



An
Bord
Pleanála

Inspector's Report ABP-300410-17

Development

Part demolition of existing 2-storey structures at the rear of the property & removal of existing curved ceiling over existing third floor office space & the construction of a retail unit at ground floor & five one bedroom apartments, one two bedroom apartment, one three bedroom apartment and roof terrace. The overall height of the proposal is five storeys over ground with a setback rooftop access core.

Location

Rear of 1, Rathmines Road Upper, Rathmines, Dublin 6

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3871/17

Applicant(s)

J Gillespie, D Bateman & C Lowe

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First V Refusal

Appellant(s)	J Gillespie, D Bateman & C Lowe
Observer(s)	Rathgar Residents Association
Date of Site Inspection	22 nd March 2018
Inspector	Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is located at the junction of Rathmines Road Upper and Rathgar Road. On site is a part 4, part 2 storey building, with a café use at ground floor with offices above.
- 1.2. To the south-east of the site, adjoining the building on site, is a 5 storey building at No. 3 to 9 Rathmines Road Upper with office and residential on the upper floors. To the immediate south is open space and storage area associated with No. 3 to 9 Rathmines Road Upper, with the Tesco car park beyond this. To the south-west is Rathmines Garda Station with car parking to the front.

2.0 Proposed Development

- 2.1. Part demolition of existing 2-storey structures at the rear of the property & removal of existing curved ceiling over existing third floor office space & the construction of a retail unit at ground floor & five one bedroom apartments, one two bedroom apartment, one three bedroom apartment and roof terrace. The overall height of the proposal is five storeys over ground with a setback rooftop access core.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Refuse permission for one reason as follows:

The proposed development by reason of its proposed height of 19m would be contrary to standards set out in Section 16.7.2 of the Dublin City Development Plan 2016-2022, wherein Rathmines is considered low rise with a height limit of 14.00 metres. As such, the proposed development is contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

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

Points of note are as follows:

- Proposal does not comply with Dublin City Council's policies and strategy for height
- Bulk and scale of the proposal has been reduced significantly with the use of appropriate materials and a setback element at roof level
- Design complements the existing character and setting of Rathmines Road/Design of the elevation along the Rathgar Road is in keeping with the Streetscape
- Creation of a blank facade along the southern elevation is considered acceptable.
- New shopfront design is considered acceptable.
- Residential units exceed current Development Plan standards and the DoE Design Standards for new apartments (Dec 2015)
- Overall mix is appropriate/balconies and communal space acceptable
- Lack of parking acceptable given the small scale nature of the proposal and the accessible location of the site
- No details of cycle parking provided/can be address by condition
- Recommended that permission be refused by reason of the height

3.2.2. Other Technical Reports

Roads – No objection subject to conditions

Drainage – No objection subject to conditions

3.3. **Prescribed Bodies**

3.3.1. None

3.4. **Third Party Observations**

- 3.4.1. One observation received at planning application stage. The issues raised are covered in the observations on the appeal below.

4.0 **Planning History**

4002/16 – Grant – Retail unit, 4 residential units

2783/01 – Grant – COU of restaurant to restaurant with take-away

1262/91 – Grant – Reconstruction of existing building/2 storey extension to the rear

5.0 **Policy Context**

5.1. **Development Plan**

- 5.1.1. The relevant development plan is the Dublin City Development Plan 2016-2022. The site is zoned Z4 'To provide for and improve mixed services facilities'. Rathmines is a Key District Centre.

- 5.1.2. Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Policy SC25 – To promote high standards of design
- Policy QH18 – To promote the provision of high-quality apartments.
- Section 16.2.1 Design Principles
- Section 16.2.2.2 Infill Development. Gap sites shall respect the plot size and surrounding area
- Section 16.7 addresses building height
- Section 16.10.1 Residential Quality Standards – Apartments – sets out standards to be achieved in new build apartments.

- 5.1.3. Ministerial Guidelines

Design Standards for New Apartments – Guidelines for Planning Authorities (March 2018)

5.2. Natural Heritage Designations

5.2.1. None

6.0 The Appeal

6.1. Grounds of Appeal

The First Party grounds of appeal are as follows:

- The proposed development will have a revised total height of 16.8m, some 2.7m lower than the adjoining building at No.'s 3-9 Rathmines Road Upper
- Existing building at 3-9 sets a benchmark/precedent.
- Subject site is an exceptional scenario where rigid application of Development Plan heights is unwarranted and/or conflicts with other elements of the Development Plan
- Development Plan explicitly encourages new development to have particular regard to its surroundings
- The adjoining building is the prominent design of this group of buildings
- There are examples of where quantitative standards have been treated flexibly
- The proposed development is acceptable in terms of height
- The existing structure fails to contribute to the streetscape
- The planning officer was generally in favour of the development with the only issue being the height of the proposal
- Prevailing height and context is a valid consideration
- Alternative would be to omit an entire floor which would result in the loss of two apartments/impact on viability
- Examples where flexibility has been applied in relation to height include the National Children's Hospital at St. James' Campus (PA0043)/206 Lower Rathmines Road (246383)

- Need to achieve a reasonable density and an efficient use of land in Rathmines as a Key District Centre – has been recognised in previous appeal decisions
- The contravention in height is not a material contravention
- There are conflicting and unclear objectives in the Development Plan in relation to height/no guidance on adjoining sites
- Need to have regard to Ministerial Guidelines/need for housing/intends to lift height cap

6.1.1. A revised drawing has been submitted with the appeal which indicates a reduced height. This is put forward as an option should the Board deem it necessary to reduce the height.

6.2. **Planning Authority Response**

None

6.3. **Observations**

One observation has been received from Rathgar Resident's Association. This is summarised below:

- Proposal has been modified but still exceeds the height restrictions by 0.8m
- Proposal to replace the brick balustrade with one of glass will not be successful/is a brick building/should have uniform treatment/pivotal location
- Remove the roof terrace/no roof terrace on the adjoining building
- Height of the building at 3 to 9 Upper Rathmines Road should be seen as the absolute maximum for this area/overall height will be higher than the parapet of the adjoining building
- Reference to housing crisis should not justify bad planning and development standards
- As a result of the significant setback, the building is more closer to the low rise two storey buildings on Rathgar Road
- Will be more dominant than 3-9 Lower Rathmines Road

- Solution is to move the building forward to meet the building line of 3-9 Lower Rathmines Road
- Will overshadow adjoining buildings to the north
- Some of the comments of the planning officer are contradictory and irrelevant
- Should be not be allowed to exceed 16m/site is surrounded by 2 storey buildings on all sides except that on the south
- Limit of 5 floors outside the canal ring/proposal is for 6 storeys

6.4. Further Responses

6.4.1. None

7.0 Assessment

7.1. The following assessment covers the points made in the appeal submissions, 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
- Design including height
- Residential Standards/Residential Amenity
- Neighbouring Residential Amenity
- Appropriate Assessment
- Other Matters

7.2. Principle of Development

7.2.1. The appeal site is Zoned Z4 (District Centres) - mixed services. Residential and retail (district and neighbourhood shop) uses are permissible uses under this zoning matrix. As such the uses proposed here are acceptable in principle, subject to the detailed planning considerations below.

7.2.2. Furthermore, the Development Plan notes that, within District Centres, a diversity of uses should be promoted to maintain their vitality throughout the day and evening

and that higher densities will be permitted, particularly where they are well served by public transport.

7.3. Design including height

- 7.3.1. 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.
- 7.3.2. 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 have had regard to both the originally submitted proposal (which I shall refer to as Option A) and to the revised elevations submitted as part of the appeal which show a decrease in height (which I shall refer to as Option B). Both options exceed the height limitations as stipulated in the development plan. However I consider that there is scope for some flexibility in relation to height limitations, where the context of the site allows for it.
- 7.3.4. The appellant has argued that the height of No. 3 to 9 Rathmines Road upper sets a benchmark and precedent for height. While I note that the adjacent development at 3 to 9 Rathmines Road is of a similar height to the both options presented under this appeal, No. 3 to 9 is the highest building in the immediate area, and in my view does not necessarily set a benchmark for appropriate heights in the surrounding area, nor does it represent the prevailing height in the surrounding area, which is generally 2 storey, with intermittent single storey and three storey structures.
- 7.3.5. The existing appeal site building, in my view, marks the transition between the higher built form on No. 3 to 9 Rathmines Road Upper, and lower heights prevalent on Rathgar Road. A height such as that proposed under both Options A and B would result in a building that is visually overbearing, especially when viewed from the south-east along Rathgar Road and from longer views along Grosvenor Road, where a large expanse of brick façade will be visible, and when viewed from opposite the appeal site to the north, where a 28.6m expanse of elevation, the majority of which is 6 storeys in height not including the lift overrun, is broken up only by a very minimal

recessed brick detail and with only a minimal set back at fifth floor level. The step down in height to the Rathmines Road Upper frontage does little to reduce the scale of this elevation.

- 7.3.6. I have had regard to the previous permission on this site (Reg Ref 4002/16), which in my view provided for a more appropriate height on this site, given its visually prominent location, and the prevailing height of development in the surrounding area.
- 7.3.7. In terms of detailed design, I consider the existing appeal site building is of very limited architectural merit. However, the visual prominence of same is limited by its current height. I do not consider that the continuation of the brick facade, the addition of zinc cladding and glass balustrades at roof level serve to improve the appearance of the existing building. Furthermore, the essentially new build element to the rear of the site, does not have a clear visual relationship with the existing building, in terms of fenestration detailing, and the elevation as a whole is visually unappealing and cluttered in its appearance. The same concerns in relation to a cluttered appearance apply to the front façade, which is not improved, over and above its existing appearance, by the addition of a diverse range of materials and design features on the upper floors.
- 7.3.8. In conclusion, it is my view that the overall scale of development proposed under both options presented, including the height, bulk and massing, is inappropriate for the site. This, combined with a poor standard of design, results in a building that that is visually overbearing and will result an adverse impact on the visual amenity of Rathmines Key District Centre.

7.4. Residential Standards/Residential Amenity

- 7.4.1. In assessing the development, I have had regard to the updated Design Standards for New Apartments – Guidelines for Planning Authorities (March 2018) as well as the relevant provisions of the Development Plan.
- 7.4.2. The proposed mix of units is 5 X 1 bed, 1 X 2 bed and 1 X 3 bed. Given there are less than 9 units the mix is appropriate, having regard to the criteria outlined in Specific Planning Policy Requirement 2 of the Guidelines. The layout and individual room sizes are generally in accordance with the guidelines.

- 7.4.3. The units are dual aspect with the main aspect facing north-west, but with a living room window facing towards the south-west. A small window is also provided to serve a dressing room area on the south-east elevation.
- 7.4.4. Private open space is provided in the form of balconies and terraces facing onto Rathgar Road and Rathmines Road Upper. The size of the balconies is in excess of the minimum requirements. Communal open space is provided at roof level with a total area of 141.5 sq. m. which is in excess of the minimum requirements.
- 7.4.5. Overall the standard of accommodation is considered to be acceptable.

7.5. Neighbouring Residential Amenity

- 7.5.1. I note there are residential units to the south-east at No. 3-9 Rathmines Road Upper, which will have indirect views towards the proposed development. I note there is an extant approval on the appeal site for a proposal of a larger scale than existing, but lower in height overall than that proposed here.
- 7.5.2. Given the location of the proposal to the north-west of the residential units, there is unlikely to be a material loss of daylight or sunlight, nor a material degree of overshadowing of these units.
- 7.5.3. While the larger scale of development will result in some loss of outlook to the upper floors, I do not consider the overall impact on outlook is sufficiently adverse to recommend a refusal in this instance.
- 7.5.4. In relation to potential overlooking, I note the majority of balconies face over Rathgar Road, and away from the nearest residential units, and as such no material overlooking of surrounding residential units will result.

7.6. Appropriate Assessment

- 7.6.1. The site is neither in nor near to a Nature 2000 site. The closest SPA to the site is South Dublin Bay and River Tolka SPA which is 3.9km to the east of the site. The closest SAC is the South Dublin Bay SAC which is 3.9km to the east of the site.
- 7.6.2. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, a serviced inner-urban location, 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. Refuse permission.

9.0 Reasons and Considerations

Having regard to the established pattern of development in the surrounding area, it is considered that the proposed development, by reason of its excessive height, bulk and massing, and by virtue of a poor standard of design, would be visually obtrusive on the streetscape, and would be out of character with development in the vicinity. The proposed development would, therefore, seriously injure the visual amenities of the area and of property in the vicinity. As such the proposed development is contrary to the policies and objectives as set out in the Dublin City Development Plan 2016-2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Rónán O'Connor
Planning Inspector

23rd March 2018