



An
Bord
Pleanála

Inspector's Report ABP317986-23

Development

Retention of conversion of attic to single bed apartment, construction of plant room to rear, generator and apartment storage and modifications/deviations to previously granted planning permission (reg. ref. F19A/0524)

Location

1 Killeen Terrace, Main Street, Malahide, Co. Dublin K36 KV57

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F23A/0372

Applicant(s)

Tomella Ltd

Type of Application

Retention Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Tomella Ltd

Observer(s)

None

Date of Site Inspection

9th November 2023

Inspector

Andrew Hersey

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1.0 Site Location and Description

- 1.1. The subject site is located at 1 Killeen Terrace, Malahide. The property subject of this appeal is one of 4 dwellings in this terrace all of which are afforded protected structure status.. The property is located at the western end of the terrace with the side elevation facing onto St Margaret's Road.
- 1.2. The building is three storey's in height with a new two storey monopitch rear return.
- 1.3. Access to the site is from St Margaret's Road and which comprises of a bellmounted entrance with cut stone piers and wrought iron gates and railing. There is a wide open area to the front of the house where cars are parked
- 1.4. There are two further gates onto Saint Margaret's Road one a pedestrian gate opening inwards and the other a sliding gate. There was a car parked on the other side of the sliding gate on the day of the site visit. This western boundary is made up of timber fencing with shrub planting.
- 1.5. There are a series of small buildings between the site boundary and the building along the western boundary.

2.0 Proposed Development

- 2.1. The proposed development comprises of the following: Retention Permission for:
 - The conversion of the attic into a single bedroom apartment at third floor level with newly constructed private stair access and the incorporation of two conservation rooflight to the front, four to the side overlooking St. Margaret's Road and the relocation of two previously permitted rooflights to the rear. The apartment is stated to have a gross floor area of c.540m.
 - The closing up of a side facing- window at second floor level overlooking no.2 Killeen Terrace,
 - A reduction in height of two rear facing obscured sash window at first floor level overlooking Feenagh house,
 - The inclusion of an access door from the newly constructed single storey extension to the rear,

- The construction of a single story plant room at the rear adjoining the boundary wall with no.2 Killeen terrace. This structure measures c. 2.9m (W) x c.3.8m (l) x . 2.7m (h) with a flat roof profile.
- The modification of the rear boundary line and subsequent allocation of 5sqm to Feenagh house. This results in a stepped rear building line.
- The installation of a bin store (c.3.7m (w) x c. 2m (d)) screened water tank and construction of a generator storage unit (2.2m (w) x c. 1.6m(d) x c. 2.3m(h) and apartment storage unit (c.3.4m (w) x c. 1.8m (d) x c. 2.2m (h), and the erection of fencing to the side garden along St. Margaret's rd.,
- The widening of an existing entrance to c. 3m to the rear along St. Margaret's rd: and installation of composite sliding gate,
- Minor internal layout deviations from permitted planning application F19A/0524 which include;

Apartment 2

- Internal amendments to a window ope at ground floor level
- The provision of a new external access door at ground floor level on the rear, southern elevation.

Apartment 3

- Amendment to the location of access into this apartment with an additional window/ope being widened and repositioned, internally within the apartment and the kitchen is relocated.

Apartment 5

- Reduction in size by virtue of the proposed relocation of the kitchen to enable the provision of access stairs to the attic level.
- Bedrooms reformatted to include for the provision of an en-suite.

2.2. Decision

Refuse Permission for the following reasons:

1. *The application property is a Protected Structure, Ref 398, described as being a Terrace of four three-bay three-storey 19th century houses incl gates & front railings recessed from street by common garden. A significant proportion of the works undertaken are not appropriate as they negatively affect the character of the protected structure and its setting and the retention of these is therefore not acceptable. The insertion of six rooflights on the prominent roof slopes of the front and side (west) elevation, the provision of roof vents, the insertion of multiple new ancillary structures within the private open space areas to the side and rear of No. 1 Killeen Terrace, the provision of seventeen wall vents placed into the side (west) elevation creating a patchwork of insertions spread across this elevation, the provision of four CCTV cameras added to the front, side and rear etc and the reduction of the non-built areas so that little remains to service such a substantial building, all element taken together have a detrimental impact on the protected structure.*

The development as such is contrary to Objective HCAP12 of the Fingal Development Plan 2023-2029 which states 'Ensure that direct or indirect interventions to Protected Structures or adjoining development affecting them are guided by architectural conservation principles so that they are, sympathetic, sensitive and appropriate to the special interest, appearance, character, and setting of the Protected Structure and are sensitively scaled and designed.' The development as such materially affects a protected structure and therefore is contrary to the proper planning and sustainable development of the area.

2. *The current layout is unacceptable as is the layout depicted on Drawing No. 300 Retention Site Location Plan which seeks the permanent removal of the central planted beds and reduction of periphery planting, The shared front garden area has been radically altered with the removal of central planting beds and reduction of the boundary planting. The area is now dominated by carparking. This has eradicated the special character of this space which is a fundamental part of the special significance of Killeen Terrace and also contributed to the special character of the ACA. Objective HCA024 Requires proposals for any development, modification, alteration, extension or energy retrofitting affecting a Protected Structure and/or its setting or a building that contributes to the character of an ACA are sensitively sited and designed, are compatible with the special character, and*

are appropriate in terms of the proposed scale, mass, height, density, architectural treatment, layout, materials, impact on architectural or historic features. The collective negative impacts of the development would adversely affect the Malahide Historic Core Architectural Conservation Area and would be contrary to Objective HCA024 of the Final Development Plan 2023-2029.

3. *The cumulative effect of the placing of ad hoc-structures in a piecemeal manner within the site, the lack of provision of private amenity space for the additional apartment and the overall reduction in the quantity and quality of private and communal open space is to the detriment of the residential amenities of the building. The development seeking retention permission constitutes an inappropriate over development of the site and is inconsistent with the proper planning and sustainable development of the area.*

Planning Authority Reports

2.2.1. Planning Reports

- 2.2.1.1. The report of the Planning Officer (dated 15th August 2023) reflects the decision of the planning authority

2.2.2. Other Technical Reports

- 2.2.2.1. Conservation Officer Section (3rd August 2023) in summary raises the following issues:

- The front garden was common to all buildings in the terrace and is a unique feature within the Fingal area.
- That works other than those applied for in the retention application have been carried out by the developer. These include;
 - Alteration to the layout of the common front garden including the removal of a central planted area and the reduction of perimeter planting.
 - Installation of CCTV cameras as front side and rear elevation ground floor levels
 - Installation of two projecting roof vents

- Installation of 17 wall vents
- Installation of two external lights over ground front doors.
- A significant portion of the works undertaken are not appropriate as they affect the character of the protected structure and its setting and the retention of the same is not appropriate. In particular the following are an issue:
 - The six rooflights on the prominent roof slopes of the front and side (west) elevation are visible from the Main Street and St Margaret's Road are not appropriate. The issue of the use rooflights on the front elevation was raised in the initial application for the site. No rooflights were proposed on St Margaret's Road elevation in the initial application. Rooflights are only allowed on rear or hidden slopes.
 - It is further recommended that the two projecting roof lights are removed and re-located elsewhere
- The insertion of multiple ancillary structures in the private open space areas around the side and the rear of the building is inappropriate.
- The removal of the apartment in the attic space will negate the need for the sprinkler storage tank and generator and access route so that this can revert back to private open space.
- No specific objection to enlarged bin storage area
- The plant room is indicated as containing the water tanks for the apartments and related pumps – this could be relocated to the attic space allowing for the reduction of the extent of this external plant room
- The full extent of the planted boundary hedge along St Margaret's Road needs to be reinstated.
- Widening and repositioning of door openings have impacted upon architraves – this is regrettable but not possible to undo and therefore there is no objection to these changes
- No issue with respect of the new door in the kitchen to access the courtyard in the extension. The blocking up of a door opening in Apartment 5 can also be retained

- Internal alterations within Apartments 2 & 3 with respect to door openings, changes to the layout and new access door to the courtyard from Apartment 2 can be retained.
- The attic space should be reinstated as attic space only and the stairs to same removed
- The number of vents and additional elements placed on the front and west side elevation needs to be rethought rationalised and more carefully positioned to minimise their visual impact

2.2.2.2. Uisce Eireann (23/06/23)

- No objection

2.2.2.3. Transportation Planning Section (23/06/23)

- No objection subject to bicycle parking being provided.

2.2.2.4. Water Services (23/06/23)

- No objection subject to conditions

2.3. Submissions/Observations

- None received

3.0 Planning History

- F19A/0524 - (a) Alterations to house in apartments; renovation of the building, a Protected Structure to include reroofing and new timber sash windows, (b) reduction from 6 no. apartments to 5 no. apartments, to provide 1 no. 1-bed apartment (56sq.m.) and 1 no. 2-bed apartment (75sq.m.) at ground floor level to include widening of 2 doors to accommodate French doors with access to 2 individual open spaces) facing St. Margaret's Road, 1 no. 1-bed apartment (63sq.m.) and 1 no. 2-bed apartment (70sq.m.) at first floor level, and 1 no. 2 bed apartment at second floor level (98sq.m.), (c) the insertion of 5 no. Velux

roof lights to rear and side of roof, (d) demolition of dilapidated ancillary two storey structure towards the rear staircase and the reconstruction as a two tiered two storey flat roof extension, (e) demolition of single storey rear return lean-to roof to facilitate reconstruction with additional slate roofed second storey, to include 2 windows, 1 to east and 1 to west elevation, (f) landscaping to rear and resurfacing parking facilities to front, (g) associated site alterations and site works, A PROTECTED STRUCTURE RPS NO. 398 - Granted permission. This permission authorised 5 no. apartments.

- Feenagh House to the south (rear) - F22A/0583 - Works comprising of a) Permission to extend an existing single storey side porch entrance by 2 sqm. and alter the pitch roof to a flat roof. b) Retention permission to extend the rear garden by 5 sqm. into the curtilage of 1 Killeen Terrace, Main Street, Malahide, County Dublin; A protected structure RPS No. 398, (in same legal ownership) c) Retention permission for the construction of a 35 sqm. single story flat roof annex in the rear garden adjoining the boundary with no. 2 Killeen Terrace for use as a gym, and all associated site works. Split Decision issued by the Planning Authority and the application was appealed to the Board. Permission was granted for the porch elements and refuse the extension to the rear garden by 5sq.m. into the curtilage of 1 Killeen Terrace and refuse single storey flat roof annex to rear.

The cumulation of this annex structure and the structures built without the benefit of planning permission within the landholding and curtilage of a Protected Structure and within an ACA diminishes the character of the area and has a negative impact on the visual and residential amenity of the site and landholding, contravenes Objective DMS157 and Objective CH20 of the Fingal Development Plan 2017-2023 and as such would not be in keeping with the proper planning and sustainable development for the area.

4.0 Policy and Context

4.1. Development Plan – Fingal County Development Plan 2023-2028

- 4.1.1. The Fingal County Dublin Development Plan 2023-2028 is the relevant County Development Plan for the area.
- 4.1.2. The site is zoned with the objective 'TC' Town and District Centre which is "To protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities"
- 4.1.3. The proposed development site is located in an Architectural Conservation Area in the statutory plan serving the area
- 4.1.4. Objective HCAP14 -.Architectural Conservation Areas: Protect the special interest and character of all areas which have been designated as an Architectural Conservation Area (ACA). Development within or affecting an ACA must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and it's setting wherever possible. Development shall not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries or features, which contribute positively to the ACA.
- 4.1.5. Objective HCA024 -Alteration and Development of Protected Structures and ACAs Require proposals for any development, modification, alteration, extension or energy retrofitting affecting a Protected Structure and/or its setting or a building that contributes to the character of an ACA are sensitively sited and designed, are compatible with the special character, and are appropriate in terms of the proposed scale, mass, height, density, architectural treatment, layout, materials, impact on architectural or historic features.
- 4.1.6. Objective HCA026 - Use of Protected Structures: Where required to support active use or facilitate suitable adaptive re-use of Protected Structures the Council may in certain circumstances consider the relaxation of site zoning restrictions to secure the preservation and conservation of the Protected Structure where the use proposed is

compatible with the existing structure. This will only be permitted where the development is consistent with conservation policies and the proper planning and sustainable development of the area.

- 4.1.7. Objective HCAP12 - Interventions to Protected Structures: Ensure that direct or indirect interventions to Protected Structures or adjoining development affecting them are guided by architectural conservation principles so that they are sympathetic, sensitive and appropriate to the special interest, appearance, character, and setting of the Protected Structure and are sensitively scaled and designed.
- 4.1.8. Policy HCAP28 - Climate Change and Heritage: Advance and support mechanisms through which the Council can develop resilience, adapt or mitigate the impact of Climate Change on the archaeological and built heritage of the County.
- 4.1.9. Section 14.6 - Design Criteria for Residential Development in Fingal: 'While the minimum standards will be sought in relation to refurbishment schemes, it is acknowledged that this may not always be possible, particularly in relation to historic buildings, 'Living over the Shop' projects and in certain urban infill developments. In some instances, and on a case-by-case basis, quantitative standards may be relaxed subject to the provision of excellent quality accommodation, and where the proposal secures compact growth, benefits from high quality transport links, is proximate to community infrastructure and renews underutilised building stock/sites. It must be satisfactorily demonstrated that the internal design and overall layout is closely aligned to the specific needs of occupants and proposals governing future management requirements are robust and enforceable'

4.2. Natural Heritage Designations

- 4.2.1. The site is not located within or adjacent to any Natural Heritage Designations nor is there any hydrological link to the same

4.3. EIA Screening

Having regard to the nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

5.0 The Appeal

5.1. First Party Appeal

- 5.1.1. A first party appeal prepared by Delahunty and Harley on behalf of the applicants was lodged on the 11th September 2023.

5.2. Grounds of Appeal

- That the development plan recognises the need for additional homes, increased densities and consolidation of housing stock. The appeal refers to a number of objectives in the statutory plan and in national policy with respect of the same. The appeal states that the train station is a 2 minute walk from the premises which further reinforces potential for increased housing density.
- For the purposes of energy efficiency, heat pumps were installed into each apartment and these had to be housed externally hence the need for a central plant room.
- Mechanical ventilation is necessary to deal with plant and mould issues in masonry buildings hence the need for external wall vents. Vents were required in every room. Trickle vents in windows were not possible as many of the windows were restored rather than replaced. A balanced approach must be taken with respect of heritage preservation and energy efficiency.
- With respect of the vents on the west elevation it is proposed to replace them with 225 x 150mm square-edged cast aluminium fixed louvre wall vents and painting them to match the colour and texture of the wall.

- With respect of the attic space, prior to any works taking place the fire authority agreed that the revised design would be acceptable from a fire safety point of view
- The use of conservation roof lights is a well-established practice that has been employed in numerous historical buildings across Dublin. The directly adjoining property incorporates 3 non-conservation type roof lights on the front façade which establishes a precedent
- With respect of the planting bed in the front garden, the appeal states that this was an error in the drawings submitted with the previous application on the site (F19A/0524). Historical Aerial photographs show that this bed was not present at the time of application. The applicant has no influence as to how neighbouring owners treat their gardens.
- Before works were carried out the front garden was tarmacked and this was removed and replaced with self-binding gravel to comply with Part M and SuDS requirements. Parking bays were marked using granite cobblestones.
- That the external area to the rear which was originally designated as a landlord area has now been redesigned to provide for communal open space to serve apartments 3, 4 and 5. The area is to be hard landscaped with permeable paving and seating all in a south facing setting. This is a similar scenario to many contemporary apartment complexes where there is shared access to roof gardens. This space can only be accessed by way of the sliding gate from St Margaret's Road.
- The development is close to a number of public amenity spaces including Malahide Castle and Gardens which is located less than 100 metres to the west. Given the nature of the development it is not feasible to provide for dedicated individual private amenity space for each apartment unit.
- With respect of the alteration to the boundary which is proposed for retention, it is stated that both Feenagh House and 1 Killeen Terrace are in the ownership of the O'Sullivan Family. They have never officially established a boundary between Feenagh House and No. 1 Killeen Terrace and what is currently proposed for retention accurately reflects the situation on the ground.

- The use of a sprinkler system and water storage tank was for fire safety purposes was imposed on the applicant by Dublin Fire Brigade. The applicant was hoping to use a much more discreet low impact misting system, but this was not accepted. The water storage tank has been hidden by a 2.0 m high timber fence which also serves to add privacy to the amenity spaces for the ground floor apartments and also serves to conceal the waste bins.
- The applicant would agree to a reduction in height of the generator store by 600mm and that the timber fence can be removed in the area between the two gates and erect a continuation of the cast iron railing together with the reintroduction of hedge behind the same. This will enhance the visual appearance and preserve the special character of the Protected Structure when viewed from St Margaret's Road.
- The apartment in the attic space for which retention is sought has been designed in accordance with the minimum standards as set out in Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Local Authorities 2018.. The proposal surpasses the minimum requirements set out therein.

5.3. Planning Authority Response

- The Planning Authority lodged a response to the appeal on the 5th October 2023 which states that the requirement to provide additional housing is acknowledged however, as set out in the Chief Executives report, the works seeking retention indicate a lack of care and consideration of the cumulative negative impact of the works on the character of the Protected Structure and its setting within the ACA.
- The Planning Authority requests that the Board uphold the decision to refuse permission
- In the event that a Board decide to grant permission for the proposed development a Development Contribution should be imposed as appropriate.

5.4. **Observations**

- None received

5.5. **Further Responses**

- None received

6.0 **Assessment**

6.1. **Introduction**

6.1.1. I am satisfied the substantive issues arising from the grounds of this first party appeal relate to the following matters-

- Principle of Apartment
- Private Open Space
- Amendment to Boundary
- Visual Amenity Considerations

6.2. **Principle**

6.2.1. The proposed development is located on lands zoned as TC Town Centre and District Centre in the current County Development Plan where it is the objective of the council "To protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities"

6.2.2. An apartment is a use which are permitted in principal on lands zoned as TC. The proposal is therefore considered acceptable in principle at this location as it complies with the zoning objective.

6.2.3. The building subject of this appeal is listed as a Protected Structure in the Record of Protected Structures as set out in the current statutory development plan serving the area.

- 6.2.4. Objective HCA026 seeks to support the active use of a Protect Structure. A residential use therefore would comply with this objective
- 6.2.5. Development Plan, National and Regional Policy all seek to increase the density of housing in urban areas especially in close proximity to public transport. In this case, the site subject of this appeal is within a few minutes' walk of the Dart Station.
- 6.2.6. The proposed development complies with the minimum space requirements as set out in Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Local Authorities 2018. No specific area of private open space is proposed for the said extra apartment. However, this is the case for the three first and second floor apartments permitted under F19A/0524.
- 6.2.7. I also note that the permitted use on site under F19A/0524 is as a 'landlords service area' – its use as a room has therefore already been established under this application.
- 6.2.8. With respect of the above, it is considered that increasing the number of apartment units within the building from 5 which was granted under Planning Reg. Ref. F19A/0524 to 6 units, the extra unit being the one which is subject to this retention application is an acceptable form of development at this location.

6.3. Private Open Space

- 6.3.1. Under Planning Reg. Ref. F19A/0524, 5 apartment units were granted permission within the building. The two ground floor apartments each had own door access to the west side of the building into their own area of private open space. The other three apartments shared communal space to the rear of the building with an area of 81sq.m. allocated to these three apartments. Access to the area of open space to the rear could only be accessed through a gate from St. Margaret's Road, so residents of the three upper floor apartments had to go out the front door of the building (facing the Main Street) and walk around to the open space to the rear of the building. This is not an ideal situation however the same has already been agreed with the planning authority and this arrangement has benefit of planning permission.

- 6.3.2. What is now proposed is that 4 apartments will share this open space area to the rear of the building which has been reduced in size as a consequence of the construction of a plant room, apartment storage, the amendment of the party boundary with Feenagh House to the south and the further allocation of private open space to Apartment 2. Apartment 2 now has own door access to two areas of private open space to the west on the St Margaret's Road Elevation and to the east into an enclosed courtyard. These two areas give a cumulative space of 33sq.m. Apartment 1 also has its own area of private open space which is accessed via an own door within the apartment. Both areas of private open space exceed the development plan standards
- 6.3.3. I am of the opinion that the principle issue to consider here is that now 4 apartments share a substantially smaller area of private open space located to the rear. 81sq metres was proposed under the previous application, Planning Reg. Ref. F19A/0524, and this has reduced to circa 35 sq.m. and this is to serve an extra apartment unit. I note that this space is to serve 3 x1 bed apartments and 1x 2 bed. In accordance with Table 14.7: Minimum Requirements for Apartments (of the Fingal County Development Plan 2023-2029) 5 sq metres of Private Open Space is required for a 1 bed apartment and 6sq.m. for a 2 bed apartment. The cumulative requirement for above ground floor apartments is therefore 21sq.m. The communal space to the rear of the building which is circa 35sq.m. clearly exceeds this requirement but it is acknowledged that such provision is no match for private open space with own door access to the same. However, it has been already agreed in the previous application that this arrangement was sufficient for three apartments and I see no reason as to why it could not serve a fourth.
- 6.3.4. Access to this area is via a gated access from St Margaret's Road, so residents can only access this area by way of the front door of the building and walking around the area. Again, as stated previously this is not a perfect scenario and it is suggested that the area of communal space will not be used frequently by the residents of the four apartments.
- 6.3.5. Because of the protected status of the building, it is not possible to provide balcony space at 2nd, 3rd and 4th floors. There is an abundance of public amenity space within

a few hundred metres of the proposed development site specifically Malahide Castle & Gardens located to the west.

- 6.3.6. Section 14.6 of the Fingal County Development Plan 2023-2029 recognises that it is not always possible to adhere to minimum standards with respect of renovation and re-use of historic buildings and that *'quantitative standards may be relaxed subject to the provision of excellent quality accommodation, and where the proposal secures compact growth, benefits from high quality transport links, is proximate to community infrastructure and renews underutilised building stock/sites'*
- 6.3.7. Based on the above and having regard to the positive residential use that the protected structure is been used for in a town centre location in an area where there is an abundant of amenity space, frequent public transport, and community facilities I consider that the private open space provision is acceptable in this instance.

6.4. Amendment to Boundary

- 6.4.1. Part of the proposed development for retention includes for an amendment to the boundary between the dwelling to the south, Feenagh House and the proposed development site No 1 Killeen Terrace. It is understood that there will be a reduction in area of 5sq.m which Feenagh House will gain and No 1 Killeen Terrace will lose.
- 6.4.2. It is understood that both properties are in the ownership of one family and they have never officially established a boundary between Feenagh House and No. 1 Killeen Terrace and what is currently proposed for retention accurately reflects the situation on the ground.
- 6.4.3. Feenagh House was subject to a planning application under F22A/0583 which was for:

Works comprising of a) Permission to extend an existing single storey side porch entrance by 2 sqm. and alter the pitch roof to a flat roof. b) Retention permission to extend the rear garden by 5 sqm. into the curtilage of 1 Killeen Terrace, Main Street, Malahide, County Dublin; A protected structure RPS No. 398, (in same legal

ownership) c) Retention permission for the construction of a 35 sqm. single story flat roof annex in the rear garden adjoining the boundary with no. 2 Killeen Terrace for use as a gym, and all associated site works.

- 6.4.4. A split decision was issued by the Planning Authority and the application was appealed to the Board. Permission was granted for the porch element and permission was refused for the extension to the rear garden by 5sq.m. into the curtilage of 1 Killeen Terrace and the single storey flat roof annex to rear was refused for the following reasons:

The cumulation of this annex structure and the structures built without the benefit of planning permission within the landholding and curtilage of a Protected Structure and within an ACA diminishes the character of the area and has a negative impact on the visual and residential amenity of the site and landholding, contravenes Objective DMS157 and Objective CH20 of the Fingal Development Plan 2017-2023 and as such would not be in keeping with the proper planning and sustainable development for the area.

- 6.4.5. I have examined this application and it is understood from the same that the single storey flat roofed building (the annex structure) subject of the this application encroaches into 1 Killeen Terrace. The said building is constructed directly adjacent to the plant room within 1 Killeen Terrace. This, I would consider is the reason for the amendment to the boundary. I note that a small window looks into the rear garden associated with 1 Killeen Terrace. Notwithstanding the fact, that both properties are in the ownership of the same family, privacy of the future residents of 1 Killeen Terrace has been compromised because of this window

- 6.4.6. The Conservation Officer has a report on the file which states the following:

- There is an issue with the retention of the reduction of the rear garden of the protected structure by 5m. sq. and the encroachment into it of the gym structure which contains a window opening facing into the rear area of No. 1 Killeen Terrace.
- The line of the boundary between the two properties as delineated on the planning application F19A/0524 is to be re-instated.

- The original grounds to No. 1 Killeen Terrace were extensive and have been eroded and reduced over time by the insertion St. Margaret's Road to the side and new dwellings to the rear so that only a limited private open space area to the rear and side remained for such a substantial building. It is not appropriate to reduce this area any further and so irrespective of whether both properties are in the same ownership the boundary is to be re-instated by a proper solid boundary wall.

6.4.7. I note that the said application is currently under appeal to the Board.

6.4.8. I do not agree with the Planning Authority in this respect and I see no meaningful reason as to why a mere 5sq.m of area to be taken off the grounds of No. 1 Killeen Terrace and transferring it to Feenagh House substantiated a reason for refusal on the part of the Planning Authority. The only issue, is, in my opinion, the issue of a window of the detached single storey building looking into the grounds of 1 Killeen Terrace which I consider will reduce the amenity value of this area of private open space which is proposed to serve 4 apartments. This window cannot be omitted by way of planning condition as the retention of the same relates to F22A/0583 and not the appeal under consideration.

6.5. Visual Amenity Considerations

6.5.1. There are a number of differing elements within the proposed development site for which retention is being sought and which impact upon the visual amenity of the building with respect of its conservation value. These can be subdivided as follows:

- (i) Internal works for which retention is sought
- (ii) External works comprising of window locations on the façade, rooflight and other ancillary works included vents, lighting and security cameras
- (iii) External buildings – plant rooms, storage sheds and bin stores
- (iv) Landscaping

6.5.2. With respect of the first item above, I note that the conservation officer does not have an issue with any of the internal works other than the proposed stair to the attic level

which is to serve the apartment for which retention is being sought. There is no apparent conservation reason as to why there is an issue with this aspect of the works and on this basis I consider that all internal works for which retention is being sought is acceptable.

- 6.5.3. With respect of conservation rooflights on the front façade I consider these to be acceptable as they match those on the adjacent building in terms of their location on the roof and as stated in the appeal document the use of conservation roof lights on protected and period buildings in an accepted practice.
- 6.5.4. With respect of the rooflights facing onto St Margaret's Road, I would consider that these are difficult to see from the street and I do not consider that they impact upon the character or take from the overall appearance of the building. The protruding roof vents are barely noticeable. In this respect, I consider the same acceptable.
- 6.5.5. With respect of new openings in the façade, blocking up existing windows and making window openings smaller than those which were previously permitted, I find the same acceptable.
- 6.5.6. With respect of the vents on the façade facing St Margaret's Road, I do agree with the conservation officer in this respect in that they are placed haphazardly on the façade. I also agree with the appeal in that they are a necessary in order to ensure proper ventilation which is particularly important with respect of masonry buildings. I note this is reflected in the plan under Policy HCAP 28 stated above. I note in the appeal that it is proposed that they are to be replaced with flush type aluminium vent which is to be painted the same as the façade. I would consider that this compromise to be acceptable.
- 6.5.7. With respect of external lighting and surveillance cameras, I am of the opinion that these do not materially impact upon the appearance or the character of the building and as such I would consider the same acceptable.
- 6.5.8. With respect of the external buildings proposed for which retention is being sought, I find the same to be acceptable from a visual amenity perspective and they do not

materially impact upon the appearance or the character of the building. I note that the appeal includes proposals for the reduction in height of the generator store by 600mm. I consider that this is acceptable and that this could be by way of planning condition.

- 6.5.9. With respect of the boundary, I note that it is proposed in the appeal that the boundary fence between the sliding gate into the rear amenity space and the gate in front of the store for the sprinkler system is to be removed and replaced with railing to match that of the railing on the main vehicular access to the site into the front garden. I consider that such a proposal is acceptable. In addition, I would consider that the railing should also be continued from the main vehicular access to the site to this central gate in front of the store for the sprinkler system. This can be imposed by way of planning condition.
- 6.5.10. I also have concerns with respect of the sliding gate which serves the rear private amenity space and in particular the proposed retention and widening of the same. I note from the case planners report that a car was parked there on the day of the site visit. It is not clear from the details submitted as to how much the gate has been widened by but in any rate, I would consider it appropriate for this entrance should be reverted back to what it was previously and that a condition be imposed to prevent car parking and additional landscaping is proposed to prevent car parking at this location.
- 6.5.11. Finally, I refer to the issue of the shrub bed in the front garden of the property. The appellants state that there was no such bed present in the first place and that it was an error in the drawings submitted with the application. Aerial photography from 2016 does show for a round planting bed but this appears to be in front garden of the adjacent property rather than within the boundary depicted in this application subject to the appeal. In this regard this is an issue that the applicant cannot resolve, and the planning authority should take it up with the owners of the adjacent property.

6.6. Contributions

- 6.6.1. It is noted that both attic conversions and renovations to restore/refurbish structure deemed to be “Protected Structures” in the County Development Plan, where the Council is satisfied that works substantially contribute to the conservation or restoration of the structure, are exempt from contributions.

6.6.2. With respect of the above, I do not consider that contributions in this instance are required.

6.7. **Appropriate Assessment Screening**

6.7.1. Having regard to the nature and scale of the proposed development, the distance from any European site and the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS.

7.0 **Recommendation**

7.1. I recommend that:

Permission is refused for:

- (a) Modification of the rear boundary line and allocation of 5sqm to Feenagh house
- (b) The widening of an existing entrance to the rear along St. Margaret's rd. and installation of composite sliding gate

Permission is granted for

- (c) for the conversion of the attic into a single bedroom apartment at third floor level with newly constructed private stair access
- (d) the incorporation of two conservation rooflight to the front, four to the side overlooking St. Margaret's rd. and the relocation of two previously permitted rooflights to the rear,
- d) The closing up of a side facing- window at second floor level overlooking no.2 Killeen Terrace,
- f) A reduction in height of two rear facing obscured sash window at first floor level overlooking Feenagh house,
- g) The inclusion of an access door from the newly constructed single storey extension to the rear,
- h) The construction of a single storey plant room at the rear adjoining the boundary wall with no.2 Killeen terrace,

- i) The installation of a screened water tank, construction of a generator and apartment storage unit, and the erection of fencing to the side garden along St. Margaret's rd.,
 - j) Minor internal layout deviations from permitted planning application F19A/0524
- subject to the conditions as set out in Section 8.0 (2) below

8.0 Reasons and Considerations (1)

1. The proposed retention of the modification of the rear boundary line and allocation of 5sqm to Feenagh house will result in a window, on a structure which is used for the purposes of a gym in the attendant grounds of Feenagh House and which does not have the benefit of planning permission, to overlook the rear amenity space associated with the proposed development site. The proposed development for retention will therefore seriously impact upon the residential amenities of occupants of 1 Killeen Terrace, and would therefore be contrary to the proper planning and sustainable development of the area.
2. The Board is not satisfied on the basis of the details submitted in the planning application and in the appeal the reasoning for the proposed retention of the widening of an existing entrance and the installation of composite sliding gate on St Margaret's Road. There are concerns that the widening of the said gate, and the installation of a sliding gate and having regard to the hard surface present in an area which has been designated as an amenity space for the upper floor apartments, will be used to car parking rather than amenity space purposes. This would seriously impact upon the residential amenities of future occupants of those apartments and would therefore be contrary to the proper planning and sustainable development of the area.

9.0 Reasons and Considerations (2)

- 9.1. Having regard to the information submitted with the application and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure

the visual or residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be retained and completed in accordance with the plans and particulars lodged with the application 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) The sprinkler generator enclosure shall be reduced in height by 600mm.</p> <p>(b) Vents on the western façade of the building shall be replaced with flush 225mm x 150mm square edged aluminium louvre vents and painted the same colour as the external wall as per the details submitted in the appeal.</p> <p>(c) The existing timber fencing erected along the western boundary of the site shall be removed and replaced with railing to match the existing parkland railing at the bell-mouthed entrance into the front garden of the building. Appropriate hedging shall be planted to the rear of this hedge.</p> <p>(d) The sliding gate which serves the amenity space to the rear of 1 Killeen Terrace shall be removed and the entrance width reverted back to what it was before these works took place. A new pedestrian gate to match the parkland railing as stipulated under (c) above shall replace the sliding gate.</p> <p>(e) The amenity area to the rear of 1 Killeen Terrace shall be re-landscaped in accordance with a revised landscape plan which shall provide for more soft landscaping proposals, and which shall be designed in such a way as to prevent car parking at this location.</p>

	<p>Details with respect of the implementation of the above works above shall be agreed with the planning prior to the commencement of these works.</p> <p>The above works shall be completed within 12 months of the date of this permission.</p> <p>All works to the protected structure, shall be carried out under the supervision of a qualified professional with specialised conservation expertise.</p> <p>Reason: To secure the authentic preservation of this [protected] structure and to ensure that the proposed works are carried out in accordance with best conservation practice</p>
3.	<p>Car parking is not permitted in the amenity space provided to the rear of, southern end, of the building.</p> <p>Reason: In the interests of residential amenity</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 and 1400 hours on Saturday and not at all on Sundays and Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: To safeguard the residential amenities of adjoining property in the vicinity</p>

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

Andrew Hersey

Planning Inspector

12th December 2023