



An
Bord
Pleanála

Inspector's Report ABP 309843-21

Development

Demolition of existing structure, except two arched gables.
Construction of four storey, 74-bedroom hotel with setback third floor and café, co-working space, reception and staff facilities at ground level.

Location

10 Wynnefield Road, Rathmines, Dublin 6.

Planning Authority

Dublin City Council.

P. A. Reg. Ref.

2028/21

Applicant

Rathmines Hospitality Ltd.

Type of Application

Permission

Decision

Grant Permission.

Third Appellants

Eamonn Grace.

Rathgar Residents' Association.

Lenehan Family Members.

New Network Junction

Paul Byrne

Observers

Thom Lawson Sprezzatura.

Ibrahim Phelan

Fiona McHugh

Philip O'Reilly

Date of Site Inspection

6th July 2021 &

8th July, 2021

Inspector

Jane Dennehy

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
3.3. Third Party Observations	5
4.0 Planning History.....	6
5.0 Policy Context.....	6
5.1. Development Plan.....	6
6.0 The Appeals	7
6.1. Appeals (5 no):.....	7
6.7. Applicant Response	12
6.8. Planning Authority Response	15
6.9. Observations (4 no).....	15
7.0 Assessment	17
8.0 Recommendation.....	24
9.0 Reasons and Considerations.....	24
10.0 Conditions	25

1.0 Site Location and Description

1.1. The site is that of a commercial car parts sales business at a warehouse type structure and sheds within a yard facing onto and accessed from the south side of Wynnefield Road. On the opposite, north side of Wynnefield are terraced houses in restaurant/retail or other commercial use at ground level and ancillary or residential space on the upper floors. To the rear are two and three storey buildings in restaurant bar and café and retail uses with frontage to Rathgar Road including two levels of outdoor dining space for the restaurant enclosed by a screen is located at the rear of Lenehan's Bar on Rathgar Road. Stone walling is located along the southern boundary with these properties. To the east, on the corner site at Nos 221 -223 Lower Rathmines Road is a former bank building which has been converted for mixed use comprising apartments over ground floor restaurants. To the west side is a two-storey building in use as a hot desk workspace. (New Network Junction)

2.0 Proposed Development

2.1. The application lodged with the planning authority indicates proposals for Demolition of the existing buildings excluding two arched gables facing the street frontage which will be retained and for construction of a four storey, 74 bed hotel building with a setback third floor level. The development proposal comprises:

- At ground level: reception, café, co-working space, staff facilities, linen store, office, kitchen, toilets stores, plant and bin storage.
- At first floor level co working mezzanine level and 22 hotel bedrooms
- At second and third floor levels 56 bedrooms, (28 to each floor)
- Signage, canopy, cycle parking, plant (at roof level) and, associated site works and services.

The stated site coverage is 79% and plot ratio is 2.8 The application is accompanied by an infrastructure report, statement for appropriate assessment, sunlight and daylight analysis, traffic assessment mobility management and servicing deliveries report and a design statement.

3.0 Planning Authority Decision

3.1. Decision

By order dated 9th March, 2021, the planning authority decided to grant permission subject conditions which are of a standard nature for the nature of development proposed and which include requirements for clear glazing for the ground floor street elevation windows which are to be retained free of stickers and signage, (condition No 13) adherence to standards relating to noise at operational stage (condition No 5), and, omission of exempt development, (advertising) entitlements, (condition No 11).

3.2. Planning Authority Reports

- 3.2.1. The planning officer in his report indicated satisfaction with the proposed development and noted that various issues raised at pre-application consultations relating to residential amenities, the design, form height and materials and finishes had been resolved prior to lodgement of the application.
- 3.2.2. The report of the Transportation Planning Division indicates no objection subject to conditions. It notes setbacks from the footpath edge, a zero carparking approach, cycle parking facilities with clarification and outstanding details which can be addressed by condition.
- 3.2.3. The report of the Drainage Division indicates no objection subject to conditions

3.3. Third Party Observations

- 3.3.1. Submissions were lodged by ten parties in which the objections raised include:

Excessive height

Visual impact on streetscape to Wynnefield Road and Rathgar Road including surrounding protected structures.

Impact on residential amenities of adjoining and surrounding residential and commercial properties.

Excessive intensity of development.

Oversupply of co-working spaces.

The development has characteristics comparable to co-living developments

No parking provision for the development will result in traffic congestion.

4.0 Planning History

There is no record of a planning history for the application site.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site comes within Key District Centre 7 and is subject to the zoning objective: Z4: *To provide for and improve mixed services facilities.* The maximum indicative site coverage is 80 % and plot ratio is 2.0 according to section 16.4 and 16.5 which also provide qualitative criteria.
- 5.1.2. Development management standards are within chapter 16 and include policies and objectives for respect for and enhancement of the character and context of existing buildings and streets and spaces in new development under section 16.2.1.1 and policies and objectives for infill development is in section 16.2.2 which provide for development that complements the prevailing scale, architectural quality and degree of uniformity in the surrounding streetscape.
- 5.1.3. Policies and objectives for the City's Economy and Enterprise development are within Chapter 6 within which those relating to tourism and tourism infrastructure are within section 6.5.3.
- 5.1.4. The site location is within Area 2 for carparking and cycle as identified on Map J for which there is a minimum of one car space per three hotel rooms and one cycle space per 100 square metres enterprise and employment space or 150 square metres' restaurant space.
- 5.1.5. The adjoining property to the east side of the application site at 121-123 Lower Rathmines Road is included on the record of protected structures.

- 5.1.6. Objective SC 7 provides for protection and enhancement of the important views and view corridors into out of and within the city and to protect existing landmarks and their prominence

6.0 The Appeals

- 6.1. Appeals were lodged by the following five parties and are outlined below:

Eamonn Grace, Graces, Rathmines.

Rathgar Residents' Association

Lenehan Family Members,

New Network Junction,

Paul Byrne, Lenehans, Rathmines

6.2. Eamonn Grace, Graces, 2- 5 Rathgar Road.

- 6.2.1. An appeal was lodged by Eamonn Grace of Graces, 2- 5 Rathgar Road on 30th March, 2021 according to the application site shares a boundary at the rear of Graces, a public house a nineteenth century building and, in principle the redevelopment of the site is welcome. According to the appeal:

- The proposed development of a four-storey structure, in replacement of a single storey structure is excessive in scale, in height and is overbearing relative to the appellant's two storey structure immediately adjacent.
- Five windows at ground and first floor levels and four skylights at Graces, two metres from the proposed building will be overshadowed and natural light will be obstructed due to the proposed height. Increased artificial light and heating will be necessary for the public house increasing its running costs and carbon footprint.
- The proposed development will dwarf and adversely affect the Edwardian character and skylines of Rathgar and Rathmines Roads including Rathmines clock. The blank facade, (to the rear of the Graces which weather over time)

will dominate Graces and the streetscape on approach from Upper Rathmines Road and Rathgar Road.

- The loading bay on Wynnefield Road which is a narrow road and heavily used is overused at present. There is no 'drop off' or 'set down' area for the hotel and its additional traffic will add to congestion in addition to the lack of parking in the proposal which will add to the congestion due to lack of enough parking for residents and businesses.

6.3. Appeal by Rathgar Residents' Association.

An appeal was lodged by Paddy Marron on behalf of Rathgar Residents' Association on 6th April, 2021. According to the appeal:

- The proposed four storey, 15.3 metres high building will tower over the two storey buildings, a terrace along Rathgar Road, at the rear of the site which have a special architectural style and function particular to Rathmines. It will be obtrusive and incongruous in views on approach from Rathgar Road.
- The windows in the rear elevation will overlook the rear gardens including the restaurant's terraced dining areas on Rathgar Road.
- The proposed development greatly exceeds the site coverage and plot ratio standards in the CDP for Z4 zoned lands. As it has a plot ratio of more than 3.5 and a site coverage of 95%.
- As infill, due to the bulk, scale, design and height, it fails to meet the criteria under section 16.2.2.2 of the CDP to respect and complement prevailing scale, quality and uniformity in the townscape and cityscape.
- The 78 bedrooms are too small and cramped at 11 m sq. to 13.5 m sq. in size and, it is combined with shared working space.
- It is questionable as to whether the proposal is for a shared living scheme disguised as a hotel.
- There is no parking and inadequate cycle parking and arrivals and departures (by taxi) will create difficulties on exiting the junction.

6.4. **Appeal by Liam and Orla Lenehan, Rosin Lenehan, Kate Lenehan and Leah Lenehan.**

An appeal was lodged by Marston Planning on behalf of the appellant parties of Nos 221-223 Rathmines Road Lower and Nos 1, 2 and 3 The Bank Apartments,9 Wynnefield Road on 6th April, 2021 in which it is claimed that permission be refused. According to the appeal:

- The proposed development would have negative impact on the amenities of the appellant party properties. It will tower over and has insufficient setbacks from the Bank building at which Apartments 1 and 2 have terraces at first floor level and Apartment 3 at second floor level. The amenities of these apartments would be seriously diminished by the overbearing impact, an adjacent blank gable wall 9.8 metres above the level of the first-floor terraces and overshadowing and loss of natural light to the interiors. Current unobstructed sunlight would be completely obstructed. The submitted shadow analysis demonstrates loss of sunlight but is incomplete and should be more detailed.
- The proposed development constitutes overdevelopment; at almost 100 percent site coverage, excessive height and scale with adverse impact on the visual amenities and Victorian character of the streetscape. The design in which there is a strong horizontal emphasis does not reflect the grain and rhythm and there is no precedent for such an infill development in the area.
- The proposed development is contrary to Policy CHC 2 of the CDP. It will have negative overbearing impact, and it will dominate and will be out of character with the setting and context of the protected structure at 221-223 Lower Rathmines Road at the junction of Rathmines Road Lower and Upper and Rathgar Road and which has a turret at the corner of Wynnefield Road and Rathmines Road Lower. The submitted photomontages are unreliable in that the development would be highly visible from various directions which include Rathmines Road Upper and Rathgar and local views.
- The proposed development would have negative impact on the Victorian Terrace on the north side of Wynnefield Road which are in residential use over ground floor commercial uses and the amenities of the street. It will

reduce sunlight hours to the interiors from up to fifty percent to below ten percent at the spring and autumn equinoxes.

- The proposed development will have negative impact on Wynnefield Road which is one way and a traffic run from Charleville Road to Rathmines Road Lower causing increased congestion to pedestrians and vehicles and affecting traffic turning right. A particular concern being deliveries traffic for the hotel which has been underestimated and could be 7/8 times a day and the vehicular access to the apartment at the Bank building. The footpath is deficient in width. A mobility management plan is not the solution.
- The zero-parking provision in the proposal is not acceptable and is indicative of overdevelopment. The location is transitional in that it is between areas 2 and 3 for the CDP parking standards the maximum required for Area 3 for the development being 78 spaces. Visitors with cars will not be inclined to use the hotel and those that do will park on residential roads displacing residents' use of the spaces.
- The proposed hotel rooms of poor in quality in needing obscure glazing to prevent overlooking and in being small and cramped and substandard.

6.5. Appeal by New Network Junction.

6.5.1. An appeal was received from CWPA Architecture on 6th April 2021 on behalf of New Network Junction, a co-working centre at No 11 Wynnefield Road adjoining the west boundary of the site. It is acknowledged that the site is underutilised and that hotel development is acceptable in principle.

6.5.2. It is requested that the proposed development be modified so that impact on sunlight and daylight at the appellant property is not adversely affected. A further setback is recommended and it is accepted that this could be addressed by compliance with a condition.

6.5.3. According to the appeal:

- Sunlight and daylight access to three windows which are the only sources of natural light to the interior of the appellant property would be affected.

- 11 km 30 panel photovoltaic energy capacity solar panels on the flat roof and east hip of the appellant property will be overshadowed and rendered obsolete.
- The submitted daylight and sunlight and overshadowing report in which 23 windows at residential properties Nos 1-8 Wynnefield Road were assessed having regard to Site Layout Planning for Daylight and Sunlight, A guide to Good Practice 2011 (BRE 209) and stated to accord with BRE guidelines standards but the appellant party property should also have been assessed as these guidelines are also advisory for non-domestic development (Schools hospitals, hotels and hostels small workshops and some offices.)
- A CGI model which was to be submitted accord to the preplanning consultations was not included in the application. It would have demonstrated the impact on the appellant property.

6.6. **Paul Byrne, Lenehans' Bar and Grill,**

6.6.1. An appeal was received by Paul Byrne of Lenehans' Bar and Grill, Nos 6-9 Rathgar Road on 6th April 2021 in which it is stated, is partially located to the rear of the application site and, has been extensively redeveloped and incorporates outdoor dining areas at ground floor and first floor levels and, that in principle the redevelopment of the site is to be welcomed. According to the appeal:

- The proposed development is excessive in intensity and in height with a rear wall rising to thirteen metres immediately adjacent to the courtyard level outdoor dining space and nine metres adjacent to the first-floor dining space at the appellant's property. It is disproportionate relative to the site size and its narrow configuration.
- The entirety of the outdoor dining space will be overshadowed, and daylight from the north and east will be obstructed in that the building and outdoor dining spaces come within the 'zone of influence' of the daylight and sunlight assessment report which does not adequately address the overshadowing impact on the buildings facing Rathgar Road including the adjoining properties within Nos 2-9 Rathgar Road.

- The proposed development will be overbearing, in that it will visually imposing, towering over the outdoor dining areas at the appellant's property.
- The rear wall of the proposed building will be visible from Rathmines Road Upper and it will detract from the corner buildings which include the protected structure. (No 9 Wynnefield Road) It will be imposing in the skyline, replacing the views in the backdrop over the rooftops to the clock tower with a blank wall and plant and equipment on approach from Rathgar Road

6.7. Applicant Response

6.7.1. A submission in response to the appeals of the Rathgar Residents' Association, Lenehan Family Members, New Network Junction, and Paul Byrne, Lenehans Rathmines was received by the Board on 5th May, 2021 and is outlined below:

6.7.2. With regard to the appeal by New Network Junction:

- The shed to be demolished reaches the cill height at first floor level at the appellant property. During an inspection between 12.00 pm and 13.00 hrs on a sunny 12th April, the artificial lights at the first-floor level were lit throughout. This floor has windows onto the boundary and onto the Wynnefield Road frontage.
- The pitched roof on which the photo voltaic solar panels are located is to the rear, west and receives light from the south and from the west.
- BRE guidance only relates to non-domestic buildings where the occupants have reasonable expectation of daylight which might include some offices. (Not to all commercial buildings) The offices at the appellant property are hot desk and short term with no leases involved. There is no long requirement for natural light that is evident. The area under the pitched roof of the appellant party's property along the eastern boundary has no first-floor windows. It receives light from the application site to the east which is set back from the western boundary at all levels.
- Alternative values for certain criteria are in Appendix F of the BRE guidelines providing for buildings with windows unusually close to a site boundary from which it takes light. The VSPC and APSH targets "*for these windows could*

be set to those for a mirror image building of the same height and size, an equal distance away on the other side of the boundary.” This indicates a Mirror VSC of 0% for the windows on the boundary. Direct sunlight is undesirable at office space due to glare with artificial light being preferred to give predictable environments.

- Most energy for the PV panels comes from the south and west and are most effective within +/- 30 degrees of due south and the gains fall off the outside of this. The application site is to the north and east so real reduction is unlikely. The proposed development benefits the appellant site in that an improvement will be created by demolition of the lean to workshop and increased separation at the boundary in planning for solar collectors, consideration must be given to future development in urban built up areas.

6.7.3. With regard to the appeal by Paul Byrne:

- The rear of the site of Lenehan's Bar and Grill which is due south of the proposed development adjoins part of the boundary with the application site and will not be subject to additional overshadowing. Due to high boundary conditions and the location of the external space to the north in the site results in "self-shadowing".
- The outdoor terrace has a high timber screen in place and is setback back from the boundary with Wynnefield road with a yard at ground floor level screening it from Wynnefield Road. The direction of the shadowing at the near boundary wall indicates that building is to the south are unaffected by midday shadow. Hotels are not shadow sensitive developments.
- The buildings fronting onto Rathgar Road are not all two storey as three storey buildings on higher ground are to the right of the appellant property. In the skyline, the Rathgar Road frontage has three storey buildings comparable to a five-storey building on the opposite side of Rathgar Road within Rathmines village at the junction at Rathmines Road Upper. There is an unsatisfactory view from Wynnefield Road at the rear of Lenehan's bar with the high-level screen. Bars and restaurants do not lose light from the north and east as they are not open in the morning time.

- The view along Rathgar Road is a straight downhill trajectory which evolves and changes and in which the proposed development will not be dominant but it is well designed and fitting for the urban visual context. There is no justification for removal of a floor from it.

6.7.4. With regard to the appeal by the Lenehan Family Members:

- Any negative impact on the terraces at Apartment Nos 1-3, The Bank would be confined to midsummer. BRE Guidance indicates that the equinox is the relevant assessment time and it is based on 50% of the amenity area receiving some sunlight for two hours during daylight hours.
- The objection which is based on excellent uninterrupted sunlight in the evenings at mid-summer to the terraces which have sunlight throughout the day is not based on the relevant guidance. Assessment of shadow should be based on the shadow diagrams over an entire day as opposed to a particular time. Shading is transient as the sun moves across the sky through the day. A small amount of additional shadowing to the westerly terrace at 4 pm on 21st March is indicated. There is no shading through the rest of the day. 21st March should be used for plotting shadow if space is used all year round as according to the Guidelines, it is the best date for shadow plots to be prepared to give average levels of shadowing.

Diagrams were included in the shadow study for 21st June and 21st December although not required under the guidance. Low buildings cast shadow in wintertime and sun below an altitude of 10 degrees during the course the day is not assessed.

- The default height for new development to the to the existing lowest common denominator in urban areas must change and the recommended default height is four storeys in outer suburban and six storeys in central urban areas. The four-storey proposal is modest for Rathmines and the adjoining protected structure which has a vertical emphasis and a tower.
- As regards generation of illegal parking on the street raised in the appeal of the Lenehan family, servicing the of the existing use at the site takes place at

the gate out of necessity but this would cease with the new development. The mobility management plan is based on empirical information on city centre hotels whereas there is no evidence to back up the appellant claims as to the unreliability of the mobility management plan. Most city centre hotels operate without parking provision and it is accepted as reasonable that opportunities for parking should not be provided to discourage or eliminate private car use.

- 6.7.5. With regard to the appeal by Rathgar Residents Association it is submitted that the statement in the appeal as to the development being intended for “shared living” as opposed to a hotel is noted in the response. It is the applicant’s case that the proposed development is appropriate as a redevelopment at a town centre location serviced public transport and that it is intended to be operated as a hotel.

6.8. **Planning Authority Response**

- 6.8.1. There is no submission from the planning authority.

6.9. **Observations**

- 6.9.1. Submissions the observations of whom are outlined briefly below were lodged by the following four parties:

Thom Lawson Sprezzatura.

Ibrahim Phelan

Fiona McHugh

Philip O’Reilly

- 6.9.2. **Thom Lawson Sprezzatura.**

The observer is joint owner of restaurants located on the ground floor of Nos 221-223 Lower Rathmines Road, the corner site former bank building at the junction. According to the submission: -

- The proposed development is overdevelopment for the site and location:

- Wynnefield Road does not have additional capacity to serve the traffic, parking and servicing (deliveries and collections) generated by the proposed hotel. There are several businesses and residential developments as well as the service entrance for the Stella Cinema depending on the narrow one-way street which has parking on one side, a footpath on the other side and which is used as a rat run. There is only one loading bay suitable for two vans or one truck only.
- The development could be scaled back to a smaller scheme and the current proposal should be rejected.

6.9.3. Ibrahim Phelan

The observer operates a restaurant business at No 3 Wynnefield Road on the ground floor and office and staff accommodation are on the upper floors. According to the submission:

- The proposed development would overshadow Mr Ibrahim's property and will seriously affect the amenity of the restaurant indoors and outdoors where there is seating on the street and the upper floors will also be affected.
- Parking by patrons, calling for takeaway and to eat at the restaurant and by vans associated with Mr Ibrahim's catering business will be badly affected by the increased demand for parking on the street and by the increased use of the loading bay. Increased obstruction including refuse vehicles needing to turn and the additional traffic will increase an already hazardous situation at the junction.
- A reduced size scheme incorporating on site provision for deliveries and servicing and a pull in bay for taxis would be more appropriate and would alleviate overshadowing, amenity and traffic safety concerns.

6.9.4. Fiona McHugh

The observer, with an address on Grosvenor Road indicates acceptance in principle for redevelopment of the site but her objections are as to:

- Adverse visual impact on the streetscape and on individual significant landmark buildings including protected structures which have benefitted from restoration, between the site and the town hall such as the former Bank

Building adjoining the site having regard to scale and height in particular. She submits that the proposal is overwhelming and falls short of the requirements of section 16.2.2.2 of the CDP regarding infill development and, the plot ratio is excessive and unacceptable.

- The Mobility Management Plan, as required under condition no 7 (c) would be ineffective and its implementation cannot be enforced. and the lack of onsite parking for guests or dedicated services/delivery space or drop off pick up area on site is unacceptable. Wynnefield Road is already at full capacity in traffic and in parking demand and use of the loading bay.
- The need for a business hotel at the location outside the city centre is questionable and a more modest sized proposal might be appropriate.

6.9.5. Philip O'Reilly

The observer, with an address on Grosvenor Place indicates serious concerns which are outlined below:

- The design for the proposed development is poor and unsuitable for the character of Rathmines. It would seriously overwhelm and adversely affect the setting of Nos 221-223 Rathmines Road and the Town Hall and Church in particular and the two and three storey buildings fronting onto Rathgar Road and between Slattery's pub and No 18 Rathgar Road.
- The amenities of residential properties which include those in the former Bank building at Nos 221 - 223 Rathmines Road Lower, which would also be overshadowed would be adversely affected.
- The hotel is significant and it is a concern that it is to be on the narrow road at a blind junction and very heavy traffic.

7.0 Assessment

The issues central to the determination of the decision and considered below are:

Nature of Use.

Scale and Intensity of development.

Height, Design and Mass – Visual Impact.

Overshadowing.

Overlooking

Parking, Traffic and Pedestrian Flow and Safety

Environmental Impact Assessment Screening

Appropriate Assessment \Screening.

7.1. Nature of Use

- 7.1.1. Hotel and co-working space are considered consistent with the 'Z4' zoning objective: *(To provide for and improve mixed services facilities.)* and the Key district centre designation of Rathmines in the CDP. The co-working space allocation within the development is relatively minor and a reasonable facility for hotel patrons along with the proposed café. Indeed, it is to be welcomed in that the ground floor layout and use contributes to mitigating potential dead street frontage effect which can occur at hotel developments which solely provide rooms only and no facilities, from ground level upwards with remote management and self-check in at a terminal. The room sizes which range from twelve to sixteen square metres in area, (inclusive of en-suite facilities) are acceptable, if relatively small and with suboptimal outlooks and daylight access.
- 7.1.2. With regard to the contention by third parties that the proposed development is a 'co living' development in disguise, the development description in the notices and internal layout clearly indicates hotel accommodation. Should conversion to some alternative form of accommodation be planned at any future date, a further planning application would be required and a condition to this effect, for the purposes of clarity can be attached if permission is granted. In principle, the nature of the proposed development is considered acceptable.

7.2. Scale and Intensity of development.

- 7.2.1. There is no dispute that the proposed development, in site coverage and in plot ratio is in excess of the indicative range provided for in the CDP for 'Z4' zoned lands in sections 16.4 and 16.5. The development would satisfy the CDP criteria for

consideration of greater site coverage and plot ratio having regard in particular to the proximity to the public transport facilities, (both LUAS and bus routes), bike schemes, walking distance of the city centre, the desirability of redevelopment of the underutilised serviced site at optimal intensity. However, the acceptability of the scale and intensity is subject to various other considerations being satisfactory.

7.3. Height, Design and Mass – Visual Impact.

- 7.3.1. In its presentation onto Wynnefield Road along which there is almost fifty metres' street frontage the proposed new building, (incorporating the existing warehouse arches) has a high-quality design and selection of materials and external finishes. The setback for the third, top floor is acceptable and a complementary and appropriate insertion into the streetscape in views from the opposite side and, on approach from east and west along the street although the upper levels and feature of the former Bank Building would no longer stand tall at the end of the street.
- 7.3.2. In views from the south on approach along Rathgar Road and Upper Rathmines Road there is considerable concern among the appellant and observer parties as to the visual impact on the existing built environment of two and three storey Victorian buildings in the foreground on Rathgar Road, on Nos 122 and 123 Lower Rathmines Road and in the townscape in which the special features are the Clock Tower and St Mary's Church Rathmines further to the north-east off Rathmines Road Lower.
- 7.3.3. The proposed new hotel building, which incorporates glazing in the rear elevation would have, (with some variation along the length) a footprint circa nineteen setback metres, back from the Rathgar Road front building line but circa three metres, from the rear elevation of Nos 2-5 Rathgar Road. Although the application submission does not include comprehensive certified verified views and a visual impact assessment to facilitate assessment, it is considered, notwithstanding the setback, that the block which is of considerable length would be very conspicuous as a backdrop to the two and three storey buildings facing on to Rathgar Road on the approach along Rathgar Road. As a result, it would significantly alter the established context of and backdrop to this prominently positioned group of buildings in views which terminate the vista on the slightly downward sloped approach along Rathgar Road.

7.3.4. From the lower end of Upper Rathmines Road the hotel block would have negative visual impact on the setting of the Rathgar Road buildings. In this regard, the concerns of the third parties are clearly appreciable.

7.3.5. Based on the limited information available, the potential degree of impact cannot be fully assessed but it is considered that the third-floor element of the proposed hotel would alter and adversely affect the context and setting of the Rathgar Road buildings, the Lower Rathmines Road Buildings, particularly No 121-123 and the clock tower in views on approach from Rathgar and Upper Rathmines.

7.4. **Overshadowing.**

Some third-party appeal and objections relate to concerns as to significant reduction in attainable sunlight access to non-domestic developments. As pointed out in the appeal submissions, with reference to BRE guidance, *Site Layout Planning for daylight and Sunlight*, BRE 2011, and BS 8206 Part 2:2008: *Lighting for Buildings, Code of Practice for Daylighting*, consideration of impact on non-domestic development should only apply where there is a use where there reasonable expectation of sunlight access by occupants. Therefore, in such instances, noticeable, reduction in sunlight access should be taken into consideration. The applicant's consultant according to the "Daylight and Sunlight Assessment" submitted with the application has applied the recommended standards in the above mentioned BRE Guidance in the assessment further to a full survey of the occupancies of properties within the identified zone of influence was undertaken.

7.4.1. With regard to the properties on the north side of Wynnefield Road it is established in the submitted comprehensive Sunlight and Daylight study that the windows to rooms in residential use at the properties on the north side of Wynnefield Road would retain levels of sunlight in excess of the minimum standards for average daylight factor (ADF) in that the reduction where it would occur not being below the minimum prescribed standards in the guidance.

7.4.2. With regard open external spaces, the terraces at the apartments in the adjoining Bank Building (No 9 Wynnefield Road and 12-123 Rathmines Lower,) to the east are at issue in the third-party appeal by Lenehan family members. These spaces are south facing and have access to sunlight through the year and day round in the summer. Contrary to the views in the appeal, it is considered that sunlight and

daylight impact to the south facing external amenity spaces of this property were appropriately assessed having regard to the recommended guidance. The equinox standards are applied as relevant time for plotting shadows for assessment of average levels of shading and establishment as to a minimum of two hours sunlight over fifty per cent of the surface of amenity space during daytime. The assessment covered sunlight through the course of the day as shown in the shadow diagrams and it is satisfactorily demonstrated that the amenity spaces would continue to receive sunlight, with no shading caused by the proposed development. In this regard the proposed development would be acceptable.

- 7.4.3. With regard to the commercial uses, it is agreed that an assessment would not be required as it is agreed that the upper floor commercial use at No 7 is not a relevant consideration and neither is the adjoining New Network Junction Building to the west side, (an appellant party property) which is a co-working office space. It is also noted that in this building there are windows in the front, east and west side elevations, the east facing windows being the source of objection and it is not accepted that the occupancy and use would be at issue with regard to sunlight access.
- 7.4.4. The properties along Rathgar Road on the south side of the application site at which two of the appellant parties have properties, (Graces and Lenehans) are in non-domestic use. The are in restaurant, bar and café and ancillary uses. The configuration and screening of the areas for the external dining/bar spaces which are used by patrons are on the north side of the buildings adjacent to the party boundary. It is doubtful that a sunlight and daylight assessment of the proposed development for these spaces the current conditions of which are disadvantageous with regard to sunlight and daylight access is warranted given that it would appear that the additional reductions in access to sunlight and daylight are likely to insignificant and given the e non-domestic nature of the use and, lack of perception or expectations among patrons as to direct impact in loss of amenity. Nevertheless, the application could be requested to prepared submit a daylight and sunlight assessment for the external spaces for the properties on Rathgar Road, but this is considered unwarranted.

7.4.5. The Daylight and Sunlight Assessment submitted with the application is considered satisfactory with regard to the methodology and to the extent and range of third-party properties assessed.

7.5. Overbearing Impact on amenities of adjoining properties.

7.5.1. The proposed block which, owing to the site configuration, is a long but narrow structure with shallow depth and is not excessive in mass or overbearing in terms of the amenity potential for occupants and users of the of adjoining structures including the apartments at the adjoining former bank building to the east side of the site.

7.5.2. With regard to buildings on Rathgar Road to the south, it is of note that in an inner urban area generally, it is not unusual for separation distances between commercial buildings to be restricted and as such overbearing impacts may not be at issue. Given the non-residential uses at the existing buildings, it is considered, that adverse impact on the amenities of those properties is not at issue.

7.5.3. Having regard in particular to the third-floor setback, it is not accepted that the proposed hotel building would be overbearing in impact on the amenities of the residential units on the northern side of Wynnefield Road.

7.6. Overlooking:

7.6.1. It is considered that obscure glazing is to be applied for the windows for some hotel rooms is a satisfactory solution with regard to overlooking potential. Lack of clear glazing would be acceptable for hotel rooms whereas it is unacceptable for residential accommodation intended for long term use. There is no potential for significant overlooking from the proposed development towards the interior of the upper floor rooms on the north side of Wynnefield Road or other surrounding properties having regard to the nature of use of the surrounding and the design and fenestration detail for the proposed hotel.

7.7. Parking, Traffic and Pedestrian Flow and Safety

7.7.1. A 'zero-parking' policy has been applied for development within the city centre as an effective means in discouraging trip generation in the city centre and facilitating and encouraging pedestrian, public transport and cyclist movements. At the proposed development, the hotel rooms alone generate a maximum requirement for 26 spaces

having regard to CDP standards (Area 2 in Table 16.1) and the co working space and cafe would generate an additional requirement.)

- 7.7.2. For the inner suburbs, outside of the Canal Ring, the case for 'zero parking' is a little less persuasive but as stated in the report of the Transportation Division, the area in which the site is located is particularly well served by public transport and close proximity to the city. Measures such as the 'zero-parking' policy is a means to discourage additional trip generation along Wynnefield Road and it is noted that current proposal would not reduce the supply of on street parking spaces in the immediate vicinity as those that are available are on the opposite side of the street are unaffected.
- 7.7.3. The hotel can benefit from the available parking at the Swan Centre Carpark (circa 300 spaces) but it is considered that the spaces at Rathmines Church and SuperValu at Ranelagh referred to in the applicant's traffic assessment included with the application are not convenient to the site location and should be discounted from the calculations provided within the traffic assessment report included with the application. However, it is considered that the 'zero-parking' policy within the proposal can be accepted. There is no objection to the proposals for cycle parking facilities at the site.
- 7.7.4. However, with regard to a 'set down' area and off-street services and deliveries parking for the hotel, reasonable concerns are raised made in the appeal and observer submissions as to potential obstruction of traffic flow along Wynnefield Road having regard to availability of the heavily used loading bay opposite the site. It is agreed that this would arise during peak hours but not necessarily at other off peak daytime hours. The projected frequency of trips that would be generated by the proposed development at twenty-four per week appears to be conservative. The lack of a 'set down' area for arrivals and departures by guests and others is likely to result in obstructions to the traffic flow along Wynnefield Road during peak periods giving rise to some reservations but pedestrians are reasonably well and safely accommodated due to the public footpath width.

7.8. **Environmental Impact Assessment Screening.**

- 7.8.1. Having regard to the nature of the proposed development and its location in a serviced inner suburban area, removed from any sensitive locations or features,

there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.9. Appropriate Assessment.

- 7.9.1. The application is accompanied by a screening statement for Appropriate Assessment which has been consulted. Having regard to the scale and nature of the proposed development and to the serviced inner suburban location, no Appropriate Assessment issues arise. The proposed development would not 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. In conclusion, it is considered that in order for the views and view corridors towards the buildings on Rathgar Road in front of the site which terminate the vista on approach along Rathgar Road and on approach from Rathgar Road and Rathmines Road Upper and the Rathmines townscape to be protected, the omission of the top, third floor is recommended. Although the development is otherwise considered acceptable, the omission would also contribute to a reduced intensity of development and height raised in the third-party objections.

9.0 Reasons and Considerations

Having regard to the Dublin City Development Plan, 2016-2022 according to which the site is within Rathmines, a 'key district' and at a location which is subject to the zoning objective Z4: *To provide for and improve mixed services facilities*, and to the established pattern and character and uses of the surrounding development, it is considered that subject to compliance with the conditions below the proposed development would not seriously injure the visual amenities and character of the surrounding historic built environment particularly the two and three storey building to the south side of the site, fronting onto Rathgar Road and within the Rathmines townscape, would be acceptable in terms of traffic and public safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The setback third floor shall be omitted in entirety. Prior to the commencement of development, the applicant shall submit and agree revised plan section and elevation drawings with the planning authority.

Reason: In the interest of the protection of the setting and context of existing two and three storey buildings terminating the vista in views on approach from the south along Rathgar Road and Rathmines Road Upper.

3. 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, "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.

4. Hours of construction shall be confined to the hours of 0800 and 1900 Mondays to Fridays excluding bank holidays and 0800 hrs and 1400 hrs on Saturdays only. Deviation from these times will only be allowed in exceptional

circumstances where prior written approval has been received from the planning authority.

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

5. Details of materials, colours and textures of all external finishes which shall include the provision of samples for the proposed new roof shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity

6. The applicant shall obtain water and waste-water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health

7. 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.

8. 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.

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

9. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 (as amended), no additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant or the erection of

telecommunications equipment other than those already shown on the drawings submitted with the application, unless authorised by a prior grant of planning permission.

Reason In the interest of clarity and visual amenity

10. Details of the proposed signage, size, materials, method of illumination if any proposed, shall be submitted to the planning authority for their written agreement prior to commencement of development, any additional signage shall be the subject of a separate planning application.

Reason: In the interest of visual amenity and residential amenities.

11. Prior to the commencement of the development, fully detailed Servicing Management Plan shall be submitted to and agreed in writing with the planning authority. The implementation of the measures provided for in the plan shall be managed, monitored and reviewed by the operator of the development.

Reason: In the interest of pedestrian and vehicular safety and convenience

12. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including details of:

Location of the site and materials compound.

Location of areas for construction site offices and staff facilities.

Site security fencing and hoardings.

Timing and routing of construction traffic to and from the construction site and associated directional signage.

Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.

Mitigation measures for noise, dust and vibration, and monitoring of such levels.

Containment of all construction-related fuel and oil and,

Arrangements for storage and removal of construction and demolition waste and measures for management of surface water run-off.

Arrangements to ensure that during the construction and demolition phases, works are in accordance the standards in, British Standard 5228 *'Noise Control on Construction and Open Sites, Part 1. Code of practice for basic information and procedures for noise control.'*

Arrangements for management of demolition and construction stage impacts on pedestrian facilities and circulation.

A monitoring system and record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of orderly development, public amenity and safety, and the proper planning and sustainable development of the area.

- 12 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.

Jane Dennehy
Senior Planning Inspector
29th July, 2021