

An
Bord
Pleanála

Board Direction ABP-320914-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 21/05/2025.

The Board decided, as set out in the following Order, that

WHEREAS a question has arisen as to whether fencing erected at two locations – 12 metres close to Golf Club Wicket Gate and 10 metres at the other end of lands at Killiney Golf Club, Ballinclea Road, Killiney, Co. Dublin is or is not development or is or is not exempted development

AND WHEREAS Patrick J. Drudy requested a declaration on this question from Dun Laoghaire- Rathdown County Council and the Council issued a declaration on 29th August 2024 stating that the matter was development and was exempted development.

AND WHEREAS Patrick J. Drudy referred this declaration for review to An Bord Pleanála on 25th September 2024.

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 2(1), 3(1) and 4(2) of the Planning and Development Act 2000 (as amended),
- (b) Articles 6 (1) and 9 (1) of the Planning and Development Regulations, 2001(as amended),
- (c) Class 11 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended),
- (d) the Dun Laoghaire-Rathdown County Development Plan 2022-2028
- (e) documentation on file
- (f) aerial photographs
- (g) the planning history including D95A/0106, PL06.097552

AND WHEREAS An Bord Pleanála has concluded that:


- (a) the erection of a fence consists of carrying out of 'works' and therefore constitutes 'development' in section 3(1) of the Planning and Development Act 2000 (as amended), and is development,
- (b) the proposed works are within the description and conditions and limitations of development in class 11 of part 1 of schedule 2 of the Planning and Development Regulations under Article 6(1) of the Regulations,
- (c) having regard to the limited nature and scale of the works, the development does not interfere with the character of a landscape the preservation of which is an objective of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and accordingly the restriction on exempted development in Article 9(1)(a)(vi) does not apply,
- (d) having regard to the limited nature and scale of the works, the development does not alter a place of ecological interest (the proposed Dalkey Coastal Zone and Killiney Hill/ Roches Hill proposed natural heritage area) for which there is an objective in

the development plan (objectives GIB18 and GIB21) to protect, preserve and conserve and accordingly the restriction on exempted development in Article 9(1)(a)(vii) does not apply,

- (e) the works comprise fencing of land habitually open to or used by the public during the 10 years preceding such fencing for recreational purposes and accordingly the restriction on exempted development in Article 9(1)(a)(x) does apply,
- (f) having regard to the lack of evidence and certainty regarding whether or not the path is a public right of way, there is insufficient information to conclude that the fencing obstructs a public right of way and accordingly, the restriction in Article 9(1)(a)(xi) does not apply.
- (g) the development is not likely to have a significant effect on the integrity of a European site and appropriate assessment is not required and accordingly the restriction on exempted development in Article 9(1)(a)(viiB) does not apply,
- (h) The land is designated proposed Natural Heritage Areas (Dalkey Coastal Zone and Killiney Hill / Roches Hill) and is not a natural heritage area. The restriction on exempted development in Article 9(1)(a)(viiC) does not apply.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (X) (x) of the 2000 Act, hereby decides that the fencing erected at two locations – 12 metres close to Golf Club Wicket Gate and 10 metres at the other end of lands at Killiney Golf Club, Ballinclea Road, Killiney, Co. Dublin is development and is **not** exempted development.

Board Member:


Stephen Bohan

Date: 21/05/2025