



An
Bord
Pleanála

Inspector's Report PL29S.247874.

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| Development | Demolition of buildings and erection of apartment building in 2 blocks containing 14 apartments, parking and associated works. |
| Location | 189 & 190, Rathgar Road D 6. |
| Planning Authority | Dublin City Council. |
| Planning Authority Reg. Ref. | 3963/16. |
| Applicant(s) | Frank Mc Nerney. |
| Type of Application | Permission. |
| Planning Authority Decision | Grant. |
| Type of Appeal | Third Party. |
| Appellant(s) | Rathgar Residents' Association. |
| Observer(s) | None. |
| Date of Site Inspection | 03 rd of April 2017. |
| Inspector | Karen Hamilton. |

1.0 Site Location and Description

- 1.1. The subject site is located along the eastern side of the main Rathgar Road, radiating south of Rathmines, Dublin 6. The Rathgar Road includes a mix of residential and commercial properties. The 2 storey dwellings on either side of the subject site have been converted in part to commercial. There is an Esso garage and 3 storey apartment building on the opposite side of Rathgar Road and directly to the rear of the site is a commercial carpark adjoining a four storey apartment development.
- 1.2. There is currently two semi-detached (No 189 and 190), two and half storey dwellings, one of which has been converted into 5 apartments. Vehicular access to both of the dwellings is directly off the main road, with private off street parking to the front, and large private gardens to the rear bound by leylandi trees along the southern boundary.

2.0 Proposed Development

- 2.1. The proposed development may be summarised as follows:
 - Demolition of No 189 (2 storey semi-detached with 5 apartments) and No 190 Rathgar (2 storey semi-detached dwelling) (584.22m²);
 - Construction of two apartment buildings (2,110m²), 3 storey at front and 4 storey at rear, interconnected, to include 14 apartments;
 - Alterations to the front boundary with widening of existing entrance;
 - Provision of 15 basement parking spaces and 2 ground level parking spaces;
 - Associated works includes waste, cycle parking and landscaping.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Grant Permission subject to 17 conditions, those of note include:

C 6: Separate drainage connections and compliance with the flood risk impact assessment;

C 10: No additional works shall be undertaken above roof level without prior grant of permission.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission and notes the objections received and the guidance of the development plan.

3.2.2. Other Technical Reports

Drainage Division- No objection subject to conditions

Roads and Traffic Planning Division- No objection subject to conditions

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

One observation was received from the appellants and the issues raised have been addressed in the grounds of appeal.

4.0 **Planning History**

PL29S.245893 (Reg Ref. 3308/15)

Permission granted for demolition of No 189 & 190 Rathgar Road construction of a 3 storey apartments building with 9 apartments and associated site works.

PL3.105692 (3106/97)

Permission refused for two town houses to the rear of No 189 & 190 Rathgar Road for reasons of inadequate road frontage, impact on the existing dwellings and overdevelopment of the site.

5.0 Policy Context

5.1. National

Architectural Heritage Guidelines for Planning Authorities, 2004. Development guidelines for Protected Structures and Areas of Architectural Conservation.

Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DoEHLG)

Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (DEHLG, 2007).

- Section 5.3.2: Space requirements and room sizes.

5.2. Dublin City Development Plan 2016-2022

The site is zoned in Z 1 where it is an objective "*To protect and/or improve the amenities of residential amenities*".

Demolition and Re-use of Housing

Section 5.5.8 The demolition of existing housing is generally discouraged on sustainability grounds and it may lead to a loss of residential accommodation and streetscape character.

QH23: To discourage the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied, and a net increase in the number of dwelling units is provided in order to promote sustainable development by making efficient use of scarce urban land.

New apartment development.

Section 16.5 and 16.6: Plot Ratio and site coverage for Z1 lands are 0.5-2.0 and 15-60% respectively.

Section 16.10.1: Residential Quality Standards- Apartments

Section 16.10.2: Residential Quality Standards for dwellings include but not restricted to separation distance of 22m to rear between first floor rear windows, open space provision of 10m² per bed space.

Section 16.10.10 Infill Development: Promote the development of underutilised inner and outer city lands. Proposals shall respect the character, building lines etc of the surrounding areas.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted from the surrounding Residents' Association and the issues raised may be summarised as follows:

- There is no case for the demolition of the two dwellings and it is argued they form part of a Victorian integrated unit; these should be restored.
- Reference is provided to works on the alteration of No 185 Rathar Road, a protected structure.
- The proposed development includes an inappropriate density and is an increase in size and bulk from a previously granted inappropriate development.
- There is no precedence for three storey structures or similar developments along Rathgar Road.
- The site has different characteristics to Rathmines and should not be assessed the same, there is undesirable development evident within Rathmines.
- There will be overlooking onto neighbouring properties.
- The site is located at a busy junction opposite a petrol station, the intensification at this location will cause a traffic hazard.
- The size of some of the units are substandard.

6.2. Applicant Response

An agent on behalf of the applicant has submitted a response to the grounds of appeal which may be summarised as follows:

- There is an existing permission on the site PL29S.245893 and the new application is submitted to be in line with the revised apartment guidelines 2015.
- It is argued that only issues relating to a modification to previous permission may be considered as per Section 34, 3 (A) of the Act.
- The argument for demolishing the buildings has been put forward and accepted under PL29S.245893, they are not listed and not included in a conservation area.
- Extensive preplanning was undertaken prior to the submission of the initial planning application and the retention of the dwellings was deemed not feasible.
- The reintroduction of granted and wrought iron railings is not appropriate or necessary at this location.
- The modern infill development is appropriate at this location and there was no objection from the Roads or Drainage Section.
- The subject site is within the Rathmines Key District Centre (KDC 7).

6.3. **Planning Authority Response**

None received.

6.4. **Observations**

None received.

6.5. **Further Responses**

A further response was received from the appellants on the submission from the applicant which reiterates the issues raised in the grounds of appeal and refers to the following:

- The structure does not have to be a protected structure to be retained and the dwellings are one of the oldest along the Rathgar Road and add to the streetscape.

- The reference to the Rathmines is not relevant for this site and there are poor examples of planning within this centre and in the vicinity. The recent developments should not be used as reference points for future proposals.

7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:

- Planning History
- Visual Amenity
- Residential Amenity
- Development Standards
- Access and Parking
- Appropriate Assessment

Planning History

7.2. Planning permission PL29S.245893 was granted for demolition of No 189 and No 190 Rathgar Road and the construction of a three storey apartment block comprising 9 apartments and associated works. The grounds of appeal argue that although this previous permission was inappropriate it was of a lesser scale than the proposed development. I note the report of the inspector refers to acceptance of the principle of development, justification for demolition, design and layout and access and traffic and I consider this is still reasonable. The impact of the increase in density and visual and residential amenity is further considered below.

7.3. The applicant's response to the grounds of appeal refers to Section 34, 3 (A) of the Act where the modifications to a permitted development, which are required for compliance with the updated *Design Standards for New Apartments – Guidelines for Planning Authorities* (DoEHLG), shall only be assessed and not the entire proposal. I note the overall footprint of the proposed development is similar to PL29S.245893, although the number of apartments has been increased from 9 to 15, layout and design have been amended. In addition to this, the development description of proposed development does not relate to modifications to a previous grant of

permission, therefore I do not consider Section 34 of the Act applies to the proposed development and the proposal can be assessed *de novo*.

Visual Amenity

- 7.4. The proposed development includes the demolition of two semi-detached dwellings dating to early 1900s. There is an Esso garage directly opposite the site along the Rathgar Road and buildings in the vicinity range in style and design. The site is situated close to the edge of Rathmines Village. The grounds of appeal argue the existing dwellings contribute to the visual amenity of Rathgar Road and the demolition of these will have a negative impact on the surrounding area. I will address the impact of the demolition and the design of the rebuild separately below.
- 7.5. Justification for demolition: The grounds of appeal argue the current dwellings contain architectural merit, therefore to demolish would have a negative impact on the surrounding area. The subject site is not located within a conservation area. The applicant has submitted a Conservation Report and Impact Statement on the demolition of No 189 and 190 Rathgar Road. The report includes an inventory on the features of interest within the current buildings, refers to Chapter 16 of the *Architectural Heritage Guidelines for Planning Authorities* and concludes with a statement that the current building does not contain any high quality fabric. I have assessed the submitted report and I consider the information contained is acceptable. Therefore, I consider the removal of the dwellings will not have a negative impact on the streetscape, subject to the replacement with a high quality development which I will address further below.
- 7.6. Design and Layout: The main elevation of the proposed development will front onto the Rathgar Road and follows the same building line as the adjoining dwellings. The height of the elevation has the same ridge height as the adjoining dwellings, with an additional setback (approx. 1m) for the second floor and terrace balcony. The design is contemporary with large windows and red brick finish. The rear 4 storey block has a similar design and connected via a 3 storey link. The elevational treatment along Rathgar Road is similar in style to PL29S.245893, this was accepted by the inspector and the Board. I consider the design of the treatment onto the Rathgar Road is generally in keeping with the scale of those buildings along the road and I do not consider it would have a negative impact on the streetscape.

Residential Amenity

- 7.7. The two storey dwelling, to the north of the site has been subdivided into apartments. The building to the south, previously a dwelling, now operates as a dentist and to the rear of this is a mews dwelling accessed through the apartment development to the east of the site. A four storey apartment development backs onto the rear of the subject site. The grounds of appeal state the proposed development will have a negative impact on the surrounding area due to the inappropriate scale, mass and overlooking which I have addressed separately below.
- 7.8. Overlooking: The front apartment block includes a roof terrace on the second floor facing onto Rathgar Road and one balcony to the rear on the first floor which includes a 1.9m high block screen wall. The rear 3 storey apartment block includes balconies along the south for apartments No 8 and 9. These balconies include 1.9m high block walls along the east and 1.2m high opaque glazing along the south. The applicant argues the use of landscaping along the southern boundary will mitigate against any overlooking onto the existing mews dwelling. I note the location of the mews dwelling 17m from the proposed apartments and the windows serving the landing and bathrooms. In addition to this I have assessed the landscaping proposal and do not accept that a robust planting scheme along the southern boundary has been proposed, although I consider this can be conditioned. Therefore, based on the separation distance to the two storey mews dwelling and the inclusion of a mature planting scheme, I do not consider the proposed development would cause any overlooking on adjoining residential properties.
- 7.9. Overbearing: I have addressed the impact on the design of the three storey apartment block along the Rathgar Road above. The proposal includes an additional 5 apartments from PL29S.245893 which are mostly accommodated in the additional four storey block to the rear. The majority of lands to the rear of the site are either in commercial use or open space associated with the apartment development. The rear apartment block is located approx. 17m from the mews dwelling to the south and will not result in a significant loss of outlook to that property.
- 7.10. Overshadowing: The proposal is located to the north of a two storey dwelling and south of a mixture of rear gardens and commercial carpark. Shadow projection drawings accompanied the planning application. I note the rear block will cast

shadow on a part of the rear gardens of dwellings in Rathmines in the evening in the winter and autumn months which I consider will not have a significant negative effect on the residential amenity of these properties.

Development Standards

- 7.11. The grounds of appeal argue the proposal includes substandard accommodation and inappropriate density for the location. The applicant argues the proposal complies with the standards for residential units in the development plan are based on the requirements of the *Quality Housing for Sustainable Communities- Best Practice Guidelines for Delivering Homes Sustaining Communities for dwellings and Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities for apartments*.

Internal dimensions: The applicant has submitted a schedule indicating compliance with the minimum floor area requirements of the national standards and development plan. I have assessed these and consider they are in line with Section 16.10.1 of the development plan.

Separation distance: Section 16.10.2 of the development plan includes a requirement for 22m between opposing first floor rear windows, although a shorter distance is acceptable where the proposal fronts onto landing or rooms which do not require the same level of privacy. I note the separation distance of the windows along the southern elevation are 17m from the closest dwelling. These windows have been tilted to prevent direct overlooking into the first floor landing space and I consider this separation distance reasonable.

Open Space: Section 16.10.2 of the development plan requires the provision of open space provision of 10m² per bed space. The proposed development includes 606m² for both private and communal open space. There are 54 bed spaces, therefore 11.2m² is allocated per bedspace. I consider the allocation of private open space useable, and sufficient to comply with the development standards.

Plot Ratio and Site Coverage: The plot ratio for the proposed development is 1:1.65 and is within the required range for Z1 (0.5-2.0). The site coverage is 42.5% and within the required range (45-65%). Therefore, I consider the plot ratio and site coverage are acceptable.

Access and Car parking.

7.12. The vehicular access into the site from the Rathgar Road is similar to the access permitted in PL29S.245893 and includes the widening of the existing access into No 189 to 4.6m and the decommissioning of the access into No 190. This proposal accommodates 15 basement car parking spaces and 2 ground level spaces. Table 16.1 of the development plan provides guidance for 1.5 per dwelling, as a maximum, and refers to the reduction in the requirement for spaces for apartments as other modes of transport are promoted. I note the report of the Roads and Traffic Section has no objection to the proposal and refers to the conditions attached to PL29S.245893 for the use of traffic signals for the basement carpark, construction management plan for traffic etc. and the permanent allocation of one space per residential unit. Therefore, based on the widening of the existing access and the inclusion of a condition requiring the use of traffic signals for the basement car parking, I consider the access and car parking is acceptable.

Appropriate Assessment

7.13. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest 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 the conservation objectives of any European site.

8.0 Recommendation

8.1. Having regard to the above it is recommended that permission be granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity or endanger public safety by reason of traffic

hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.

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 - a) The proposed one-way basement ramp shall be controlled by traffic signals, the details of which shall be agreed in writing with the planning authority.
 - b) One car parking space shall be permanently allocated to each residential unit and numbered as such. Spaces shall not be sold, leased or sub-leased or otherwise assigned space to the use as residential.

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

- 3 The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including traffic management, hours of working, noise management measures and off-site disposal of

construction/demolition waste.

Reason: In the interests of public safety and residential amenity

4. Site development and building works shall be carried out only between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will 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.

- 5 (a) In addition to the submitted landscaping proposal, a scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the rear southern boundary consisting predominantly of mature trees, capable of growing to the minimum height of three metres. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works

(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five 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 order to screen the development, in the interest of visual amenity.

- 6 Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

- 7 Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

- 8 The developer shall pay to 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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

Karen Hamilton
Planning Inspector

24th of April 2017