



An
Coimisiún
Pleanála

Inspector's Report

ABP-322798-25

Development

PROTECTED STRUCTURE:

Demolition of garden studio, extension of decking, construction of swimming pool and jacuzzi with all associated site works

Location

Sorrento House, 1 Sorrento Terrace,
Sorrento Road, Dalkey, Co. Dublin,
A96CX47 (A Protected Structure)

Planning Authority

Dun Laoghaire Rathdown County
Council

Planning Authority Reg. Ref.

D25A/0262/WEB

Applicant(s)

Sorrento HGT Unlimited Company

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Sorrento HGT Unlimited Company

Observer(s)

None

Date of Site Inspection

17 September 2025

Inspector

Natalie de Róiste

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
4.0 Planning History.....	6
5.0 Policy Context.....	7
6.0 The Appeal	15
7.0 Assessment.....	17
8.0 AA Screening.....	22
9.0 Recommendation.....	22
10.0 Reasons and Considerations.....	22
11.0 Conditions	22
Appendix 1 – Form 1: EIA Pre-Screening	

1.0 Site Location and Description

- 1.1. The subject site is part of the garden of Sorrento House or 1 Sorrento Terrace, a protected structure and end-of-terrace house on Sorrento Road in Dalkey. The terrace, built in the nineteenth century, is two-storeys over raised basement to the front elevation, and four-storeys to the rear, due to the steeply sloped site. Sorrento House has a vehicular entrance through a gate screen running across Sorrento Road, and a paved forecourt in front (north) of the house. It has extensive landscaped gardens that wrap around Sorrento Road to the north, and slope down to the foreshore to the south and east. Ancillary structures include a detached single-storey garage with staff accommodation to the north of Sorrento Road, and a garden studio to the south-east. Construction work is currently ongoing on site for permitted developments.

2.0 Proposed Development

- 2.1. The proposed development is summarised as follows:
- Construction of an outdoor swimming pool (12 metres length by 1.85 metres depth by 5 metres width) and jacuzzi (11 sqm) set within a 106 sqm terrace with hard landscaping
 - Demolition of the existing garden studio (c. 13 sqm)
 - Construction of a new garden studio (c. 18 sqm) and a new single-storey plant room/store (c. 19 sqm)
 - Associated drainage and landscaping works, including a new rain garden (c. 16 sqm) to the north-east of the pool/jacuzzi area.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the following reason:

1. Having regard to the Objective F zoning which seeks 'to preserve and provide for open space with ancillary active recreational amenities' of the subject site, the

proposed swimming pool and replacement garden room with a larger footprint and all associated works, being ancillary residential development, are not permissible nor are they open for consideration on lands zoned F. The proposed development would, if permitted, materially contravene the site's zoning objectives and the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

One report, dated 21/05/25, noted the zoning, planning history, Development Plan policy, and departmental reports. Considered the proposed developments to constitute ancillary residential uses, neither permitted nor open for consideration in the zoning. Considered the existing garden room to be a non-conforming use in the zoning. Considered demolition and reconstruction of the garden room to be contrary to Policy Objective CA6, and recommended refusal of the swimming pool as per the decision.

3.2.2. Other Technical Reports

- Transport Planning report – no objection subject to conditions
- Drainage Planning report – no objection subject to condition on SuDS
- Parks and Landscape Services report – no objection subject to conditions on improved tree protection and submission of arboricultural survey.
- Conservation Division report – Further Information requested on material and extent of hard landscaping.

3.3. Prescribed Bodies

- Uisce Eireann – further information requested, confirmation of feasibility required.

3.4. Third Party Observations

None on file.

4.0 Planning History

D24A/0034 (referred to in planner's report but not provided as history file)

A split decision was issued by the Planning Authority at the subject site on 11 April 2024 GRANTING permission for a new external steel staircase and minor modifications to development permitted under D22A/0566 and REFUSING permission for a 12.3m² side extension.

D22A/0566 – under construction

A split decision was issued by the Planning Authority at the subject site on 22 October 2022 GRANTING permission for internal alterations and refurbishments and REFUSING permission for the side extension elements. The original proposal sought permission for refurbishment and internal alterations to the house, the construction of a new external staircase in the grounds and the construction of an extension over 2 floors on the eastern elevation of the existing building. The works to the house generally comprise modest alterations to floor plan layouts at lower ground and basement level, dropping of cill levels to two windows as basement level and one window at lower ground floor level including installation of new glazed door in utility room at lower ground floor level, replacement of stone cladding to existing modern extension with new render to match existing finish to house, the removal of existing stairs in sun room between basement and lower ground level, the replacement of an existing veranda at basement level, alterations to existing steps from lower ground floor kitchen to south terrace at lower ground floor level, the construction of a set-back extension at ground (c15.2m to provide a cloakroom and bathroom) and first floor level (c13m² to provide a master ensuite), breaking out of new opes at basement, lower ground and first floor level and alterations to the existing bedrooms and bathrooms layout at first floor level. It is also proposed to construct a new stone staircase in the grounds to provide improved access to lower levels. The application includes all associated landscaping and site development works.

D22A/0543 – under construction

Permission was GRANTED by the Planning Authority at the subject site for the Partial demolition and alteration of existing detached garage and staff

accommodation structure, and construction of extension elements at north and south extents of same, Landscaping, including tree removal, All associated site works.

PL06D.128119/D01A/0669 (referred to in planner's report but not provided as history file)

Permission was GRANTED by the Planning Authority at the subject site for landscape scheme within the curtilage of (List 1 Protected Structure), including the remodelling of the ground to form level areas, the construction of retaining elements, the demolition of existing garden maintenance shed and replacement with gazebo, the creation of footpaths and all associated site development works. all associated site development works. The decision was appealed to An Bord Pleanála under File Ref: PL06D.128119 and was subsequently GRANTED.

5.0 Policy Context

5.1. Dún Laoghaire Rathdown Development Plan 2022-28

- 5.1.1.** The Dún Laoghaire-Rathdown County Development Plan 2022–2028 (CDP), categorises the site as zoning objective 'F', which seeks *to preserve and provide for open space with ancillary active recreational amenities.*
- 5.1.2.** Sorrento House is listed on the Register of Protected Structures (RPS Ref. 1609). It is located within the boundary of the Vico Road Sorrento Point ACA (Architectural Conservation Area).
- 5.1.3.** The Character Appraisal of this ACA addresses Views in Section 3.9, with a list of 9 of the most significant views in the ACA. A number of these views take in Sorrento Terrace (View 1, View 3, View 6, View 7, View 8, and View 9).
- 5.1.4.** The blue line boundary lies within the site covered by Specific Local Objective 130, which is to *'ensure that development within this objective area does not (i) have a significant negative impact on the environmental sensitivities in the area including those identified in the SEA Environmental Report, and/or (ii) does not significantly detract from the character of the area either visually or by generating traffic volumes which would necessitate road widening or other significant improvements.'*
- 5.1.5.** Chapter 3 – Climate Action

Section 3.4.1.2 Policy Objective CA6: Retrofit and Reuse of Buildings

It is a Policy Objective to require the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible recognising the embodied energy in existing buildings and thereby reducing the overall embodied energy in construction as set out in the Urban Design Manual (Department of Environment Heritage and Local Government, 2009). (Consistent with RPO 7.40 and 7.41 of the RSES).

5.1.6. Chapter 11: Heritage and Conservation guides decision-making on protection of heritage through protection, management, sensitive enhancement or appropriate repurposing. Relevant sections include:

- HER7: Record of Protected Structures
- HER8: Work to Protected Structures

5.1.7. It is a Policy Objective to:

i. Protect structures included on the RPS from any works that would negatively impact their special character and appearance.

ii. Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the 'Architectural Heritage Protection Guidelines for Planning Authorities' published by the Department of the Arts, Heritage and the Gaeltacht.

iii. Ensure that all works are carried out under supervision of a qualified professional with specialised conservation expertise.

iv. Ensure that any development, modification, alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout, and materials.

v. Ensure that the form and structural integrity of the Protected Structure is retained in any redevelopment and that the relationship between the Protected Structure and any complex of adjoining buildings, designed landscape features, or views and vistas from within the grounds of the structure are respected.

- vi. Respect the special interest of the interior, including its plan form, hierarchy of spaces, architectural detail, fixtures and fittings and materials.*
- vii. Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.*
- viii. Protect the curtilage of protected structures and to refuse planning permission for inappropriate development within the curtilage and attendant grounds that would adversely impact on the special character of the Protected Structure.*
- ix. Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.*
- x. Ensure historic landscapes and gardens associated with Protected Structures are protected from inappropriate development (consistent with NPO 17 of the NPF and RPO 9.30 of the RSES)*

5.1.8. Chapter 12: Development Management contains detailed guidance on various developments.

Section 12.3.7 Additional Accommodation in Existing Built-up Areas contains no specific guidance on the development of swimming pools, but contains the following guidance on detached habitable rooms.

12.3.7.4 Detached Habitable Room

This can provide useful ancillary accommodation such as a playroom, gym, or study/home office for the main residence. It should be modest in floor area and scale, relative to the main house and remaining rear garden area. The applicant will be required to demonstrate that neither the design nor the use of the proposed structure will detract from the residential amenity of adjoining property or the main house. Any such structure shall not be to provide residential accommodation for a family member/ granny flat nor shall the structure be let or sold independently from the main dwelling.

Section 12.11 Heritage

Section 12.11.2 Architectural Heritage – Protected Structures

Section 12.11.2.3 Development within the Grounds of a Protected Structure

- 5.1.9. This latter section sets out in part that development in the grounds of a protected structure will be assessed in terms of its impacts on the protected structure and important landscape elements, and that proposals within historic landscapes and gardens shall include an appraisal of the existing landscape character, and a design statement.
- 5.1.10. Chapter 13 deals with zoning, and notes the tables regarding land uses are intended as guidelines in assessing development proposals, and are intended as a general guideline and not an exhaustive list.

13.1.5 Not Permitted / Other Uses

Uses which are not indicated as 'Permitted in Principle' or 'Open for Consideration' will not be permitted. There may, however, be other uses not specifically mentioned throughout the Use Tables that may be considered on a case-by-case basis in relation to the general policies of the Plan and to the zoning objectives for the area in question.

Table 13.1.9 deals with zoning objective F.

ZONING OBJECTIVE 'F' 'To preserve and provide for open space with ancillary active recreational amenities'.
Permitted In Principle
Community Facility ^a , Cultural Use ^a , Open Space ^a , Sports Facility ^a , Travellers Accommodation ^c .
Open For Consideration
Allotments, Carpark ^a , Cemetery, Craft Centre/Craft Shop ^b , Childcare Service ^b , Crematorium ^a , Education ^a , Garden Centre/Plant Nursery ^a , Golf Facility ^a , Guest House ^b , Place of Public Worship ^a , Public Services, Tea Room/Café ^a .
a: Where lands zoned F are to be developed then: Not more than 40% of the land in terms of the built form and surface car parking combined shall be developed upon. Any built form to be developed shall be of a high standard of design including quality finishes and materials. The owner shall enter into agreement with the Planning Authority pursuant to Section 47 of the Planning and Development Act 2000, as amended, or some alternative legally binding agreement restricting

the further development of the remaining area (i.e. 60% of the site) which shall be set aside for publicly accessible passive open space or playing fields. Said space shall be provided and laid out in a manner designed to optimise public patronage of the residual open space and/or to protect existing sporting and recreational facilities which may be available for community use.

b: In existing premises

c: In accordance with the approved Traveller Accommodation Programme 2019-2024 (or as amended)

Section 13.2 Definition of Use Classes provides the following definitions.

Open Space

Open space is a parcel of land in a predominantly open and undeveloped condition that is suitable for the following:

- *Outdoor and indoor sports facilities and cultural use - owned publicly or privately, and with natural or artificial surfaces including tennis courts, bowling greens, sports pitches, golf courses, athletic tracks and playing fields.*
- *Amenity green space - often around housing - including formal recreational spaces.*
- *Provision for community play areas including playgrounds, skateboard parks and outdoor basketball hoops.*
- *Green corridors.*
- *Natural Areas.*
- *Community gardens.*
- *Wildlife and native plant habitats.*

Open space should be taken to mean all open space of public value, including not just land but also areas for water such as rivers, canals, beaches, lakes and reservoirs, which offer important opportunities for sport and recreation and can also act as a visual amenity

Residential

The use of a building or part thereof including houses, apartments, flats, bed sitters, etc., designed for human habitation. See separate definition for Residential - Build-to-Rent.

Sports Facility

A building or part thereof or land used for organised and competitive activity that aims to promote physical activity and well being, e.g. sports hall, gym, squash centre, tennis club, golf club, swimming pool, sport pitch, athletic track, skate park, health studio, sport clubhouses, racecourse.

5.2. Relevant National Guidance

5.2.1. Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011).

Chapter 13 deals with works in the curtilage and attendant grounds of a relevant structure, with specific sections on hard landscaping and gardens.

Consideration of Proposals Affecting Gardens

13.4.20 Gardens are generally a combination of built features and planting. Unlike works to structures, gardening does not require development consent.

13.4.21 Designed gardens associated with, and in the curtilage of, protected structures can be an integral part of the setting of the building. Such gardens can be seen as an extension to the house and, in some cases, planning permission will be necessary for major works such as significant landscaping or the removal or alteration of important design features. Careful consideration should be given to these proposals to ensure that they do not adversely affect the character of the protected structure or its curtilage.

Planted features

13.4.22 Within the curtilage and/or attendant grounds of a protected structure there may be planted features which are important to the character and special interest of the structure and which contribute to its setting. These could include tree-lined avenues, decorative tree-clumps, woodlands, species plants or plant collections.

13.4.23 Many planted features, although they may form part of a designed planting scheme forming the setting of a building, cannot be described as built features and may not be protected as part of the protected structure. Where planted features contribute to the setting of a protected structure or an ACA, they should be protected by means of tree preservation orders or by the designation of a landscape conservation area, as appropriate.

13.5 Development within the Curtilage of a Protected Structure

13.5.1 Proposals for new development within the curtilage of a protected structure should be carefully scrutinised by the planning authority, as inappropriate development will be detrimental to the character of the structure.

13.5.2 Where a formal relationship exists between a protected structure and its ancillary buildings or features, new construction which interrupts that relationship should rarely be permitted. There may be a designed vista between a building and a built or landscape feature within its gardens or a less formal relationship between a house and its outbuildings. Similarly, the relationship between the protected structure and the street should not be damaged. New works should not adversely impact on views of the principal elevations of the protected structure.

5.3. Natural Heritage Designations

Rockabill to Dalkey SAC – 60 m east

Dalkey Islands SPA – 155 m east

Dalkey Coastal Zone and Killiney Hill pNHA – 20 m south

5.4. EIA Screening

- 5.4.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

5.5. Water Framework Directive

- 5.5.1. The subject site is located in a built up area in the Greater Dublin Area, c. 3.5 metres east of the Kill of the Grange Stream_010, and c. 20 m north of the Irish Sea Dublin (HA 09). It is within the Brewery Stream_010 sub basin (IE_EA_09B130400). The site is located on top of the ground water body Kilcullen (IE-EA-G-003).
- 5.5.2. The proposed development comprises the construction of a swimming pool and jacuzzi, demolition and construction of garden studio, and all associated site works.
- 5.5.3. No water deterioration concerns were raised in the planning appeal.
- 5.5.4. I have assessed the development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.
- 5.5.5. The reason for this conclusion is as follows:
- the small scale and nature of the development
 - the distance from the nearest water bodies and the lack of hydrological connections
- 5.5.6. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. One appeal was received, from the first party against the refusal. The appeal document detailed the site context, development proposal, planning history and precedents, and the council assessment and decision. The grounds of appeal are summarised as follows:

- The proposed development is akin to the use of 'Open Space and 'Sports Facility, and complies with the zoning. The 'F' zoning is generally intended for public open space, with the Development Plan text referring to publicly accessible space, public patronage, community use, and open space of public value. However, this is a private garden, and no use can be designed for public access. Additionally, the land use activities are intended as a guideline, and not exhaustive. The current zoning does not adequately recognise the characteristics of private property.
- Additionally, the site is located within a transitional zone, and the adjacent residential 'A' zoning should be taken into account in the assessment. The house and garden should be viewed as one entity, not separate entities.
- The use of the site as a public sports facility or other use listed in the zoning would not be appropriate to the setting of the protected structure. The zoning should be reviewed and revised, and cannot be interpreted literally.
- There is no material contravention of the zoning objective. However, given the ambiguity and lack of clarity in the Development Plan objective, which does not envisage private ownership of F zoned lands, it is open to the Commission to grant permission under Section 37(2)(b) of the Planning and Development Act, should the Commission find it does materially contravene the plan.
- The 1888 Ordnance Survey map shows that the park to the north (Dillon's Park) formed part of a large parcel of land with Sorrento House, and was probably donated to the local community following subdivision. The area remaining to Sorrento House has never been in public ownership, and should never have been zoned 'F'.

- Number 2 Sorrento Terrace has a similar zoning, and has undergone significant development and landscaping and the provision of a garden store (albeit in the A zoned area), with the Local Authority raising no objection to these works, and making no reference to the F zoning.
- Numerous swimming pools have been granted permission in the Vico Road ACA, the wider county, and in Howth in Fingal, demonstrating that pools in steeply sloping coastal topography can be provided with minimal visual intrusion.
- A recent permission by the Board for a 5-floor recreational and interpretive centre on F zoned lands in Booterstown (D19A/0908 (ABP-308900-20)) indicates the flexibility possible in the zoning, and the unnecessarily rigid attitude in this decision.
- The amendments and extensions to the existing garage (D22A/0543) were permitted notwithstanding the F zoning.

6.1.2. The appeal included an Arboricultural Report, with a Tree Survey and Constraints Plan, Tree Protection Plan, and Tree Removals Plan.

6.2. Planning Authority Response

The Local Authority's response can be summarised as follows:

- The application site is zoned F. A planning Authority cannot assess the appropriateness or otherwise of a zoning in the assessment of a planning application.
- The fact that the site is in private ownership is immaterial to the site's zoning objective; uses for playing fields or sports facilities may be allowed on F zoned lands, regardless of site ownership, where they provide a public value or are used for organised or competitive activity, as per the CDP definitions of open space and sports facilities.
- The proposed developments are ancillary residential uses, for the private enjoyment of an individual dwelling. Residential use and ancillary residential uses, are not permitted or open for consideration under the F zoning objective.

- Private swimming pools have been granted previously, but only on A zoned lands.
- A grant of permission would contravene the zoning objective and could set a precedent for inappropriate development on F zoned lands. Permission should be refused.

6.3. **Observations**

None received.

6.4. **Further Responses**

None received.

7.0 **Assessment**

7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal and the report of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Compliance with the zoning
- Material Contravention
- Impacts on built heritage

7.2. **Compliance with the zoning**

7.2.1. The site is part of the private garden of a dwelling house, which is zoned F, '*to preserve and provide for open space with ancillary active recreational amenities*'. I note the red line boundary is limited to the areas for development in part of the garden, while the blue line boundary includes the house and its immediate surroundings (zoned A).

7.2.2. This garden is one of a small number of private residential gardens in the Dun Laoghaire Rathdown area that are zoned 'F' open space. In my view, given the

prominence of the terrace and its setting in significant coastal views from Vico Road, from Dalkey Island, and from the water; the proximity to the Dalkey Coastal Zone proposed Natural Heritage Area; and the requirement to provide an appropriate setting to the protected structures (including the Martello Tower and Battery on Dalkey Island), the zoning is a reasonable measure to preserve the open aspects of the lands and ensure visual amenity and the protection of heritage.

- 7.2.3. Notwithstanding the current construction activity on the site, I found the site to be laid out as per the drawings and images submitted by the applicant, with various trees, bushes, flower beds, and lawns. The site is steeply sloping, with some terracing undertaken to increase useability and access. The garden studio (in poor condition) had seating inside to take in views of the sea, and was also being used to store garden equipment. The gardens do not have a formal boundary to the sea edge, with thickets of low hedging creating a barrier between the formal manicured garden and the more steeply sloping incline with creeping plants and tufted grasses which leads down to the sea.
- 7.2.4. In my view, the current use as a private garden is a form of open space, and is compliant with the 'F' zoning. The definition of Open Space in the development plan states that open space is *'a parcel of land in a predominantly open and undeveloped condition'* that is suitable for a large variety of uses and amenities, including amenity green space around housing, green corridors, natural areas, wildlife and native plant habitats, as well as a variety of communal, community, and sporting uses. It is not a requirement of the definition that it be publicly accessible or publicly available. The reference to 'public value' is a passing reference used to encompass water bodies as well as land in the definition of 'open space'; it does not follow logically that all open space (*parcels of land in a predominantly open and undeveloped condition*) is or needs to be publicly accessible by definition. I further note that at *Section 12.8.2 Open Space Categories for Residential Development* the Plan states *'In relation to Development Management, there are three categories of open space: public open space, communal open space, and private open space.'*
- 7.2.5. Regarding the proposed development, I note that 'swimming pool' is given as an example of a sports facility in the Development Plan definitions. However, that definition refers to communal and club facilities, rather than private pools. Private pools do not feature as a use class, and no policy or guidance is set out for them in

the plan. While the Local Authority refer to the pool as an ancillary residential use, it does not fall within the definition of *Residential* as set out in Section 13.2 of the plan, and none of the guidance on residential development set out in *Chapter 12*

Development Management is of relevance. I consider it more appropriate to assess it as a use not specifically mentioned in the Use Tables, as set out in Section 13.1.5 of the plan.

7.2.6. The proposed pool and jacuzzi are outdoor uncovered facilities, which will be screened by new planting. The proposed associated garden/studio changing room/plant room has a small footprint relative to the large garden, and neither aspect of the development will unduly impact on the open character or the visual amenity of the site. They will contribute to the amenity and enjoyment of the private open space.

7.2.7. I note that certain uses that are open for consideration or permitted in principle in the zoning have a set limit of 40% maximum of the site to be developed, including car parking. This is not strictly an issue at hand, as the use (private swimming pool) is not one of those listed with this limitation. Nonetheless, I note that the area covered by the pool, jacuzzi, and garden studio do not approach this percentage, even when combined with the area of the staff quarters and forecourt.

7.3. **Material Contravention**

7.3.1. I note the reason for refusal considered the development to be a material contravention of the Development Plan. Under Section 37(2)(a) of the Planning and development Act 2000 (as amended) the Commission may grant a permission that contravenes the Development Plan in certain limited circumstances. Should the Commission consider that the development materially contravenes the zoning, I have assessed the development against the four criteria set out in Section 37(2)(b) below.

7.3.2. (2) (a) Subject to *paragraph (b)*, the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that—

(i) the proposed development is of strategic or national importance,

7.3.3. The proposed development is not of strategic or national importance.

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

7.3.4. Given the variation in interpretation of the zoning objective F *to preserve and provide for open space with ancillary active recreational amenities* between the Local Authority and this inspector, the Commission may take the view that the objectives are not clearly stated.

(iii) permission for the proposed development should be granted having regard to F373[[regional spatial and economic strategy](#)] for the area, guidelines under [section 28](#), policy directives under [section 29](#), the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

7.3.5. There are no Ministerial Guidelines or national or regional policies of relevance to the development.

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.3.6. Regarding the pattern of development in the area, I draw the Commission's attention to application reg ref D22A/0543 (provided as a history file) which permitted amendments and extensions to the staff quarters/garage building, also located in the F zoned part of this site.

7.3.7. Nonetheless, notwithstanding the above, it is my view that the proposed works to the garden comply with the definition of open space as set out in the Development Plan, are compliant with the zoning, and no material contravention is involved.

7.4. Impacts on built heritage

7.4.1. The Conservation Division has some concerns regarding the extent of hard landscaping, and the impact of the changes to the landscaping on the setting of the protected structure. I further note that the rear of the terrace is visible in long views from Vico Road and from the Vico bathing place, and the trees and soft landscaping contribute to the character and quality of these views. These views are specifically referred to as among the most significant views in the ACA in the Character

Appraisal document. I am satisfied that due to the low lying nature of the swimming pool/jacuzzi development, the existing intervening tree cover, and the proposed new tree planting as per the submitted landscape plan that long views will not be negatively affected, and I direct the Commission's attention to the submitted photomontages, and to the images on pages 58 and 59 of the appeal document, which show views from within the site. Regarding the degree and nature of the hard landscaping, the submission of a revised landscaping plan is appropriate, given the setting in the curtilage of a protected structure. This could be addressed by condition.

7.5. Other issues

- 7.5.1. The Planning Authority did not assess the proposal for an additional seating area as shown on the plans north of the garden studio. The landscaping plan shows the area to be gravelled. It is secluded and sheltered, and will not affect the amenities of the site or the protected structure.
- 7.5.2. The proposed replacement garden studio complies with the guidance set out for detached habitable rooms, a common feature of private open space, and would not detract from residential amenity, visual amenity, or the setting of the protected structure.
- 7.5.3. The Planning Authority considered the demolition of the existing garden room to be contrary to Policy Objective CA6: Retrofit and Reuse of Buildings. It is a relatively recent building (permitted 2001), but is in poor condition for its age, with staining to the render to the rear elevation, and the loss of timber cladding to its exposed front. Given its very small size (c. 13 sqm) I do not have undue concerns regarding the embodied energy in the building, and I consider the improved appearance of the proposed garden studio on this sensitive site to be justification for its demolition. I note the Conservation Report submitted with the application describes the upgrade and repair of the structure, rather than its demolition. However, the replacement of its roof, with a new roof profile, the replacement of its windows and doors and the removal of the timber cladding is essentially a demolition.

8.0 AA Screening

- 8.1. The Planning Authority's report screened out appropriate assessment. The site is located within the built-up area of Dublin, approximately 60 metres west of the Rockabill to Dalkey Island SAC (003000) and c. 155 metres west of the Dalkey Islands SPA (004172). It is considered that the hydrological connection to this SAC and this SPA is indirect, weak and sufficiently remote. Foul runoff will ultimately be drained through the public sewerage system, and surface drainage will be dealt with through on-site SuDS measures.
- 8.2. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the distance from the nearest European site and the absence of pathways between the application site and any European site it is possible to screen out the requirement for the submission of an NIS at an initial stage.

9.0 Recommendation

I recommend a grant of permission.

10.0 Reasons and Considerations

Having regard to the open space zoning, which seeks '*to preserve and provide for open space with ancillary active recreational amenities*'; the definition of Open Space as set out in the plan, the current use of the site as private open space, the nature of the development (an outdoor swimming pool and jacuzzi, replacement garden room, and pool plant room/store, and hard and soft landscaping), all set within the garden of a dwelling house (a protected structure); it is considered that subject to the below conditions, the development would not seriously injure the residential or visual amenities of the area, would comply with and contribute to the zoning objective, and would not have negative impacts on the protected structure or its setting.

11.0 Conditions

1. The development shall be carried out 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.

Reason: In the interest of clarity.

2. The tree protection plan shown on drawing number 250507-P-12 submitted to An Coimisiún Pleanála on the 26 day of June, 2025 shall be implemented in full prior to the commencement of development.

Reason: in the interests of residential and visual amenity and biodiversity, to prevent injury to the setting of the protected structure, and to protect and encourage the enjoyment of significant views listed in the *Vico Road Architectural Conservation Area Character Appraisal*.

3. Prior to the commencement of development, samples of materials shall be submitted for the written agreement of the planning authority, and all works shall be carried out in accordance with this written agreement. In the event of agreement not being reached between the developer and the planning authority, the matter may be referred to An Bord Pleanála for determination, and all works shall be carried out in accordance with any determination made resulting from such referral.

Reason: In the interest of the protection of architectural heritage, and to provide development appropriate to the setting of the protected structure, in accordance with the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities.

4. A revised landscaping plan shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include details of all proposed hard and/or permeable surface finishes, including samples of proposed paving slabs/materials for footpaths, and terraces, details of boundary treatments, and details of tree planting.

Reason: to provide an appropriate setting to the protected structure.

5. Prior to the commencement of development the developer shall submit a confirmation of feasibility from Uisce Éireann (Irish Water) to the planning authority.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

REASON: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

7. Site development and building works shall be carried out between the hours of 8 a.m to 7 p.m. Mondays to Fridays inclusive, between 8 a.m. and 2 p.m. on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

REASON: To safeguard the amenity of property in the vicinity.

8. All necessary measures shall be taken by the Applicant and Contractor to:
 - a) prevent any mud, dirt, debris or building material being carried onto or placed on the public road or adjoining properties as a result of the site construction works,

- b) repair any damage to the public road arising from carrying out the works,
- c) avoid conflict between construction activities and pedestrian/vehicular movements on the surrounding public roads during construction works.

REASON: To protect the amenities of the area and in the interests of road safety.

9. The surface water runoff generated by the development shall not be discharged to the public sewer but shall be discharged locally to the proposed raingarden as indicated in the application. The raingarden shall be designed, installed and retained on site in accordance with current best practice guidelines and the SuDS Manual (CIRIA C753). The applicant shall provide an appropriate freeboard to allow for water storage (100-300mm). A suitable soil permeability and depth shall be provided, depending on the proposed planting at topsoil level. The depth of sub-base to be provided shall depend on the required storage capacity and the draining parameters of the soil (lined or unlined).

REASON: To prevent flooding and in the interests of sustainable drainage.

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.

Natalie de Róiste
Planning Inspector

19 September 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-322798-25
Proposed Development Summary	Swimming Pool and associated works.
Development Address	1 Sorrento Terrace, Dalkey, Co. Dublin/.
In all cases check box /or leave blank	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	☒ Yes, it is a 'Project'. Proceed to Q2.
	☐ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
☒ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

development under Article 8 of the Roads Regulations, 1994. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	State the Class and state the relevant threshold
☐ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	State the Class and state the relevant threshold

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	Screening Determination required (Complete Form 3) <i>[Delete if not relevant]</i>
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3) <i>[Delete if not relevant]</i>

Inspector: _____ Date: _____