



An
Coimisiún
Pleanála

Inspector's Report PL-500080-DR

Development	Retention of shed and treehouse structure.
Location	Lothlorien, Military Road, Killiney, Dublin, A96DN83
Planning Authority	Dún Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D25A/0625/WEB
Applicant(s)	Kieran O'Driscoll & Emma Shinton
Type of Application	Retention
Planning Authority Decision	Grant Retention Permission
Type of Appeal	Third Party
Appellant(s)	Rory O'Shaughnessy
Observer(s)	None
Date of Site Inspection	15 January 2026
Inspector	Natalie de Róiste

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1.0 Site Location and Description

- 1.1. The site is the front garden of an end-of-terrace two-storey house, Lothlorien, on Military Road, an established residential area, in Killiney, Co. Dublin. Lothlorien is a mid-nineteenth-century red-brick house, and is a protected structure (along with the other two houses in the terrace, and a number of nearby houses) in Killiney Architectural Conservation Area (ACA). The RPS and ACA refer to the house as Lotherian, although it is spelt Lothlorien on the gate post.
- 1.2. The house is set back from the road behind a large front garden with a sloping lawn and mature trees. The area is characterised by houses on large plots, mostly detached, many dating from the nineteenth century. Holy Child Killiney (a girls' secondary school) is located on the opposite side of the road.

2.0 Proposed Development

- 2.1. It is proposed to retain the following in the front garden:
 - A flat-roofed corrugated metal shed (c. 9 sqm), of c. 2.1 metres in height.
 - An unroofed timber treehouse-type structure with ladder access (c. 9 sqm) encircling the trunk of a tree, at a height of c. 2.5 metres above ground level. The railing is c. 1200 mm high, giving a maximum height of c. 3.7 metres above the ground level of the garden, which in turn is some 2 metres higher than the public road.

3.0 Planning Authority Decision

3.1. Decision

Grant retention permission.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report noted the site context, planning history, planning policy, submissions and reports, and recommended a grant of retention permission, with

three conditions. Condition 2 was a five-year limit for the treehouse. Condition 3 was to specify the use of the shed.

3.2.2. Other Technical Reports

- Conservation Division – no objection.

3.3. Prescribed Bodies

No reports on file.

3.4. Third Party Observations

Thirteen third party submissions, with 7 in favour and 6 objecting (two from the appellant). Those objecting raised issues similar to those in the appeal, and also expressed concerns regarding overlooking of the school, concerns that the treehouse was not Part-M compliant, and concerns regarding lack of a SuDS plan.

Issues raised by submissions in favour of the development noted that the treehouse is visually enriching, enhancing the character of the house and the area, while the shed is not visible from the public realm. A number expressed surprise that planning permission was required for treehouses.

4.0 Planning History

As per the planner's report: no recent planning applications on site.

Section 5 declaration REF: 3617 – certificate of exemption regarding works to rear and interior of house issued in 2017.

Enforcement: ENF12925 re tree house and two sheds.

5.0 Policy Context

5.1. Dún Laoghaire Rathdown Development Plan 2022-28

The site is zoned Objective A, *to provide residential development and improve residential amenity while protecting the existing residential amenities.*

Lothlorien is listed in the Record of Protected Structures – ‘House Terrace’ RPS No. 1736 in *Appendix 4: Heritage Lists* of the Development Plan.

The site is located within Killiney Architectural Conservation Area (ACA), as listed in *Table 4.2 Architectural Conservation Areas of Appendix 4: Heritage Lists*.

- 5.1.1. The Character Appraisal of this ACA (dated December 2010, available on the council website) states the following on Military Road:

A hard edge of high stone walls, (entrances to substantial dwelling sites) and glimpses of these dwellings through heavily landscaped gardens with a strong mature tree canopy, is its character.

It lists Marine Terrace (of which this building is part) as one of a small number of 19th century terraces probably built as a result of speculative ventures to exploit the high amenity value of the landscape and sea views.

It notes that there are many examples of gazebos and summerhouses in the gardens of bigger houses in the area, with features such as viewing towers also evident.

- 5.1.2. *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
- HER13: Architectural Conservation Areas

- 5.1.3. The appellant also cites *HER9: Protected Structures Applications and Documentation* and *HER12: National Inventory of Architectural Heritage (NIAH)*

- 5.1.4. *Chapter 12: Development Management* contains detailed guidance on various developments.

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

5.1.5. 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.

5.1.6. *Section 12.11.3 Architectural Conservation Areas (ACAs)*

5.1.7. *Section 12.11.4 New Development Within an ACA*

The site lies within the area 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.*

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

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

5.2. It notes that some designed gardens can be seen as an extension to the house, and planning permission can be required for significant landscaping alterations. Where planted features (for example plant collections or tree-lined avenues) require protection, they should be protected by means of tree preservation orders or the landscape conservation areas.

5.2.1. Regarding works in the curtilage of a protected structure, it notes new works should not interrupt the relationship between the structure and its ancillary buildings or features, or adversely impact on views of the principal elevations of the protected structure.

5.2.2. **Guidelines for Planning Authorities: Development Management (2007) DEHLG.**

5.2.3. Chapter 7 sets out guidance on planning conditions, with Section 7.5 specific to temporary permissions.

5.3. **Natural Heritage Designations**

- pNHA: 001206 Dalkey Coastal Zone and Killiney Hill – 270 metres southeast, 1.2 kilometres north

5.4. **EIA Screening**

- 5.4.1. The 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 Screening**

- 5.5.1. 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, due to the scale and nature of the development.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

One appeal was received, from a third party with a neighbouring address. Issues raised are summarised below:

- The structures to be retained are highly visible, visually intrusive, and inappropriate in an ACA and in the curtilage of a protected structure. The planning authority contradicts itself, in stating the development will not detract from visual and residential amenities, and then limiting the duration to

five years – if the development were acceptable, a temporary permission would not be required.

- The development is contrary to Policy Objective HER9 Protected Structures Applications and Documentation (which requires all planning applications relating to protected structures to contain the appropriate level of documentation in accordance with the Planning and Development Regulations and the Ministerial Guidelines on Architectural Heritage) and Policy Objective HER12: National Inventory of Architectural Heritage (NIAH).
- The development creates a poor precedent, and is contrary to Policy Objective HER13: Architectural Conservation Areas, and UD6, and the zoning objective to protect residential amenity.
- The bike shed is one of several sheds on the site; the sheds to the rear exceed the exempted development thresholds and should have been included in the application.
- Vehicles and people coming and going to the sheds and the rear entrance to the house indicate non-domestic uses, which would require change of use applications.
- The planning site notice was not valid, undermining the integrity of the statutory consultation process and the validity of the permission.
- The agents for the application could not be contacted.
- Letters of support from neighbours did not address planning matters, and came from hand-picked supporters.

6.2. Applicant Response

The response from the applicant's agent is summarised below:

- The appeal should be dismissed as it is vexatious, and follows a vexatious report to the enforcement office of Dún Laoghaire Rathdown, and is part of a wider campaign of complaints against the applicants.
- The works are not visually obtrusive. The temporary permission for the treehouse is a practical solution for a time-limited child-friendly amenity in the

family home (which the applicant invited the council to invoke), not an indication of harm by the development.

- There is no overdevelopment – the sheds to the rear are historic. A second shed to the front garden was removed by agreement.
- The appeal contains vexatious, irrelevant and ludicrous commentary, with photographs indicating the appellant is monitoring the house from his overlooking property.
- The photograph of the site notice supplied with the appeal shows that it is in compliance with the regulations.
- There is no requirement for agents to engage with third parties.
- Precedent is not a planning consideration.
- All submissions to the Local Authority were taken into account in the assessment of the application, as required by legislation.
- If the Commission does not dismiss the appeal, they are invited to confirm the decision of the planning authority.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority response of 28 October 2025 refers the Commission to the planner's report, stating that the appeal does not raise any matters which would justify a change in their attitude.

6.4. Observations

None received.

6.5. Further Responses

None received.

7.0 Assessment

7.1. I have examined the application details and all other documentation on file, including the submission received in relation to the appeal, the reports of the local authority, and the material submitted by the applicant. I have inspected the site, and I have had regard to relevant local/regional/national policies and guidance. I consider the substantive issues to be considered as follows:

- Impact on visual amenity and built heritage
- Overlooking and impact on residential amenity
- Overdevelopment of the site

The applicants assert that the appeal should be dismissed under Section 138(1)(a)(i); however, planning issues have been raised in the appeal and it is appropriate to assess them.

7.2. Impact on visual amenity and built heritage

7.2.1. The small shed (which contains bicycles and other outdoor equipment) is almost entirely hidden behind the boundary wall, and has very limited visual impacts on the ACA or the protected structure. Given the size of the site and the slope of the hill, the storage of bicycles near the entrance is sensible, rather than in the more typical location of garden sheds in the rear.

7.2.2. The other structure (which I refer to for consistency's sake as a treehouse, but which lacks a roof, windows, or full-height walls) is simple in form and materials. It is nonetheless eye-catching, located at a height, in proximity to the public realm, with the straight edges contrasting with the curving form of the tree branches. Its visual impacts are localised, with vegetation blocking long views of it. The Conservation Division noted that although somewhat bulky, it does not unduly detract from the character of a sylvan setting, given its lightweight and natural materials. I note a number of third parties commented positively on the treehouse as a visual reminder of children's play and family life. I would further note that the Killiney ACA makes reference to features such as gazebos, summerhouses, and viewing towers in the area. I consider the treehouse to be a continuation of this tradition of an architecture of amusement in the area.

Regarding impacts on the views of the protected structure, I consider these acceptable. As noted in the ACA character appraisal, glimpses of houses through heavily landscaped front gardens is typical of Military Road. Dense undergrowth and boundary planting has been cleared from this front garden in recent years, revealing views of the front elevation. Replacement screen planting is maturing, and likely to conceal views of the house in future. I have no concerns regarding impacts on views of the house from the public realm.

- 7.2.3. Regarding Policy Objective HER9, I am satisfied that sufficient information and documentation was submitted with the application to allow for a full assessment of this proposal, which is temporary, reversable, and has minimal impact on the built fabric of the site (where the shed joins the boundary wall). I note neither the case planner nor the Conservation Division of the council felt the need to request further information on any issue.
- 7.2.4. I note the 5-year limit on the permission for the treehouse. The Ministerial Guidelines on Development Management set out that temporary permissions are not appropriate for structures that are clearly intended to be permanent, and not appropriate as a mitigating factor against adverse impacts. Neither of these issues apply here. They note that temporary permissions can be appropriate for lands which are likely to undergo changed circumstances in the future, for example, lands required for road improvements or likely to undergo redevelopment in the future. Again, this issue is not relevant here.
- 7.2.5. Given the nature of the use, construction, and the materials, this condition is a reasonable measure to prevent the risk of impacts on visual amenity in the future, due to potential future deterioration of the structure, which is entirely timber-built and supported on a tree. A treehouse is not expected to have the durability of a permanent structure. It is a reasonable condition (to which the applicants have no objection, and which the applicants originally suggested) and not an indicator of dissatisfaction with the development. In my view, a longer temporary permission might be in order; the permission attaches to the property, not the applicants, and the age of the current residents' children is less of an issue than the durability of the structure (which I found to be solid).

7.3. Overlooking and impact on residential amenity

- 7.3.1. Regarding assertions of overlooking of the school opposite (in the submissions to the council), I can confirm having undertaken the site visit in January and visited the treehouse, that the trees planted in the grounds of the school provide adequate screening, even in the winter months. I note no submission or observation was made from the school management, teachers, or students. The treehouse structure affords 360 degree views; however, due to the density of tree planting in the vicinity and the distance to neighbouring properties, it does not have any undue impacts on neighbouring privacy.
- 7.3.2. Given the minimal size of the structures involved, the limited height of the shed, and the distance of the treehouse from the boundaries and from neighbouring properties, I have no concerns regarding overshadowing or overbearing impacts. Impacts on residential amenity and on the school population are acceptable.

7.4. Overdevelopment of the site

- 7.4.1. The appellant notes the existence of additional sheds to the rear, while the applicant's agent states that these pre-date 1963 and therefore they are exempt from the requirement to apply for planning permission. I note the third edition of the ordnance survey map shows a shed to the rear of the house in the location of the existing block-built shed. Any issues regarding enforcement are an issue for the Local Authority. In any case, I observed no cause for concern in the use of the rear sheds, and the photos submitted by the appellant appear unremarkable in their content. Furthermore, as noted above, the provision of a bicycle shed at the bottom of the hilly driveway is reasonable, notwithstanding the existence of sheds to the rear at the top of the hill. A large amount of open space is retained within the site, and the erection of a 9 sqm shed on a site of over 1,500 sqm cannot be considered overdevelopment.

7.5. Other issues

- 7.5.1. The appellant has raised a number of issues that do not pertain to the development for which retention has been applied (Development Plan policy on Ministerial recommendations for addition to the Record of Protected Structures, difficulty in

contacting the applicant's agent, comings and goings from the house). These are outside the remit of the work of the Commission, and I do not intend to comment on them further.

- 7.5.2. The appellant refers to Policy UD6: this was the building height strategy in the 2016 Development Plan, and does not form part of the current plan.
- 7.5.3. I note the condition regarding the use of the bike shed. In my view, given the very modest size and scale of the structure, there is no realistic risk of its use being repurposed beyond its stated and observed purpose (use ancillary to the enjoyment of the dwelling). Given the description of development as advertised, this second condition is superfluous, and the future use of the structure is sufficiently restricted by the first condition.
- 7.5.4. The appellant avers that no valid site notice was displayed. In their submission to the council, they note that the site notice was erected prior to submission of the application, and did not state a reference number. They provide a photograph of the site notice on the front gate (captioned 'hidden notice'). Erecting the site notice prior to the lodgement of the application is the required practice under the planning legislation. The photograph of the site notice provided by the appellant matches that on the file, and the content and location (on the front gate) complies with the requirements set out in the Planning and Development Act 2000 (as amended). The council planner found the site notice to be in order on the date of their site visit. Additionally, the development was advertised in an approved newspaper, published in the council weekly planning list, and the contents of the application were available on the council website. Thirteen third party submissions were received (6 objecting to the development), further indicating that the public was adequately informed of the application.

8.0 AA Screening

- 8.1. Having regard to the nature and small scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on any European site.

9.0 Recommendation

9.1. I recommend a grant of retention permission.

10.0 Reasons and Considerations

Having regard to the residential zoning of the site (zoning Objective A), the nature and scale of the structures and their use ancillary to the existing house, it is considered that the development to be retained would not detract from the amenities of the area or have unacceptable impacts on the Architectural Conservation Area or the Protected Structure.

11.0 Conditions

1. The development shall be retained 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 treehouse structure shall be kept for a period of no longer than ten (10) years from the date of this order.

The treehouse structure shall be removed on the expiration of this period and the site reinstated unless, prior to the end of the period, permission for it shall have been granted by the Planning Authority or An Coimisiún Pleanála on appeal.

REASON: In the interest of future visual and residential amenity due to the risk of deterioration of this temporary structure and the proper planning and sustainable development of the area.

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
21 January 2026

Form 1 - EIA Pre-Screening

Case Reference	PL-500080-DR
Proposed Development Summary	Retention of treehouse and bike shed
Development Address	Lothlorien, Military Road, Killiney, 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)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> 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)?	
<input type="checkbox"/> 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
<input checked="" type="checkbox"/> 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?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

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

<p>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)?</p>	
<p>Yes <input type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3) <i>[Delete if not relevant]</i></p>
<p>No <input type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3) <i>[Delete if not relevant]</i></p>

Inspector: _____ Date: _____