



An
Bord
Pleanála

Inspector's Report ABP-304881-19

Development	PROTECTED STRUCTURE; New hotel development, 65 room contemporary hotel and all associated works.
Location	3, 4, 5 & 6 Parnell Street, & no. 59 Capel Street, Dublin 1
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	4311/18
Applicant(s)	Vision Wave Ltd.
Type of Application	Permission
Planning Authority Decision	Grant Permission with conditions
Type of Appeal	Third Party
Appellant(s)	Caitriona Braddock B.L.
Observer(s)	TII.
Date of Site Inspection	13 th January and 19 th March 2020
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The site is located in the north inner city and fronts onto both Capel Street and Parnell Street. It comprises five plots close to the junction of these streets and there is also frontage along Jervis Lane which runs parallel to Capel Street.
- 1.2. No 59 Capel Street is a mid terrace two bay four-storey over basement 18th century building which was substantially rebuilt in 1914 with later annexes. It has commercial use at ground level and residential use overhead. It is recorded as being of regional architectural interest on the NIAH. While Victorian in appearance it is stated to conceal an earlier building in the Dublin Civic Trust survey.
- 1.3. No. 3 Parnell Street is a mid-terrace tow-bay, three-storey over basement late 18th Century premises that is a protected structure and is also included in the NIAH. It is unoccupied and in very poor condition with steel supports stabilising the building. The later shopfront has central doorway but and replacement windows each side. It is the last remaining house of an 18th C terrace with 4-6 which were served Dangerous Building notice in 2010 and subsequently demolished
- 1.4. No. 4 Parnell St was built around 1900 with remains of a mid-18th century chimney. The floor and basement levels are the only surviving floors of the former two bay three storey over basement building and are in poor condition.
- 1.5. No 5 is similarly a former tow bay three storey over basement terraced building form the late 18th century /early 19th building that has been partially demolished with partially remain ground floor and basement levels. It is stated not to retain early angled floor plans.
- 1.6. No 6 is a single storey 20th century concrete and brick structure with architectural features of merit. IT is described as being of firmer industrial type use., The site fronts onto Jervis Lane and there are stone setts in the street
- 1.7. Nos. 4-6 Parnell Street were subject of a Demolition Building Notice 2010 whereupon the upper floors were demolished.
- 1.8. Capel Street is a long narrow street with narrow terraced buildings of varying architectural styles, period and uses with earlies buildings dating form 1720s.

2.0 Proposed Development

- 2.1. It is proposed to substantially demolish the premises with the exception of no. 3 and the façade (and original rear wall as amended in FI) of no.59 and construct a part five, part six and part seven storey building (up to seven storeys) with a total height of 25.17m over basement to provide for a 65 bedroom hotel with a lounge (86sq.n) and restaurant 146sq.m. /166 seats) and ancillary areas at ground level. The main hotel entrance is proposed via no.3 Parnell St. A separate restaurant entrance is proposed at Parnell St. and the lounge entrance is off Capel St. A second restaurant entrance and separate service/escape route are also proposed off Jervis Lane. An outdoor seating area of 43 sq.m. proposed off the lounge on the southern side. The overall style is distinctly contemporary and incorporates a mix of brick and more modern cream coloured cladding finishes.
- 2.2. Revised drawings in Further Information scale back the upper floor levels.
- 2.3. A Supplementary Architectural Heritage Impact Assessment – a substantial document submitted as part of FI - describes the nature of works in detail by reference to comprehensive survey and analysis.
 - 2.3.1. Works involve:
 - No.3 – A new timber shopfront to replace existing non-original shopfront. Internal and external alterations including repointing and repair of brickwork and insert historically accurate timber sliding sash window frames the existing chimney stack is to be retained and refurbished. The replacement of the shopfront will not result in loss of original fabric. Internally the staircase is to be retained. A new opening is proposed in the hallway which will involve loss of a small section of an original wall. Original mouldings will be used to base authentic replicas where appropriate. An interconnecting opening in the party wall with no.4 is also proposed. A blocked-up window in the rear wall is proposed to be opened and converted to a door open to a glazed atrium which is proposed to link with the new building. The upper floors are proposed as ensuite-bedrooms and will involve blocking of doorways from the hall and interconnecting of original rooms otherwise retained. The interventions are clearly annotated and described on pages 5 and 6 of the

planning report submitted as part of further information to the planning authority.

- Nos. 4-6 Parnell Street. The remainder of these premises are proposed to be demolished.
- No.59 is to internally gutted and remodelled while retaining external walls (as revised in FI)

2.4. The application is also accompanied by

- A letter stating the hotel experience and marketing strategy of the applicant firm's directors.
- A Sunlight and Daylight Access Impact Analysis.
- Photomontages
- Mobility Management Plan and Preliminary Construction/Traffic Management Plan
- Conservation Assessment
- Drainage Report
- Design Statement
- Planning Report
- Services Report (FI)

3.0 **Planning Authority Decision**

3.1. **Decision**

Following a request for further information the planning authority issued a decision to grant permission subject to 22 conditions.

Condition 1 - standard

Condition 2 – section 48 contribution of €142,438.98

Condition 3 – section 49 LUAS contribution of €77,257.80

Condition 4 – (a) omission of a full storey in height – fourth floor level in its entirety

(b) bedroom 508 on 5th floor and adjoining landing and stairwell shall be omitted and if necessary, the stairwell relocated further east.

(c) Cream coloured cladding to be replaced by brick in the Parnell Street and Jervis Lane elevation

(d) projecting sign on Parnell Street Elevation shall be omitted.

Reason: to protect visual amenities and character of the streetscape at Parnell Street and Capel Street and provide for an appropriate transition in the vicinity of Capel Street and environs Architectural Conservation Area.

Condition 5 - the window on the south elevation of room 505 shall be omitted.

Reason: To protect adjoining amenities.

Condition 6 – details of materials, colours and textures of all external finishes to be agreed. To be of high quality and in keeping with area and adhere to principles of sustainability and energy efficiency and high maintenance detailing shall be avoided.

Condition 7 requires revised drawings addressing the Conservation requirements of the planning authority

Condition 8 – The bar and restaurant shall be generally accessible to the public during normal opening hours.

Condition 9 – signage details required

Condition 10 – restricts further signage, banners etc.

Condition 11 – restricts roof level plant etc.

Condition 12 requires details of restaurant odours etc

Condition 13 – regulates noise

Condition 14- Archeological requirements

Conditions 15 and 17 - relate to drainage

Condition 16 - relates to transportation division requirements

Condition 18 - relates to construction hours

Condition 19 - requires a cash deposit

Condition 20 - relates to construction noise

Condition 21 - relates to construction management

Condition 22 - relates to Irish Water requirements.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The proposal is otherwise seen as a significant redevelopment of a sensitive corner site and the proposal to regenerate is generally welcome. The planning report makes extensive reference to architectural conservation policy as well as policies on tourism and the role of hotels. The plot ratio is considered excessive in the context of the streetscape and nature of proposal. Having regard primarily to policy and objectives for architectural conservation area and the environs of the site and the need to protect historic fabric and also to the amenities of no 2 and 2 aa Parnell Street, the planning authority sought further information on

- Accurate record of all buildings as part of an Architectural Heritage Impact Assessment with details of mitigation measures and revised drawings retaining and conserving architectural features such as shopfronts, original building plots and boundaries.
- Details of sensitive servicing outside no.3 and no59,
- Details of construction methodology
- Structural appraisal
- Revised sections and drawings showing a significant reduction in height of the proposed development and a revision of the roofscape to achieve a lighter setback form the historic parapet line that could facilitate roof terrace amenity. It is recommended that a reduction in the main parapet height along Parnell Street to four storeys is considered to be more in keeping
- Details of a reduction in height of the new build element of the proposed development to the rear of the façade of no 59 having regard to the visual impact when viewed from Capel Street and the impact on the rear of 2 and 2a Parnell St.
- Consideration of an entrance to the proposed restaurant from Jervis Lane in order to increase activity and footfall as part of the development plan strategy for laneways in Dublin 1.

Following further information which included revised drawings the intervention with historic fabric were considered generally acceptable. However the height would be visually incongruous and the materials and interface with streetscape

above shopfront level require further amendments to reflect the historic plots and character. These matters among other details are dealt with by conditions of permission.

3.2.2. Other Technical Reports

Conservation Office: Two detailed reports have been prepared by the Executive architectural conservation officer and as the contents relate to core issues in this case a detailed summary is set out below:

- Architectural sensitive of street and area
- erosion of the architectural heritage of Parnell Street is noted
- The architectural features of the buildings are described.
- No 59 and no 3 included in NIAH and no. 59 is subject of a ministerial recommendation to be a Protected Structure.
- The proposal compares favourably with the previously permitted hotel on the site. IT is considered more sympathetic to the fabric, integrity and architectural character of the protected structures
- The further information provides better clarity on what fabric was to be conserved and that an accurate account of original and historic elements informed the proposal.
- The rehabilitation of the site especially at the corner of 4-6 Parnell Street is welcome however the proposed height, scale and massing and architectural articulation – It does not respond to historical grain, architectural fabric and character of two historic streets and the ACA. The scale and fenestration have no consideration of adjoining structures. Roof profile does not sufficiently set back and does not fully accord with the character of the area (section 8.2.8 of the Architectural Conservation Area Plan).
- Recommended
 - The cream colour stone elements should be reduced by a storey to be in keeping with 1-3 Parnell Street.

- The 3 floors on top of no.59 is incongruous with architectural character and form.
- Welcomes revision to protect historical fabric of no. 59
- Ground floor shopfronts of 4- 6 should be retained. Rather than replaced with generic traditional types.
- Old and new should be clear.
- The historical urban grain was more sympathetically incorporated in the previous proposal and this conservation report of that application should be taken account of in a more sympathetic redesign. The monolithic scale does not reflect the historic grain.
- The bathroom layout should be revised to retain legibility of chimney breast
- Further details required regarding the link between no.3 and the modern build.
- Preference for a horizontal glazed element to be introduced.
- Should use the pre-existing opening in the rear wall in no.3 to provide access to the linked area rather a new opening.
- Conservation repairs /material recommended include NHL2 lime mortar and blue Bangor /Welsh slate that that reclaimed slate.
- A detailed an in-depth study shall be completed in advance of works.
- In the event of permission Revised details should include
 - Reduction in height by at least one storey but preferably two
 - Height of cream coloured cladding on Parnell street elevation reduced by a storey to align with parapet height of nos 1 and 2 Parnell Street and no. 60 Capel Street.
 - Reduction in 3 floors over 59. Omission of new bedroom at fourth floor.
 - Revised shopfront design on Capel Street to retain historic fabric.
- Revise elevation on Parnell street to reflect historic grain.
- Revise lime mortar type and slate type.
- Revise bathroom/lobby layout

- Detailed basement survey shall be completed. The EACO shall be given opportunity to inspect the site in the course of fabric removal work and should any elements of interest be found these should be incorporated as part of revised design.
- Utilise the pre-existing opening of no.3 in lieu of new opening in original wall.
- Revised link design.

Drainage Division: No objection subject to conditions.

City Archaeologist: No objection subject to conditions.

Transportation Planning Division: Car parking not necessary in this city centre location in close proximity public transport. It is noted that car parking demand can be managed through information and other operators where needed and little traffic will be generated. It is accepted that the projected 1-2 deliveries can be facilitated in existing loading bays. A construction management plan should be submitted for agreement. No objection subject to conditions

3.3. Prescribed Bodies

3.3.1. Failte Ireland supports the proposal for a new hotel as it would be valuable addition to the accommodation stock in Dublin which is in high demand (93% occupancy.)

3.3.2. NTA: no reply

3.3.3. TII: Section 49 levy applies

3.3.4. Department of Culture, Heritage and the Gaeltacht:

- Insufficient information for full appraisal of impact no,3 Parnell St and no, 59 Capel Street. Architectural Heritage Impact Assessment required together with accurate drawings and mitigation measure where adverse impacts identified.
- Concerned about height and scale in context of architectural heritage of the area. New development should have regard to the grain and character of the adjacent buildings which shall include height, massing, proportions and plot widths.

3.4. **Third Party Observations to the planning authority**

- 3.4.1. Owners/occupiers of neighbouring premises (no 60 Capel street) object to the enclosure of the courtyard and impact on access, drainage, waste and debris and future maintenance of problems much aggravated by the proposal. There is also concern about disruption to audiological testing due to disruption. Other issues relate to construction, size and scale and impact on amenity
- 3.4.2. Residents of Stewarts Hall, Ryders Row object to impact on residential amenity and architectural character.

4.0 **Planning History**

4.1. **Dublin City Council – Parnell Street**

2423/11 Permission for a smaller hotel on a site comprising nos. 3, 4, 5 and 6 Parnell St. The duration of this permission was extended until February 2022.

4752/08 Permission refused for a mixed-use development on sites no. 3, 4, 4 and 6 on grounds of impact on protected structure.

5624/04 Permission granted for the partial demolition of nos. 5 and 6 . Upheld on appeal.

3494/99Permission granted for demolition and redevelopment at 5 and 6 Parnell St.

5.0 **Policy Context**

5.1. **National Planning Framework (2018)**

- 5.1.1. The National Planning Framework seeks compact urban growth. NPO 5 refers to scale and quality of urban development; and NPO13 refers to a move away from blanket standards for building height and car parking etc. and instead basing it on performance criteria.

5.2. **Urban Development and Building Heights, Guidelines for Planning Authorities (2018)**

5.2.1. These guidelines provide a framework to implement the strategy of consolidation set out in the National Planning Framework. Section 3 provides guidance in Building Height and the Development Management process.

5.2.2. Development Management Criteria: Section 3.2 advises that in the event of making a planning application for a higher building the applicant shall demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, that the proposed development satisfies criteria including :

- It is at the scale of the relevant city/town
- The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.
- Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views.³ Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.
- On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.
- Criteria is also set out regarding scale of neighbourhood/street and scale of site/building.

5.3. Dublin City Development Plan 2016-2022

5.3.1. The site is governed by the objective to consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity. (Z5)

Section 14.8.5 of the Plan states that the primary purpose of Z5 zoning is to *'sustain life within the centre of the city through intensive mixed use development'* and *'to provide a dynamic mix of uses which interact with each other, help create a sense of community and which sustain the vitality of inner city both by day and night'*.

Hotel, restaurant and public houses are '*Permissible Uses*' on Z5 lands.

The indicative plot ratio and site coverage levels for lands zoned Objective Z5 are between 2.5 and 3.0 and 90 percent respectively.

Capel Street is a category 2 shopping street in the inner city.

The site is located within an ACA. No.3 Parnell Street is included on the Record of Protected Structures.

5.3.2. The site includes a protected structure (no.3 Parnell Street) and falls within an Architectural Conservation Area - /Capel Street and Environs.

5.3.3. **Built Heritage and Urban Form**

It is a key objective of the core strategy to protect and enhance the special characteristics of the city's built and natural heritage. The principal measures enabling the City Council to achieve this objective are the Record of Protected Structures and the designation of Architectural Conservation Areas.

5.3.4. **Taller Buildings:** Chapter 4 outlines the shape and structure of the City and provides for taller buildings in designated areas. **Outside these designated areas and SDRAs it is otherwise policy to retain the remaining areas of the city to a maximum height of between 16m and 28m depending on location....**the height limitations set out in the development plan may be set aside or relaxed in considering a proposal for the redevelopment of the site which will provide for the continuation of its national, historic, social and cultural status.

Approach to Taller Buildings.(Section 4.5.4.1): Dublin City Council acknowledges the **intrinsic quality of Dublin as a low-rise city and considers that it should remain predominantly so.** The vast majority of the city area is identified as not being suitable for mid-rise or taller buildings. The City Council remains **committed to the need to protect conservation areas, architectural conservation areas and the historic core of the city.**

However, taller buildings can also play an important visual role and can make a positive contribution to the skyline of a city. Dublin City Council recognises the merit of taller buildings, including landmark buildings, in a very limited number of locations at a scale appropriate for Dublin. Accordingly, the **spatial approach to taller buildings in the city is in essence to protect the vast majority of the city as a low-rise city,** including established residential areas and conservation

areas within the historic core, while also recognising the potential and the need for taller buildings to deliver the core strategy.

Clustering of taller buildings of the type needed to promote significant densities of commercial and residential space are likely to be achieved in a limited number of areas only. Taller buildings (over 50m) are acceptable at locations such as at major

public transport hubs, and some SDRAs.

SC28 To promote understanding of the city's historical architectural character to facilitate new development which is in harmony with the city's historical spaces and structures.

CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

CHC4: This policy seeks to protect the special interest and character of ACAs. Development will not:

1. Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area
2. Involve the loss of traditional, historic or important building forms, features and detailing including roof-scapes, shopfronts, doors, windows and other decorative detail
3. Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors
4. Harm the setting of a Conservation Area
5. Constitute a visually obtrusive or dominant form.

Changes of use will be acceptable where, in compliance with the zoning objective, they make a positive contribution to the character, function and appearance of Conservation Areas and their settings.

The Council will consider the contribution of **existing uses** to the special interest of an area when assessing change of use applications and will promote compatible uses which ensure future long-term viability.

- 5.3.5. CHC5: this policy seeks to protect protected structures and preserve the character of ACAs. It will resist substantial loss of fabric of building (either

protected or not) within such areas unless public benefits outweigh the case for retention. Sections 16.2.2.3 provides guidance for alterations and extensions

5.3.6. Section 16.7 refers to Building Height in a sustainable City.

5.3.7. Section 16.32 provides assessment criteria for **Licensed Premises** among other late-night uses. It states that:

In recognition of the importance of Dublin as a thriving and multi-dimensional capital city, there is a need to facilitate **the concept of the 24-hour city, particularly in the city centre and other key district centres**. Dublin City Council will encourage entertainment/ cultural/ music uses which help create an exciting city for residents and tourists alike, and which are capable of attracting people in cutting edge industries such as digital media.

There is a need to strike an appropriate balance between the role of these entertainment uses in the economy of the city and the following:

To maintain high-quality retail functions on the primary city centre streets and ensure a balanced mix of uses

To protect the amenities of residents from an over-concentration of late-night venues.

Noise emanating from and at the boundaries of these establishments are issues which will need to be addressed in planning applications for such establishments.

Noise insulation and reduction measures, especially relating to any mechanical ventilation or air-conditioning, will be required to be submitted with any such planning application.

The development of 'superpubs' will be discouraged and the concentration of pubs will be restricted in certain areas of the city where there is a danger of overconcentration of these to the detriment of other uses.

In cases where new uses, including uses such as casinos and private members' clubs, extensions to the existing use or variation in opening hours of a public house are proposed, **the onus is on the applicant to demonstrate that such proposed development will not be detrimental to the residential**, environmental quality or the established character and function of the area.

Matters that shall be taken into account by the planning authority in assessing planning proposals for these uses and extensions to such uses include but are not limited to the following: **the amenity of neighbouring residents and occupiers, hours of operation, traffic management, shop frontage treatment and impact on streetscape and proposed signage.**

5.3.8. Section 16.24.2 and Policy CHC 1 aims to protect and retain traditional shopfronts and to encourage new and contemporary shopfronts that are well designed. Should relate to the proportions and upper floor and not obscure original features.

5.3.9. The site is within a Zone of Archaeological /constraint for the recorded Monument DU018-020 Dublin City which is listed in the RMP and is within the

zone of Archaeological Interest in the development plan. Accordingly an Archaeological Impact Assessment including test trenching shall be attached to any grant of permission.

5.4. Natural Heritage Designations

5.4.1. The site is not located within or close to any European site.

5.5. EIA Screening

5.5.1. The appellant makes the case that the impact on the architectural heritage warrant the need for an EIA. While these are salient issues in the consideration of this proposal, I consider these matters can be adequately addressed as planning issues in the context of proper planning and sustainable development of the environs and wider area. I am of the opinion that having regard to redevelopment nature of the proposal and its overall scale and to the nature of the uses proposed and to the fact that it is proposed to connect to existing public water and drainage networks and that there is an absence of a clear pathway to European sites, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

Caitriona Craddock of 2 Parnell Street objects to the proposed development on the following grounds:

- The proposed 7 storey structure is out of character with prevailing pattern of development. Mass and scale are out of proportion. It would be visual obstructive by reason of height and breach of building line in an ACA and

would be contrary to the development plan objective for a Conservation Area (objective H7)

- Poor design, material and finish that is suburban in nature fails to reinstate or enhance the character of the area in contrast to the other building owners in the area. Later agreement not acceptable.
- Impact on material assets and cultural heritage which includes a number of protected structures qualifies for an EIA.
- The scale of development that will effectively wrap around no. 2 will seriously impact on privacy and quiet and peaceful enjoyment of residential use property at no. 2. The demolition which may involve asbestos will cause interference and disruption to amenity. Amenities will be further encroached by the external and atrium areas (courtyard seating, atrium, sixth floor suites balconies).
- The hotel entrance /foyer at no.3 will interfere with residential amenities.
- Inadequate detail of construction works – lack of consultation. Hours of 7a.m to 6pm Monday to Friday and 8a.m. to 2pm on Saturday are unacceptable. Concern about use of crane over No.2 and loads.
- Occupancy details of subject premises inaccurate. It is clarified that no.3, 3 and 4 were occupied until around 2007/8. There is no no.1 Parnell Street – there is 2 and 2A.
- Height of 25.17m from ground level will cause loss of light and this is not addressed in the Sunlight and Daylight Access Impact Analysis. The conclusion by Arc are sweeping, subjective and generalised
- The restaurant and lounge with outdoor seating are excessive in scale relative to the hotel size and by themselves and will interfere with residential amenity – privacy and peaceful enjoyment. The proposed development will generate noise, traffic loss of light, loss of privacy and permanent disruption
- Risk of traffic hazard due to traffic and parking by coaches, taxis, buses etc generated by the hotel in an area where streets are narrow, prone to congestion and there are no limited parking facilities.

- Compromising fire/emergency escape and access.
- Inadequate sewerage services as evidenced by a basement leak in the appellant's property
- Devalue home that that has been invested in and developed over 25 years in line with the 'living over the shop' policy and incentives of Dublin City Council.

6.2. Applicant Response

- The approved development which is reduced in height by condition allows for the efficient use of services land in the city
- The concerns of the planning authority in its final assessment regarding the variety of material are noted and condition 6 is welcomed as it will provide for harmony.
- The appeal site is 0.0589hectares and is not within the threshold for EIA by reference to the class - 'Infrastructure Projects'.
- Construction hours as set in ocondition18 are normal.
- There is no statutory requirement to consult local residents. Public notices were provided in lien with the Planning Act.
- The Board should have due regard to the Sunlight and Daylight Analysis while also taking account of the revision in height and scale which are considered to mitigate limited impact on adjoining properties.
- The proposal is representative of a typical city centre development whereby efficiency of land has been achieved while protecting existing amenities.
- The proposal incorporates active ground floor uses while increasing footfall within the immediate vicinity. This is positive and contribute to passive surveillance which would eb compromised by restricting public use.
- A traffic management detail as part of construction management plan will address traffic concerns. The proposal is otherwise acceptable to the transportation division.

- Notwithstanding the engineer's reports accompanying the application, there are no objections by the drainage division condition 15 and 17 address this issue.
- Z5 provides for intensive mixed-use development which sustains the vitality of the city centre both day and night. The proposal as revised compiles with the vision for Z5 objective and does not compromise the appellant's ability to continue living at their residence. The revisions are sympathetic to visual and residential amenities.

6.3. **Planning Authority Response**

- No further comments

7.0 **Assessment**

7.1. **Issues**

7.1.1. This appeal relates to the redevelopment of a partly derelict site which comprises an amalgamation of 5 plots which include a Protected Structure in a fine-grained urban context that, significantly, includes an architectural conservation area in the north inner city. The redevelopment of this partly derelict site pursuant to a Demolition Order and planning permission is, in principle, desirable and a hotel use which incorporates a restaurant and lounge bar is also permissible as a land use and the hotel is also supported in its contribution to the tourist infrastructure in this city. Permission is however predicated on meeting development criteria which is extensive in this case, given the historic urban fabric, the residential occupants in both the older over-the-shop premises (the appellant being one such case) and newer apartments and the need to consolidate the city form and function as advocated in national and local policy. The appeal is by the owner of a partly residential property in the adjacent plot no.2 Parnell Street. On examining the grounds of appeal and the issues arising on file I consider the salient issues fall under the following headings.

- Height and scale – Impact on streetscape in an ACA
- Design and Materials – impact on historic fabric
- Impact on residential amenity – loss of light and privacy, disturbance

- Other matters – construction , drainage and access
- Appropriate assessment

7.2. Height and scale – Impact on streetscape

- 7.2.1. The case is made by the appellant that the proposed development is entirely out of scale in that it dwarfs the adjacent properties including those that are protected structures. This issue is appraised in detail in the report of the Conservation Office of the planning authority wherein it was a stated preference that the proposal be reduced by up to two storeys in height and this informed the request for further information.
- 7.2.2. In the applicant's response, the drawings 2018-45-FI300,/301/302/303 illustrate the removal of a portion of the top level (part of the club lounge) and removal of 2 bedrooms in an effort to reduce the massing and height. The set back is considered by the applicant to minimise visual impact on the streetscape.
- 7.2.3. As can be seen from the photomontages of the initial proposal, the view from Capel Street includes an expansive gable wall abruptly transitioning in height from the abutting no.3 protected structure and, notwithstanding the variation in materials it would I consider constitute a prominent and discordant feature in the streetscape and detract from the setting of no.3. Accordingly, this would be contrary to the development plan policy in respect of conserving the character of architectural conservations areas where: 'New development should have regard to the grain and character of the adjacent buildings which shall include height, massing, proportions and plot widths.' Capel Street Architectural Conservation Area Policy Document also states: It is important that any redevelopment or renewal in this area respects the existing historical and architectural character of the Street.
- 7.2.4. The planning report reasonably adjudges that the proposed height would not be necessary to maintain the existing streetscape and refers to a number of four storey buildings. I concur that there is little to warrant the 5.84 plot ratio of the initial proposal which well exceeds the guide of 2.5-3. This was not reduced by any significant degree in the revised proposals.

7.2.5. For these reasons, I consider the reduction in height and set back as required by condition by the planning authority to be a reasonable and appropriate approach to achieving an acceptable height while protecting the streetscape character as well as amenities in the area – this is addressed in more detail below.

7.3. Design and Material

7.3.1. The appellant considers the design to be of a suburban style that is inappropriate to the streetscape and environs. While the planning authority has criticised particular detailing of the design in addition to the massing, the issues have been considered by the planning authority to be not insurmountable.

7.3.2. One of the key issues raised by the planning authority is the need for the extent of demolition and loss of historic fabric .

7.3.3. The proposed interventions with no.3 which are set out graphically in figures 5, 6, and 7 with an accompanying description in the applicant's planning report and essentially seek to open up the ground floor to provide a hotel lobby at ground level with minimal interconnection through the external walls to quite distinct uses in adjacent historic plots. The upper floor rooms in n.3 will largely remain intact with interconnection between the principal rooms to provide a generous ensuite bedroom at each of the upper floor levels. In overall terms the interventions are I consider minimal in the context of repurposing the building as part of a hotel. Low impact uses have been directed to the protected structure while at the same time its external refurbishment (together with that of no.59) will serve to reinstate and protect the character of the building and historic character of the area. The contemporary design approach to the new build element accords with good design practice given the architectural historic context of the area.

7.3.4. With respect to no 59 the proposal has been modified to retain the external walls however in what I consider to be a comprehensive appraisal of the building morphology, as set in detail in the most comprehensive Supplementary Architectural Heritage Impact statement. This statement explains that the building has been largely rebuilt and does not contain the fabric as referred to in the NIAH description. It is clear that the current layout in the upper floor has been substantially altered and there are no features of architectural significance.

Further survey work may reveal some fabric, and this can be addressed by way of condition.

- 7.3.5. The other aspects of the design raised by the planning authority relate to the shopfront treatment and materials. I concur with the approach by the planning authority generally in seeking the retention of the traditional shopfront elements and historic plots, but the overriding consideration should be quality design and materials that is in deference to historic plots and context. In this context the articulation of historic grain is important but I consider some latitude in materials and finishes is acceptable and such latitude should not compromise assimilation with the historic setting. The use of a lighter finish similar to that proposed on the narrow lane will bring a reflective and brighter aspect to opposing residents and users of this laneway. Accordingly I would recommend amending the condition prohibiting the cream cladding and prescriptive use of brick.

7.4. Impact on residential amenity – loss of light and privacy, disturbance

- 7.4.1. The appellant is concerned about the impact of both the scale and use of the proposed development on the residential amenities and enjoyment of no. 2 Parnell Street. I note this premises have a mix of uses with a ground floor commercial use and residential use in the upper levels. I also note the concerns of the neighbouring audiologist/practitioner submitted to the planning authority. Consideration of their respective living and working environments is most salient given that this mix of land uses and diversity is supported in the development plan for this area. In this case nos. 2 /2a backs onto an yard that is enclosed to the south by the return/extension to rear number 60 Capel Street (audiologist) and the party wall to the rear of no.3 extends along the eastern boundary. There are a number of windows facing into this yard area but the depth of 4m together with existing surrounding building heights provides for restricted levels light at the lower levels. The raising of the existing return height by an additional fourth and fifth floor levels to the south of no. 2 /2a would I consider significantly reduce limited light levels - in this regard I note the quantified impacts set out in Table 2.1 of the Sunlight and Daylight report which estimates a loss of sunlight penetration in zone 7 (floor 3 of the rear of no. 2) from 63%, 42% and 21% to

11%, 10% and 1% during Annual, Summer and Winter periods respectively. Table 3.1 also quantifies significant losses of daylight. While a moderate loss of light is to be expected in an infill development of a partly vacant site this is the worst affected zone and warrants a modification of the proposed to reduce this. Accordingly, I concur with the approach of the planning authority in this regard and am satisfied that the omission of the fourth floor level and room 508 (fifth floor) and shifting eastward of the stairwell would reasonably protect existing residential amenities. In addition to lowering of the glass atrium to the ceiling height of the 2nd floor rather than eaves height would improve light penetration although this would be negligible. Furthermore I consider the omission of the storey in height and the remodelling of the top floor and resultant setback will similarly reduce the loss of light penetration in other surrounding residential property such as that in zone 1 along Jervis Lane and also Zone 3 along Parnell street and thereby protect the living quarters of this part of the city.

- 7.4.2. In terms of noise and disturbance I note that the proposed courtyard is on the southern side of plot 59 and the intervening building would buffer sound. Similarly the balconies which are not directly overlooking are reasonably well setback. In any event, the scale of these balconies is limited in terms of noise generation. Conditions restricting overall noise particular generated by music/loudspeaker/p.a. should I consider, be attached. Hours of operation of the restaurant which fronts a quiet mixed use lane should also be limited to before midnight. Consideration could be given to early closure of the courtyard.
- 7.4.3. The main entrance to the hotel through no.3 Parnell Street (adjacent to no.2) is I consider preferable to that of a bar or restaurant use in terms of generation of potential disturbance. The more intense uses are provided with independent accesses off both Capel St and Parnell Street while being internally linked. An additional service entrance off Jervis Lane will serve to further disperse the pedestrian traffic and limit potential for disturbance. I consider the approach to be reasonable. Conditions of permission can further regulate potential for disturbance.
- 7.4.4. The opportunity for overlooking would I consider be limited arising from the reinstated windows of no.3 , from the west facing corridor windows at fifth and sixth floor level and from the balcony in the north elevation with an oblique angle

across the no. 3 and into the courtyard. Similarly from the south facing balcony there would be an oblique view over the roof. The further use of obscure glazing and opaque glazed screen along the balconies would satisfactorily mitigate any overlooking to the extent that it would not be significant.

7.5. **Other Matters**

- 7.5.1. The appellant raises concerns about construction disturbance which are ordinarily dealt with by construction management plans. Given the restricted nature of the site in a busy location I consider a more detailed condition in this regard to be appropriate. I do not consider the construction hours of 7 a.m. to 7pm to be unreasonable. Details of waste disposal within the framework of a management plan should also address concerns in regard to public health and safety. Regulation regarding hazardous waste is however governed more specifically by a separate legislative code.
- 7.5.2. There are concerns about access and rights of way which are civil matters and not strictly within the scope of the planning acts.
- 7.5.3. The concerns relating to traffic are addressed in the transportation division which refer to the public transport and absence of on-site car park. The mobility management plan will contribute to reducing generation of traffic in the environs. The construction management plan should address construction traffic in detail given the location, limited parking and likely temporary demand for such.
- 7.5.4. In respect of drainage issues I note the drainage division has no concerns. Matters raised appear to refer to private property and civil issues.
- 7.5.5. An observation has been received by the Board from TII and requests that a condition in accordance with the adopted s.49 LUAS Cross City Development Contribution Scheme be attached in the event of a grant of permission and if the proposed development is not exempt.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a

significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. In view of the foregoing assessment I recommend that permission be granted based on the following reasons and considerations and subject to conditions as set out.

9.0 Reasons and Considerations

Having regard to the Objective Z5 zoning objective for the area, to the scale and nature of the proposed development and its location relative to surrounding properties including the protected structure at No.3 Parnell Street and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not adversely affect the character or setting of the Architectural Conservation Area in which it is located or any protected structures in the vicinity and would be acceptable in terms of traffic safety and visual amenity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 20th day of May 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) The new build elements of the proposed development shall be reduced in height by a full storey. This shall be achieved by the omission of the fourth-floor level in its entirety. The proposed fifth floor plan shall be replicated at fourth floor level and the sixth-floor plan at fifth floor level, unless otherwise required by the attached conditions.
 - (b) Bedroom 508 at fifth floor (new fourth floor) level and adjoining landing and stairwell shall be omitted and if necessary, the stairwell relocated further east.
 - (c) Variations in external finishes and profiling shall be used to differentiate the individual plots of Nos. 4, 5, and 6 Parnell Street.
 - (d) The projecting sign on Parnell Street at upper levels shall be omitted
 - (e) The window in the south elevation of Room 505 shall be omitted.
 - (f) The shopfront designs at ground floor level along nos. 3, 4 and 5 Parnell Street shall be revised in a manner that articulates the individual historic plots
 - (g) New blue Bangor/Welsh slates shall be used in the reroofing works of the existing buildings in lieu of reclaimed slate.
 - (h) The layouts of the bathrooms and lobbies within the hotel suites in the upper floors of no. 3 Parnell St shall be revised so that the chimneybreast in the rear principal rooms is fully legible in the floor plan.
 - (i) The pre-existing opening in the rear wall of no.3 Parnell Street shall be utilised to provide access to the linked area to the rear in lieu of creating a new opening that is wider and lower in the historic wall.
 - (j) The glazed atrium link between no. 3 Parnell Street and the new extension shall be lowered by at least a storey in height and junction details shall be fully provided.
 - (k) A detailed survey of the basement of nos. 4, 5 and 6 Parnell Street shall be carried out. The planning authority's conservation section shall be given an opportunity to inspect the site in the course of fabric removal and should

an structural element of interest be found within the site these should be incorporated as part of the revised proposal.

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 protecting the integrity of historic fabric including a protected structure as well as the streetscape character in an Architectural Conservation Area and to protect visual and residential amenity.

3. Water supply and drainage arrangements, including the disposal of surface water from the site, shall be in accordance with the detailed requirements of the Planning Authority.

Reason: In the interests of public health.

4. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development

Reason: In the interests of public health.

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

- (a) Signs shall be restricted to a single fascia sign using sign writing or comprising either hand-painted lettering or individually mounted lettering,
- (b) Lighting shall be by means of concealed neon tubing or by rear illumination,
- (c) no awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,
- (d) External roller shutter shall not be erected. Any internal shutter shall be only of the perforated type, coloured to match the shopfront colour.
- (e) No adhesive material shall be affixed to the windows or the shopfront.

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

Reason: To protect the visual amenities of the area.

6. Details which shall include samples, of the materials, colours and textures of all the external finishes to the proposed development including the screening to the proposed balconies shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and streetscape

7. The restaurant and external courtyard shall be closed to the public and patrons between the hours of 11.30 pm and 7.am. everyday of the week.

Reason: in the interest of residential amenity.

8. The developer shall control odour emissions from the premises in accordance with measures including extract duct details which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of public health and to protect the amenities of the area.

9. All proposed works to the protected structure, shall be carried out under the supervision of a qualified professional with specialised conservation expertise.

Reason: To secure the authentic preservation of a protected structure and significant historic fabric within the site and to ensure that the proposed works are carried out in accordance with best conservation practice.

10. Proposals for a numbering scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of urban legibility.

11.

- (a) All entrance doors in the external envelope shall be tightly fitting and self-closing.
- (b) All windows and roof lights shall be double-glazed and tightly fitting.
- (c) Noise attenuators shall be fitted to any openings required for ventilation or air conditioning purposes.

Details indicating the proposed methods of compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the [residential] amenities of property in the vicinity.

12. The premises shall be managed such that

- (a) Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than 3 dB(A) during the period 08.00 to 2300 hours and by more than 1 dB(A) at any other time, when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L_{90} and the specific noise shall be measured at $L_{Aeq,T}$.
- (b) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be the subject to the same locational and decibel exceedance criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at $L_{Aeq,T}$.
- (c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating; either
 - (i) during a temporary shutdown of the specific noise source, or

- (ii) during a period immediately before or after the specific noise source operates.
- (d) When measuring the specific noise, the time (T) shall be any 5-minute period during which the sound emission from the premises is at its maximum level.
- (e) Any measuring instrument shall be precision grade.

Detailed plans and particulars indicating sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to use of the premises. An acoustical analysis shall be included with this submission to the planning authority.

Reason: In order to protect the amenities of property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during night-time hours.

13. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

14. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

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

Reason: In the interest of residential and visual amenity.

16. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by staff employed in the development and to reduce and regulate the extent of staff car parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include the provision of adequate facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport

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

Reason: In the interest of sustainable waste management.

18. 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:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Provision of parking/vehicular access for existing properties during the construction period;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A 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 amenities, public health and safety.

19. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and recyclable materials and for the ongoing operation of these facilities 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.

20. 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 local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local 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 An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

21. The developer shall pay to the planning authority a financial contribution of €77,257.80 (seventy seven thousand two hundred and fifty seven euro and 80 cent) in respect of LUAS Cross City in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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. The application of any indexation required by this condition 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.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

22. The developer shall pay to the planning authority a financial contribution of €142,438.98 (one hundred and forty two thousand four hundred and thirty eight euro and 98 cent) 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. The application of any indexation required by this condition 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.

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

Suzanne Kehely

Senior Planning Inspector

21st April 2020