



An  
Bord  
Pleanála

## Inspector's Report

### ABP-321987-25

#### Development

Protected Structure: Permission for the development at 3 Bachelors Way, Dublin, DO1 W298 and The Bachelor Inn (a Protected Structure RPS Ref. 327), 31 Bachelors Walk, Dublin, DO1 FA48. The proposed development is for a bar and 22-bed hotel in lieu of previously permitted bar and 28-bed hotel (in recently expired approved application Ref 3577/18).

#### Location

3 Bachelors Way, Dublin D01 W928, and The Bachelor Inn (A Protected Structure) 31 Bachelors Walk, D01 FA48

#### Planning Authority

Dublin City Council North

#### Planning Authority Reg. Ref.

4139/24

#### Applicant(s)

Bachelors Inn Trading Co. Ltd.

#### Type of Application

Permission

#### Planning Authority Decision

Grant

<b>Type of Appeal</b>	First against condition
<b>Appellant(s)</b>	Bachelors Inn Trading Co. Ltd.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	None required
<b>Inspector</b>	Gillian Kane

## **1.0 Background**

- 1.1.1. This is a first party appeal against financial contribution conditions which were attached to the Planning Authority's notification of intention to grant permission. As this is an appeal in respect of conditions requiring a financial contribution, the provisions of section 48 of the Planning and Development Act 2000 apply and the Board is restricted to considering this matter alone and cannot consider the matter de novo. I have therefore confined my assessment to the condition in question.
- 1.1.2. Having regard to the nature of the appeal before the Board (i.e. first party against conditions) and the information available on file, a site inspection was not deemed necessary in this instance.

## **2.0 Proposed Development**

- 2.1. On the 9<sup>th</sup> of August 2024, permission was sought for a development comprising a bar and 22-bed hotel in lieu of a previously permitted bar and 28-bed hotel.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. On the 4<sup>th</sup> February 2025, the Planning Authority issued a notification of their intention to grant permission subject to ten conditions. Conditions of note include:
  - 2 A development contribution in the sum of €157,382.20 shall be paid to the Planning Authority as a contribution towards expenditure that was and/ or is proposed to be incurred by the Planning Authority in respect of public infrastructure and facilities benefitting development in the administrative area of the Authority in accordance with Dublin City Council's Section 48 Development Contribution Scheme. The contribution is payable on commencement of development. If prior to commencement of development an indexation increase is applied to the current Development Contribution Scheme or if a new Section 48 Development Contribution Scheme is made by the City Council the amount of the contribution payable will be adjusted accordingly. Phased payment of the contribution will be considered only with the agreement of Dublin City Council Planning Department. Applicants are advised that any phasing agreement must be finalised and signed prior to the commencement of development. Reason: It is considered reasonable that the

payment of a development contribution should be made in respect of the public infrastructure and facilities benefitting development in the administrative area of the Local Authority.

3. A development contribution in the sum of €50,426.00 shall be paid to the Planning Authority in respect of the LUAS C1 Line Scheme. This contribution shall be paid prior to the commencement of development or in such a manner as may otherwise be agreed in writing with the Planning Authority. The amount due is payable on commencement of development. Phased payment of the contribution will be considered only with the agreement of Dublin City Council Planning Department. Applicants are advised that any phasing agreement must be finalised and signed prior to the commencement of development. Reason: It is considered reasonable that the payment of a development contribution in respect of the public infrastructure and facilities benefitting development in the Luas C1 line area as provided for on the Supplementary Development Contribution Scheme made for the area of the proposed development under Section 49 of the Planning & Development Act 2000 (as amended).

### **3.2. Planning Authority Reports**

- 3.2.1. **Planning Report:** Planning Authority support the rehabilitation and reuse of this vacant protected structure on an important site on the Liffey Quays streetscape, within a conservation area and adjoining the O'Connell Street ACA.

## **4.0 Relevant Planning History**

- 4.1.1. Planning Authority reg. ref. **3577/18:** Planning permission granted for the subdivision of the 2 upper floors and part of the ground floor of the existing 'Smallmans Warehouse' into hotel bedrooms including relocation of entrance, with new canopy, on Bachelors Way. The conversion of the remainder of the Ground Floor of the warehouse into kitchen facilities connected to 'The Bachelor Inn' (a Protected Structure) Licensed premises. The conversion of the 2 upper floors of 'The Bachelor Inn' (a Protected Structure) from function rooms to hotel rooms. The construction of an additional 2nd floor to the existing 2 storey middle portion of the property for hotel

accommodation. The conversion of the existing first floor of the middle portion from Licensed Premises to hotel accommodation. Alterations to the existing stairs in 'The Bachelor Inn' (a Protected Structure) and the relocation of the toilets to the basement. Alterations to the shopfront to improve the entrance from The Bachelors Walk.

## **5.0 Policy Context**

### **5.1. Planning and Development Act 2000, as amended**

- 5.1.1. Section 48 of the Planning and Development Act 2000, as amended provides as follows:

**48.—**(1) A planning authority may, when granting a permission under section 34, include conditions for requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority and that is provided, or that it is intended will be provided, by or on behalf of a local authority (regardless of other sources of funding for the infrastructure and facilities).

(2) (a) Subject to paragraph (c), the basis for the determination of a contribution under subsection (1) shall be set out in a development contribution scheme made under this section, and a planning authority may make one or more schemes in respect of different parts of its functional area.

(b) A scheme may make provision for payment of different contributions in respect of different classes or descriptions of development.

(c) A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.

(3) (a) A scheme shall state the basis for determining the contributions to be paid in respect of public infrastructure and facilities, in accordance with the terms of the scheme.

(b) In stating the basis for determining the contributions in accordance with paragraph (a), the scheme shall indicate the contribution to be paid in respect of the

different classes of public infrastructure and facilities which are provided or to be provided by any local authority and the planning authority shall have regard to the actual estimated cost of providing the classes of public infrastructure and facilities, except that any benefit which accrues in respect of existing development may not be included in any such determination.

(c) A scheme may allow for the payment of a reduced contribution or no contribution in certain circumstances, in accordance with the provisions of the scheme.

**Section 48(10) provides:**

(10) (a) Subject to paragraph (b), no appeal shall lie to the Board in relation to a condition requiring a contribution to be paid in accordance with a scheme made under this section.

(b) An appeal may be brought to the Board where an applicant for permission under section 34 considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the planning authority.

(c) Notwithstanding section 34(11), where an appeal is brought in accordance with paragraph (b), and no other appeal of the decision of a planning authority is brought by any other person under section 37, the authority shall make the grant of permission as soon as may be after the expiration of the period for the taking of an appeal. provided that the person who takes the appeal in accordance with paragraph (b) furnishes to the planning authority security for payment of the full amount of the contribution as specified in the condition.

**5.2. Dublin City Development s48 Development Contribution Scheme 2023-2026**

5.2.1. The Dublin City Council Development Contribution Scheme 2023 – 2026, (under Section 48, Planning & Development Act, 2000 as amended) provides for

1. Sub-section (1) of Section 48 of the Planning and Development Act 2000 as amended, enables a planning authority, when granting a planning permission under Section 34 of the Act, to include conditions for requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority, and that is provided, or that it is intended will be

provided, by or on behalf of a local authority (regardless of other sources of funding for the infrastructure and facilities).

2 (a) Subsection (2) of Section 48 requires that the basis for the determination of a contribution under subsection (1) shall be set out in a development contribution scheme made under this section.

(b) A scheme may make provision for payment of different contributions in respect of different classes or descriptions of development.

5.2.2. Section 9 of the scheme provides the level of contribution payable.

<b>Class of Public Infrastructural Development</b>	<b>€ per square metre of Residential Development</b>	<b>€ per square metre of Industrial/ Commercial Development</b>
Class 1: Roads infrastructure & facilities	€34.40	€35.85
Class 2: Drainage (surface water/flooding) infrastructure & facilities	€5.70	€5.93
Class 3: Parks and open space facilities	€19.01	€19.81
Class 4: Community facilities & amenities	€25.00	€26.05
Class 5: Urban regeneration facilities & amenities	€29.71	€30.96
<b>Total of Contributions Payable</b>	<b>€113.82</b>	<b>€118.60</b>

5.2.3. Section 10 of the scheme lists circumstances where no contribution or a reduced contribution will apply. The first is “Change of use from one commercial use to another. Any net additional floor space will be charged at the commercial rate”

### **5.3. Dublin City Development s49 Supplementary Development Contribution Scheme Luas Red Line Docklands Extension (Luas C1)**

5.3.1. The Dublin City Council Development Contribution for Luas C1 (under Section 49, Planning & Development Act, 2000 as amended) provides for

“Accordingly the following rates of supplementary development contributions are proposed for the specified land uses; Residential: €2,000 per unit Commercial: €38 per square metre Retail: €43 per square metre”

- 5.3.2. Section 11 of the scheme provides for exemptions, of relevance to the subject appeal is:
- i. Works to and change of use from residential use to retail or commercial and vice versa, of buildings included in the Record of Protected Structures. Protected Structure refers to the actual structure(s) and does not include development within its curtilage.
- 5.3.3. Section 12(b) of the scheme refers to protected structures, stating: Permissions for minor extensions to Protected Structures shall be calculated at 50% of the applicable rate of contribution. For the purposes of this Scheme, minor extension is defined as a new extension which is no greater than 50% of the extent of the total floorspace of the Protected Structure. Protected Structure refers to the actual structure(s) and does not include development within its curtilage.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. An agent for the first party has submitted an appeal against the inclusion of condition no.s 2 and 3 of the Planning Authority decision to grant permission. The grounds of the appeal can be summarised as follows:

#### **Condition no. 2**

- Contributions have been incorrectly applied to the scheme.
- Application is for change of use and modification of an existing structure with a 75sq.m. extension
- Current Dublin City Council development contribution scheme states that a change of use from one commercial use to another shall not be required to pay development contributions under the scheme.
- The €118.60 per sq.m. rate should not apply to the existing portions of the building and should only apply to the 75sq.m. extension.

#### **Condition no. 3**

- The section 49 contributions have also been incorrectly applied.



- The scheme states that change of use from one commercial use to another shall not be required to pay development contributions under the scheme.
- The commercial rate of €38per sq.m. should only apply to the 75sq.m extension.
- Permissions for minor extensions to protected structures shall be calculated at 50% of the applicable rate of contribution.
- The Board is requested to review condition no.s 2 and 3 and consider a reduction of the financial contributions imposed.

## 6.2. Planning Authority Response

- A review of the permission and conditions attached to the permission was undertaken.
- The contributions applied to this development are incorrect. The contribution should have been applied to the increased floor area only, as other works were being carried on a building that was recognised as commercial to another use that is recognised as commercial.
- The Planning Authority request the Bord find that development contributions applicable should be determined on the increased floor area only: 745sq.m. (*The Board will note that this appears to be a typographical error and should state 75sq.m.*).
- The submission is accompanied by a record of the development contribution applied to the application.

## 7.0 Assessment

- 7.1.1. Having regard to the provisions of section 48(13)(a) of the Planning and Development Act 2000 as amended, this assessment and recommendation will only relate to the conditions that are subject of the appeal.

### 7.2. Condition no. 2

- 7.2.1. The appellant states that the subject application is for change from one commercial use to another commercial use and modification of an existing structure with a 75sq.m. extension. The appellant notes that the s48 development contribution scheme under which condition no. 2 was attached provides for circumstances where

no contribution or a reduced contribution applies. The first of the listed circumstances is a change of use from one commercial use to another and that any net additional floor space will be charged at the commercial rate.

- 7.2.2. In their response to the appeal, the Planning Authority acknowledge that the scheme was incorrectly applied and that *only* the increased floor area of 75sq.m. is applicable for levies. Using the applicable rate of €118.60 for 75sq.m., the total due is **€8,895**. I recommend that condition no. 2 be amended to reflect this.

### 7.3. **Condition no. 3**

- 7.3.1. Condition no.3 of the Dublin City Council decision to grant permission states:

“A development contribution in the sum of €50,426.00 shall be paid to the Planning Authority in respect of the LUAS C1 Line Scheme. This contribution shall be paid prior to the commencement of development or in such a manner as may otherwise be agreed in writing with the Planning Authority. The amount due is payable on commencement of development. Phased payment of the contribution will be considered only with the agreement of Dublin City Council Planning Department. Applicants are advised that any phasing agreement must be finalised and signed prior to the commencement of development. Reason: It is considered reasonable that the payment of a development contribution in respect of the public infrastructure and facilities benefitting development in the Luas C1 line area as provided for on the Supplementary Development Contribution Scheme made for the area of the proposed development under Section 49 of the Planning & Development Act 2000 (as amended).”

- 7.3.2. The Luas Red Line Docklands Extension (Luas C1) supplementary development contribution scheme comprises a written document and an accompanying map. Section 6 of the scheme outlines the extent of the scheme as “A band of approximately 800m either side of the Luas line is taken as the transportation corridor within which benefit will accrue to development. A line has been drawn defining the corridor that rationalises the 800m distance to nearby features such as roads and other boundaries. The catchment area is considered to represent a reasonable walking distance to stations along the proposed line. The project benefits the scheme area, enables its development in a sustainable manner with higher densities in accordance with the City Development Plan and the Residential Density

Guidelines. The project improves the attractiveness and marketability of the scheme area for residential, commercial and retail development. The area of the scheme is identified on the accompanying Scheme Map”.

- 7.3.3. The Board will note that the subject site *does not* fall within the parameters set out in section 6 or the accompanying map. The Luas Red Line Docklands Extension (Luas C1) supplementary development contribution scheme *does not* apply to the subject development. The Board, therefore, may decide to omit condition no. 3.
- 7.3.4. The subject site *does* however, fall within the Luas Cross City (St. Stephens Green to Broombridge Line) s49 supplementary development contribution scheme. It is highly likely the reference to Luas C1 in condition no. 3 is a simple error and that the condition should have referred to Luas Cross City. This is especially so, given that neither the appellant nor the Planning Authority have drawn attention to the apparent error. The appellant specifically refers to provisions in the Cross City scheme when requesting the Board to consider the development exempt and clearly accepts the subject development as being leviable under a s49 supplementary development contribution scheme providing for Luas works. I also note that when permission was granted for the first commercial development on the site (Planning Authority reg. ref. 3577/18), condition no. 3 referred to a s49 development levy due under the Luas Cross City Scheme.
- 7.3.5. The Board may therefore decide to amend condition no. 3 to refer to the correct supplementary development contribution scheme. Should the Board decide that condition no. 3 should correctly refer to Luas Cross City, I note section 11 of the Cross City scheme which provides for exemptions. As with the s48 scheme referred to above, the s49 Cross City scheme states that “The following categories of development will be exempted from the requirement to pay development contributions under the Scheme: Permissions for a change of use from one commercial / retail use to another are exempt. Any net additional floorspace will be charged at the commercial rate”.
- 7.3.6. In their response to the appeal, the Planning Authority acknowledge that the scheme was incorrectly applied and that *only* the increased floor area of 75sq.m. is applicable for levies. Section 12 of the Luas Cross City s49 scheme provides for a reduction of 50% for minor extensions to protected structures, where the extension is

no greater than 50% of the total floorspace of the protected structure. The subject development with an extension of 75sq.m. to a building of 1,252sq.m. complies with this criteria. Therefore, using the applicable rate of 50% of €38 for a floor area of 75sq.m., the amount due would be €1,425.

7.3.7. I recommend that condition no. 3 be amended to read:

“A development contribution in the sum of €1,425 shall be paid to the Planning Authority in respect of the LUAS Cross City (St. Stephens Green to Broombridge Line) Scheme. This contribution shall be paid prior to the commencement of development or in such a manner as may otherwise be agreed in writing with the Planning Authority. The amount due is payable on commencement of development. Phased payment of the contribution will be considered only with the agreement of Dublin City Council Planning Department. Applicants are advised that any phasing agreement must be finalised and signed prior to the commencement of development. Reason: It is considered reasonable that the payment of a development contribution in respect of the public infrastructure and facilities benefitting development in the Luas C1 line area as provided for on the Supplementary Development Contribution Scheme made for the area of the proposed development under Section 49 of the Planning & Development Act 2000 (as amended).”

## 8.0 Recommendation

8.1.1. Attach conditions no. 2 and 3. amended as follows:

- 2 A development contribution in the sum of **€8,895** shall be paid to the Planning Authority as a contribution towards expenditure that was and/ or is proposed to be incurred by the Planning Authority in respect of public infrastructure and facilities benefitting development in the administrative area of the Authority in accordance with Dublin City Council's Section 48 Development Contribution Scheme. The contribution is payable on commencement of development. If prior to commencement of development an indexation increase is applied to the current Development Contribution Scheme or if a new Section 48 Development Contribution Scheme is made by the City Council the amount of the contribution payable will be adjusted accordingly. Phased payment of the contribution will be considered only with the agreement of Dublin City Council Planning Department. Applicants are advised that any phasing agreement

must be finalised and signed prior to the commencement of development.  
Reason: It is considered reasonable that the payment of a development contribution should be made in respect of the public infrastructure and facilities benefitting development in the administrative area of the Local Authority.

- 3 A development contribution in the sum of **€1,425** shall be paid to the Planning Authority in respect of the **LUAS Cross City (St. Stephens Green to Broombridge Line) Scheme**. This contribution shall be paid prior to the commencement of development or in such a manner as may otherwise be agreed in writing with the Planning Authority. The amount due is payable on commencement of development. Phased payment of the contribution will be considered only with the agreement of Dublin City Council Planning Department. Applicants are advised that any phasing agreement must be finalised and signed prior to the commencement of development. Reason: It is considered reasonable that the payment of a development contribution in respect of the public infrastructure and facilities benefitting development in the Luas C1 line area as provided for on the Supplementary Development Contribution Scheme made for the area of the proposed development under Section 49 of the Planning & Development Act 2000 (as amended).

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.



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Gillian Kane  
Senior Planning Inspector  
06 June 2025