



An
Bord
Pleanála

Inspector's Report ABP-300259-17

Development	Replacement of existing pitched roof on the east building with two family sized aparthotel suites at the existing aparthotel.
Location	121-125 Lower Rathmines Road, Dublin 6.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3735/17
Applicant(s)	Wellington Hospitality Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First
Appellant(s)	Wellington Hospitality Ltd.
Observer(s)	None.
Date of Site Inspection	6 th March 2018
Inspector	Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is a five storey over basement building with the top floor set back from Rathmines Road Lower, located on the western side of Rathmines Road Lower.
- 1.2. The building has an existing aparthotel use with a bar/restaurant and a courtyard area to the rear, with vehicular access to the rear via Sadlers Court. At the time of my site visit, the ground and first floor bar/restaurant element was vacant but the accommodation above appeared to be in use.
- 1.3. Existing land uses in the surrounding area include commercial, retail, institutional and residential uses.

2.0 Proposed Development

- 2.1. Replacement of existing pitched roof on the east building with two family sized aparthotel suites at the existing aparthotel.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for 1 no. reason as follows:

1. Having regard to the provisions of the Dublin City Development Plan 2016-2022 in relation to 'Building Height in a Sustainable City' and in particular to Policy SC16 which seeks to 'recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations' and Section 16.7.2 which defines the height for commercial development in 'Outer City' areas as being up to 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 SC16 and Section 16.7.2 of the Dublin City Development Plan 2016-2022. The proposed development would, therefore, seriously injure the

amenities of properties in the vicinity and would be contrary to provisions of the Dublin City Development Plan 2016 – 2022 and to the proper planning and sustainable development of the area

3.2. Planning Authority Reports

Planning Reports

3.2.1. The report of the planning officer reflects the decision of the planning authority.

Points of note are as follows:

- Notes planning history on the site.
- In principle the proposal to increase the floor area of the hotel is acceptable in a Z4 zone.
- Would result in a plot ration over the indicative plot ratio for Z4 zoned areas – however existing development is over and the site meets the criteria for higher plot ratios.
- Previous application on this site was reduced by way of Further Information to five storeys (Refs 3270/16/PL and ABP Ref 247825).
- Proposal to increase the height to six storeys would contravene policies on height in Outer City locations.
- Recommends permission be refused.

3.2.2. Other Technical Reports

Drainage – No objection

3.3. Prescribed Bodies

3.3.1. None

3.4. Third Party Observations

3.4.1. Two observations were received. The issues raised are summarised below:

- Previous application was reduced in height at Further Information stage.

- Lower Rathmines Road has a relatively regular building height – including Protected Structures /proposal would diminish urban setting of these buildings.
- Planning has twice refused a similar extension to the Travelodge Building (3957/15 and 2812/15).
- Development description is unclear – is described as an Aparthotel – suggests an intended change of use of the building.
- Permission should be refused.
- Proposed height is above the height limit.
- Adjoining building (Lidl) should not be repeated and should not set a precedent.
- Existing building incorporates a roof that cannot be considered a ‘floor’/has sloping elements to it which are more preferable than flat roof extensions.
- Site has benefited from previous expansions/ Should be no further intensification on the site.

4.0 Planning History

Appeal Site

247825 (3270/16) – Grant – Extensions to hotel to include replacement roof to the rear.

244951 (2359/15) – Permission originally refused by the Council for Modifications to the east elevation of the ground and mezzanine floors of the three bays on the north, also forming of a café terrace under colonnade within the building at 121 to 125 Lower Rathmines Road, and subsequently granted on appeal subject to conditions by the Board. This included:

- Condition no.4 – The development shall comply with the terms and conditions of the parent permission for the building granted under Reg.Ref. no.2018/96.
- Condition no.5 –The café terrace shall not be used before 0900 hours or after 2200 hours.

2018/96 – Permission granted for an aparthotel comprising 51 bedrooms, 757sq.m. of bar and restaurant area and 377sq.m. function room, along with offices, support

accommodation and ancillary car parking in a 5 storey over basement building, and a 4 storey building at the centre of the site with rear access via apartments at 28-30 Ardee Road to the rear. The development was amended by way of the following conditions:

- The 377sq.m.function room was to be omitted in the interest of amenity.
- The bar/restaurant was not to be used as a concert hall, dance hall or night club.

Reg. Ref.2358/15 – Permission refused for modifications to the E elevation of the ground and mezzanine floors of the first two bays on the south and to all of the first and second floors. Permission refused for 1 reason related to:

- Having regard to the vertical emphasis of the existing building, the proposed alterations to the materials of the facade would create an overly horizontal appearance to the elevation which would sever the visual relationship between the ground floor commercial frontage and the building above, visually obtrusive and distract from the character and visual amenities of the building and the established streetscape.

5.0 Policy Context

5.1. Development Plan

The relevant development plan is the Dublin City Development Plan 2016-2022. The subject site is located in an area zoned Z4, with the Objective: To provide and improve mixed-services facilities.

Rathmines is identified as a Key District Centre, one of eight such centres in the City, which can provide a strong sense of urban place, are centres for local services and form a basis for sustainable neighbourhoods.

Chapter 16 provides the Development Standards and refers to Design, Layout, Mix of Uses and Sustainable Design.

Section 16.5 refers to Plot Ratio and Section 16.6 to Site Coverage standards.

Section 16.7.2 refers to Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development. This is up to 16m for commercial and residential in low rise areas

outside of the inner city and not adjacent to rail hubs. Regard is also had to the pre-existing height in low rise areas.

Section 16.11 has regard to criteria for Guest Accommodation, including hotels.

Appendix 16 provides Guidance on ApartHotels.

5.2. Natural Heritage Designations

5.2.1. None

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The First Party grounds of appeal, as submitted on behalf of the applicants/appellants, are as follows:

- Sets out context of the site and sets out details of previous permission (3270/16)
- The need for aparthotel facilities is made on foot of ongoing requests for larger guest accommodation for families/groups
- Proposed alteration consists of replacement of the existing roof with an additional floor of accommodation – results in a flat roof arrangement with a marginal height increase of approx. 0.525
- Will provide two family sized aparthotel suites
- Refer to relevant precedent include IPC House Ballsbridge (PA Ref 4336/16 – ABP Ref 248166) – for a 5-7 storey building – refused by Dublin City Council – granted by An Bord Pleanála – Report noted that that while building height was at variance with the Development Plan, was not considered that it would result in adverse impact on the existing streetscape given the context of the site.
- Site is characterised as Low Rise – Outer City – with a height limit of 16m
- Section 16.7.2 refers to pre-existing height in low-rise areas and is of relevance

- Documentation submitted at application stage serves to highlight that the proposal is minimally visible from the surrounding area and does not result in an incongruous building height at this location
- Will assimilate into the existing building envelope on the subject site
- Top floor of the proposed development will be setback from the eastern façade and will primarily occupy the space of the existing pitched roof of the aparthotel
- Set back helps to breakdown the apparent mass of the building
- Existing building, at 17.47m, is already above the height limit (as measured from Lower Rathmines Road)
- The proposed building will be 5 storeys in height overall, 18.02m when measured from Lower Rathmines Road – will not break the building line of the Lidl building to the south which is 19.285m in height
- Appendix 16.1 Aparthotels is of relevant – proposal is a direct response to this guidance
- There are buildings, either on the subject site or adjacent, that or of similar or greater height to the subject development
- Subject proposal is barely visible from street level/ Will have a negligible visual impact / Not a significant height increase
- Proposal provides for continuity in heights and an appropriate consistent skyline
- Failte Ireland have identified a potential shortfall in visitor accommodation in Dublin - Extension can provide short term and straightforward visitor accommodation
- Minister for Housing has stated that height limits will be reviewed
- Subject sit is a prime example where restriction on building height at 16m is counter intuitive and does not promote sustainable development practices
- Lidl building adjacent is illustrated as an example of good practice in urban design in the 'Retail Design Manual'.

6.2. **Planning Authority Response**

6.2.1. None

6.3. **Observations**

6.3.1. None

7.0 **Assessment**

7.1. The following assessment covers the points made in the appeal submission, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development
- Height/Visual Impact
- Other Issues
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. An extension to the existing aparthotel use is acceptable in principle, having regard to the Z4 zoning of the site, and subject to the detailed considerations below.

7.3. **Height/Visual Impact/Impact on Protected Structures**

7.3.1. The proposed development seeks to replace the additional roof with an additional storey with a flat roof. This results in an overall height of 18.02m when measured from Rathmines Road Lower. The existing ridge height is 17.5m.

7.3.2. I note the provisions of Section 16.7.2 which refers to Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development. In low rise areas outside of the inner city, not adjacent to rail hubs, a height limit of 16m applies for commercial and residential development. The Development Plan also notes 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 and the submission of an urban design statement.

- 7.3.3. I note the proposed height exceeds that stipulated in the development plan. However I have had regard to the existing height of the proposal, and the very limited increase in height proposed here (0.55m). While I note the existing roof profile is sloped with decreasing height to the front and rear elevations, which limits visibility of same, the replacement floor would also have a very limited visual impact, due to the lack of visibility of the proposed additional floor from street level. From the north, there will be limited views of the proposal from the eastern side of Rathmines Road. From the south the visibility will be obscured by the existing roof extensions on the Lidl building. To the rear there is a limited view from Ardee Road via Sadlers Court.
- 7.3.4. In addition I note the significant setback of the proposed floor and the fact that the proposed ridge level sits below that of the Lidl building to the south.
- 7.3.5. I refer to the previous permission on the site, granted by the Planning Authority (ref 3270/146) and by An Bord Pleanála (Ref 247825). During the course of this application, an extension to the existing fifth floor on the Rathmines Road elevation was omitted. This extension brought the building line forward and was omitted following the planning authority's concerns in relation to the existing building line. A fourth floor extension to southern boundary of the site was omitted due to concerns in relation to the height. It was not previously proposed to replace the existing roof to the Lower Rathmines Road elevation, with an additional setback floor, as is proposed under this current appeal.
- 7.3.6. In conclusion, given the very limited increase in height, the limited visibility towards the site and the overall context of the site, I consider the overall height, and subsequent visual impact, to be acceptable.
- 7.3.7. In relation to the impact on the setting of nearby Protected Structures, I note that there are a number of Protected Structures opposite the site, on the eastern side of Lower Rathmines Road, south of Richmond Hill and north of Observatory Lane. Having regard to the assessment above, in particular the limited visual impact of the proposal, I do not consider that the setting of these Protected Structures, nor other Protected Structures in the vicinity, would be adversely impacted upon.

7.4. **Other Issues**

- 7.4.1. The issue of the proposed use has been raised by an observer at planning application stage. I note the planning authority did not raise an issue with same and there is a permitted aparthotel use on the site.
- 7.4.2. In terms of the impact on surrounding residential amenity, I do not consider that the proposed roof extension would have a material impact on surrounding daylight/sunlight levels, having regard to the limited additional height of same.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity to the nearest European Site, no Appropriate Assessment issues arise and it is not considered 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 planning permission should be granted, subject to conditions, as set out below:

9.0 **Reasons and Considerations**

Having regard to the zoning objective for the site, the pattern of development in the vicinity and the policies of the current Dublin City Development Plan 2016-2022, it is considered that the overall height is appropriate, having regard to the existing height and the context of the site, and the proposed development would not seriously injure the visual or residential amenities of the area and would not detract from the character and setting of any Protected Structures.

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. Details of the materials, colours and textures of all the external finishes to the proposed roof extension, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site or any adjoining lands under the control of the applicant unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

4. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunications aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

5. 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.

6. Site development and building works shall be carried out only between 0700 hours and 1800 hours Mondays to Fridays, between 0800 hours and 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 the interest of protecting the residential amenities of adjoining properties.

7. (a) Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

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

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

8. 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 noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

9. 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.

Rónán O'Connor
Planning Inspector

06th March 2018