



An  
Coimisiún  
Pleanála

Direction  
**ABP-322368-25**

The submissions on this file and the Inspector's report were considered at a meeting held on 17/07/2025.

The Commission decided, as set out in the following Order.

Commission Order as set out below:

**Planning**

**Commissioner:**

**Date:** 21/07/2025

*Patricia Calleary*  
Patricia Calleary

**DRAFT WORDING FOR ORDER**

**WHEREAS** a question has arisen as to whether the erection of metal fencing that blocks public access along an open pathway/track at two locations at Rocheshill (Mullins Hill), Killiney Hill, Co. Dublin is or is not exempted development.

**AND WHEREAS** Ballinclea Residents Association requested a declaration on this question from DunLaoghaire Rathdown County Council and the Council issued a declaration on 24<sup>th</sup> March 2025 stating that the matter was development and was exempted development:

**AND WHEREAS** Stephen Jenkins on behalf of Ballinclea Residents Association referred this declaration for review to An Coimisiún Pleanála on 22<sup>nd</sup> April 2025.

**AND WHEREAS** An Coimisiún 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 DunLaoghaire-Rathdown County Development Plan 2022-2028
- (e) documentation on file
- (f) aerial photographs
- (g) the planning history including REF9124,ABP320914-24 and D95A/0106, PL06.097552

**AND WHEREAS** An Coimisiún 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 Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that erection of metal fencing that blocks public access along an open pathway/track at two

locations at Rocheshill (Mullins Hill), Killiney Hill, Co. Dublin is development and is not exempted development.