hotel development on Rathmines Road Lower has been reasonably established. Clearly zoned “Z4 – ‘District Centres’ – To provide for and improve mixed-services facilities”, the applicable zoning matrix designates ‘hotel’ land use as being ‘permissible’ within the zone Z4 (see para.7 above, together with the copy of the relevant section of the ‘Zoning Objectives Map’ attached). I do not believe that any of the Planning Authority or 3rd Party Objector interests contest this. However, in terms of the applicable Z4 zoning objective, the primary consideration is to, whilst enabling mixed use development, ensure that new development enhances the attractiveness and safety of District Centres such as at Rathmines, for pedestrians, and that a diversity of uses be promoted, thereby maintaining their vitality throughout the day and evening. I note that the proposed hotel extension development maintains the active retail use at ground floor level in accordance with this objective.

Whilst a modest extension to the existing Travelodge Hotel, seeking to consolidate and optimise tourist accommodation on site, I believe the proposed development reasonably complies with the Z4 Zoning Objective. However, compliance is required with supplementary policies, objectives and standards set out in the Dublin City Development Plan 2011. Specifically, and in concurrence with the prioritisation given by the Planning Authority, these are principally related to ‘Building Height’ / ‘No. of Storeys’ (Section 17.6.2) and ‘Plot Ration’ (Section 17.4).

(3) **Storeys vs. Building Height – Section 17.6.2 and the Travelodge Building :**

I share the Planning Authority conviction that the key, material planning consideration under the Dublin City Development Plan 2011, is the compliance, or not, of the proposed extension of Travelodge Hotel accommodation space at the 5th storey level, and the use of this new storey for purposes other than ancillary facilities.

Rathmines Town Centre is located in an area designated at Fig 21 – Building Height in Dublin, of the City Development Plan 2011, as a ‘Low Rise Area’. Under Section 17.6.2 a maximum of four storeys, residential / commercial is allowed. Section 17.6.2 further restricts the

maximum height of 'low rise' buildings located within the 'Outer City' to below 13/16m. Of specific relevance to the applicant's arguments regarding building height management, Section 17.6.2 expressly states that, "for the sake of clarity, plant rooms are included in the height definition". Curiously, I note that as shown by the applicant at Drawing No.01-P200 – 'Existing Front (West) Elevation', dated 02/10/2015 and prepared by John P Delaney Architects Ltd., the existing height of the Travelodge Building is c.17.8m, inclusive of the Plant Room. Notably, this existing c.17.8m building height, already exceeds the 13/16m cap set out under Section 17.6.2.

Clearly, all development requires compliance with the City Development Plan 2011, height policy, as prescribed by Section 17.6.2 – 'Definition of a High Building'. The proposed development will result in change from the current four storey building, plus roof level plant, to a five storey building, with retail at ground floor level and four floor levels of hotel accommodation above. The applicant seeks to justify exceeding the four storey restriction by arguing that the new floor simply replaces the existing plant room and dance studio, and does not therefore represent an increase in height. The applicant, in substantiating the case in favour of the proposed roof top hotel extension development, relies on the supplementary clarity provided at Section 17.6.2, that plant rooms are included in height definition. A plant room, passageway and associated services infrastructure certainly exist at roof top level of the Travelodge. These can clearly be seen at photographs no. 10-12, taken at the time of site visit.

Whereas, the applicant argues for acceptance of the plant room as an existing floor level of the Travelodge Building, under Section 17.6.2, I rather consider the existing plant room and ancillary spaces as not being hotel / commercial accommodation space, and certainly as not constituting a full floor. In fact, I consider the existing plant area as being ancillary space to the main hotel tourist accommodation located on the lower floors (ie. existing three storeys hotel accommodation and one storey retail). I share the conviction argued by the Planning Authority in this regard.

Neither do I believe the existence of an established dance studio adjacent the plant room, at roof level, can be reasonably considered as part of the hotel / commercial accommodation (see Drawing No.P099, dated 02/10/2015, prepared by John P Delaney Architect's Ltd.), and

enabling the applicant's case for consolidation of a de facto fifth storey level, in favour of the proposed development (see photographs no. 10-12). I note the clarification made by the Planning Authority that, whereas the existing dance studio is accurately shown in current Drawing No.P099, it did not comprise part of the series of drawings included in the previous application refused planning permission under **Reg.Ref.No.2812/15**. Further, the Planning Authority clarify that no planning history exists substantiating this change of use, adjacent the plant room. I accordingly sustain the Planning Authority view that the existing roof top level of the Travelodge building exists as a plant room and associated plant and passageway / stairwell.

Whereas Section 17.6.2 certainly includes 'plant rooms' in the height definition of a building, I do not agree with the argument made by the applicant that such plant room and associated space therefore be taken into account when calculating the number of storeys in a particular building. In my view, utility spaces such as plant rooms, and existing storeys or floor levels comprising a building, exist separately. Indeed, contrary to the applicant's advocacy that the intentions of the City Development Plan 2011, at Section 17.6.2 runs from the height cap, backwards to the number of storeys, I rather believe that the intended and more plausible understanding is the other way around. Therefore, in the current case at the Travelodge building, Rathmines Road Lower, four storeys is the cap, and the 13/16m range of heights cited, give physical expression to the maximum of four storeys, inclusive of plant rooms, if located at roof level. Expressed another way, if the existing four storeys were 16m in height, then the plant room would have required accommodation at basement level for example, in order to ensure proper compliance with Section 17.6.2.

Clearly then, and contrary to the advocacy by the applicant, plant rooms are excluded in the determination of the number of storeys comprising a building. Put simply, in my view, 'storey' trumps 'height' under Section 17.6.2. In this regard I draw the Board's attention to its own previous considerations and decision to refuse planning permission similarly on 1st Party Appeal, for a comparable reason under **Reg.Ref.No.PL29S.245042**.

Accordingly, as proposed, the hotel extension development would result in change from a four storey building, plus roof level plant room, to a five storey building, with retail use at ground floor level, and four levels of hotel accommodation above. Such development would

materially contravene in my view, the applicable low rise height strategy at this Rathmines 'outer city' location, intended by Section 17.6.2, which places a cap of four storeys on the Travelodge Building.

As discussed at 8(5) and (6) below, whereas in the current case, and weighting regard to the applicant's revised and downsized development proposal consequent of the previous refusal decision by Dublin City Council under **Reg.Ref.No.2812/15**, such contravention would not have adverse contextual visual and residential amenity implications, to grant planning permission in accordance with the applicant's motivations would, in my view, entail a departure from the Dublin City Development Plan 2011 convention for the calculation of the number of storeys comprised within a development proposal. Such a departure would create an undesirable, adverse precedent that would risk undermining the City Development Plan 2011 height strategy as provided at Section 17.6.2.

I am certainly empathetic to the applicant's frustrations consequent of another recommendation to refuse planning permission, and recognising the good faith revision to, and downsizing of the previous application refused under **Reg.Ref.No.2812/15**. However, until the City Development Plan 2011 is revised or amended as part of the anticipated statutory Development Plan Revision process, at Section 17.6.2, to either absolutely remove potential for ambiguity in the 'storey' vs. 'height' debate, or to consolidate determination of height around one only, of these factors, Planning Authorities at present are compelled to give attention to the application of planning policy, as currently written at Section 17.6.2 of the Dublin City Development Plan 2011, only. Certainty and consistency in this regard, is expected by both investors / developers', and members' of civil society.

I recommend to the Board on this basis.

Having regard to the above, I do reflect on the applicant's sustained objection to and arguments against the Dublin City Council's Refusal Reasons both under previous **Reg.Ref.No.2812/15**, and in the current case **Reg.Ref.No.3957/15**, as being based on "mathematical", rather than "amenity" reasons. In fact, the applicant argues that the appeal should turn on the real, practical impact of the proposed extension to the Travelodge Building, rather than issues of compliance with adopted Standards. I understand the applicant's frustrations, particularly noting that no disproportionate negative visual and / or residential amenity

impact has been reasonably demonstrated by the applicant, consequent of the proposed extension. However, as frustrating as it might be, the keystone requirement for compliance, before consideration of qualitative, secondary impacts, is the maximum four storey cap prescribed for designated 'low rise' areas within the 'outer city', under Section 17.6.2.

Unfortunately for the applicant, the proposed hotel extension development fails this "mathematical" test.

(4) **Plot Ratio :**

Existing development on site comprising the Travelodge Building, already exceeds the indicative Plot Ratio Standard of 2.0, prescribed at Section 17.4 of the City Development Plan 2011. I note the clarity provided by the applicant that the downsized rooftop extension proposed would increase the plot ratio for the applicant's existing development from 3.4, to 3.6 for the overall site.

Whilst noting the existing 3.4 plot ratio, the City Development Plan 2011 does not further restrict the plot ratio, and by consequence the potential for further development of the Travelodge Building.

Rather, in contemplating such potential viability, Section 17.4 itself enables assessment of any potential further development, against four circumstances or pre-conditions prescribed at Section 17.4, the satisfaction of which may enable a higher plot ratio to be permitted. Of these four pre-conditions, the applicant already is clearly compliant with one, "where a site already has the benefit of a higher plot ratio".

Further, and contrary to the Planning Authority arguments, I share the applicant's conviction that locationally, the Travelodge Building satisfactorily adjoins a major public transport terminus / corridor.

Whilst making the argument with respect to threat of negative visual impact on the Rathmines Road Lower 'streetscape', I also agree with the applicant's conviction that no disproportionate negative visual impact will result on this streetscape, consequent of the proposed development. Thereby the pre-condition under Section 17.4, of maintaining the existing streetscape profile, is ensured. In my view therefore, compliance with three of the four pre-conditions is achieved, for favourable consideration of higher plot ratio. In this regard I agree with the applicant's argument as reasonable, that these pre-conditions exist separately, and that it is not necessary to demonstrate compliance with all four pre-conditions, in order to qualify for increased plot ratio.

However, and unfortunately for the applicant, I assert the view that even before compliance, or not, with the four pre-condition's set out at Section 17.4 can be agreed, the keystone requirement for compliance, is the maximum four storey cap prescribed for designated 'low rise' areas within the 'outer city', under Section 17.6.2. As concluded at 8(3) above, unfortunately for the applicant, the proposed hotel extension development fails this "mathematical" test.

In my view, these tests of the proposed development against the 'storey' vs. 'height' (Section 17.6.2) and 'plot ratio' (Section 17.4) provisions of the Dublin City Development Plan 2011, are sequential. In fact, without demonstrated compliance with the four storey height cap prescribed at Section 17.6.2, I have reservation as to whether the applicant's arguments satisfactorily demonstrating compliance with the four pre-conditions under which higher plot ratio may be permitted, are of any use to the applicant's case at all. In this regard, the applicant does correctly argue that plot ratio standards exist, "not as independent goals".

On this basis, I am inclined to the view that refusal reason no. 2 could in fact be omitted, were the Board to be so inclined.

(5) **Visual Impact on the Rathmines Road Lower Streetscape :**

The sense of place of the Rathmines Town Centre is clearly influenced by the architectural style, design, and general finishing with respect to materials and colouring of the existing four storey buildings, all set in a local topographical and environmental context along Rathmines Road Lower. The Travelodge Building is located at the southern end of a block, fronting onto the eastern side of Rathmines Road Lower, at its junction with Parker Hill. See photographs attached taken at the time of site inspection.

The historical background to, and the evolution of the Rathmines Town Centre built form has clearly informed its designation as a low rise area within the outer city, with a maximum height cap of four storeys. Change management of this unique built environment, has generally been in accordance with Section 17.6.2 of the City Development Plan 2011, and specifically with respect to the low rise streetscape.

I have had reference to the applicant's previous application for a similar development under **Reg.Ref.No.2812/15**, and which was refused planning permission by Dublin City Council for two refusal reasons. In

direct response to these refusal reasons, and with specific attention to the mitigation of visual impact on the streetscape, I note the changes and downsizing of the proposed hotel extension, made by the applicant, to the extent that the development for which permission is now sought, differs considerably from that which was the subject of **Reg.Ref.No.2812/15**. In this regard, the applicant correctly prioritises reference to the 3.5m-5.1m setback from the western parapet at this level, with a corresponding reduction in floor to ceiling height on this new storey.

I have taken note of the established, contextual scale and pattern of development along Rathmines Road Lower generally, and proximate to the Travelodge Building specifically. What is certain in my view, is that as one moves along Rathmines Road Lower, no significant or disproportionate visibility would be reasonably possible at all of the proposed development from all of the northern, western, southern and eastern views. In this regard I draw the Boards attention to all of Drawing P203 – ‘Existing and Proposed North Facing Sectional Elevations, dated 02/10/2015, prepared by John P Delaney Architects Ltd., to the series of ‘Existing Site Photographs’ and ‘Photomontage Views’ – 01 P500 to 01 P503, dated 17/09/2015, and to the photograph series attached, taken at the time of my own physical inspection. These photographs include both street views, as well as views from the existing Travelodge Building roof level. I certainly share the applicant’s conviction that at best the proposed hotel extension would be invisible, or at worst, when viewed from within the Parker Hill apartment complex to the east, significant existing roof level screening ensures no disproportionate visual impact.

I therefore conclude that the proposed roof level extension to the Travelodge Building would have no disproportionate bearing on the established unique character and streetscape of Rathmines Road Lower, in accordance with the Z4 zoning objective and the proper planning and sustainable development of the area.

However, as concluded at 8(4) above, I affirm the view that without demonstrated compliance with the four storey height cap prescribed at Section 17.6.2, the applicant’s arguments satisfactorily demonstrating successful mitigation of visual amenity impact, are of no use to the applicant’s case in favour of the proposed development.

I recommend to the Board accordingly.

(6) **Residential Amenity Impact – Parker Hill apartment complex:**

In as much as I understand residential amenity values as referring to those natural or physical qualities and architectural characteristics of the Parker Hill apartment complex, that contribute to residents appreciation of its pleasantness, liveability and its aesthetic coherence, I believe that the proposed new modest extension at roof level to the Travelodge Building, will have no serious, or disproportionate negative impact on this prevailing residential amenity generally, and with specific reference to any specific apartment block within the complex, or any individual apartment unit. Certainly in my view, having thoroughly inspected the apartment complex in itself, as well as from the roof of the Travelodge building looking eastward over the Parker Hill complex, their residential amenity will be no worse off than what they currently enjoy.

I express this view having had regard to the threat of increased overshadowing, which was emphasised by the Planning Authority in its deliberations, without substantiating exactly how such threat would be manifest. In response I note the applicant points out that the height of the extension would be only 1.5m above the existing parapet wall, and that de facto mitigation exists consequent of the scale and mass of the existing apartment blocks themselves, each and all of which enclose and dominate this amenity area. In my view, no disproportionate increase in overshadowing will result from the proposed development.

Accordingly, I believe the Planning Authority arguments against the proposed development, on this basis, cannot be sustained.

(7) **Appropriate Assessment :**

Having regard to the nature and scale of the proposed development, to the location of the site in a fully serviced, mixed use urban environment, and to the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9. RECOMMENDATION :

Having regard to all of the above, I recommend that permission be REFUSED in accordance with the following Schedule :

REASONS AND CONSIDERATIONS

Having regard to the provisions of the Dublin City Development Plan 2011-2017 in relation to 'Taller Buildings as Part of the Urban Form and Spatial Structure of Dublin' and in particular to Policy SC17 which seeks to "protect and enhance the intrinsic quality of Dublin as a predominantly low-rise city and to provide for taller buildings in the designated limited locations", and Section 17.6.2 and variation 14 which, inter alia, defines the height for commercial development in 'Outer City' areas as being up to 4 storeys and below 16 metres, it is considered that the proposed development would exceed the defined height identified for Outer City locations, would not be carried out in a designated location for increased building height and would contravene Policy SC17 and Section 17.6.2 and Variation 14 of the Dublin City Development Plan 2011-2017. The proposed development would, therefore, seriously injure amenities of the area and would be contrary to provisions of the Dublin City Development Plan 2011 – 2017 and to the proper planning and sustainable development of the area.

Leslie Howard
Planning Inspector
31/05/2016