



An
Bord
Pleanála

Inspector's Report PL295.248772

Development	Modifications to Reg.Ref. 3215/16. to consist of increase of site boundary to include 6 Rathgar Road, fire escape corridor, omit entrance doors, roof lights, works to shopfront and façade
Location	6-9 Rathgar Road, Rathmines, D6
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2623/17
Applicant(s)	Liam Lenehan & Josta Ltd
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	John Brady
Observer(s)	None
Date of Site Inspection	18 September 2017
Inspector	Una O'Neill

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1.0 Site Location and Description

- 1.1. The appeal site is located on the northern side of Rathgar Road, in proximity to the junction of Rathmines Road Upper and Rathmines Road Lower, in a predominantly commercial area, in Dublin 6.
- 1.2. A linear strip of commercial premises are located along this section of Rathgar Road, including at ground floor level a mix of retail, office, restaurant, take-away and public house uses.
- 1.3. The site contains two buildings; a mid-terrace 2-storey building, previously known as Lenehans Hardware (No. 7-9), and the adjoining single storey building (No. 6), which comprises a vacant barber shop. Renovation has commenced on the site in accordance with previous permission Reg.Ref. 3215/16. The appeal site is bounded by 'Graces' public house to the northeast, a cafe to the southwest, and to the rear/northwest a yard associated with a commercial property known as 'Malcoms Towbar Repairs'. Located opposite the appeal site is Rathmines Garda Station.

2.0 Proposed Development

The applicant for the proposed development is proposing an extension and a number of modifications to previously granted planning permission Reg.Ref. 3215/16, details of which are summarised hereunder:

- Raising of a section of the single storey flat roof to the centre of the building, to provide a double height space over the ground floor kitchen;
- Increase of the site boundary to include no. 6 Rathgar Road and a fire escape corridor from the rear yard of nos. 7-9 Rathgar Road;
- Works to the shopfront and facade of nos. 7-9 Rathgar Road
- Creation of a terrace at first floor level over no. 6 Rathgar Road;
- Works to the perimeter walls of this proposed terrace
- Raising the level of the rear yard for use as a terrace and works to its perimeter walls

3.0 Planning Authority Decision

3.1. Decision

Grant permission, subject to 8 conditions, including the following:

- C2 a) *...brickwork wall at No. 6 Rathgar Road shall be lowered in height so as there remains a clear distinction between this unit and the unit located at 7-9 Rathgar Road. The perforated brickwork on this elevation shall also be omitted. ..*

b) The brickwork at first floor level No. 6 Rathgar Road shall not be painted but shall match that of the existing...

Reason: In the interests of proper planning and sustainable development

- C4 Details of Shopfront signage to be submitted for agreement

Reason: In the interests of visual and environmental amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority. The following is of note:

- It is stated that the proposal for an external terrace would have an adverse impact on the streetscape. However, I note no condition has been applied to the grant of permission to omit the proposed terrace.
- Condition 2 amends the works to the perimeter walls of the proposed terrace.

3.2.2. Other Technical Reports

Drainage Division: No objection

3.3. Prescribed Bodies

None.

3.4. **Third Party Observations**

2 objections were received. The issues raised include:

- Ownership of the laneway being used by the applicant as a fire escape route is questioned.
- Lack of site notice at Charleville Road or Wynnefield Road.
- Transitional zone of the houses adjoining the laneway.
- Request that brickwork be maintained and not painted.
- Suggestion that a bricked up feature window be inserted in the elevation over No. 6 Rathgar Road to break the monotony of the elevation and should be of similar proportions and character of windows of adjoining buildings.

4.0 **Planning History**

3215/16: Permission granted for change of use to restaurant and the construction of a single storey extension to side and rear.

5.0 **Policy Context**

5.1. **Dublin City Development Plan 2016-2022**

The appeal site is zoned objective Z4, 'to provide for and improved mixed service facilities'. The site is located within KDC7, the Key District Centre of Rathmines, where the development principle of promoting a vibrant retail and commercial core with an animated street is a key guiding principle.

The following policies of the Dublin City Development Plan 2016-2022 are relevant:

- RD19: To promote the retail provision in the key district centres, district centres and neighbourhood centres, including the revitalisation of existing established centres (see Appendix 3 Retail Strategy).

- RD14: To have regard to the architectural fabric and fine grain of traditional retail frontages, whilst providing for modern retail formats necessary for a vibrant city centre retail core.
- RD15: To require a high quality of design and finish for new and replacement shopfronts, signage and advertising. Dublin City Council will actively promote the principles of good shopfront design as set out in Dublin City Council's Shopfront Design Guidelines.

Development Plan policy in relation to shopfronts and signage is furthermore set out within sections 16.24.2 and 16.24.3.

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal was submitted by Mr John Brady, owner of No. 3 Charleville Road, Rathmines. The grounds of appeal can be summarised as follows:

- Concern that yard area is being used in association with the dining area and not being used as a waste storage area as shown on Reg Ref 3215/16.
- Concern that passageway serving back of residential dwellings fronting Charleville Road, providing access via Wynnefield Road, will be used by the applicant for waste/delivery/storage uses, thereby blocking the passageway.
- Passageway is a transitional zonal area.
- Concern with level of parking on Wynnefield Road and increasing congestion in this area with increase in level of development.

6.2. Applicant Response

The applicant has responded to the grounds of appeal as follows:

- The appeal is invalid as the applicant does not propose to use the fire escape route for bin storage/deliveries. The applicant has the right to use this laneway as an 'emergency means of escape' only by reference to their legal title. Access to the laneway was purchased as a more appropriate means of fire escape and as a result the route enables the integrity of and character of the entire front section of the building to be retained.
- The eastern laneway is to be used for waste removal, as identified in the parent application. The applicant considers that condition 1 of the parent permission in this regard still applies. However, in the event that the Board considers it necessary, the applicant will comply with a condition attached to a grant of permission confirming that the laneway to Wynnefield Road can only be used as a means of emergency escape and not for any other purpose.
- The applicant notes condition 2 of the Planning Authority decision which required modifications to the 1st floor parapet wall. The applicant states they are happy to comply with this requirement should the Board apply such a condition and is willing to comply with all conditions issued by Dublin City Council.
- The laneway and appeal site is zoned Z4 and the appellant's property is zoned Z2. The applicant states that the zoning is an express recognition that the purpose of the laneway is to serve the commercial units also governed by the Z4 objective.
- A transitional zonal area is only a cause for concern where the transition results in abrupt change in scale or use. The subject modifications are modest in scale. The terrace spaces are located at a significant distance from the appellant's property and are bounded by commercial uses on all sides.
- Unauthorised parking along Wynnefield Road is beyond the remit of this appeal case.

6.3. Planning Authority Response

The Planning Authority has stated no further comment in relation to the appeal and refers to the planner's report on file.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

Zoning

7.1. The appeal site is zoned objective Z4, 'to provide for and improved mixed service facilities'. The proposed amendments to the previously permitted restaurant use and the proposal for a first floor terrace are works that are ancillary to a restaurant use, which is a use that is permitted in principle within zoning objective Z4.

7.2. I consider that the main planning issues in the assessment of the proposed development are as follows:

- Impact on Amenity
- Visual Impact and Shopfront Design
- Other matters

Impact on Amenity

7.3. A change to the fire escape route is proposed to serve No. 7-9 Rathgar Road, with the fire escape route proposed via a passageway through the ground level of an existing building to the rear of No. 7-9, providing access onto a laneway which connects onto Wynnefield Road. The appellant has raised concerns about the passageway, identified as a fire escape route on drawing PL103, being used for waste/storage/deliveries. This is not proposed as part of this application and I note the applicant has demonstrated legal entitlement to use this laneway for fire escape purposes only. I note that a laneway and right of way to the rear and east of the property connecting onto Upper Rathmines Road is to be utilised for waste removal.

I do not consider that a specific condition in respect of the limiting of the use of the laneway/access to the laneway as a means of emergency escape only is warranted in this instance, however should the Board wish to apply such a condition, I note that the applicant has stated no objection to such a condition being applied.

- 7.4. A terrace is proposed at first floor level over No. 6 Rathgar Road. I note that the backland area of the adjoining buildings and those to the rear is largely developed upon, with the premises directly to the rear of the development in use as a yard area serving a business called 'Malcoms Towbar Repairs'. Given the location of the building within a busy commercial urban area, I am of the opinion that the creation of a terrace use at first floor level over no. 6 Rathgar Road, which adjoins 'Graces' public house, will not result in an undue impact on the surrounding area in terms of noise creation and will not significantly impact on the amenities of the surrounding area.
- 7.5. A first floor extension is proposed to the rear of the building with an increase in height of 2925mm, a width of approx. 5800mm, and a depth of 6595mm. This extension is to provide a double height space over the ground floor kitchen. The extension is built up to the boundary of No. 6 with a glazed wall proposed addressing the terrace. It is stated on drawing PL103 that the wall of the terrace where it bounds No. 2-5 Rathgar Road is to be increased in height to be level with the adjoining party wall. The extension is approx. 3.4m from a 2 storey office building located to the north/rear of the site; approx. 5.9m from the adjoining building to the southwest (restaurant); and 1.5m at its closest point to the rear of no.2-5 Rathgar Road (Graces public house). While there may be some overshadowing of the office block to the rear, I am of the view that given the position of the extension relative to this building and the positioning of the windows on the office block itself, in addition to the built up nature of the backland of these properties, there will be no significant overshadowing or overlooking of neighbouring and adjoining properties.
- 7.6. The elevational changes to the rear extension, the raising of the level of the rear yard for use as a terrace, and works to its perimeter walls will not, in my opinion, impact on surrounding properties in terms of visual amenity or noise creation and is therefore considered acceptable.

7.7. The previous permission on the site, Reg Ref 3215/16, identified on the proposed ground floor plan a bin storage area within the rear yard and did not identify any other use for the remainder of the yard. The current application, Reg Ref 2613/13, identifies a bin storage area within the yard, in the same location previously permitted, with the remainder of the yard identified as being for use as an external dining area. The appellant raised concerns in relation to the bin storage area, however I am satisfied that the layout as proposed caters for both bin storage and a functional use of the yard area, which will not impact significantly on the visual or residential amenities of this urban area.

Visual Impact and Shopfront Design

- 7.8. The revision to the fire escape route has resulted in an alteration of the internal layout at ground floor level of the restaurant and removal of one front entrance door previously permitted under Reg Ref 3215/16 for fire escape purposes. The visual impact of omitting one of the front entrance doors and amendments to the internal layout do not impact on the visual coherence of the front facade and in my opinion are considered acceptable.
- 7.9. Additional amendments are proposed to the design of the shopfront façade at No. 7-9 relating to the signage, lighting, an entrance awning and modifications to glazing to include opening sections. It is stated on drawing PL104 that the rendered window surrounds to No. 7-9 are to be retained and the existing doors and glazing to No. 6 are to remain unchanged. I note that the overall height of the shopfront at No.7-9 has been reduced from that permitted under Reg Ref 3215/16 by approximately 450mm, with a narrower fascia board proposed. The overall height of the adjoining shopfront at No 6 has been marginally increased in height so that the upper height of both shopfronts are aligned. The shopfront proposed comprises the key elements of a shopfront including fascia, pilaster and stallriser, as set out in the Dublin City Shopfront Design Guidelines 2001. The bringing in line of the upper height of the adjoining shopfronts will in my opinion result in an improved visual presence of these shopfronts to the street. I consider the changes proposed are overall acceptable, however, I note the inclusion of conditions within the Planning Authority's notification

regarding any signage on site and specific details of the proposed shop front signage. I consider it reasonable to apply a specific condition in this regard.

- 7.10. Amendments are proposed to the upper elevation of No. 6 Rathgar Road, which comprises at present at ground level a barber shop (currently vacant) and above this a first floor blank brickwork elevation. From the street the impression is that a first floor level exists to the building, however, it is in fact a 'perimeter wall'. The treatment of the first floor at present, given the extent of brickwork with no opes/visual relief, results in a poor aspect to the street.
- 7.11. The applicant proposes to increase the height of the first floor elevation of No. 6 to match the height of the adjoining building No.7-9, with the first floor terrace at this level behind the elevation of No. 6. It is proposed that the first floor elevation will be finished with a perforated brickwork, allowing for a view/light into the first floor terrace with a planting border inside the wall.
- 7.12. Given the undulating nature of the roovescape along this section of Rathgar Road, it is my view that the increase in height of the front elevation of No. 6 to match that of building No 7-9 will not be an incongruous insertion in the streetscape and will overall improve the image of the street, contributing positively to the redevelopment of this section of the street. It is my view, however, that the use of a perforated brickwork on the first floor elevation will not relate satisfactorily with the design, proportions and materials of the adjoining buildings and will not be consistent with the character of the adjoining buildings. It is therefore my view that a revised elevation treatment with window sized ope(s) in keeping with the proportion of the first floor windows of No. 7-9 should be inserted in place of the perforated brickwork at first floor level. I consider it appropriate to address this issue by way of condition.
- 7.13. It is stated on drawing PL104 that all brickwork at first floor level, relating to No 6 as well as to No. 7-9 is to be painted white. A number of the buildings at first/second floor level along this street comprise a brick finish of either red or dark brown, which is traditional in this area of Rathmines. A number of the buildings have, however, been rendered and the Abrakebabra (2 doors up from the proposed site) has painted its brickwork black on the upper levels. It is my view that the maintenance of the natural dark brown brick finish at the upper levels of No. 7-9 is appropriate in this instance and would be more in keeping with the character of the existing building

and the built heritage of the area. The brick finish to No. 6 should be replaced to match as closely as possible the existing dark brown brickwork of No. 7-9. I consider it appropriate to address this issue by way of condition and agreement with the Planning Authority.

Other Matters

- 7.14. The appellant considers this area to be a transitional zone with zoning objectives Z4 and Z2 adjoining each other. I note that the laneway identified for use as a fire escape route by the applicant is zoned Z4 and this laneway forms the boundary between the Z4 zoning objective and Z2 zoning objective. I do not consider that the development constitutes an inappropriate development given its distance from the laneway and adjoining residential zoning. The scale of development proposed at this location, which is bounded by commercial units and separated from the residential properties on Charleville Road, is appropriate within this Z4 zone and I do not consider the proposal will impact negatively in terms of use, scale, density or design on the residential amenity of properties in the vicinity.

Appropriate Assessment

- 7.15. Having regard to the minor nature of the development, its location in a serviced urban area, and 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.

8.0 Recommendation

- 8.1. I recommend that permission for the above described development be granted for the following reasons and considerations, subject to conditions

9.0 Reasons and Considerations

Having regard to the location of the site within the Key District Centre of Rathmines, the Z4 zoning objective of the site, the planning history on the site and the pattern of development in the area, it is considered that, given the nature and scale of the proposed development that, subject to compliance with the conditions outlined

below, the proposed development is in keeping with the character of the area and would not seriously injure the amenities of the area or of properties in the vicinity. 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.

2. The proposed development shall be amended as follows:
 - a) The brickwork at the first floor level over No. 6 Rathgar Road shall be replaced with brick to match, in so far as is possible, the existing brick at first floor level of No. 7-9 Rathgar Road. The brickwork at first floor level of No. 6-9 shall not be painted. Details of the brick to be used, including samples, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
 - b) The brickwork elevation over the ground floor unit of No. 6 Rathgar Road shall comprise an ope(s) of similar design and scale as the window opes on the adjoining building of No. 7-9 Rathgar Road, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

3. Apart from any departures specifically authorised by this permission, the

development shall be carried out and completed in accordance with the terms and conditions of the permission granted on 26/09/2016, planning register reference number 3215/16, and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

4. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

5. The proposed shopfronts shall be in accordance with the following requirements:-

(a) Signs shall be restricted to a single fascia sign using sign writing or comprising either hand-painted lettering or individually mounted lettering,

(b) no additional awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,

(c) external roller shutter shall not be erected. Any internal shutter shall be only of the perforated type, coloured to match the shopfront colour,

(d) no adhesive material shall be affixed to the windows or the shopfront.

Reason: In the interest of visual amenity.

6. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no further advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings

or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. 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.

8. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800]to 1400 hours 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 amenities of property in the vicinity.

9. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

Una O'Neill
Planning Inspector

19th September 2017
