



An
Bord
Pleanála

Inspector's Report ABP-313047-22

Development	Conversion of existing commercial building and its extension at third floor level to provide 4 no. apartments.
Location	57A Jervis Lane Upper, Dublin 1
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3257/21
Applicant(s)	Vision Wave Ltd
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party -v- Decision
Appellant(s)	Vision Wave Ltd
Observer(s)	Maurice McGrath
Date of Site Inspection	25 th August 2020
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located to the rear of the four-storey building and four-storey return/extension at No. 57 Capel Street, which is a protected structure, and which is identified in the NIAH. This site accommodates two adjoining and interconnected buildings: a three storey one which abuts Jervis Lane Upper, and a four storey one behind it. The four-storey building interlocks with the extension to No. 57, insofar as the rear portions of the upper floors of this building are above the projecting ground floor of No. 57's extension. Consequently, the ground floor site area is 98 sqm and the site area of the upper floors is 127 sqm.
- 1.2. The mid-row building at No. 57 is on the eastern side of Capel Street. It is in use as a tanning and beauty salon at ground floor level with residential accommodation above. Adjoining buildings follow a similar pattern of usage. The buildings on the site are vacant having been last been in commercial usage as a warehouse. They have a floorspace of 361.9 sqm. The openings in the front lane-side elevation bear testimony to this usage insofar as each floor is served by loading/unloading doors and a hoist protrudes from above the second-floor loading/unloading door.
- 1.3. The adjoining site to the north presently accommodates a substantial single storey building, which fronts onto the lane, and which extends to the rear of Nos. 58 & 59 Capel Street. This site has planning permission to be redeveloped under 3281/20 and ABP-309511-21 to provide a part-five/six/seven storey hotel. The adjoining site to the south comprises a two-storey mews building with a yard to its rear. On the opposite (eastern) side of Jervis Lane Upper the site faces a modern three-storey residential building.

2.0 Proposed Development

- 2.1. The proposal would entail the following elements:
 - The conversion and extension of the existing buildings on the site to provide 4 no. apartments: 1 no. studio at ground floor level and 3 no. one bedroom units on the upper floor levels.
 - The conversion works would entail extensive internal and alterations to the buildings, e.g., new floors would be inserted at higher corresponding levels

than the existing ones, door and window openings would be reorganised, and a new double pitched roof would be provided.

- The extension would be added to the three-storey building to provide an additional storey so that it would correspond with the existing four-storey building, the height of which would be increased in conjunction with the new roof. The additional wall height and the roof would be finished in metal cladding and the existing ridge height of the four-storey building would increase by 2.9m, from 18.17m to 21.07m. Four rooflights would be inserted in the new roof.
- Each of the units would be served by private amenity space, in the form of a terrace or balcony on the eastern elevation. They would share bin storage/cycle parking facilities at ground floor level.

2.2. Notwithstanding the extension, due to more generous circulation space, the total floorspace on site would contract slightly to 356.2 sqm. Refurbishment of all elevations and removal/replacement of fenestration detailing on the north, south, and east elevations.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, the application was refused for the following reason:

Having regard to the provisions of the current Dublin City Development Plan 2016 – 2022, including the policies for mews development as set out in Section 16.10.16 and infill development as set out in Section 16.2.2.2 and Section 16.10.10, in addition to policy CHC2 [(a), (b), (c) and (d)] and the provisions of the Capel Street and Environs ACA, it is considered that the proposal, including the alterations to the roof profile and increase in the ridge height of the existing warehouse building which separates the original mews structure from the main frontage building at No. 57 Capel Street, would result in overdevelopment of the original mews site, with an inadequate degree of separation from, and failure to be subservient to, the main frontage building which is a protected structure. The proposed intensification of use in the existing warehouse and mews buildings on the site to provide for four residential units, with little or no separation from adjoining site

boundaries, including those with Nos. 56 and 57 Capel Street, could also adversely impact on the residential amenities and development potential of these sites. The proposal would therefore be contrary to development plan policy and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information requested with respect to the following:

- Demonstrate that the proposal would be capable of being constructed over an existing single storey ground floor building and that the applicant is legally entitled to do this.
- Undertake a sunlight and daylight assessment of the proposed ground floor studio unit: If sunlight and daylight would be inadequate, then this studio should be amalgamated with the proposed first floor unit to provide a duplex. This assessment should also consider the impact of the proposal on the apartment building, opposite the site, on the eastern side of Jervis Lane Upper.
- Submission of a sectional drawing showing the proposal in conjunction with the existing building at No. 57 Capel Street.

3.2.2. Other Technical Reports

- TII: Section 49 levy for light rail requested.
- Dublin City Council:
 - Drainage: No objection, subject to compliance with the Greater Dublin Regional Code of Practice for Drainage Works.
 - Transportation Planning: Standard conditions requested.
 - Archaeology, Conservation & Heritage: Following receipt of further information, objection maintained on the following grounds:

The proposal does not satisfactorily demonstrate an understanding of the significance of this site, which comprises original 1700's fabric from the original coach house, with a later stone warehouse structure dating from the

mid-1800's constructed behind. The proposed works which comprise the wholesale alteration of No. 57A Jervis Lane, including 18th Century elements, the alteration of the façade along Jervis Lane, the substantial alteration of the warehouse structure, the raising and alteration of the roof profile are excessive and would all cause serious injury to the special architectural character of the historic site, which lies within the curtilage of the Protected Structure. The proposed works would constitute an unacceptable loss of historic fabric and architectural character and would be considered in contravention of the [CHC2 (a), (b), (c), (d)], 16.10.16, 16.10.17 and 16.2.2.3 of the Dublin City Development Plan 2016 – 2022 and Section 8.2.8 of the Capel Street and Environs ACA Plan.

4.0 Planning History

Site, i.e., No. 57A Jervis Lane Upper, and adjoining site to the north, i.e., Nos. 3 – 6 Parnell St. and Nos. 58 & 59 Capel St.

- **4747/19:** Demolition of existing buildings, with the exception of the front façades of Nos. 58 & 59 Capel St., and the redevelopment of the site to provide a 121 no. bed hotel in a part-five/six/seven storey building: Refused on the grounds of visual intrusion/overdevelopment/lack of quality and loss of historic urban grain/historic fabric/harm to settings of protected structures.

Adjoining site to the north, i.e., Nos. 3 – 6 Parnell St. and Nos. 58 & 59 Capel St.

- **3281/20:** Demolition of existing buildings, with the exception of the front façades of Nos. 58 & 59 Capel St., and the redevelopment of the site to provide a 94 no. bed hotel in a part-five/six/seven storey building: Permitted at appeal ABP-309511-21.

Adjacent site to the north, i.e., Nos. 3 – 6 Parnell St. and No. 59 Capel St.

- **4311/18:** Demolition of existing buildings, with the exception of the front façade of No. 59 Capel St., and the redevelopment of the site to provide a 65 no. bed hotel in a part-five/six/seven storey building: Permitted at appeal ABP-304881-19.

Adjacent site to the north, i.e., Nos. 3 – 6 Parnell St.

- **2423/11**: Demolition of Nos. 4 – 6 Parnell St. and incorporation of No. 3 Parnell St. into a five-storey over basement 18 no. bed hotel: Permitted and permission extended in duration twice: Expired on 21st February 2022.

5.0 Policy and Context

5.1. National Planning Guidelines

- Architectural Heritage Protection
- Sustainable Urban Housing: Design Standards for New Apartments

5.2. Development Plan

Under the Dublin City Development Plan 2016 – 2022 (CDP), the site is shown as lying within an area that is zoned Z5, city centre, wherein the objective is “To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.” Residential uses are permitted in principle within this zone. The site is shown as lying within the Capel Street and Environs ACA and within the curtilage of a protected structure, i.e., RPS No. 1182. The site is also shown as lying within a Zone of Archaeological Interest. Section 16.10.20 addresses such Zones.

The Planning Authority’s reason for refusal and the Conservation Officer’s advice cite the following provisions of the CDP:

- Section 16.2.2.2, which addresses infill development,
- Section 16.2.2.3, which addresses alterations and extensions,
- Section 16.10.10, which addresses infill housing,
- Section 16.10.16, which addresses mews dwellings,
- Section 16.10.17, which addresses the retention and re-use of older buildings of significance which are not protected, and
- Policy CHC2, which addresses protected structures and Section 11.1.5.3, which addresses protected structures – policy application states that “Any

development which has an adverse impact on the setting of a protected structure will be refused permission.”

Additionally, Policy CHC5, which addresses ACAs is of relevance. It states the following:

To protect Protected Structures and preserve the character and the setting of Architectural Conservation Areas. The City Council will resist the total or substantial loss of:

- Protected structures in all but exceptional circumstances (and will require the strongest justification, including professional input with specialist knowledge so that all options receive serious consideration).*
- Non-protected structures which are considered to make a positive contribution to the character and appearance of an Architectural Conservation Area, unless it can be demonstrated that the public benefits of the proposals outweigh the case for retention of the building.*

The non-statutory document entitled “Reimagining Dublin One” addresses “Life in the Lanes” and on Pages 42 and 43 Jervis Lane and opportunities for upper floor housing and mixed uses are discussed.

5.3. Natural Heritage Designations

Portions of Dublin Bay are the subject of European designations.

5.4. EIA Screening

The proposal is essentially for a change of use of existing buildings. It is therefore not a project for the purpose of EIA.

6.0 The Appeal

6.1. Grounds of Appeal

Request for further information

- Attention is drawn to the availability of the Conservation Officer’s report prior to the issuing of the Planning Authority’s request for further information. This

report recommended refusal and it was reflected in the ultimate decision to refuse. Section 5.7 of the Development Management Guidelines advises that further information should not be sought where there is a fundamental objection to a proposal.

Conservation

- The reason for refusal cites the Capel Street and Environs ACA and yet the accompanying report on this ACA provides no specific commentary on Jervis Lane.
- The existing building on the site is of no particular architectural merit. Under the proposal, this building would be refurbished and extended, and so it would enhance the streetscape.
- The building would be extended upwards only. The majority of new windows in the northern and southern elevations would serve non-habitable rooms. Where these windows would serve habitable ones, they would be secondary windows.

Efficient use of serviced land

(I am not confident that the information presented under this heading relates to the current appeal).

The applicant's conservation consultant comments on the Conservation Officer's report as follows:

- No 18th century fabric was noted within the building. In particular the timber beams in the former stable are consistent with those in the warehouse, which dates from the mid-19th century.
- Cartographical evidence indicates that the layout of the original stables on the site was adapted in conjunction with the construction of the warehouse. The view is, therefore, expressed that any remaining undetected 18th century fabric would be likely to be in the exterior walls only.
- Emphasis is placed on the sub-division of the site at No. 57 Capel Street, which occurred with the construction of the four-storey warehouse in the mid-19th century.

- The former stable and warehouse have been adapted and altered over the intervening years. Timbers within these buildings show evidence of fire damage.
- While examples cited by the Conservation Officer of mews and stable refurbishments elsewhere in the city are acknowledged, these buildings are of a different calibre from those on the site.
- If the Board is minded to grant, then conditions with respect to the salvage of cast-iron columns and the protection of cobbles in Jervis Lane Upper are recommended.

The applicant's architect comments on the case planner's report as follows:

- The accuracy of the submitted plans is insisted upon.
- Windows in the northern elevation would be affected by the permitted development for the adjoining site. However, these windows would serve a stairwell only.
- Windows proposed for the southern elevation would be comparable to existing ones in this elevation, albeit a majority of these have been blocked-up internally in recent times.
- The status of a window in the gable to the building at No. 57 Capel Street is questioned. While this window may experience some loss of light under the proposal, its authorisation for planning purposes is raised.

6.2. **Planning Authority Response**

Section 49 and 49 conditions requested.

6.3. **Observations**

The owner of Nos. 56 & 57 Capel Street

- Further information: The applicant did not demonstrate that it is the freeholder of the entire site. In fact, a portion of this site is owned by Maurice McGrath, and yet his consent to the application has not been obtained.
- Title: The aforementioned portion would, under the proposal, be built over.

- Existing building: Attention is drawn to the depiction of the alignment of the southern elevation: This is shown as being skewed above ground level, whereas “on the ground” it is skewed at ground level, too.
- Windows:
 - The windows in the southern elevation have been blocked-up for the last 27 years and so they have been abandoned. Consequently, any easement in these respects has been lost.
 - A window in the observer’s property in the northern elevation is omitted and windows to the west are incorrectly depicted.
 - Proposed windows in the northern elevation would be blocked by the permitted development on the adjoining site.
 - Proposed windows in the southern elevation would lead to overlooking, the creation of a fire hazard, the impairment of development potential, and the devaluation of the observer’s property.
 - A window in the gable of No. 57 Capel Street would be blocked-up by the proposal.
- A chimney stack on the gable of No. 57 Capel Street is omitted from the submitted plans.
- Noise from the proposed stairs and lift would adversely affect the observer’s dwelling beneath them.
- The existing walls of the warehouse are composed of brick and random rubble, and they may not be supported by a formal foundation: Would they be capable of bearing the additional loading of the proposal? The observer’s engineer has expressed concern over the stability of No. 57 Capel Street during the construction phase of the proposal and, in particular, the foundations that would be needed for the cantilevered rear portion of this proposal.
- Sunlight and daylight:
 - The proposed fourth floor would lead to a loss of sunlight and daylight at the observer’s property, including a roof garden.

- The first floor of the proposal appears to allow for an opening in No. 57 Capel Street, which serves a light shaft to a ground floor bedroom.
- A fire escape ladder, which serves the fourth floor of No. 7 Capel Street, has been in-situ for the last 27 years.

6.4. Further Responses

None

7.0 Assessment

7.1. I have reviewed the proposal under the Sustainable Urban Housing: Design Standards for New Apartments, the Dublin City Development Plan 2016 – 2022, relevant planning history, the submissions of the parties and the observer, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Legalities,
- (ii) Conservation and archaeology,
- (iii) Zoning, residential standards, and residential amenity,
- (iv) Water, and
- (v) Appropriate Assessment.

(i) Legalities

7.2. The observer raises several issues relating to ownership consent to the application, the accuracy of the submitted plans, the implications of blocked-up windows and their proposed replacement, and fire safety concerns. I will discuss each of these issues in turn.

7.3. The observer draws attention to the westernmost portion of the site, where his building at No. 57 Capel Street extends underneath the upper floors of the applicant's existing building. Under the proposal, the floor-to-ceiling height of the ground floor would be raised and so the upper floors would be suspended above the observer's projecting ground floor by means of a cantilevered form of construction (cf. drawing no. ST01). The observer states that, as he owns the site underneath the

said portion of ground floor, his consent to the making of the current application should have been obtained.

- 7.4. The Planning Authority's requested further information, the first item of which enquired after the applicant's legal interest in the entirety of the site. This item also requested the submission of the above cited drawing, and it requested a photograph of the rear elevation of No. 57, which was duly submitted, too. The applicant did not address the question of legal interest. *Prima facie* insofar as it owns the upper floors at present, the airspace above the applicant's ground floor that would be needed to provide the proposed stairwell is presumably in its ownership. The need to obtain the observer's consent to the making of the current application is not, therefore, self-evident.
- 7.5. The observer draws attention to the submitted plans depiction of the south elevation of the rear building on the site. These plans show this elevation as following a straight alignment at ground floor level and a skewed one at upper floor levels. The observer insists that the alignment is skewed at ground floor level, too. The applicant's architect has responded by expressing confidence in the survey drawings that he worked with in preparing/submitting the proposal.
- 7.6. The observer also draws attention to the omission of a chimneystack and a small window in this chimneystack from the submitted plans. The chimneystack and window are on/in the eastern gable end of the extension to the observer's building. Consequently, they would abut the proposed increase in the height of the rear building on the site. The applicant has commented upon the window to the effect that it questions its authorisation. I note that the chimneystack and the window are shown in the photograph that was submitted under Appendix A of the applicant's further information. I note, too, that the window is a high-level one and it is unclear what space this window serves within the observer's building.
- 7.7. The observer draws attention to existing blocked-up windows and proposed replacement windows in the northern and southern elevations of the rear building on the site. The former elevation is on the northern boundary of the site and the latter elevation is virtually on the southern boundary.
- The proposed windows on the northern elevation would be blocked by the development permitted for the adjoining site under 3281/20 and ABP-309511-

21. The applicant has responded by stating that these windows would only serve the proposed stairwell, i.e., non-habitable room space. This stairwell would also be served by rooflights, which would not be blocked.

- The existing windows in the southern elevation have been blocked-up on the inside of their joinery and glazing. The observer states that, as they have been blocked-up for at least 27 years, they no longer enjoy any easements over the adjoining property to the south. The applicant states that the proposed windows would be comparable to the existing windows. I note that the existing windows have been blocked-up on the inside only with their joinery and glazing remaining in-situ. On the one hand they have been blocked-up with concrete blocks, a permanent form of construction. On the other hand, the retention of the joinery and glazing may indicate that their being blocked-up is only temporary. I note, too, that the proposed windows would in aggregate have a smaller surface area than the existing ones and that they would serve non-habitable spaces. In the event that these windows were effectively blocked by the redevelopment of the adjoining site to the south, the proper ventilation of the spaces that they serve would be important to secure. Given the uncertainty about them, such ventilation should be provided from the outset and so if the Board is minded to grant, it should be conditioned.

7.8. The observer draws attention to fire safety concerns attendant upon the proposed windows and the anticipated displacement of an escape ladder, which presently serves his roof garden, and which is attached to the side of the applicant's building. Such concerns would be addressed under the relevant fire safety codes.

7.9. I conclude that the legalities raised by the observer do not prevent the Board from proceeding to assess the current application/appeal in the normal manner.

(ii) Conservation and archaeology

7.10. Under the CDP, the site is shown as lying within the Capel Street and Environs ACA and the city centre Zone of Archaeological Interest (ZAI). The building at No. 57 Capel Street is a protected structure, RPS No. 1182, and it is included in the NIAH under ref. no. 50010575.

- 7.11. The site adjoins the building at No. 57. The applicant has submitted an Architectural Heritage Impact Assessment (AHIA) of its proposal, which summarises the history of development at No. 57. Thus, during the 19th Century, what had been a continuous site between Capel Street and Jervis Lane Upper was sub-divided in conjunction with the addition of a multi-storey warehouse and the associated adaptation of the original stables. Thereafter, the two halves of the site have functioned separately from one another. Accordingly, while the site was originally within the curtilage of No. 57, it ceased to be so, and so I take the view that the buildings on this site are not included under RPS No. 1182. That said, they affect the setting of this protected structure, due especially to the fact that, at the western end of the site, they abut and interlock with the buildings at No. 57.
- 7.12. The Planning Authority's Conservation Officer has outline in her report how Jervis Lane Upper was one of the very first mews lanes in Dublin. Under Section 16.1016(b) of the CDP, stone/brick coach houses on mews lanes are considered to be of national importance. Consequently, the need to retain and conserve surviving examples of these coach houses is recognised "particularly in relation to their form, profile and building line as well as any original features remaining."
- 7.13. The applicant's conservation consultant contends in his AHIA of the proposal that the original stables has been greatly adapted and he reports that he did not detect any original 18th Century fabric in his inspection of the site. He considers that the construction of the multi-storey warehouse would have entailed the partial demolition of the original stables for the purpose of gaining access to the rear of the site and so he anticipates that if original fabric remains it is likely to be in exterior walls only. The internal fabric of these stables and the warehouse is consistent, bearing testimony to the adaptation of the stables that occurred when the warehouse was added.
- 7.14. The Conservation Officer and the conservation consultant differ on whether the conservation interest attendant upon the existing buildings is of such an order that any development on site should effectively proceed to work within their existing parameters in accordance with good conservation practice or whether, as under the current proposal, it would be sufficient to work within the footprint of these buildings and the retention of the majority of their external walls. I consider that in seeking to decide between these two positions, it is important to consider (a) the relationships that exist and that would arise between the existing/proposed buildings upon the site

and the adjoining protected structure at no. 57, and (b) the relationships that exist and that would arise between the existing/proposed buildings upon the site and the ACA.

(a) The relationships that exist and that would arise between the existing/proposed buildings upon the site and the adjoining protected structure at no. 57.

- 7.15. Paragraph 13.8.1 of the Architectural Heritage protection Guidelines advises that development affecting the setting of a protected structure, which would have the potential to impact upon its character, should be considered in a similar manner as if it was in this protected structure's attendant grounds. Section 13.7 of the Guidelines are therefore relevant and, in particular, the following questions:

Would the development affect the character of the protected structure?

What effect would the scale, height, massing, alignment or materials of a proposed construction have on the protected structure...?

I will consider these questions in reverse order.

- 7.16. The existing multi-storey warehouse on the site, which abuts the multi-storey return/extension to the building at No. 57, i.e., the protected structure, align with one another and they are of similar height. Thus, the adjoining northern elevations exhibit a stepdown at eaves and ridge heights between the two adjoining double pitched roofs from the return/extension to the warehouse. The walls are finished in brick and the roof planes are clad in corrugated sheeting. The adjoining southern elevations display a similar stepdown, only the presence of a roof garden on the return/extension means that a parapet marks the eaves line with a fence on top of it. The adjoining walls are finished in contrasting materials: the return/extension combines render and corrugated sheeting, and the warehouse combines brick and render. Roof planes are clad in corrugated sheeting.

- 7.17. Under the proposal, the floor levels of the multi-storey warehouse would be raised and so the overall height of this building would increase. The existing eaves line would be raised slightly and expressed as a parapet on the northern and southern elevations. Below this line the walls would be finished throughout in render. Above this line the top storey of the building would be clad in metal sheeting to both its walls and roof planes. The new eaves line between the vertical wall planes and the diagonal roof planes would approximate to the height of the adjoining ridgeline to the

return/extension at, 18.470m ASL, while the new ridgeline would be higher than this ridgeline, at 21.070m ASL.

- 7.18. The existing buildings on the site are distinctive. To the front, the lane side building is of three storey form under a double pitched roof with a ridgeline that runs north/south. Fenestration in the front elevation comprises doors and windows, including a pair of doors at ground floor level and two pairs of loading/unloading doors that align with one another vertically at the upper floor levels. The head of the second-floor doorway extends above the eaves line, and it is accompanied by a projecting hoist. To the rear, the multi-storey warehouse is of four storey form, albeit that the footprint of the ground floor is smaller than that of the upper floors. Its double pitched roof has a ridgeline that runs east/west. Fenestration on the southern elevation and finishes differ between the first floor, on the one hand, and the second and third floors, on the other hand. Thus, the former is finished in brick with a row of three windows, while the latter is finished in render with two rows of five windows.
- 7.19. The presence of two buildings on the site of different sizes, orientations, and designs ensures that the scale and mass of the existing development on the site is nuanced. The relationship with the protected structure at No. 57 is one wherein they are subsidiary and reflective of the progressive development of the site.
- 7.20. Under the proposal, the front building would be raised in height to coincide with the proposed higher building to the rear and so they would form one continuous building. The historic front elevation of this building would be replaced by one that would comprise large openings to service the lighting, ventilation, and amenity space requirements of the proposed residential units. The resulting relationship with the protected structure would be one wherein what would “read” as a new building on the site would be more dominant than the return/extension to the rear of the building at No. 57.
- 7.21. The proposal would affect the character of the protected structure insofar as the existing buildings on the site would be largely removed, along with their distinguishing features. The attendant history of the site, as one that was originally developed to provide stables within the curtilage of what is now the protected structure and which were subsequently adapted and added to by a warehouse development, would be lost. The subsidiary relationship that these buildings have

with the protected structure would be replaced by what would “read” as a new building of uniform size and design, which would maintain a dominant relationship with the protected structure. Under Section 11.1.5.3 of the CDP, where development would have an adverse impact on the setting of a protected structure, refusal is warranted.

- 7.22. *(b) The relationships that exist and that would arise between the existing/proposed buildings upon the site and the ACA.*
- 7.23. The Capel Street and Environs ACA extends to the western side of Jervis Lane Upper in recognition, presumably, that the eastern side has been the subject of redevelopment in recent decades. The application site is an example of a mews site that lies to the rear of frontage buildings on Capel Street. In the case of this site, its corresponding frontage building is a protected structure.
- 7.24. During my site visit, I observed that further to the south of the site and to the rear of Nos. 49 & 50 and 52, there are examples of recently constructed buildings on the lane side, which each comprise five storeys. No. 52 is a protected structure and between it and the five-storey building onto the lane there is a mediating four storey building with a parapet that is of similar height to that of the eaves to the protected structure.
- 7.25. The recent planning history of Jervis Lane Upper indicates that the Board has granted permission, under ABP-302342-18, for a freestanding four-storey lane side building that would be to the rear of Nos. 47 & 48 (protected structure) Capel Street. The Board has also granted two permissions, under ABP-304881-19 and ABP-309511-21, for a hotel on multiple sites to the north of the current site. The more recent of these two permissions would entail the provision of a 94 no. bed hotel in a part-five/six/seven storey building, which would span the lane side frontages between the current site northwards to the corner formed between Jervis Lane Upper and Parnell Street.
- 7.26. The above observations indicate that there is precedent for substantial new buildings that front onto Jervis Lane Upper. These buildings include examples of ones that are to the rear of protected structures on Capel Street. They can be distinguished from the current proposal insofar as one includes a mediating building, and one is a freestanding building.

- 7.27. The above observations also indicate that there is an extant permission for a major hotel development to the north of the site, which in height and scale would considerably exceed that of the current proposal. Thus, the setting of the protected structure at No. 57 Capel Street would be affected by this hotel and so, in terms of the ACA, the dominance of it would be such that any dominance from the proposal would be relativised.
- 7.28. Under Policy CHC5 of the CDP, the Planning Authority undertakes to preserve the character of ACAs and to resist the total or substantial loss of “non-protected structures which are considered to make a positive contribution to the character and appearance of an ACA, unless it can be demonstrated that the public benefits of the proposals outweigh the case for the retention of the building.” The existing buildings on the site are of historic interest and their distinctive features combine to convey that interest. Under the proposal, this interest would be lost and with it the positive contribution that the buildings make to the character of the ACA. Insofar as they are presently vacant and somewhat neglected, their positive contribution to the appearance of the ACA is muted. The Planning Authority’s Conservation Officer has provided examples of historic mews lane buildings that have been successfully renovated and converted to new uses. The applicant expresses scepticism that Jervis Lane Upper provides a similar locational opportunity. However, with the pedestrianisation of Capel Street and the applicant’s proposed/permitted hotel on the adjoining sites to the north, I consider that the prospects for the location are likely to improve significantly.
- 7.29. The site lies within the city centre Zone of Archaeological Interest. Insofar as the proposal would entail the laying of a new foundation to support the proposed stairwell to the rear of the site, ground works would be involved during the construction stage of the project and so an archaeological watching brief would be appropriate.
- 7.30. I conclude that the existing buildings on the site are of historic interest within the context of the original curtilage of the building at No. 57 Capel Street, a protected structure, and the surrounding Capel Street and Environs ACA. They 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 be lost, the setting of the protected structure would be adversely impacted upon, and the character of the ACA would be harmed. Policy CHC5 of the CDP, which seeks to preserve the character of ACAs by resisting the substantial loss of non-protected structures which are considered to make a positive contribution to such character, would thereby be contravened.

(iii) Zoning, residential standards and residential amenity

- 7.31. Under the CDP, the site is shown as lying within the city centre zone Z5, within which residential is a permissible use. Within this zone, the indicative plot ratio for new build is 2.5 – 3.0 and indicative site coverage is 90%. The accompanying commentary on these factors indicates that they can be exceeded in situations wherein they are already exceeded. The existing buildings on the site exhibit such exceedance and so its continuation with a proposed plot ratio of 3.64 and an unchanged site coverage of 100% would not warrant objection.
- 7.32. Under the proposal, 4 residential units would be provided, i.e., on the ground floor, a studio apartment (37 sqm), and on each of the upper floors, a one-bed apartment (58/59 sqm). Quantitatively, under Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments, these apartments would either coincide with or exceed relevant minimum overall floor areas. The individual room areas and widths, would, likewise, either coincide with or exceed relevant minimum areas and widths.
- 7.33. Proposed private amenity spaces would be provided in the form of either a terrace or balconies and the areas of these spaces would either coincide with or exceed relevant minimum areas in the aforementioned Guidelines. No communal amenity space is proposed. Insofar as the proposal would be capable of being described as a refurbishment scheme, the need for such space can be relaxed. Bin and bicycle storage facilities would be provided on a communal basis on the ground floor. Six bicycles would be capable of being accommodated in accordance with the relevant CDP standards, i.e., 1 resident's space per unit and 1 visitor's space per 2 units. Given the absence of car parking on the developed site at present and its city centre location, the need for off-street car parking provision does not arise.

- 7.34. Qualitatively, the studio apartment would be single aspect with an easterly outlook over Jervis Lane Upper. The one-bed apartments would share this aspect, too. Insofar as the proposed kitchen windows in the southern elevation would be tenable, a secondary aspect would be available to these apartments. Under further information, the Planning Authority requested that the sun lighting and daylighting of the studio apartment be assessed. The applicant responded by submitted a Daylight and Overshadowing Analysis, which was prepared in accordance with the above cited Guidelines, British Standard 8206-2: 2008: "Lighting for Buildings – Part 2: Code of Practice for Daylighting", and BRE 209: "Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice", Second Edition, 2011. This Analysis calculates that the studio apartment would have an Average Daylight Factor (ADF) of 2.5, i.e., above the relevant minimum of 2.0, and so it is deemed to have a satisfactory ADF.
- 7.35. The Daylight and Overshadowing Analysis also assesses the Vertical Sky Component (VSC) of the windows in the three-storey apartment building on the opposite (eastern) side of Jervis Lane Upper from the site. This Analysis examines 19 windows, and it tracks the reduction in VSC that would result from the proposal. At present, all 7 ground floor windows assessed fail the 27% test. Under the proposal, they would be joined by 4 upper floor windows, i.e., those denoted as nos. 4, 6, 7, and 12 in Figure 2. Where a before and after reduction of below 0.8 of a window's existing VSC would occur, then this counts as a failure to comply. Five windows would fail to comply, i.e., nos. 6 (0.64), 7 (0.62), 8 (0.76), 9 (0.76), and 13 (0.78). Accordingly, the most significantly affected windows are nos. 6 and 7. Insofar as these windows have in excess of 27% at present, i.e., 35.82% and 28.22%, respectively, and these figures would fall to 22.78% and 17.38%, they would experience an appreciable reduction in VSC.
- 7.36. The proposal would entail the addition of a fourth storey to the lane side building on the site and an increase in the height of the building to its rear. This increase in height and the related scale and mass of the buildings on the site would thus lead to the above cited reduction in VSC. Given the urban context of the apartment buildings concerned and the opportunity for redevelopment in the area, this reduction and its attendant impact on residential amenity would be capable of being justified. However, as discussed under the first heading of my assessment, were a

conservation-led approach to be adopted to the buildings on the site, then they would be refurbished within the parameters of their existing overall sizes and so the impact on the VSC of windows opposite would be neutral.

- 7.37. The proposal would be capable of affording an acceptable standard of amenity to future occupiers. Insofar as, under the proposal, the built form on the site would increase in height, it would adversely impact upon the residential amenities of certain of the apartments on the opposite side of Jervis Lane Upper.

(iv) Water

- 7.38. The site is presently served by the public water mains and the public foul and surface water sewerage system. Under the proposal, it would continue to be so served.
- 7.39. The OPW's flood maps do not show the site as being the subject of any identified flood risk.
- 7.40. I conclude that, under the proposal, no water issues would arise.

(v) Appropriate Assessment

- 7.41. The site is not in or beside any European site. It is a fully serviced urban site. Under the proposal, existing buildings would be the subject of conversion and extension works to facilitate a change in use from their last use as warehousing to four residential units. No Appropriate Assessment issues would arise.
- 7.42. Having regard to the nature, scale, and location of the proposal, and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposal 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

That permission be refused.

9.0 Reasons and Considerations

Having regard to:

- (a) the Architectural Heritage Protection Guidelines,
- (b) the Dublin City Development Plan 2016 – 2022, which identifies the site as lying within the Capel Street and Environs Architectural Conservation Area (ACA) and adjoining No. 57 Capel Street, a protected structure (RPS No. 1182), and
- (c) Section 11.1.5.3 of the Development Plan, which seeks to ensure that development does not have an adverse impact upon the setting of a protected structure, and Policy CHC5 of the Development Plan, which seeks to preserve the character of ACAs by resisting the substantial loss of non-protected structures which are considered to make a positive contribution to such character,

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 ACA. 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. Section 11.1.5.3 and Policy CHC5 of the Development Plan would be contravened and so this proposal would fail to accord with the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

5th September 2022