



An  
Bord  
Pleanála

## Inspector's Report ABP-305659-19

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<b>Development</b>	Permission for a Build-to-Rent Shared Living Residential Development comprising 102 bedspaces.
<b>Location</b>	3 Ardee Road, Rathmines, Dublin 6.
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	3567/19
<b>Applicant(s)</b>	Bartra Property (Rathmines) Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Bartra Property (Rathmines) Ltd.
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Mittencross Management Ltd.</li><li>2. Noel Noonan</li><li>3. The Rathmines Initiative</li></ol>
<b>Date of Site Inspection</b>	21 <sup>st</sup> January 2020
<b>Inspector</b>	Irené McCormack

## 1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of Ardee Road, Dublin 6 within the Key District Centre of Rathmines, approx. 100m west of Rathmines Lower and approx. 150m southeast of Cathal Brugha Barracks. The site is bounded to the east by Ardee Road, along a street frontage of approx. 30m, to the north by a five-storey office building occupied by the Central Statistics Office, to the south west by residential apartments, and all other sides by commercial/office buildings.
- 1.2. The appeal site is a brownfield site and occupied by a two-storey building with attached single storey warehouse. The building is currently vacant but was previously used as office accommodation. The site is 0.0796ha. in area.

## 2.0 Proposed Development

2.1. The development consists of:

- Permission for a Build-to-Rent Shared Living Residential Development. The development will principally consist of:
  - the demolition of the existing part 1 to part 2 No. storey warehouse/office building (c. 764 sq. m) and the construction of part 5 to part 7 No. storey over basement Build-to-Rent Shared Living Residential Development comprising 102 No. bedspaces (92 No. single occupancy rooms, 2 No. accessible rooms, 2 No. double occupancy rooms and 2 No. premium double occupancy rooms)
  - communal living/kitchen/dining room at each floor level from ground floor to sixth floor level to serve the residents of each floor
  - communal resident amenity spaces for all residents including gymnasium and party/function/cinema room at basement level and a games lounge and reception/lounge at ground floor level
  - a roof garden at fifth floor level (105.5 sq. m) facing north, east and south; vegetable garden/landscaped amenity areas at roof level facing all directions, a 4.5 sq. m balcony facing south and west off the

communal living/kitchen/dining rooms at each level from first to sixth floor levels

- o resident facilities including laundrette, linen stores, accessible WC and bin storage; delivery bay; bicycle parking; boundary treatments; hard and soft landscaping; photovoltaic panels; plant; lighting; and all other associated site works and service connections above and below ground.

**2.2. Table 1: Units proposed**

<b>Units Type</b>	<b>No. of units</b>	<b>Floor Area (including ensuite)</b>	<b>% of each unit type</b>
1 bed	92	16sqm	94%
1 bed (accessible bedrooms)	2	23.7sqm	2%
Double/twin occupancy	2	18.1sqm	2%
Premium double occupancy	2	23.7sqm	2%
<b>Total Units</b>	<b>98 units</b>		<b>100%</b>

**Table 2: Specifics of each floor**

<b>Floor level</b>	<b>No. of bedspaces</b>	<b>Communal Space</b>
<b>Ground</b>	6 no. single rooms	37.7sqm
<b>First</b>	17 no. single rooms	84.7sqm
<b>Second</b>	16 no. single rooms and 1 double room - 18 no. bed spaces	84.7sqm
<b>Third</b>	17 no. single rooms	84.7sqm
<b>Fourth</b>	11 no. single rooms and 1 double room - 13 no. bed spaces	84.7sqm

<b>Fifth</b>	11 no. single rooms and 1 double room - 13 no. bed spaces	64sqm
<b>Sixth</b>	11 no. single rooms and 1 double room - 13 no. bed spaces	64sqm
<b>Total</b>	<i>102 No. bedspaces</i>	<i>504.5sqm (5.41sqm per person)</i>

**Table 3: Key development details**

<b>Detail</b>	<b>Proposal</b>
No. of units	98
Shared Accommodation	102
Communal Areas	504.5sqm
Amenities - Gym, Cinema Room, lounge, Games Room, External amenity Spaces	552sqm
Site Area (stated by the applicant)	796sqm (0.0796 ha.)
Density	128 bedspaces per hectare
Plot Ratio	4.2
Building Height	five to seven storeys -maximum height 27.4m
Site Coverage	71%
Car Parking	None
Bicycle Parking	132 spaces
Part V	N/A

2.2.1. The planning application is accompanied by the following reports:

- Architectural Design Statement
- Planning Report
- Shared Living Report
- The Development of Niche Living Concept

- Shared Living – a design-led approach to modern city living
- Mobility Management Plan
- The Socio-Economic Potential of Shared Living Accommodation in Ireland
- Niche Living Operation Plan
- Urban Living Study
- Urban Design Statement
- Outline Construction Management Plan
- Engineering Services Report
- Landscape and Visual Impact
- Shared Living Awareness – survey results
- Daylight Sunlight Analysis
- Operational Waste Management Plan
- Outline Method Statement for Demolition of Existing Building
- Waste Management Plan
- Appropriate Screening Statement
- Flood Risk Assessment
- Landscape Development Report

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The planning authority refused planning permission for the following reasons:

1. Having regard to the siting, scale, mass and height of the proposal and the proximity of the development to adjoining properties, it is considered that the proposed development would constitute overdevelopment of the site and would have an excessively overbearing effect on adjoining properties. The

proposed development fails to integrate or be compatible with the design and scale of the adjoining buildings and as a result, would seriously injure the visual amenities of the streetscape and would have an adverse impact on the character of Rathmines. The proposed development would, therefore, by itself and by the precedent it would set for other development, seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area. This is contrary to section 16.10.10 of the Dublin City Development Plan 2016-2022 and section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities 2018.

2. Having regard to the overall layout and scale of the proposed development, it is considered that the proposed bedroom units would provide a poor standard of residential accommodation by virtue of their design, layout and orientation, in particular the internal configuration of the units and the number of single aspect north facing units that face the side elevation of the CSO building. Furthermore, the number of future occupants per floor that would have access to a single kitchen/living area, would result in a substandard level of residential amenity. The proposed development would therefore be contrary to Section 5 of the Guidelines on Sustainable Urban Housing: Design Standards for New Apartments (2018), the provisions of Chapter 16 of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner's Report is the basis for the Planning Authority's decision. In summary, it includes:

- The zoning and policy objectives applicable to the development site. The report details the recent planning history and notes the observations and submissions to the file.
- It is set out that the Planning Authority supports the shared living concept and there are certain merits to locating one of these on this site, having regard to

its location close to the city centre and employment hubs, and its well-connected location in Rathmines.

- It is stated that the seven-storey flank elevation of the proposal when viewed from the south end of Ardee Road (Proposed VM 1 – Photomontages) would have an incongruous impact on the streetscape and the set-backs and changes in cladding do little to mask the bulk of this proposal when set against the surrounding prominently 2/3 storey domestic architecture. The bulk of the proposal is considered to have an undue overbearing impact on the surrounding 2/3 storey properties.
- It is set out that the proposal has not overcome the first and second reasons for refusal as set out in the previous planning application and the scheme is contrary to *SPPR 3 of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018)*.
- It is accepted that the floor area of the individual rooms complies with required standards.
- Concerns is expressed regarding the design and layout of the rooms and the layout and occupancy at 17 residential units per floor with a dual aspect kitchen/dining room and balcony. Concerns is also expressed regarding the insufficient level of amenity in terms of outlook of north facing units on the first to fourth floors.
- It is noted that while the scheme would provide a sufficient level of leisure amenity, an insufficient number of kitchen/dining areas would be provided for on each floor, to cater for the potential number of occupants.
- It is considered given the location of the subject site and its proximity to Rathmines town centre and high frequency bus services to the city centre, as well as the availability of car sharing services in proximity to the site, that the non-provision of car parking is acceptable in this instance.
- It was concluded, that the proposed scheme is not considered to have overcome previous reasons for refusal and the proposed development would constitute overdevelopment of the site and fails to integrate or be compatible with the design and scale of the adjoining buildings and as a result, would seriously injure the visual amenities of the streetscape and have an

excessively overbearing effect upon adjoining properties. The Planning Authority remains concerned the proposed bedroom units would provide a poor standard of residential accommodation by virtue of their design, layout and orientation. Furthermore, the number of occupants per floor having access to just a single kitchen/living area is considered objectionable.

### 3.2.2. Other Technical Reports

**Drainage Division:** Report dated 14th August 2019 raised no objection to the development subject to standard drainage conditions.

**Transport Planning Division:** Report dated 10th September 2019 requested Additional Information sought in relation to access/egress and sightlines, the impact on on-street car parking and the interfacing between pedestrian and vehicle entrance arrangement.

**Waste Management Division:** Report dated 26th August 2019 raised no objection to the proposal subject to conditions.

### 3.3. Prescribed Bodies

**Department of Culture, Heritage and the Gaeltacht:** Report dated 27<sup>th</sup> August 2019 recommends an amended Appropriate Assessment Screening Report be submitted addressing the potential cumulative impact of effluent discharges from the development together with other similar effluent discharges through the Ringsend WWTP on the European Sites in and around Dublin Bay.

### 3.4. Third Party Observations

A total of eight submissions were made to Dublin City Council. The following is a summary of the issues raised:

- Impact on residential amenity -unacceptable overshadowing, overbearing and overlooking impact on neighbouring buildings and properties.
- The proposed scheme would adversely impact residential amenity during construction.
- The overlooking of the CSO building could impact confidentiality.



- Impact on the structural integrity of surrounding properties.
- Traffic Congestion
- No parking spaces for a development of this size and type is unrealistic.
- Design -The proposal is architecturally insensitive to surrounding public realm. The proposal would break the building line. The scale of the proposal is completely out of character with the surrounding development on this street.
- Impact on development potential of adjoining lands.
- The proposed housing type and quality is sub-standard and comparable to tenement living.
- The proposed scheme would not succeed in creating a sustainable neighbourhood as tenants would be transient.
- It is not clear whether co-living shared living accommodation can be regulated under the current rental and tenancy regulations.

After 15 years expire there is legal uncertainty as to how this development would be operated. Concern expressed that units may be sold as sub-standard apartments.

- Part V obligations

## 4.0 Planning History

### Site

**DCC Reg. Ref:** 4090/18 – Planning permission refused for shared living residential development comprising 105 No. bedspaces for the following reasons:

1. The proposed development would have a maximum building height of 26.750m, which would be contrary to Section 16.7 Building Height in a Sustainable City of the City Development Plan 2016-2022, which permits buildings up to 16m in Outer City Areas.
2. Design - the siting, scale, mass and height of the proposal and the proximity of the development to adjoining properties, it is considered that the proposed development would constitute overdevelopment of the site and would have an excessively overbearing effect on adjoining properties and would seriously

injure the visual amenities of the streetscape and would have an adverse impact on the character of Rathmines.

3. The proposed bedroom units would provide a poor standard of residential accommodation by virtue of their design, layout and orientation, in particular the internal configuration of the units and the number of north facing units that do not overlook a significant amenity. The development would provide sufficient and useable leisure and recreational amenities to serve the development. The provision of single aspect kitchen/living areas, the number of occupants per floor, and the inclusion of facilities in the calculation of amenity floorspace, would result in a substandard quantity and quality of leisure and amenities for future occupants.

## 5.0 Policy Context

### 5.1. National Policy

#### **Project Ireland 2040 – National Planning Framework**

The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. A number of key policy objectives are noted as follows:

National Planning Objective 13 provides that “in urban areas, planning and related standards, including in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.

National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.

## **Sustainable Urban Housing: Design Standards for New Apartments 2018**

Shared accommodation is to be considered as a subset of BTR accommodation.

SPPR 9 provides as follows:

*Shared Accommodation may be provided and shall be subject to the requirements of SPPRs 7 (as per BTR). In addition,*

*(i) No restrictions on dwelling mix shall apply;*

*(ii) The overall unit, floor area and bedroom floorspace requirements of Appendix 1 of these Guidelines shall not apply and are replaced by Tables 5a and 5b;*

*(iii) Flexibility shall be applied in relation to the provision of all storage and amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities. The obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity;*

*(iv) A default policy of minimal car parking provision shall apply on the basis of shared accommodation development being more suitable for central locations and/or proximity to public transport services. The requirement for shared accommodation to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures.*

Section 5.13 describes shared accommodation as follows:

*... professionally managed rental accommodation, where individual rooms are rented within an overall development that includes access to shared or communal facilities and amenities.*

Section 5.15 adds:

*“One format of Shared Accommodation which is proposed by these guidelines is a residential unit comprising of 2-6 bedrooms, of single and/or double occupancy with a common shared area within the residential unit for living and kitchen facilities.”*

Section 5.22 also states:

*“Shared accommodation formats may be proposed other than the format outlined in paragraph 5.15 above. For example, such proposals may be related to the*

*accommodation needs of significant concentrations of employment in city centres and core urban locations such as major national level health campuses or similar facilities. Innovative formats may also be proposed to provide shared accommodation within protected structures in order to ensure their long-term rehabilitation and to address sensitive architectural constraints of the subject building.”*

Section 5.23 also states:

*“The granting of planning permission for other shared accommodation formats from those outlined in paragraph 5.15 above will be at the discretion of the planning authority. In assessing such proposals, planning authorities should ensure that sufficient communal amenities are provided in accordance with the specified standards in Table 5b above and that the scale of the development is appropriate to the location/buildings involved and to the specific role that the development of the shared accommodation sector should play in the wider urban apartment market.*

Section 5.16 provides quantitative standards for bedroom sizes and communal space floor areas.

Section 5.17 states:

*“A key feature of successful Shared Accommodation schemes internationally is the provision of wider recreation and leisure amenities as part of the overall development. Residents enjoy access to sports and recreation facilities that are dedicated for use by the residents only and have the opportunity to experience a shared community environment among residents of the scheme.”*

Sections 5.18 and 5.19 provide guidance on suitable locations for shared accommodation schemes. The prevailing context of the proposed site is to be considered, with city centres being the appropriate location for such developments.

Section 5.18 states:

*“In this regard the obligation will be on the proposer of a shared accommodation scheme to demonstrate to the planning authority that their proposal is based on accommodation need and to provide a satisfactory evidential base accordingly. Where there is a failure to satisfactorily provide such a basis permission should be refused by the planning authority.”*

## Section 28 Ministerial Guidelines

The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’)
- ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ 2018
- Urban Development and Building Height, Guidelines for Planning Authorities, 2018.

### Other relevant guidelines include:

- Rebuilding Ireland: Action for Homelessness
- Guidelines for Planning Authority, Appropriate Assessment, NPWS

## 5.2. Development Plan

Dublin City Development Plan 2016-2022

The site is located in an area zoned Z4 with an objective to “*provide for an improve mixed-service facilities*” and the proposed residential use would be permitted in principle subject to compliance with the provisions of the City Development Plan.

Chapter 5 of Design Standards for New Apartments - Guidelines for Planning Authorities (March 2018) refers to Build-to-Rent and Shared Accommodation Sectors.

In assessing proposals for Shared Accommodation, the Guidelines state that the Planning Authority shall therefore have regard to:

- (i) *The need for such a type of accommodation in an area with reference to the need to cater for particular employee accommodation needs.*

Rathmines is a designated Key District Centre (KDC) in the settlement hierarchy of the City Development Plan and KDCs represent the top tier of urban centres outside the city centre.

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

- Section 14.1 Zoning Principles -development should be encouraged in established centres, and the re-development of under-utilised and brownfield land in these areas should be promoted
- Parking: Area 2 applies to the appeal site. 1 car parking space is required per residential unit. Parking provision below the maximum may be permitted provided it does not impact negatively on the amenities of surrounding properties or areas and there is no potential negative impact on traffic safety.
- Chapter 4 refers to the Shape and Structure of the City
- Chapter 16 sets out Design Principles and Standards
- 16.2 Design Principles and Standards.

*“All development will be expected to incorporate exemplary standards of high quality sustainable and inclusive urban design and architecture befitting the city’s environment and heritage and its diverse range of locally distinctive neighbourhoods.*

*In the appropriate context, imaginative contemporary architecture is encouraged provided that it respects Dublin’s heritage and local distinctiveness and enriches its city environment. Through its design, use of materials and finishes, development will make a positive contribution to the townscape and urban realm, and to its environmental performance. In particular, development will respond creatively to and respect and enhance its context.”*

- Policy SC10 – To develop and support the hierarchy of the suburban centres, ranging from the top tier key district centres, to district centres/urban villages and neighbourhood centres, in order to support the sustainable consolidation of the city and provide for the essential economic and community support for local neighbourhoods, including post offices and banks, where feasible, and to promote and enhance the distinctive character and sense of place of these areas
- Policy SC25 – To promote high standards of design

- Policy QH18 – To promote the provision of high-quality apartments
- Section 16.7.2 of the Development Plan includes height limits for development, including a 16m restriction for development in the Outer City and a 24m restriction for development within 500m of rail hubs.
- Section 16.10.10 Infill Housing
- Policy QH8 of the Dublin City Development Plan 2016-2022 seeks “*To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area*”.

### 5.3. Natural Heritage Designations

There are two designed sites within 4km of the site.

- South Dublin Bay SAC (Site code: 000210)
- South Dublin Bay & River Tolka Estuary SPA (Site code: 004024)

### 5.4. EIA Screening

On the issue of Environmental Impact Assessment screening I note that the relevant classes for consideration are class 10(b)(i) “Construction of more than 500 dwelling units” and 10(b)(iv) “Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere”. Having regard to the size of the development site (.0796ha) and scale of the development it is sub threshold and the proposal does not require mandatory Environmental Impact Assessment. Having regard to the nature and scale of the proposed development, the brownfield nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. An EIA - Preliminary Examination form has been completed and a screening determination is not required

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appeal submission seeks to address the two reasons for refusal issued by the planning authority.

In relation to refusal reason no. 1 the appeal sets out the following:

- It is set out that the site is located in a 'Key District Centre' adjacent to the 19m (CSO Building) providing immediate context for increased height.
- The development is in line with the NPF targeting 'Compact Growth', densification of urban, brownfield, infill sites close to public transport and ensuring efficient use of lands.
- The densification of the site and the provision of additional height allows for the development to provide a compact Shared Living Scheme and is in accordance with National Policy including the 'Action Plan for Housing and Homelessness – Rebuilding Ireland' and the Urban Development and Building Height Guidelines for Planning Authorities.
- It is argued that the adjacent low-rise residential development should not dictate the form of new development on a Key District Centre site in Dublin. A number of planning applications are referenced as examples.
- The lands are removed from the areas of architectural or cultural heritage interest and cannot be readily seen from the wider area. The development will not represent overdevelopment of the site and not be overbearing in its context to a mix of building types. The development will improve the visual amenities of the area by removing the existing unsightly structure.
- The fifth and sixth levels are recessed from the floor below to ensure that the primary read of the building is appropriately scaled to the width of the street and related parapet height of the CSO building adjoining the site to the north.
- It is set out that the siting of the building breaking the building line along Ardee Road will provide a strong urban edge and enclosed urban streetscape where there is currently no relationship to the streetscape.



- The building line accords with the Design Manual for Urban Roads and Streets (DMURS).
- The daylight/sunlight Analysis submitted with the planning application notes that all individual bedroom suites and communal living/kitchen/Dining rooms meet the BRE guidelines on Average Daylight Factor and the development will not impact on level of daylight or sunlight to surrounding residential properties. It is argued that there is only a marginal impact on Saddler's Court (opposite the site to the east) and Saddler's Place.
- It is set out that plot ratio of 4.2 is appropriate to the subject site located in a core urban area, in a designated District Centre and development plan policy is superseded by the Building Height Guidelines.

In relation to refusal reason no. 2 the appeal sets out the following:

- It is set out that the development is comparable to a permitted shared living development at Elbana Avenue, Dun Laoghaire (ABP 304249-19) which utilises the same design and layout. It is argued that the planning authority has not had due regard to this decision.
- It is set out that the applicant has carried out extensive research of this model of residential development and a key aspect of the room model is the provision of a large space than the minimum size prescribed in the Apartment Guidelines. As well as providing a high functioning kitchen within the existing room model in addition to the shared cooking/dining/living facilities at each level.
- In relation to the average of 4.95sqm living/kitchen/dining Space per person, it is set out that the applicant has significantly increased the quantum of kitchen/living/dining space at each floor level for the previous refusal (DCC 1090/18).
- It is set out that 32 no. of the 98 no. bedrooms will be north facing. This equates to 33% of the total units which is in accordance with the *Apartment Guidelines, 2018* where a maximum of 33% of units permitted shall be single aspect in central and/or accessible locations for long term residential units.

- The planning authorities concern regarding the outlook from the two-no. ground floor north facing bedrooms is noted and it is set out that the applicant is happy to accept a condition requiring the removal of both units and replacing them with a cinema room, should the board be minded to grant permission for this option the basement floor area will be reduced by c. 44sqm. Revised basement floor plan and floor area schedule are included in the appeal submission.
- It is set out that the north facing units 11.4m from the CSO building will be used for short term stays. Furthermore, the applicant has provided two options to address overlooking/privacy concerns associated with the north facing windows. Option A provides for opaque panel glazing to the height of 1.8, allowing light penetration but eliminating direct views to the CSO building. Option B provides for obviated windows along the northern elevation.

## 6.2. Planning Authority Response

The planning authority do not respond to the grounds of appeal.

## 6.3. Observations

Three no. observations were received.

1. Mittencross Management Ltd. c/o Vincent JP Farry and Co. Ltd, Planning and Development Consultants, Suite 180, 28 South Fredrick Street, Dublin 2. A brief summary of the issues raised in the submission to the Planning Authority are set out below:

- The erection of one of the highest structures Rathmines in this domestic scale residential street would be inappropriate.
- The submission disagrees with the applicant's assertion that national policy overrides the provisions of the City Development Plan as established in the *Brophy and Nulty -v- An Bord Pleanala* case.
- Failure to provide car parking raised as a concerns
- The lifetime of the permission (15 years) is queries and the applicant's intentions for the long-term use of the development.
- The development by reason of height and external terraces would overlook dwellings opposite the site.

- It is set out that the applicant is required to comply with Part V of the Planning Act.
2. Noel Noonan, c/o Hughes Planning and Development Consultants, 70 Pearse Street, Dublin 2. A brief summary of the issues raised in the submission to the Planning Authority are set out below:
- The site is located in the outer city where the height restriction is 16m.
  - The development represents overdevelopment of the site and will impact on surrounding properties in terms of achievable natural light and daylight, ventilation and views, overshadowing and loss of light.
  - Section 16.10.10 of the development plan sets out that infill development should have regard to the existing character of the street and established building line and height. The development will result in a completely inappropriate densification of the site which would have harmful impacts on surrounding sites.
3. The Rathmines Initiative, c/o 49 Lower Mountpleasant Avenue, Dublin 6. A brief summary of the issues raised in the submission to the Planning Authority are set out below:
- It is set out that the development materially contravenes the Dublin City Development Plan 2016-2022, by virtue of building height and that the appellant is relying on the *Building Height Guidelines*, 2018.
  - The building height and bulk would have an overbearing impact and the development is too large for the site.
  - The norther facing bedrooms represent an unacceptable levels of residential amenity and will be overlooked by the CSO building.
  - The proposed 16m<sup>2</sup> bedrooms would be too small a space for sustainable living in minimal comfort, notwithstanding the provision of communal facilities.
  - Tenancies will likely be longer than the two-twelve months suggested by the applicants and the development is not fit for longer terms occupancy.
  - The tripartite separation of shower, wc and wash hand basin is unhygienic
  - Lack of private amenity space akin to a hotel rather than a living space.

- It is set out that the development is not consistent with the requirements for Sustainable Residential Communities as set out in the Development Plan.
- Construction feasibility and sterilisation of lands to the south and west of the site raised concerns
- Compliance with Fire Regulations raised and the impact an adjoining right of way
- It is set out that the development reflects a corporate version of Air B&B.

#### 6.4. Further Responses

6.4.1. A further response from the first party received by An Board Pleanála on 13<sup>th</sup> December 2019, set out the following

The submission reiterates much of the contents of the original planning appeal submission. In addition to the following:

- It is set out that the Building Height Guidelines state that 6 No. storeys should be a minimum Within the Canal Ring of Dublin City, which is 500metres from the subject site. Based on this it is argued that the principle of building height of 5-7 No. storeys cannot be considered excessive at this location close to the City Centre.
- The CSO building is much taller than of surrounding buildings and the development seeks to take its reference from the height and scale of that building.
- The fifth-floor terrace will be managed by the on-site management company to ensure no impact on surrounding residential amenity including noise.
- The proposed development adheres to increased plot ratio thresholds in close proximity to public transport in line with the *Building Height Guidelines*.
- The development is not a long-term permanent apartment development . This model provides a lifestyle choice providing short-medium stay, non-permanent accommodation between 2-12 months. The north facing units will be utilised for shorter term stays and there is no requirement for north facing bedrooms to overlook an amenity feature in the *Apartment Guidelines 2018*.
- Construction feasibility is not a matter for the Board

- The submission notes that a fire Safety Certificate is required for the development and it is set out that an application has been submitted to Dublin Fire Brigade for the development.

## 7.0 Assessment

- 7.1. The appeal site is zoned Z4: District Centres – *“To provide for and improve mixed-services facilities”*. Residential uses are permissible within this zoning category. As such the proposal is acceptable in principle, subject to the detailed considerations below.
- 7.1.1. The appeal submission includes revised drawings noting the planning authorities concern regarding the outlook from the two-ground floor north facing bedrooms. It is stated that the applicant is happy to accept a condition requiring the removal of both units and replacing them with a cinema room. Should the board be minded to grant permission for this option the basement floor area will be reduced by c. 44sqm. A revised basement floor plan and floor area schedule are included in the appeal submission.
- 7.1.2. Furthermore, the applicant has provided two options to address overlooking/privacy concerns associated with the north facing windows. Option A provides for opaque panel glazing to the height of 1.8 allowing light penetration but eliminating direct views to the CSO building. Option B provides for obviated windows along the northern elevation. The recommendation below has regard to the amendments proposed.
- 7.2. The main issues in this appeal relate to reasons for refusal namely the siting, scale, mass and height of the development and the poor standard of residential accommodation by virtue of their design, layout and orientation, in particular the internal configuration of the units. The issue of appropriate assessment is also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:
- Principle of Development
  - Design, Height, Plot Ratio and Impact on Visual Amenity
  - Quality of Residential Accommodation
  - Other Issues

- Appropriate Assessment

### 7.3. Principle of Development

- 7.3.1. The site is located within the designated Key District Centre (KDC) of Rathmines in the settlement hierarchy of the City Development Plan and KDCs represent the top tier of urban centres outside the city centre. The provision of a Built to Rent Shared Living Accommodation at this location is supported by the apartment guidelines having regard to its well-connected location in Rathmines, close to the city centre and employment hubs.
- 7.3.2. The site is currently occupied by a two-storey building with attached single storey warehouse. The existing structures to be demolished are not of any significant architectural merit, therefore I have no issue with the demolition of the existing buildings on site.
- 7.3.3. I note that no car parking is proposed as part of the development. The Development Plan establishes that car parking provision maybe reduced or eliminated in areas that are well served by public transport. This site is centrally located and accessible to public transport. There is no issue with car parking provision on the site. The layout provides for 132 bike parking spaces.
- 7.3.4. Section 5.18 of the Apartment Guidelines states that shared accommodation is only appropriate where responding to an identified urban housing need at particular locations. The application includes several reports in support of the proposed shared accommodation including 'Shared Living – A Design-Led Approach to Modern City Living'; 'Justification Report'; 'KHSK Economic Consultants Report to Batra Capital Property, the Socio Economic Potential of Shared Living Accommodation in Ireland' and 'Urban Living Study Quantitative Report, October 2018'. The scheme has been designed on foot of market research and economic and demographic analysis carried out by the applicant. It is to be targeted at younger professionals who are likely to live in the area for a defined period of time, who may wish to share with people at a similar stage of their lives or who work in a similar industry, or who do not yet wish or have the resources to purchase a permanent home. The available demographic information indicates that there is a population bulge in the relevant age and socio-economic groups. The applicant submits that the development will address the housing needs of a specific segment of the market that is not well

served by more conventional types of residential development. With ongoing urbanisation, demographic trends, the need to counter the growth of commuting, and the emergence of the sharing economy, this form of housing can play a role in addressing housing requirements, as provided for in the Apartment Guidelines and NPF and can provide an accommodation option that is more affordable than standard apartments or houses.

7.3.5. The applicant makes the following points in terms of the suitability of this location for shared living accommodation:

- The site is located on a Key District Centre site in Dublin
- The site is a 'central and accessible' urban location as provided in the Apartment Guidelines.
- The site is located in proximity of major concentrations of employment in a highly serviced area with a variety of restaurants, cafés and non-retail services within walking distance of the City Centre and a wide range of public amenities.

7.3.6. A key determinant for shared living is location and proximity to work, amenities and public transport. I am satisfied that the site location is suitable for shared accommodation and I also consider that the provision of a new type of accommodation at this location would be in accordance with development plan Policy SC10, which seeks to develop and support the hierarchy of the suburban centres, ranging from the top tier key district centres in order to support the sustainable consolidation of the city and provide for the essential economic and community support for local neighbourhoods and Section 4.5.3 *Making and more Compact Sustainable City*. In addition, the development would contribute to the achievement of development plan housing targets and to national and regional policies to provide housing at sustainable locations and to encourage densification and compact urban growth.

#### 7.4. **Design, Height, Plot Ratio and Impact on Visual Amenity**

7.4.1. The Planning Authority's decision to refuse permission for the proposed development included reference to the layout, scale and design of the proposed development representing overdevelopment of the site and having an excessively overbearing effect on adjoining properties. It is stated that the development fails to

integrate or be compatible with the design and scale of the adjoining buildings and as a result, would seriously injure the visual amenities of the streetscape and would have an adverse impact on the character of Rathmines and as such the development would be contrary to section 16.10.10 of the Dublin City Development Plan 2016-2022 and section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities 2018.

7.4.2. Section 16.10.10 of the Development Plan and section 3.2 of the Urban Development and Building Heights Guidelines refer to new proposals successfully integrating with the existing character of the street including building line, building height and proportions.

7.4.3. The indicative plot ratio figure for lands zoned Objective Z4 is 2.0 and it is noted that the current development on the site has a plot ratio of approximately 4.2. Site coverage is 71% which is less than the indicative average of 80%. The Development Plan provides for increased plot ratio and higher site coverage in particular circumstances such as

- adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed,
- to facilitate comprehensive redevelopment of areas in need of urban renewal,
- to maintain existing streetscape profiles,
- where a site already has the benefit of a higher site coverage plot ratio.

Plot ratio is a somewhat simple instrument in terms of measuring density and the avoidance of the adverse effects of overdevelopment and the specific nature and qualitative elements of the proposal need to be considered in terms of the assessment of the appropriateness of the development as proposed relative to its context. In assessing the wider considerations, it is appropriate to rely on the qualitative factors defining built form including height, design, open amenity space provision, and standards of public realm.

7.4.4. The first party justifies the plot ratio and site coverage figures on the basis of the National Planning Framework which expressly seeks the densification of brownfield, infill, urban sites. In this regard, I consider the infill policy as set out in Policy QH8 of the Dublin City Development Plan 2016-2022 relevant in this instance which seeks to



promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the character of the area.

The subject proposed development at 27m in height exceeds the current height restriction of 16m as set out in Section 16.7.2 of the Dublin City Development Plan (2016-2022). The first party argue that the site is located with the Canal Ring and section 1.10 of the Building Heights Guidelines (2018) states that in such areas, it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the scope to consider even greater building heights subject to application of relevant objectives and criteria such as significant public transport capacity and connectivity, and the architectural, urban design and public realm outcomes would be of very high quality. I consider SPPR 3 of the Building Height Guidelines does apply in this instance. The Building Height Guidelines have been issued since the adoption of the County Development Plan in 2016 and it is national policy to support increased building height and density in such locations as per SPPR 1.

7.4.5. The planning authority considers the seven-storey flank elevation of the proposal when viewed from the south end of Ardee Road (Proposed VM 1 – Photomontages) would have an incongruous impact on the streetscape and the set-backs and changes in cladding do little to mask the bulk of this proposal when set against the surrounding prominently 2/3 storey domestic architecture. The bulk of the proposal is considered to have an undue overbearing impact on the surrounding 2/3 storey properties and is the proposal is contrary to *SPPR 3 of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018)*.

7.4.6. The subject proposed development at 27m in height exceeds the current height restriction of 16m as set out in Section 16.7.2 of the Dublin City Development Plan (2016-2022). The first party argue that the site is located with the Canal Ring and section 1.10 of the Building Heights Guidelines (2018) states that in such areas, it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the scope to consider even greater building heights subject to application of relevant objectives and criteria such as significant public transport capacity and connectivity, and the architectural, urban design and public realm outcomes would be of very high quality.

I consider SPPR 3 of the Building Height Guidelines does apply in this instance. The Building Height Guidelines have been issued since the adoption of the County Development Plan in 2016 and it is national policy to support increased building height and density in such locations as per SPPR 1.

- 7.4.7. Clearly additional building height over and above prevailing height can have a considerable impact in the context of streetscape. The proposed seven storey building is 24m in height extending to 27.4m including plant buildings. The immediate area is of mixed character including, residential, some light industry, office use and St Mary's College Senior School to the north. The prevailing **building height** in the immediate vicinity of the site is mixed ranging from two-three storey residential properties opposite the site, two storey and four storey structures to the immediate south of the site and the five storey CSO building at approx. 19m in height to the immediate north of the site. The CSO building currently bookends the western side of the Ardee Road. The first party argues that the developemnt is taking precedent form the adjoining five storey CSO Building. In a wider context site inspection indicated increased building heights in the area most notably the Rathmines Square apartments over the Swan Leisure centre also ranging from five to seven storeys located to the south of the site on the corner of Rathmines Road Lower and Williams Park and which is visible form the Ardee Road. I further note that the CSO building and St. Mary's School reflect significant building masses as does the streetscape on Rathmines Road lower to the immediate east of the site.
- 7.4.8. The architectural **design** resolution reflects a large L-shape form whereby the building mass is most exposed on the southern elevation. The general design approach is a contemporary one with a flat sedum roof with large glazed window openings on all facades. The ground floor is recessed, and the upper levels cantilevered over. The design approach including the recessed building line, in my view, is acceptable having regard to the immediately adjoining pattern of development and the general haphazard building line pattern along the road frontage and the recessed cantilevered entrance creates a welcoming entrance plaza. The bulk and scale of the proposal is further reduced when viewed form from Military Road and the northern approach on Ardee Road by virtue of the recessed sixth and seventh floors. Whilst, I note the planning authorities concerns regarding the view from the southern approach, the proposal in my opinion provides for the

consolidation of the taller buildings to the north western end of Ardee Road and the proposal mirrors the principle established by the adjoining CSO building whereby the CSO building is significantly taller than the existing two-storey structure on the appeal site. I am satisfied that the development will not have a significant visually overbearing impact given the urban context.

7.4.9. The potential for negative impact on established amenity is assessed particularly with regard to impact of overshadowing, overlooking and overbearing of the adjacent properties. The proposed development is an infill site and there is adequate separation distance between the site and the residential development to the south and the CSO office building to the north. A degree of overlooking is acceptable in an urban context. Therefore, there is no negative overlooking or overshadowing of residential property as a result of the development.

7.4.10. I am satisfied that the development is reflective of good contemporary architecture and provides a high-quality design approach and is in accordance with section 3.2 of the Building Height Guidelines and adequately addresses the issues of proximity to high quality public transport connectivity; contribution to the character and public realm of the area, to place-making, to the urban streetscape, to legibility and to the mix of uses in the area. I consider in relation to the visual impact and impact on the streetscape that the proposal is of a high standard and is innovative and contemporary. The proposed 5-7 storey building height over basement is considered acceptable on this basis. The provision for improved activity and engagement at street level and enhancements to the public realm is in my view successful from an urban design perspective.

## 7.5. **Quality of Residential Accommodation**

7.5.1. Section 5.13 of the Apartment Guidelines 2018 sets out guidance regarding the format “shared accommodation”. One format which is proposed is a residential unit comprising of 2-6 bedrooms of single and/or double occupancy with a common shared area within the residential unit for living and kitchen facilities. Each of the provided bedrooms is required to be ensuite and to be of a floorspace size as per Table 4 below.

7.5.2. Table 4: Units proposed

<b>Units Type</b>	<b>No. of units</b>	<b>Floor Area (including ensuite)</b>	<b>% of each unit type</b>
1 bed*	92	16sqm	94%
1 bed (accessible bedrooms)*	2	23.7sqm	2%
Double/twin occupancy*	2	18.1sqm	2%
Premium double occupancy*	2	23.7sqm	2%
*Including ensuite			
Total Units	98 units		100%

7.5.3. The development comprises 98 no. rooms, described as ‘shared living units’ including 92 no. single occupancy rooms, 2 no. accessible rooms and 4 no. double occupancy rooms. The Shared Living Report states that the proposed rooms have an area of 16 sq. m. incorporating lounge/sleeping area, closet, desk, toilet, shower, tea/ coffee making facilities, etc. Flexible fixtures are used to allow for a range of activities with a daytime ‘living’ arrangement and a night-time ‘sleeping’ layout. The double occupancy rooms are stated to be 18.1/23.7 sq. metres respectively and the accessible rooms are 23.5 sq. metres. The size of the individual units is in compliance with the guidance set out in Table 5a of the Guidelines and consistent with similar planning applications made to the Board – ABP-304249-19 Old School House, Eblana Avenue and ABP-305459-19 Brady’s Pubic House, Old Navan Road.

7.5.4. The applicant is to retain ownership of the scheme and to operate the shared living accommodation as ‘Niche Living’. The submitted Operational Plan and Shared Living Report provide details of the ongoing operation of the scheme. It is anticipated that the shared living will be medium term (2 months – 12months), non-permanent accommodation. The accommodation is to be managed by an on-site team during the core hours of 7am to 10pm Monday to Sunday in addition to Residential Relations on site in the morning to early afternoon and the General Manager from

early afternoon to late night. The service provided includes all utilities, waste management, cleaning and maintenance, linen collection, gym membership, access to events, concierge and access to interactive community software / app, similar to the services now offered by many student accommodation providers. Security personnel will be on-call at all times outside the core hours of operation. It is anticipated that many of the residents will eat at work or socially rather than use the proposed communal cooking and dining facilities.

7.5.5. SPPR 7 (b) of the Apartment Guidelines provides that BTR development must be accompanied by detailed proposals for (i) resident support facilities and (ii) resident services and amenities. Shared Accommodation shall be subject to the requirements of SPPRs 7 (as per BTR). The proposed communal amenities as indicated in the floor plans may be considered as follows:

<b>Amenities</b>	<b>No. of Units</b>	<b>Total Sq. m</b>
<b>Basement</b>		
Gymnasium		91
Party/Function/Cinema Room		74.8
		<b>Total 112.5</b>
<b>Ground Floor</b>		
Lounge/Reception	6 - Single occupancy	104.3
Games Room		37.8
Communal living/kitchen/dining		37.7
		<b>Total 179.8</b>
<b>1<sup>st</sup> Floor</b>		
Communal living/kitchen/dining	17 – single occupancy	84.7
		<b>Total 84.7</b>
<b>2<sup>nd</sup> Floor</b>		
Communal living/kitchen/dining	16 single occupancy 1 double	84.7
		<b>Total 84.7</b>
<b>3<sup>rd</sup> Floor</b>		
Communal living/kitchen/dining	17 – single occupancy	84.7
		<b>Total 84.7</b>
<b>4<sup>th</sup> Floor</b>		
Communal living/kitchen/dining	16 single occupancy	84.7

	1 double	<b>Total 84.7</b>
<b>5<sup>th</sup> Floor</b>		
Communal living/kitchen/dining	11 single occupancy	64
External Amenity roof garden	1 double	105.5
		<b>Total 169.5</b>
<b>6<sup>th</sup> Floor</b>		
Communal living/kitchen/dining	11 single occupancy	64
	1 double	<b>Total 64</b>
<b>7<sup>th</sup> Floor</b>		
Landscape Amenity/Vegetable Garden		138.2
<b>TOTAL</b>	98	<b>1002.8sqm</b> (External Amenity Space 243.7sqm)
<i>Note: In addition to the above - Communal living/kitchen/dining areas on floors 1-6 have access to a 4.5sqm south facing balcony.</i>		

The proposed residents support facilities include:

- Laundrette (13 sq.m.);
- Linen room (9 sq.m.);
- Bin Storage (20.3 sq.m.);
- Bicycle Storage

7.5.6. Section 5.17 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines (2018) states that *a key feature of successful Shared Accommodation schemes internationally is the provision of wider recreation and leisure amenities as part of the overall development.* Having regard to the above, and the information provided by the applicant regarding other schemes they have undertaken abroad and noting recent planning applications determined by the Board – ABP-304249-19 and ABP-305459-19, I consider this to be an acceptable level of recreational amenities for this development. I also note many recreational facilities are located within walking distance of this site.

- 7.5.7. It is noted that the proposed layout would not follow the format which is proposed by the Apartment Guidelines. The guidelines state that Shared Accommodation units provided with a common shared area would have a maximum occupancy of 8 persons calculated on the single or double occupancy of the bedrooms. The proposed development however is proposing up to 17 residential units per floor with a dual aspect kitchen/dining room and balcony.
- 7.5.8. Table 5b: *Shared Accommodation* of the Apartment Guidelines sets out the following floor area requirements for minimum common living and kitchen facilities floor area
- Bedrooms 1-3 8m<sup>2</sup> per person
  - Bedrooms 4-6 Additional 4m<sup>2</sup> per person
- 7.5.9. The implication from this guidance is that the subject development should be served by 6 sq. m. of common living and kitchen facilities per bed space. On the basis of the 106 bed spaces proposed, this would equate to 636 sq. metres. The scheme provides for a total of 504.9sqm of living/kitchen/ Dining area equating to 4.9qm on average per person. The first party states that this is based on the precedent of the quantum of such floorspace that was accepted by the Board at the Shared Living Scheme at Cookstown, Tallaght (ABP 303911-19) which provided for 4.3 sq. metres per person for 40 persons where 3 no. required 8sqm and 37 m. required 4 sqm. I have reviewed this application and note that the development was by refused the Board for two reasons including the “significant numbers of individual units sharing a single common living/kitchen area on each floor, and with a notable shortfall in the quantitative and qualitative provision of sufficient communal facilities...”
- 7.5.10. In my view, the floor area arrangement is substandard, and I agree with the planning authority that the layout provides an insufficient number of kitchen/dining areas on each floor, to cater for the potential number of occupants, in particular the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> floors where there is a shortfall in excess of 20sqm. Therefore, I consider that there is a shortfall in the common living and kitchen facilities on each floor. Having regard to the number of people using this one space, it is questionable as to whether a smaller kitchen/living area should be introduced on some floors to provide a greater choice for future tenants. I consider this matter can be addressed by way of condition should the Board be minded grant planning permission. I would also recommend that a condition is attached detailing that the grant of permission relates

solely to 'shared living' accommodation and does not constitute a grant of permission for individual dwellings as defined under the Residential Tenancies Act 2004 and that no unit/bedroom shall be let or sold as a self-contained residential unit.

7.5.11. Approximately 31% of the units would be north facing toward the side elevation of the five storey CSO building. The north elevation of this block is located approximately 6.6 metres from the boundary of the site. While the applicant has submitted that these would be used for shorter stays, the planning authority has concerns with the level of amenity of these units. The first party state that 32 no. of the 98 no. bedrooms will be north facing. This equates to 33% of the total units which is in accordance with the *Apartment Guidelines, 2018* where a maximum of 33% of units permitted shall be single aspect in central and/or accessible locations for long terms residential units. In this respect I note the development is not an apartment scheme for permanent residential accommodation but a rather a "Shared Living" scheme to be assessed as a single development where the core concept is to counter loneliness and isolation and promote social interaction and creation of communities. In this context and the temporary nature of the room occupancy form 2-12 months and the separation distance from the CSO office building, I am satisfied that the north facing bedrooms are acceptable and whilst I note the appellants revised submission to the Board for consideration I do not considered such amendments necessary. Similarly, I am satisfied that the two-ground floor north facing apartments overlooking the secure enclosed yard are also acceptable in the context of the nature of the development subject to the appropriate screening of the bin store.

## 7.6. Other Matters

### Part V

7.6.1. Section 5.21 of the Apartment Guidelines 2018 states, as is the case with student accommodation projects, shared accommodation units will not normally be subject to Part V requirements in relation to the reservation of 10% of the units as social housing because shared accommodation would not be suitable for social housing given that they are not provided as individual self-contained residential units.

## 7.7. Appropriate Assessment



7.7.1. The development site is not within or directly adjacent to any Natura 2000 site. The AA Screening Report on file considers the following designated sites within a 15 km radius of the development site for screening purposes:

Site (site code)	Qualifying Interests
Baldoyle Bay SAC 000199	Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritima</i> ) [1330] Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) [1410]
Howth Head SAC 000202	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030]
North Dublin Bay SAC 000206	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritima</i> ) [1330] Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] <i>Petalophyllum ralfsii</i> (Petalwort) [1395]

<p>South Dublin Bay SAC 000210</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110] The NPWS has identified a site-specific conservation objective to maintain the favourable conservation condition of the Annex I Habitat Mudflats and sandflats not covered by seawater at low tide [1140], as defined by a list of attributes and targets</p>
<p>Ballyman Glen SAC 000713</p>	<p>Petrifying springs with tufa formation (Cratoneurion) [7220] Alkaline fens [7230]</p>
<p>Knocksink Wood SAC 000725</p>	<p>Petrifying springs with tufa formation (Cratoneurion) [7220] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p>
<p>Glenasmole Valley SAC 001209</p>	<p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] Petrifying springs with tufa formation (Cratoneurion) [7220]</p>
<p>Wicklow Mountains SAC 002122</p>	<p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110] Natural dystrophic lakes and ponds [3160] Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] European dry heaths [4030] Alpine and Boreal heaths [4060]</p>

	<p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</p> <p>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p><i>Lutra</i> (Otter) [1355]</p>
<p>Rockabill to Dalkey Island SAC 003000</p>	<p>Reefs [1170]</p> <p><i>Phocoena phocoena</i> (Harbour Porpoise) [1351]</p>
<p>North Bull Island SPA 004006</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p>

	Wetland and Waterbirds [A999]
Baldoyle Bay SPA 004006	Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046] Shelduck ( <i>Tadorna tadorna</i> ) [A048] Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] Golden Plover ( <i>Pluvialis apricaria</i> ) [A140] Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] Wetland and Waterbirds [A999]
South Dublin Bay and River Tolka Estuary SPA 004024	Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046] Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130] Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] Knot ( <i>Calidris canutus</i> ) [A143] Sanderling ( <i>Calidris alba</i> ) [A144] Dunlin ( <i>Calidris alpina</i> ) [A149] Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] Redshank ( <i>Tringa totanus</i> ) [A162] Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) [A179] Roseate Tern ( <i>Sterna dougallii</i> ) [A192] Common Tern ( <i>Sterna hirundo</i> ) [A193] Arctic Tern ( <i>Sterna paradisea</i> ) [A194] Wetland and Waterbirds [A999]
Wicklow Mountains SPA 004040	Merlin ( <i>Falco columbarius</i> ) [A098] Peregrine ( <i>Falco peregrinus</i> ) [A103]
Howth Head SPA 004113	Kittiwake ( <i>Rissa tridactyla</i> ) [A188]
Dalkey Island SPA 004172	Roseate Tern ( <i>Sterna dougallii</i> ) [A192]

	Common Tern ( <i>Sterna hirundo</i> ) [A193] Arctic Tern ( <i>Sterna paradisaea</i> ) [A194]
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Site synopsis and conservation objectives for each of these Natura 2000 sites are available on the NPWS website. In particular the attributes and targets of these sites are of assistance in screening for AA in respect of this project.

***Assessment of likely Significant Effects on Designated Sites***

- 7.12.1. The site is located in an established urban area and does not contain any habitats listed under Annex I of the Habitats Directive. The AA Screening Report does not refer to the presence of protected species. The AA Screening Report states that the closest European sites are the South Dublin Bay SAC (Site Code 000210) and the South Dublin Bay & River Tolka Estuary SPA (Site Code 004024), which are located approximately 3.6km to the west of the development. It is evident that there is no relevant hydrological or meaningful biological connectivity to this European site. The screening considers that, given the scale of the proposed works and their location within the urban environment of Rathmines, there is no potential for significant effects during the construction phase.
  
- 7.12.2. The Department of Culture, Heritage and the Gaeltacht report dated 27<sup>th</sup> August 2019 recommends an amended Appropriate Assessment Screening Report be submitted addressing the potential cumulative impact of effluent discharges from the development together with other similar effluent discharges to the Ringsend treatment plant. In this regard, I note the development is for a relatively small residential development providing for 102 bedspaces only on serviced lands in an urban area and does not constitute a significant urban development in the context of the city, as such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP – PL.29N.YA0010 and the facility is subject to EPA licencing and associated Appropriate Assessment Screening. Similarly, I note the planning authority raised no Appropriate Assessment concerns having regard to the nature and small scale of the proposed development within a serviced urban area.

7.12.3. Having regard to the small scale of the development, there are no significant emissions predicted during the operational phase. It is therefore considered that there will be no potential for significant effects on any European site and therefore potential effects on European sites can be excluded at Stage I screening.

### ***AA Screening Conclusion***

7.12.4. I note the urban location of the site, the lack of direct connections with regard to the source-pathway-receptor model and the nature and small scale of the development. It is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the development, individually or in combination with other plans or projects would not be likely to have a significant effect on the above listed European sites, or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **8.0 Recommendation**

I recommend that planning permission be granted for the proposed development having regard to the reasons and considerations and subject to conditions as set out below.

## **9.0 Reasons and Considerations**

Having regard to the following:

- (a) the site's location in the Key District Centre (KDC) of Rathmines in the development plan;
- (b) the policies and objectives in the Dublin City Development Plan 2016-2022
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness;
- (d) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual;
- (e) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of Housing, Planning and Local Government in March 2018;

(f) the provisions of The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), issued by the Department of Environment, Heritage and Local Government;

(g) the nature, scale and design of the proposed development

(h) the availability in the area of a wide range of social and transport infrastructure;

It is considered that, subject to compliance with the conditions set out below that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area, would be acceptable in terms of pedestrian and traffic safety and convenience and would not give rise to flooding in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The proposed 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. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity

2. The proposed development shall be amended as follows:
  - a) Room 16 and Room 17 on the 1st, 2nd 3rd and 4th floors shall be omitted in favour of a second communal kitchen / dining / living area on each floor 1-4.
  - b) The bin store shall be appropriately screened from the ground floor apartments.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of providing a satisfactory standard of residential amenity for occupants of the development.

3. This grant of permission relates solely to 'shared living' accommodation and does not constitute a grant of permission for individual dwellings as defined under the Residential Tenancies Act 2004, no unit/bedroom shall be let or sold as a self-contained residential unit.

**Reason:** In the interests of clarity, residential amenity and the proper planning and sustainable development of the area'

4. Prior to the commencement of development, the developer shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of fifteen years shall be from the date of occupation of the first 'shared living units' within the scheme.

**Reason:** In the interests of proper planning and sustainable development of the area.

5. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Shared Accommodation scheme. Any proposed amendment or deviation from the Shared Accommodation model as authorised in this permission shall be subject to a separate planning application.

**Reason:** In the interests of orderly development and clarity.

6. Water supply and drainage arrangements, including the attenuation and 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 and to ensure a satisfactory standard of development.

7. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

**Reason:** In the interest of public health and to ensure a proper standard of development

8. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements. In particular:
  - (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.
  - (b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii.
  - (c) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
  - (d) All bicycle parking shall be in accordance with the detailed requirements of the planning authority for such works.

**Reason:** In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

9. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:
  - (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development
  - (b) proposed locations of street trees and additional street trees at appropriate intervals, other trees and other landscape planting in the development, including details of proposed species and settings;

(c) details of proposed street furniture, including bollards, lighting fixtures and seating;

(d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes, and

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of visual amenity.

10. Details of the materials, colours and textures of all the external finishes, including pavement and link finishes and external signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

11. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no 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:** In the interest of visual amenity, and to permit the planning authority to assess all signage on this site through the statutory planning process.

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

**Reason:** To protect the residential amenity of property in the vicinity and the visual amenity of the area.

13. Site development and building works shall be carried only out between 08.00 to 19.00 hours 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 amenities of property in the vicinity.

14. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of orderly development and the visual amenities of the area.

15. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste, and in particular recyclable materials, in the interest of protecting the environment.

16. 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.

**Reason:** In the interest of sustainable waste management.

17. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the

planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to the An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

18. 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

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Irené McCormack  
Planning Inspector  
27<sup>th</sup> January 2020