

An
Bord
Pleanála

Board Order
ABP-313047-22

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 3257/21

Appeal by Vision Wave Limited care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin against the decision made on the 17th day of February, 2022 by Dublin City Council to refuse permission.

Proposed Development (i) Alterations to internal layout, front extension of third floor level to match floor plate of existing first and second floor levels and increase in building height from 18.17 to 21.07 metres; (ii) change of use of existing commercial building to provide residential accommodation comprising four number apartments (one number studio and three number one-bedroom units) each serve by private amenity space, in the form of a terrace or balcony on the eastern elevation, and sharing bin storage/cycle parking facilities at ground floor level; (iii) refurbishment of all elevations and removal/replacement of fenestration detailing on north, south and east elevations; and (iv) all ancillary works necessary to facilitate the development. The building will be served by four number rooflights. All at 57A Jervis Lane Upper, Dublin. (This property is within the curtilage of the Protected Structure Number 57 Capel Street (RPS Number 1182).

Decision

REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.

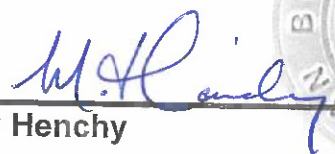
Reasons and Considerations

1. Having regard to:
 - (a) the "Architectural Heritage Protection Guidelines for Planning Authorities", issued by the Department of Arts, Heritage and the Gaeltacht in October 2011;
 - (b) the Dublin City Development Plan 2022 – 2028, which identifies the site as lying within the Capel Street and Environs Architectural Conservation Area (ACA) and adjoining Number 57 Capel Street, a protected structure (RPS Number 1182);
 - (c) section 11.5.2 of the Development Plan, which seeks to protect and enhance the special character of an ACA designation area, and to ensure that development contributes positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area, and its setting and to Policy BHA7 of the Development Plan, which seeks to protect the special interest and character and ensure that all development proposals within an ACA contribute positively to the character and distinctiveness of the area, and

- (d) Section 15.13.5 which seeks to protect the character and setting of mews dwellings and to ensure all new proposals are respectful and appropriate in its context, and Policy BHA14 which promotes the redevelopment and regeneration of mews lanes for sensitively designed, appropriately scaled, infill residential development, that restores historic fabric where possible,

it is considered that the existing buildings on the site are of historic interest within the context of the original curtilage of the protected structure, and the surrounding Capel Street and Environs Architectural Conservation Area. These buildings also maintain a subsidiary relationship with the adjoining protected structure. As such they make a positive contribution to the setting of the protected structure and the character of the ACA. Under the proposal, the existing buildings on the site would be reworked to provide a larger building of uniform design, which would consequently, dominate the Protected Structure. The historic interest of the existing buildings would, thereby, be lost, the setting of the Protected Structure would be adversely impacted upon, and the character of the ACA would be harmed. Sections 11.1.5.2 and 15.13.5 and Policies BHA7 and BHA14 of the development plan would be contravened. The proposed development would, therefore, be in contrary to the proper planning and sustainable development of the area.

2. Notwithstanding the applicants Daylight and Overshadowing Analysis in relation to the average daylight factor of the proposed ground floor studio unit, it is considered that the single aspect proposed ground floor studio unit would have poor levels of sunlight and daylight and would result in an unsatisfactory standard of residential amenity for the occupants. It was also considered that the proposed ground floor studio unit terrace fronting onto Jervis Lane Upper with no defensible space between the private open space and the street, in close proximity to the bin storage, was inadequate in terms of privacy, security and amenity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.



Mary Henchy

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board**

Dated this *16th* day of *September* 2023