



An
Coimisiún
Pleanála

Inspector's Report

322365-25

Development

Retention permission for capped and rendered front (south) garden boundary walls. (differs from those previously granted permission under ref: D16A/0732 & D22A/0095).

Location

ConVista (formerly referred to as Rosscahill), Abbey Hill, Military Road, Killiney, Co. Dublin, A96 R5CC.

Planning Authority

Dun Laoghaire-Rathdown County Council.

Planning Authority Reg. Ref.

D25A/0128/WEB.

Applicant(s)

Rory O'Shaughnessy.

Type of Application

Retention permission.

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Rory O'Shaughnessy (1st Party)

Observer(s)

Gail Dempsey (3rd Party)

One submission by Kieran O'Driscoll
for Killiney Residents on behalf of:

Dr Kieran O'Driscoll & Emma Shinton

Mrs Rose & Ms Seana Kevney

Mr Bill & Mrs Carol Emmott

Mr Walter & Mrs Elizabeth Pierce

Mr Ian Bowring

Date of Site Inspection

24.06.2025.

Inspector

Des Johnson

1.Site Location and Description

1.1 The site is located in Killiney, Co. Dublin, approximately 225m southwest of Killiney Dart Station, and to the north of Military Road.

1.1.1 The site is at the northern end of a shared private cul de sac laneway running north from Military Road. The laneway serves 4 other properties.

1.1.2 There is a recently constructed two-storey, flat roofed, detached dwelling on the site. The site itself slopes downwards from north to south, and from west to east. At the southern end of the site there is a pedestrian access leading eastwards to Marino Avenue East.

1.1.4 The western boundary wall is stepped reflecting the slope of the site, rendered white and capped. There is a wide vehicular opening in the wall, and also a gated pedestrian entrance.

1.1.4 Abbeylands East is sited to the west of the subject site. It has a vehicular entrance with sliding gate opposite the appeal site.

2.Proposed Development

2.1 The proposal is for the retention of capped and rendered front (south) garden boundary walls.

2.2 The western boundary wall features a relocated gated vehicle entrance. The walls are stepped with the slope of the site, with a height ranging from 1.6m at the end of each step and 1.5m at the lowest point. The walls are bookended by piers at both the vehicular and pedestrian entrances. The piers at the pedestrian entrance are 2.1m high. At the vehicular entrance the northern pier is 1.8m high and the southern pier is 1.9m high. The gates at both entrances are to be solid timber.

3 Planning Authority Decision

Decision

3.1 The Planning Authority decided to refuse permission for 2 reasons. The reasons relate to the following:

1. Traffic hazard and obstruction to road users due to the increased height of the wall and entrance piers, together with widened entrance and driveway. Contrary to Section 12.4.8.1 of the County Development Plan. Set an undesirable precedent for similar developments. Restricted visibility.

2. Materially contravene Condition 2 of Ref: 319755, Condition 3 of Reg Ref: D24A/0115, Condition 4 of Reg Ref: D22A/0095 and Condition 4 of Reg Ref: PL 06D.248079.

3.2 The Planner's report states that the site has a 203.5 sqm detached two-storey dwelling with flat roof on it. The site slopes down from north to south. Some soft landscaping has been introduced on the site but is not yet mature or fully established. The site is in Killiney Architectural Conservation Area. Three 3rd Party submissions were received one of which represents 5 dwellings. An Enforcement file is open. Under Reg Ref; D24A/0115 (ABP Ref: 319755-24) permission was granted for a 3.705m wide vehicular entrance with a 0.80m high electrically operated sliding gate, a 1.32m high pedestrian entrance at the southern end of the western boundary, and boundary walls ranging from 0.71m to 1.1m in height. The vehicular entrance is set 4.37m from the pedestrian laneway boundary wall and 6.975m from the southern boundary. Under Reg Ref; No. D22A/0095 (ABP 313426-22) permitted boundary walls, including the western boundary wall, are to have a stone finish. Front boundary walls are now to be capped and rendered. The boundary walls proposed for retention have a more substantial visual presence than the permitted walls. The boundary treatments to be retained, do not constitute any perceptible departure from the character of the permitted dwelling which permission determined that the character of the contemporary design would not impact on the character of the ACA or adjoining protected structures. The development would not seriously injure the visual or residential amenity of the area or the character of the ACA or protected structures. Transport Planning recommend refusal. Having regard to the planning history for the site, the assessment of the Transport Planning section, and the provisions of the Development Plan, refusal is recommended.

4.Planning Authority Reports

4.1 The Transport Planning Report recommends refusal.

4.1.1 Drainage Planning Report has no objection.

4.1.2 Parks and Landscape Services Report has no objection.

5 Planning History

Ref. 322710 – current appeal of Planning Authority decision D.25A/0230/WEB related to retention of previously granted dwelling Reg, No, D16A/0732, D22A/0095 and D24A/0115. Retention of lightwells, removal of retaining wall and provision of new window. The site is within an Architectural Conservation Area.

Reg Ref: 319755 – Split decision on 10.02.2025 (Planning Authority Ref. No. D24A/0115). Permission granted for:

- (a) Retention of 2.5 sqm single storey porch to the main entrance and reduction of floor area at the upper floor (west side) by 1.5 m to provide a rooflight to the lower ground en-suite. Provision of an additional 2.5 sqm area to the lower level bedroom and en-suite, and relocation of entrance steps by 1.5 m to the south
- (b) 1m x 1.5m canopy to front door and minor relocation of vehicular entrance piers and stepped landscaping feature to facilitate screen planting
- (c) New window to the upper floor on the west side.

Permission refused for alteration of bedroom windows and provision of recessed window arrangement providing lower floor lightwells including windows to the east and west side.

Condition 2 – Apart from the departures authorised in this permission, the development shall otherwise comply with the terms and conditions attached to D16A/0732, PL06D.248079 and D22A/0095, PL06D.313426.

Ref: D06D.313426 – permission granted on appeal on 14.02.2023.(Planning Authority Ref: D22A/0095) to amend D16A/0732 as follows:

- (a) 8.6 sqm 2 storey extension to the rear(north)
- (b) 3.9 sqm 2 storey extension to the side (west) increasing the total floor area of the house by 12.5 sqm
- (c) The addition of an 8 sqm balcony to the front (south) at 1st floor level.

Condition 2 – Save for the amendments granted on foot of this permission, the development shall otherwise be carried out in strict accordance with the terms and conditions of planning permission ABP Ref. No.PL06D.248079 (Planning Authority Ref. No. D16A/0732E). The reason is in the interest of then proper planning and sustainable development of the area.

Condition 3 – The planning permission hereby granted shall expire on the same date as the date of ABP 06D.248079 (D16A/0732E). The reason is in the interest of clarity.

Ref: 06D.248079 – permission granted on appeal in June 2017 (Planning Authority Ref: D16A/0732) for construction of a new partial two-storey, flat roof, detached, three-bedroom, split level, 187 square metres dwelling with public drainage connections, all within the garden of “Rosscahill” with new vehicular access to Military Road with works to boundary wall to existing house, all boundary treatments, landscaping and ancillary works.

Condition 4 -The Developer shall ensure that the height of the proposed piers and any gates at the entry for the proposed dwelling be no more than 1.1 metres so as to provide good visibility for pedestrians and vehicles exiting and entering the proposed new entry. Reason: In the interest of public safety.

ENF 38624 An enforcement file is stated to be open on the site.

6 Policy Context

7. Development Plan

7.1 The Dun Laoghaire-Rathdown County Development Plan 2022-2028 is the applicable Plan. The site is zoned 'A' with the objective *to provide residential development and improve residential amenity while protecting existing residential amenities*.

7.1.1 The site is within Killiney Architectural Conservation Area (ACA). Policy Objective HER 13 seeks to protect the character and special interest of the ACA ensuring high quality and sensitive design is permitted which is sensitive to the scale of surrounding development.

7.1.2 The site is surrounded by a number of Protected Structures. Objective HER 8 states that it is policy *to protect structures included on the RPS from any works that would negatively impact their special character and appearance*.

7.1.3 Section 12.4.8.1 refers to Vehicular Entrances and Hardstanding Areas. It states that vehicle entrances and exits shall be designed to avoid traffic hazard for pedestrians and passing traffic. In general, for a single residential dwelling, the maximum width of an entrance is 3.5 metres. Automatic electronic gates into residential developments are not favoured and should be omitted.

8. Natural Heritage Designations

- Rockabill to Dalkey Island SAC – c.1.6km to the East
- Dalkey Islands SPA & pNHA – c. 2.5km to the North East

9 EIA Screening

The development proposed for retention is not of a Class for the purposes of Schedule 5. As such, the development is excluded at pre-screening stage.

10 The Appeal

Grounds of Appeal

10.1 There are 1st Party and 3rd Party appeals against the decision to refuse permission. They may be summarised as follows:

Appeal 1(First Party)

- This is a residential roadway, and it only serves one other residence. There is no hazard or obstruction to drivers or traffic. Effectively there is no passing traffic
- The 1st Party has a right to secure his property in a reasonable fashion
- The wall is finished to a high standard
- Many neighbouring properties have higher walls than the subject walls
- The walls do not set any precedent and are not out of character with the area

Appeal 2 (3rd Party)

- The appellant owned the site with her late husband from 1980-2022, when it was transferred to her daughter and her husband to build a home
- The wall is on the same footprint as the previous wall and gateway, the demolition of which was required for construction
- Abbey Hill is a cul-de-sac, and only 2 houses have legal access – Abbey Hill and Abbeylands East. There is no passing traffic and no pedestrian traffic. There is no traffic hazard or obstruction to traffic
- There are many examples of higher and very similar walls in Killiney. Abbeylands East is an example. There is no precedent set
- The walls are well designed and attractive. Abbey Hill is not in public view
- The grounds of appeal include photographs of constructed entrance/walls in the vicinity

11 Applicant Response

11.1 None on file.

12 Planning Authority Response

12.1 The grounds of appeal do not raise any new matter which would justify a change of attitude.

13 Observations

13.1 This submission may be summarised as follows:

- There are multiple past failures to comply for this applicant. Condition 4 of PL. 06D.248079 restricts the height of the gates to not more than 1.1m high in the interest of pedestrian safety, and the proposal is in material contravention of this requirement.
- Having regard to the ACA designation, risk to pedestrian safety, and the visual amenities of the area, retention permission should be refused
- The validity of the application should be considered by the Board. There are 3 different names for the site, and two different walls are mentioned in the notices. The application is confusing and potentially misleading
- No convincing evidence is submitted showing that the wall is constructed on the same footprint as the previous wall
- The constructed wall contravenes the planning permission for the site
- The applicant has failed to preserve and protect the privacy of his neighbours through boundary screening, which has been repeatedly conditioned in all grants of permission
- There is concern regarding the re-routing of an historic right-of way, which should have been considered before it was concreted over and built on
- The wall is inappropriate at this location, an ACA. It would be detrimental to the visual amenity of the ACA,

14. Further Responses

14.1 None on file.

15. Assessment

15.1 The proposal is for retention permission for a capped and rendered front boundary wall and relocated vehicular entrance. The wall is stepped reflecting with the slope of the site, and is 1.6m high at the end of each step, and 1.5m at the lowest point. The walls are bookended by piers at both vehicular and pedestrian entrances. The piers at the pedestrian entrance are 2.1m high, and vary between 1.8m and 1.9m high at the vehicular entrance, the southern pier being the higher. The vehicular entrance, including piers, is 4.595m wide. The boundary wall and entrance gate relate to a modern, recently constructed, two-storey, flat-roofed dwelling on the site

15.2 The site is in an area zoned 'A' in the County Development Plan with the objective *to provide residential development and improve residential amenity while protecting existing residential amenities*. The site is surrounded by Protected Structures, and is a Architectural Conservation Area.

15.3 The Planning Authority has refused permission for retention for two reasons. The first reason states that the development would lead to traffic hazard and obstruction of road users, would set an undesirable precedent and would be contrary to provisions of the County Development Plan. The second reason contends that the development materially contravenes a condition of previous each of the previous permissions for development on the site.

15.4 I consider that the key planning issues to be addressed fall under the following headings:

- Policy
- Site planning history
- Visual amenities
- Precedent
- Validity of application
- Appropriate Assessment
- Other Issues

Policy

15.5 In principle, the walls and vehicular entrance for retention are acceptable under the zoning for the site. The walls and entrance relate to a recently constructed dwelling on the site. The site is within an Architectural Conservation Area, and the visual impact of the wall and entrance is assessed separately.

Site Planning History

15.6 There is a planning history relating to this site. The 'parent' permission for a house was granted on appeal in June 2017 under Ref: 06D.248079 (Planning Authority Ref: D16A/0732). Condition 4 of this permission requires "the developer shall ensure that the height of the proposed piers for the proposed dwelling be no more than 1.1 metres so as to provide good visibility for pedestrians and vehicles exiting and entering the proposed new entry". The reason for the condition is "in the interest of public safety".

15.6.1 In February 2023 permission was granted on appeal for extensions and balcony at this site. Condition 2 requires that "save for the amendments granted on foot of this permission, the development shall otherwise be carried out in strict accordance with the terms and conditions of planning permission ABP Ref. No. PL06D.248079 (Planning Authority Ref No. D16A/0732E). The reason for the condition is "in the interest of the proper planning and sustainable development of the area".

15.6.2 In February 2025, the Board issued a 'Split' decision for development on this site. Permission was granted for amendments to the dwelling, and included "minor relocation of vehicular entrance piers". Condition 2 requires that "apart from the departures authorised in this permission, the development shall otherwise comply with the terms and conditions attached to D16A/0732, PL06D.248079 and D22A/0095, PL06D.313426.

15.6.3 While the level of vehicular and pedestrian movement in the proximity of the site at the end of a shared, private cul de sac is very low, the Board has consistently required the height of the piers for the dwelling to be no more than 1.1 metres. The reason for the condition is "in the interest of public safety" in the 'parent' permission, "in the interest of the proper planning and sustainable development of the area" in the 06D.313426 permission which required compliance with the initial permission (including reason), and "in the interest of clarity" in the Ref: 319775 permission. While the reasons for conditions changed, it is clear that the Board concluded that piers higher than 1.1 metres would give rise to a public safety issue. I submit that there is no evidence on the file to indicate that there is any material change in circumstances since the 2017 decision in relation to vehicular or pedestrian movements in the vicinity of the site. The development now proposed for retention is in material contravention of Condition 4 of Ref: 06D.248079, Condition 2 of Ref: 06D.313426, and Condition 2 of Ref: 319775 and, as such, contrary to the proper planning and sustainable development of the area.

15.6.4 The Planning Authority consider that the development for retention constitutes traffic hazard and obstruction to road users. The Board, in its previous decisions did not find that the development gave rise to traffic hazard, but that the piers should be restricted to not more than 1.1 metres in height so as to provide good visibility for pedestrians and vehicles exiting and entering the proposed new entry, in the interest of public safety. Having regard to the low level of passing vehicular movements in the vicinity of the site at the northern end of this shared private laneway, and the

configuration of the entrance relative to the adjacent entrance to Abbeylands East, I conclude that vehicular movements generated by the development, as constructed, would not give rise to traffic hazard.

Visual Amenities

15.7 The site is within Killiney Architectural Conservation Area, and the policy objective HER 13 seeks to protect the character and special interest of the ACA ensuring high quality and sensitive design is permitted which is sensitive to the scale of surrounding development.

15.7.1 I submit that the Board granted permission in 2017 for a house with contemporary design on this site. The design of the walls is consistent with the contemporary design of the house. Having regard to its discrete location, and the planning history relating to the site, I consider that the contemporary design of the walls does not detract from the character and special interest of the Architectural Conservation Area, and is visually acceptable.

Precedent

15.8 Having regard to the existing pattern of development in the area, including a variety of site front boundaries in terms of height and design, I do not consider that the proposed development would set an undesirable precedent. I submit that each case has to be considered on its own merits.

Validity of application

15.9 There were Site and Newspaper notices in relation to the development. I consider that the wording of the notices is clear. I do not consider that the notices and submitted drawings could be considered misleading.

Appropriate Assessment

15.10 Having regard to the nature and scale of development for retention, location in an established residential area, and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Other Issues

15.11 Observers contend that no convincing evidence is submitted showing that the wall is constructed on the same footprint of the previous wall. The 1st Party states that it is. I contend that there is no convincing evidence submitted to indicate that the boundary wall is not constructed on lands within the control of the 1st Party.

15.12 I submit that there is no convincing evidence submitted to indicate that the retention of the wall and vehicular entrance obstructs any existing right of way.

Recommendation

On balance, I recommend that permission for retention be refused.

Reason

The retention of the development would contravene materially Condition 4 of Ref: 06D.248079, Condition 2 of Ref: 06D.313426, and Condition 2 of Ref: 319775, all of which relate to development on the site. The retention of development would, therefore, be contrary to the proper planning and sustainable development of the area.

Des Johnson
Planning Inspector

02 June 2025

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.

Form 1
EIA Pre-Screening

An Coimisiún Pleanála Case Reference	322365-25		
Proposed Development Summary	Retention of garden boundary walls and vehicular and pedestrian entrances.		
Development Address	ConVista (formerly referred to as Rosscahill), Abbey Hill, Military Road, Killiney, Co. Dublin, A96 R5CC.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	Yes
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	No		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No			
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			

5. Has Schedule 7A information been submitted?		
No		
Yes		

Inspector: _____ **Date:** _____