

An  
Bord  
Pleanála

**Board Order**  
**ABP-318620-23**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3365/23**

**Appeal** by Fidelity Hospitality Limited care of BPS Planning and Development Consultants of P.O. Box 13658, DUBLIN against the decision made on the 9<sup>th</sup> day of November, 2023 by Dublin City Council to refuse permission for development comprising (a) connection of the existing ground floor bar at 79 Queen Street and existing restaurant/bar at 91/92 Benburb Street to include new shopfront and hatch and construction of a new single-storey 20 square metres WC extension to the rear side (east) of 91/92 Benburb Street and to the rear (south) of 79 Queen Street, (b) replacement of existing flat roof to the rear (south) over existing ground floor restaurant/bar of 91/92 Benburb Street with corresponding minor change to rear side (west) elevation including new door, and (c) change of use of existing commercial/office use at first and second floor level of 79 Queen Street to associated guest bedroom accommodation for the provision of a total of eight en-suite bedrooms (five double bedrooms, three single bedroom), to include associated works and services, all at 79 Queen Street, Dublin, a Protected Structure (RPS reference 6884) and 91/92 Benburb Street, Dublin in accordance with the plans and particulars lodged with the said Council.

## **Decision**

**GRANT permission for connection of the existing ground floor bar at 79 Queen Street and existing restaurant/bar at 91/92 Benburb Street to include new shopfront and hatch, replacement of existing flat roof to the rear (south) over existing ground floor restaurant/bar of 91/92 Benburb Street with corresponding minor change to rear side (west) elevation including new door, and change of use of existing commercial/office use at first and second floor level of 79 Queen Street to associated guest bedroom accommodation for the provision of a total of eight en-suite bedrooms (five double bedrooms, three single bedroom), to include associated works and services in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below.**

**REFUSE permission for construction of a new single-storey 20 square metres WC extension to the rear side (east) of 91/92 Benburb Street and to the rear (south) of 79 Queen Street based on the reasons and considerations marked (2) under**

## **Reasons and Considerations (1)**

Having regard to the existing use on site, to the nature, scale and extent of the proposed works, and to the nature of the proposed change of use at first and second floor level, it is considered that, subject to compliance with the conditions set out below, the proposed works and use would be consistent with the relevant provisions of the Dublin City Development Plan 2022-2028, would be acceptable in terms of the use on site at present and in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.



## Conditions

1. This element of the proposed 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 received by the planning authority on the 24<sup>th</sup> day of August 2023 and received by the planning authority on the 13<sup>th</sup> day of October 2023, 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. All works to the Protected Structure shall be carried out under the supervision of a qualified professional with specialised conservation expertise.

**Reason:** To ensure the authentic preservation of this Protected Structure and to ensure that the proposed works are carried out in accordance with best conservation practice.

3. Final details of the shopfront proposed for 91/92 Benburb Street shall be submitted to and agreed in writing with the planning authority, prior to commencement of development of that element of the development.

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



4. The proposed development shall be carried out in accordance with the following:

- (i) All works to the Protected Structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities 2011, and Advice Series issued by the Department of Housing, Local Government and Heritage. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Any items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic reinstatement.
- (ii) All existing original features, in the vicinity of the works shall be protected during the course of refurbishment works.
- (iii) The architectural detailing and materials in the new work shall be executed to the highest standard.

**Reason:** In order to protect the amenity, setting and curtilage of the Protected Structure.

5. The use of the first and second floor levels shall be restricted to guest accommodation (as specified in the lodged documentation) and shall not be used for or occupied by permanent households or for the purposes of student accommodation, unless otherwise authorised by a prior grant of planning permission.

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





## **Reasons and Considerations (2)**

This element of the proposed development for which planning permission was sought differs materially from the site characteristics of the appeal site whereby these works have already been carried out. In this regard it is considered inappropriate to grant permission in a circumstance where the statutory description of the proposed development is not consistent with the existing status of the subject site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to the Board, it is noted first off, that the inspector expressed broad support for each element of development as originally proposed. For example, it was stated that; the Protected Structure would not be negatively impacted by the creation of a double door into the adjacent premises; the tourist accommodation should be granted; the shopfront to 91/92 Benburb Street could be addressed by condition and that the addition of a 20 square metres WC extension would be acceptable in principle. The Inspector recommended further information and potential further notification of elements of the proposed development. However, the Board concluded, having considered the totality of the documentation on file, including the reports of the planning authority, that apart from the 20 square metres WC extension, which as built, was considered to constitute a materially different development to that for which permission was sought, the other elements of the proposed development could satisfactorily be granted permission in accordance with the principles of proper planning and sustainable development and consistent with due procedure. Specifically, the Board noted that the change of use at first and second floor levels, and the proposed opening of a door between the Protected Structure and 91/92 Benburb Street, were fully accounted for in the application documentation. Equally the flat roof works and the proposed shopfront to 91/92 Benburb Street are supportable. The Board also considered that the established use of 91/92 Benburb Street had been articulated within the planning application and appeal documentation.

Finally, the Board noted the recommendation of the Inspector to seek further information on elements of fit out within the Protected Structure. However, any such elements did not form part of the application and appeal, and the Board considered that any issue of clarification on these matters would not be material to determining the development as set out in the application. In relation to the 20 square metres WC extension, the Board considered that, given its materiality, this element of the development should be subject to a future application for retention permission.



**Chris McGarry**

**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

Dated this 17<sup>th</sup> day of September 2024.