AN COIMISIÚN PLEANÁLA
LDG- 090859-26 & 090860-26
ACP-
29 OCT 2026
Fee: € 220+220 Type: CHQ + CARD
Time: 9:42 By: MAM

95 Ballinclea Heights,
Killiney,
Co. Dublin
28 October 2026

Re: Unauthorised Fencing by Killiney Golf Club at two locations on Rocheshill, Killiney
Dun Laoghaire Rathdown Reference : REF~~14426~~ 14026 and 14426

Appeal by Patrick Drudy and Jeremy Towns

We attach two acknowledgements of our Section 5 applications to DunLaoghaire Rathdown County Council as required. Patrick Drudy is the contact.

Pursuant to the Planning and Development Act, 2000, we made two Section 5 Applications (see Attachment A) to Dun Laoghaire Rathdown County Council with respect to new fencing constructed without planning permission by Killiney Golf Club at two locations on Rocheshill, Killiney. The fencing was designed to further block public access to a pathway which has been habitually open to the public for many years (see below). The planning authority accepts that development has taken place, but argues that it constitutes "exempted development".
The purpose of this appeal is to request An Comisiun Pleanala to review the Council's decision of 7th October 2026 (see Attachment B). The remainder of this document sets out reasons why the planning authority should have sought a planning application from the Killiney Golf Club for the additional fencing.

Procedural Concerns
We wish first to refer to a number of procedural concerns relating to Application D25A/0891, which was lodged by Killiney Golf Club on 21 November 2025. On page 7 of the application letter it is stated that the Golf Club "agreed in December 2023 with the full approval of the Council to erect a more permanent fence at both these locations". If this is correct, we would be concerned that any Council would approve in advance the erection of fencing without planning permission on a sensitive area such as Rocheshill.

In relation to the legal interest of the applicant, the Planning Application Form records under Section 10 that Killiney Golf Club is the "owner". However, the Memorial obtained from Tailte Eireann Registry of Deeds (Attachment E) states that the land in question was purchased by three trustees of Killiiney Golf Club. Unless there was some legal change of which we are unaware and assuming that the Golf Club was the "beneficial owner", a valid application would still have required the written consent of the three trustees. This was not given on the Application Form.

Application D25A/0891 of 21 November 2025 sought retention of the fencing already erected for a considerable period without planning permission. At a meeting in Killiney Village attended by over 100 people, including invited Golf Club representatives, strong opposition was expressed regarding this proposal later approved by the Council. This application raised concerns regarding the planning and democratic process since an incorrect date for the Council Order (22 January instead of 21 January 2026) was circulated

by letter to the applicant and to over 50 people who made observations. This "clerical error", admitted by the Council, was a key reason why appeals by three associations had later to be judged invalid (on 9 April) well after they had been submitted (18 February 2026). Furthermore, deadlines had passed to recify this error or to seek a Judicial Review. In the absence of appeals and despite the unusual circumstances of this case, planning permission was therefore granted to the applicant. However, Section 34(13) of the Planning and Development Act 2000 states that "a person shall not be entitled solely by reason of a planning permission under this section to carry out any development". In this case, the erected fencing (which represents development) blocks easy access to a pathway habitually used by the public for at least ten years. On this ground alone we submit that it is in contravention of Section 34(13) and should be removed.

Summary of Appeal

In summary, the erection of additional fencing by Killiney Golf Club further obstructs direct access to an established pedestrian pathway which has been habitually used by the public for at least 40 years. This fencing would deprive the public of the use of the recreational and other amenities of this particular area. It is also a material addition to existing fencing. The erection of fencing is also inconsistent with the 1996 An Bord Pleanala Order (PL 06. 097552), the pNHA and the Dun Laoghaire Rathdown County Council Development Plan 2022-28 and seriously injures the amenities of the area.

We would also like to draw your attention to a recent conclusion by the Planning Authority on exempted development which was subsequently overturned on appeal by An Bord Pleanala (An Bord Pleanala Reference : ABP – 320914-24 dated 29 May 2025) . Reason : "the works comprise fencing of land habitually open to or used by the public during the 10 years preceding such fencing for recreational purposes and accordingly the restriction on exempted development in Article 9(1)(a)(x) does apply",

While each case needs to be judged on its own merits, this appeal is very similar to the previous one considered by An Bord Pleanala.

Background: Proposals for Development

Up to 1981, Rocheshill had been owned together with other lands for several centuries by the Talbots De Malahide. Access by the public to the land was always unhindered and unrestricted. In 1981, the land was sold to a property development company, XJS Investments, for £40,000, reflecting the "Open Space" zoning and the unrestricted access by the public to the area as a whole and, in particular, to established pedestrian pathways – which are, in effect, "prescriptive" rights of way acquired though long term use.

Applications for development on Rocheshill have been consistently refused over many years. In November 1982 XJS Investments sought planning permission for apartments and homes on this area. This was refused by the then Dun Laoghaire Corporation in January 1983 and on appeal by An Bord Pleanala in December 1983. In December 1988 the then Dun Laoghaire Corporation purchased 21 acres of Rocheshill from XJS Investments Ltd. In January 1989 three trustees of Killiney Golf Club purchased a further 3.1 acres from XJS Investments Ltd. XJS Investments never attempted at any time to restrict public access since they purchased the land in 1981.

In 1995 Killiney Golf Club sought permission to extend its golf course on to the 3.1 acre strip and to enclose the area relevant to this application with fencing. . In the Record of Executive Business and Manager's Orders the then Planning Officer's Report dated 26 April 1995 signed by the then County Manager stated that the proposed development would "*interfere with established rights of way across this 3.1 acre site*" and that the proposed fence would "*in effect cut off established rights of way between Rocheshill and the Golf Club course*". He also notes that the Golf Club's application at that time included drawings which were "*incomplete in so far as the various rights of way on Roches Hill are not shown on the drawings. Proposals for retaining these rights of way have not been included in the application.*"

The application was refused by Dun Laoghaire Rathdown Planning Department on 26 October 1995 and by An Bord Pleanala on appeal on 26 March 1996. The An Bord {leanala Order PL06D097552 No. 2 was as follows : "*The proposed golf club extension would interefere with established pedestrian pathways across these lands which would seriously injure the amenites of the area and be contrary to the proper planning and development of the area*". We submit that this Order is as applicable now to fencing as it was thirty years ago. The Council have failed to accept and implement the implications of this Order. This clearly shows that almost thirty years ago the pathways on this specific area were in habitual use by the public. Habitual use has continued to this day as evidenced by previous submissions by residents of Killiney and surrounfing areas. All documents in respect of that application are available on the Dun Laoghaire Rathdown planning website.

Successive Dun Laoghaire Development Plans have regarded Rocheshill, including the 3.1 acres sold to the Golf Club, as an area of high amenity and outstanding natural beauty. Together with Killiney Hill, all of Rocheshill is within the proposed Natural Heritage Area (pNHA) of Dalkey and Killiney and therefore subject to a potential Special Area Amenity Area Order. A key objective of the *Dun Laoghaire Rathdown Development Plan, 2022-28* is "to retain and preserve the natural environment and biodiversity on Roches/Mullins Hill, Killiney". We contend that the additional fencing is contrary to the objectives of the pNHA and the Development Plan. In the Development Plan 2022-2028 the "F" zoning of the land in question is – "*to preserve and provide for open space and ancillary active recreational activities*". The use of the established pathway at issue in this application is, and has been, for many years, a key element of the active recreational use of Rocheshill by the public at large.

The proposed development is also contrary to Policy Objective GIB12, which seeks to promote, protect and enhance sustainable and appropriate access to the natural heritage of the County. The applicant has argued that the public right of way is "easier to access" and "fully accessible". We enclose four exhibits to show that this is not the case.

Exhibit 1 illustrates a steep incline in the public right of way which is difficult to negotiate even during the summer months. In Winter months or in rain it is especially hazardous for the elderly and those with poor mobility.

Exhibit 2 illustrates a similar hazardous situation.
Exhibits 3 illustrates how water crosses the right of way from a pond resulting in a slimy dangerous access. This situation holds even during the summer months.
Exhibit 4 illustrates an area of the right of way with several large protruding rocks that only the very able and agile can access.

There are none of the above difficulties on the established pedestrian pathway. See separate email. The problematic public right of way is also 62 metres longer that the more accessible pedestrian pathway.. One of the significant values of the pedestrian pathway at issue here is its availability to people of all ages and abilities. Despite its unspoiled natural beauty, the established pathways in the area mean that they are accessible to both young and old, as well as those with mobility issues. It is no small matter to require the elderly or those with mobility issues to take a different route to that which they have always taken. This amenity, to which the public has always had access, cannot be enjoyed by the public in the future if unfettered access to the pedestrian pathway is blocked by fencing or the planting of hawthorn bushes as proposed in November 2025. Any grant of permission for this fencing or planting would undoubtedly erode the overall public value of the amenity as a whole.

Why the Development is <u>not</u> Exempted Development
We submit that the additional fencing is not exempted development for the reasons set out below. We argue that the additional fencing is not the result of mainteance and improvement. The Planning Authority indicated that it considers the development exempt because:

> *"the works comprise the maintenance, improvement and alteration of an existing fencing structure and do not materially affect its external appearance or result in an appearance that is inconsistent with the character of the fencing previously permitted under Reg. Ref. D25A/0891/WEB" and*
>
> *"It is noted that the subject works were undertaken to sections of the fencing and comprised reinstatement and reinforcement works, which resulted in an extension of the overall fence lengths"*

However, the works are far more substantial and impactful than those suggested by this wording.

- The fencing is materially longer than the lengths specified in the Planning Application – 1M for fence 1 (+10%) and 4.05 for fence 2 (+18%).
- The additions are double the lengths indicated in the Planners report, 1M for fence 1 and 4.05M for fence 2.
- In some parts of Fence 2 there is now double fencing.
- The number of fence posts, which are set in concrete, has increased from 16 to 19.
- It is unusual for a fence to require such extensive "maintenance and improvement" barely one year after it was constructed.
- the bulk of the fence has increased in a material way.

The Planner's Report also fails to address the fact that the configuration of the new fencing makes it even harder to use the pedestrian pathway - right of way. Any blockage in this way contravenes Section 3 (1) of the Planning and Development Act 2000 (as amended)

> *"In this Act, 'development ' means , except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of <u>any material change in the use</u> of any structures or other land."*

The additional fencing was a deliberate act by the Golf Club to block the pathway between the fences. It is therefore attempting to change the use of the land between the fences as a historically and habitually used right of way. This is concerning since the original planning application submitted by the applicant (D25A/0891/WEB) insisted that the fencing was to warn the public about mishit golf balls and was not intended to block the existing access between the two fences.

The County Development Plan 2022 – 2028 specifies a Specific Local Objective (SLO) 70:

> To prepare a management plan for Killiney Hill Park and to include the area comprising the entire pNHA of Killiney and Roches/Mullins Hill in consultation and liaision with the National Parks and Wildlife Service and to retain and preserve the natural environment and biodiversity on Roches/Mullins Hill, Killiney.

SLO 70 is concerned with *retaining and preserving* the natural environment and the fencing is openly hostile to achieving this objective. The Planning Authority fails to appropriately recognise the importance of this nationally important site, or its statuatory role in protecting it. It has allowed uncontrolled development to take place in a sensitive natural area.

With respect to SLO 70, the Planners Report seems to suggest that SLO 70 only applies to the land owned by the Local Authority. SLO 70 is very clear that it applies to the <u>entire</u> pNHA of Killiney and Roches/Mullins Hill. It would helpful if the Comisiún could acknowledge that the management plan applies to the entire area shown on the County Development Plan map iand that this area includes the subject site.

The additional fencing also inhibits the environment for the healthy development of the large wildlife population on Rocheshill. This opposes Policy Objective GIB1: which is a policy to continue to implement and update the DLR Green Infrastructure Strategy that in consultation with relevant stakeholders for the development, design and management of high quality natural and semi-naturl areas.

The previous Section 5 appeal (ABP – 320914-24) appended letters from local residents, some of whom have lived in the area their entire lives and their parents before them. These letters confirm the continued existence and habitual use of the pathway concerned in the current appeal for many, many years. The only action preventing the use of the pathway is the obstruction of the pathway by the fencing at issue in the current appeal. With considerable difficulty many of these people continue to use the pathway. Members of the public now have to maneuver around the fences, which is difficult for elderly people and mobility impaired individuals.

Conclusion

We respectfully ask An Comisiún Pleanala to allow this appeal. We submit that, in addition to its negative impact on public access, fencing of any kind is simply out of place in this sensitive environment.

We also ask An Coimisiun to consider our argument that the planning permission granted for D25A/0891 is invalid due to the failure to obtain written consent from the trustees.

The County Council should also complete an up to date Management Plan or Local Area Plan (LAP), for the entire pNHA area as proposed in the Development Plan (SLO 70). Until such a plan is completed it is premature of the County Council to approve any development in this sensitive area of both environmental importance and high amenity value for residents of the County. Without such a plan there is a danger of further uncontrolled development in the pNHA and this is contrary to the Council's goal of good planning and development.

If any further information is required I will of course be pleased to provide it.

A cheque for €220 is enclosed.

Sincerely yours,

P.J. Drudy

Note : Letters od support are included in Appendix F

Attachment A

Comhairle Contae County Council

Dún Laoghaire-Rathdown County Council

APPLICATION FOR SECTION 5

Planning and Development Act 2000, (as amended)

The purpose of a Section 5 of the Planning and Development Act 2000, (as amended), is to establish if a particular development is or is not an exempted development within the meaning of the Act.

If detailed information/drawings are not provided, we may not be in a position to make a decision.

NOTES:

(a) **Application must be accompanied by fee of €80.00**

(b) **Application must be accompanied by 2 Copies of the following, unless subject site is a protected structure or in the curtilage of a protected structure or an Area of Architectural Conservation, in which case 3 copies are required**

(1)site location map with site clearly outlined in red,

(2)site layout plan including all existing structures on site (this is required as conditions and limitations of exempted development include location of development and distances from site boundaries),

(3)scale floor plans and elevations (this is required as conditions and limitations of exempted development include height of structure and distances of windows from boundaries).

(4)Any other additional information so as to inform the decision.

Forward your application to: Dun Laoghaire-Rathdown County Council,
Registry and Decisions Section, Planning Department
Marine Road, Dun Laoghaire, County Dublin.
Telephone: 01 205 4859

1. Applicant Details:

NAME OF APPLICANT: Professor Patrick Drudy REf.: D25A/0891

ADDRESS OF APPLICANT: 95 Ballinclea Heights, Killiney, Co Dublin A96V6K7

TELEPHONE NO.: 086-8674347 MOBILE: 086-8674347

EMAIL ADDRESS: pdrudy@tcd.ie

2. Agent Details:

NAME OF AGENT: N/A

AGENT'S ADDRESS: _____

_____

TELEPHONE NO.: _____ MOBILE: _____

EMAIL ADDRESS: _____

Please note the agent's address is the address that will be used for all correspondence. If no agent is being used all correspondence will go to the applicant's address.

3. Site Details:

LOCATION OF SUBJECT SITE:
Rocheshill, Killiney

_____

_____

_____

(a) Area of site: 3.1 acres _____ sqm.

(b) Floor area of existing extension(s) (if any): N/A _____ sqm.

(c) Floor area of proposed development: N/A _____ sqm.

(d) Area of rear garden remaining: N/A _____ sqm.

Please state applicant's interest in this site:
Ballinclea land adjoins Rocheshill. Trustee.

If applicant is not the owner of site, please provide name & address of owner: _____

Trustees of Killiney Golf Club, Ballinclea Road, Killiney, Co Dublin

_____

Is the above site location within the curtilage of a Protected Structure or within a Candidate Architectural Conservation Area of Architectural Conservation Area?

Yes ☐ No ☑

If yes, has a Declaration under Section 57 of the Planning and Development Act 2000, (as amended) been requested or issued for the property by the Planning Authority?

Yes ☐ No ☑

4. Details of works (where applicable) or proposed development. (Note: Only works listed and described under this section will be assessed under this Section 5 application. Use additional sheets if required.)

See additional sheets for detail

5. List of plans, drawings, etc. submitted with this application.

Drawings of additional fencing submitted with this application

Site Location map and photographic evidence being submitted by email

6. Are you aware of any enforcement proceedings connected to this site? If so please supply details:

Yes. In 2001 and 2013. See enforcement Records

7. Were there previous planning application(s) on this site? If so please supply details:

See separate sheet for details

Signed: _____ **Date:** _____

Planning Reference : D25A/0891 Rocheshill Killiney

Additional Sheets by Professor Patrick Drudy

4. Details of works (where applicable) or proposed development.

(Note : Only works listed and described under this Section will be assessed under this Section 5 application. Use additional sheets if required.)

This Section 5 is lodged to provide relevant background to the Killiney Golf Club attempts to block access to lands in use by the public over an extended period and to point to inconsistencies between the stated objectives in its application of 21 November 2025 and the subsequent erection of additional fencing.

There are a number of background issues which are relevant to D25A/0891 and to this Section 5. First, there is documentary evidence that Killiney Golf Club decided in April 2024 to fence off access to the land in question "in collaboration and with agreement from DLRCoco"

Second, a "written communication from the Planning Authority to all who made observations as well as the applicant, together with a clerical error on the part of the Planning Authority were key reasons for the fact that, seven weeks after three appeals had been accepted (18 February 2026) and later acknowledged by An Coimisiun Pleanála, those appeals were judged to be invalid (9 April).

The Section 5 is also lodged due to significant unauthorised additions to fencing erected at two locations on Rocheshill, Killiney. These are not exempted developments. The Application dated 21 November and received by the Planning Authority on 21 November states that it sought "the retention of two lengths of fence that have been erected at two separate locations on either side of lands in the ownership of Killiney Golf Club at Rocheshill Killiney and the retention of all works required in erecting them – Fence 1 - 11.36 m in length and Fence 2 - 8.05 m in length."

The application letter received on 21 November 2025 stated (page 1) that "The primary and sole purpose of the fencing is to warn persons to avoid walking across lands that are highly susceptible to golf balls...." Note that the Golf was seeking to "warn persons" regarding potential of golf balls. Yet the additional fencing is a clear attempt to prevent access to the lands by members of the public.

The application further states (page 3) "The application is therefore being made on the grounds of health and safety concerns". Killiney Golf Club never pointed to health and safety concerns at any time between 1989 when the land was purchased and the application of 21 November 2025 – a period of 36 years.

Furthermore, there is no credible evidence for the argument that the lands "are highly susceptible to golf balls.... " We have been walking on the pathway between the two fences

over the last 40 years, as have numerous others, and we have never found a single golf ball on the land.

The application letter acknowledges (page 7) that "The site is zoned F which seeks to preserve and provide for open space with ancillary active recreational amenities". See Development Plan 2022-2028. Policy Objective GB12 also seeks "to promote, protect and enhance sustainable and appropriate access to the natural heritage of the County". The application letter states that "The proposed development does not preclude access onto the lands in private ownership of our clients but ensures that their liability is preserved fully in accordance with this land zoning objective". Yet the erection of extra fencing is in direct conflict with this statement because it prevents access or renders access virtually impossible, especially for elderly people or those with mobility problems. Note that Killiney Golf Club purchased the land in 1989 in the full knowledge that there had always been unhindered access for centuries, including when it was owned by the Malahide Estate (prior to 1981) and by XJS Investments from 1981 to 1989. The case planner in a previous Section 5 referral acknowledged that "there was a pathway around both sets of fencing". The application letter (page 4) states that overgrowth around Fence 2 "has been cleared (by the Golf Club) before the making of this application". The permission was granted on this basis; yet the extra fencing has been added long after the permission was granted.

Fence 1: the original fence for which planning permission was sought has been extended and exceeded by approx. 1 metre (almost 9 per cent extra). This cannot be regarded as a "de minimis (i.e.minor) addition. In addition there is a new upright iron post imbedded in concrete. I submit that **this unauthorised addition comprises significant and material change and requires planning permission. (See attached drawing and photo separately by email)**

Fence 2 : The original fence has been extended and exceeded by almost 3 metres (37 percent extra) with at least 1 extra iron post imbedded in concrete. Again these additions cannot be regarded as "de minimis" (i.e .minor). Most of this addition is also problematic in that it blocks off, or attempts to block off, the right of way acquired through long-term use. **This unauthorised addition comprises major and material change. (See attached drawing and photo separately by emaii)**

In addition to the above unauthorised additions, at the Fence 2 location an entire new double layer of wire mesh fencing of approximately 7 metres had been erected in contravention of the permission granted for retention. **This new unauthorised fence also comprises major and material change. (See attached drawing and photo by email)**

Together with the fencing originally erected, this new fencing adds further to a visual eyesore which is entirely out of character and empathy with this natural heritage environment. On these grounds alone it is surely contrary to sustainable planning and development.

Impact on the Public

The erection of this additional fencing and fence posts has a serious impact on the public. They are being denied access to the pathway between the two fences which they always

enjoyed. My wife and I can personally testify that we have enjoyed unhindered and easy access for more than 40 years.

Furthermore, the pathway between the two fences (a right of way by prescription) is much safer than the public right of way which poses a number of serious difficulties and is a dangerous health hazard especially for elderly people and those with mobility problems. We therefore disagree with the statement (page 7 of application letter) that the public right of way "is easier to access". **In particular, see the steep inclines and flooding during rains and hazardous rocks to be crossed on the public right of way. (See photos by email).**

5. List of plans, drawings etc submitted with this application

Site location map and photographic evidence of fencing at both locations. **Separate by email.**

7. Were there previous planning applications on this site? Yes.

If so provide details :

County Planning Officer's Report dated 26 April 1995 signed by the then CEO which stated that the proposed development, including the erection of fencing, by the Golf Club would "interfere with established rights of way across this 3.1 acre site" and that the proposed fence would '"in effect cut off established rights of way between Rocheshill and the Golf Course"

The proposal was refused by the County Council 26 October 1995

Refusal on Appeal by An Bord Pleanala. Order No.2 PL 08D. 097552 dated 26 March 1996

An Bord Pleanala Order 430914-24 of 29 May 2025

The An Bord Pleanala Order PL 06D 097552 No. 2 was as follows: *"The proposed golf club extension would interefere with established pedestrian pathways across these lands which would seriously injure the amenites of the area and be contrary to the proper planning and development of the area".*

An Bord Pleanala Order ABP 430914-24 of 29 May 2025 stated that "*the works comprise fencing of land habitually open to or used by the public during the 10 years preceding such fencing for recreational purposes and the restriction on exempted development in Article 9(1)(a)(x) does apply".*

Comhairle Contae County Council

Dún Laoghaire-Rathdown County Council

APPLICATION FOR SECTION 5

Planning and Development Act 2000, (as amended)

The purpose of a Section 5 of the Planning and Development Act 2000, (as amended), is to establish if a particular development is or is not an exempted development within the meaning of the Act.

If detailed information/drawings are not provided, we may not be in a position to make a decision.

NOTES:

(a) **Application must be accompanied by fee of €80.00**

(b) **Application must be accompanied by 2 Copies of the following, unless subject site is a protected structure or in the curtilage of a protected structure or an Area of Architectural Conservation, in which case 3 copies are required**

(1)site location map with site clearly outlined in red,

(2)site layout plan including all existing structures on site (this is required as conditions and limitations of exempted development include location of development and distances from site boundaries),

(3)scale floor plans and elevations (this is required as conditions and limitations of exempted development include height of structure and distances of windows from boundaries).

(4)Any other additional information so as to inform the decision.

Forward your application to: Dun Laoghaire-Rathdown County Council,
Registry and Decisions Section, Planning Department
Marine Road, Dun Laoghaire, County Dublin.
Telephone: 01 205 4859

1. Applicant Details:

NAME OF APPLICANT: Jeremy Towns

ADDRESS OF APPLICANT: 100 Ballinclea Heights, Killiney

County Dublin A96 H2C5

TELEPHONE NO.: _____ MOBILE: 087 281 8707

EMAIL ADDRESS: jeremytowns@hotmail.com

2. Agent Details:

NAME OF AGENT: Not Applicable

AGENT'S ADDRESS: _____

_____

TELEPHONE NO.: _____ MOBILE: _____

EMAIL ADDRESS: _____

Please note the agent's address is the address that will be used for all correspondence. If no agent is being used all correspondence will go to the applicant's address.

3. Site Details:

LOCATION OF SUBJECT SITE:

Roches, Hill, Killiney, Adjacent to Killiney Golf Course (see attached map in Annex 1)

_____

_____

(a) Area of site: 3.1 acres sqm.

(b) Floor area of existing extension(s) (if any): N/A sqm.

(c) Floor area of proposed development: N/A sqm.

(d) Area of rear garden remaining: N/A sqm.

Please state applicant's interest in this site:

Right of Way by Prescription, please see Annex 2

If applicant is not the owner of site, please provide name & address of owner: _____

Trustees of Killiney Golf Club

c/o Killiney Golf Club, Ballinclea Road, Killiney

Is the above site location within the curtilage of a Protected Structure or within a Candidate Architectural Conservation Area of Architectural Conservation Area?

Yes ☑ No ☐

If yes, has a Declaration under Section 57 of the Planning and Development Act 2000, (as amended) been requested or issued for the property by the Planning Authority?

Yes ☐ No ☑

4. Details of works (where applicable) or proposed development. (Note: Only works listed and described under this section will be assessed under this Section 5 application. Use additional sheets if required.)

The unauthorized works comprise of two fences within the proposed National Heritage Area that materially (just under 1 Meter and 3 Meters respectively) exceed the the size of fencing previously permitted by the Council in the Spring of 2026. As well as the quantum of fencing the orientation of the fencing has a serious detrimental affect on public access to a previously open space and has a serious and discordant visual impact in an otherwise natural area of the County. Please see Annex 2 for more details

5. List of plans, drawings, etc. submitted with this application.

Drawing showing additional fencing are provided in Annex 3

6. Are you aware of any enforcement proceedings connected to this site? If so please supply details:

Yes. In 2001 and 2013 See Enforcement Records

7. Were there previous planning application(s) on this site? If so please supply details:

Yes, Planning Ref. D25A/0891 in 2025,

An Bord Pleanala Order 430914-24 of 29 May 2025

Refusal by An Bord Pleanala - Order PL08D.097552 on 6 March 1996

Signed: _____ **Date:** _____

EFT Payment Detail

If the planning fee is not attached to the application, please use the bank details below to lodge using reference number 'PLN17' and the location of the subject site.

Account Name:	*Supplementary Credit Account*
Pay:	*Dun Laoghaire-Rathdown County Council*
Bank Name:	*Bank of Ireland, 101 Upper George's Street, Dun Laoghaire*
Bank Account No.	*10170150*
Bank Sort Code:	*90-11-16*
IBAN:	*IE56 BOFI 9011 1610 1701 50*
BIC/SWIFT:	*BOFIIE2D*

ANNEX 2

I am a local resident who has lived in the area since May 2000 and my family and I have enjoyed access to the open areas affected by this unauthorised development.

- The site is located within a within a proposed Natural Heritage Area (pNHA)
- The site and the unauthorised development are in an area protected by County Development Plan 2022-28 commitments
- The site is traversed by numerous established rights of way by prescription as the subject pathways have enjoyed long term use by members of the public.

This Section 5 is lodged because Killiney Golf Club has carried out unauthorised development on Roches Hill and the Planning Authority has refused to enforce compliance with the original planning permission granted to the Golf Club.

The applicant (Killiney Golf Course) has permission for the retention of fencing previously constructed in 2024/25. However, since being granted planning permission by the council earlier in 2026 the applicant has carried out unauthorised development. There is now new fencing and its size and configuration are certainly not de minimis for the following reasons:

1. The scale of the unauthorised development is certainly not minor compared with the length of fencing permitted with over three meters of new fencing compared with the length of the approved fencing, which is about 19 meters. Not only has the fence been lengthened but one of the fences now has double fencing. The fencing is excessive and visually discordant in this natural area.

2. The Application dated 21 November and received by the Planning Authority on 21 November states that it sought "the retention of two lengths of fence that have been erected at two separate locations on either side of lands in the ownership of Killiney Golf Club Trustees at Rocheshill, Killiney and the retention of all works required in erecting them – Fence 1 - 11.36 m in length and Fence 2 - 8.05 m in length.

3. This fencing is a major concern to local residents, who made over 50 observations on the original application, and over 100 residents attending a public meeting to discuss the application (15th December 2025 and which was attended by representatives of the County Council). The erection of this additional fencing and fence posts has a serious impact on local residents. They are being denied access to the pathway between the two fences which they always enjoyed. My wife and I can personally testify that we have enjoyed unhindered and easy access for almost 25 years.

4. It has been previously acknowledged by the County Council and An Bord/Comisiun Pleanala that the fences erected by Killiney Golf Club block pathways that are "rights of way", established through long term public use. Access to and from one of the "established pedestrian pathways" was referred in the Bord Pleanala Order (PL 06D.097552) and the fencing is in contravention of the Order, which highlighted that interference with established pedestrian pathways "would seriously injure the amenities of the area and be contrary to proper planning and development of the area".

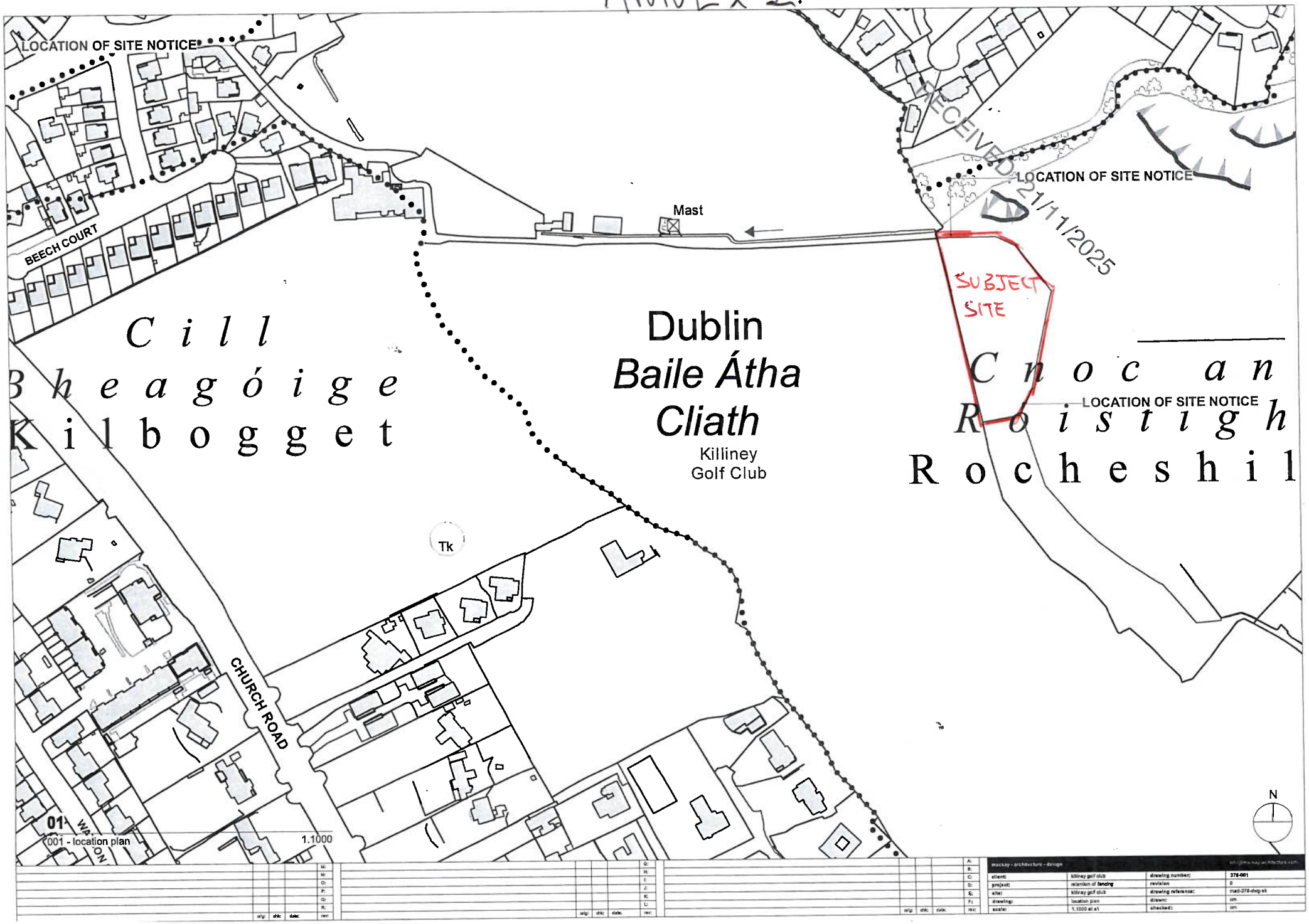
5. I was informed by the Council's Enforcement Officer that the extra fencing was needed to mitigate against damage to the fencing by people traversing the land. It is not the purpose of

the Planning Authority to justify unauthorised development in response to alleged criminal activity that should have been investigated by An Garda Siochana. If alleged vandalism is a reason for the additional fencing, then it needs to be addressed in the appropriate way.

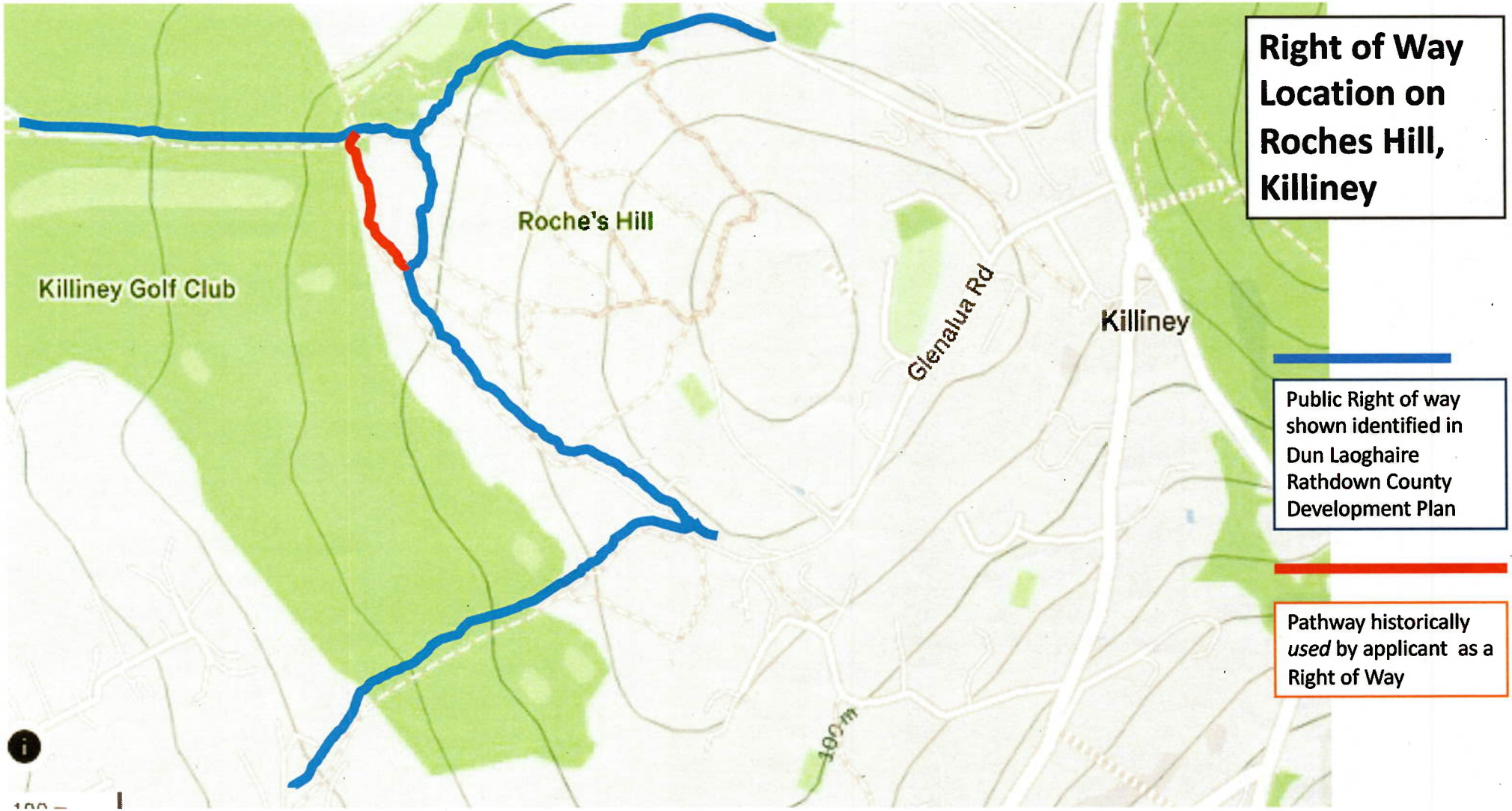
I submit that the unauthorised additions to both fences comprises significant and material change and requires planning permission.

Together with the fencing originally erected, this new fencing adds further to a visual discordance with this natural heritage environment. On these grounds alone it is surely contrary to sustainable planning and development.

ANNEX 1


LOCATION OF SITE NOTICE
BEECH COURT
Mast
RECEIVED 21/11/2025
LOCATION OF SITE NOTICE
SUBJECT SITE
Cill Bheagóige
Kilbogget
Dublin
Baile Átha Cliath
Killiney Golf Club
Cnoc an Róistigh
Rocheshil
LOCATION OF SITE NOTICE
Tk
CHURCH ROAD
WA ON
01
001 - location plan
1.1000
N

ANNEX 1A.

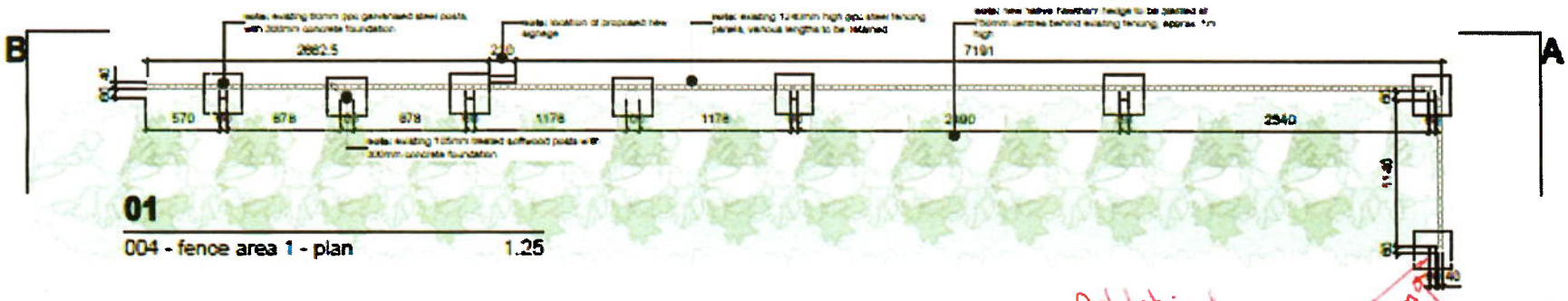

Right of Way Location on Roches Hill, Killiney
Roche's Hill
Killiney Golf Club
Glenalua Rd
Killiney
Public Right of way shown identified in Dun Laoghaire Rathdown County Development Plan
Pathway historically *used* by applicant as a Right of Way
100 m

ANNEX 3

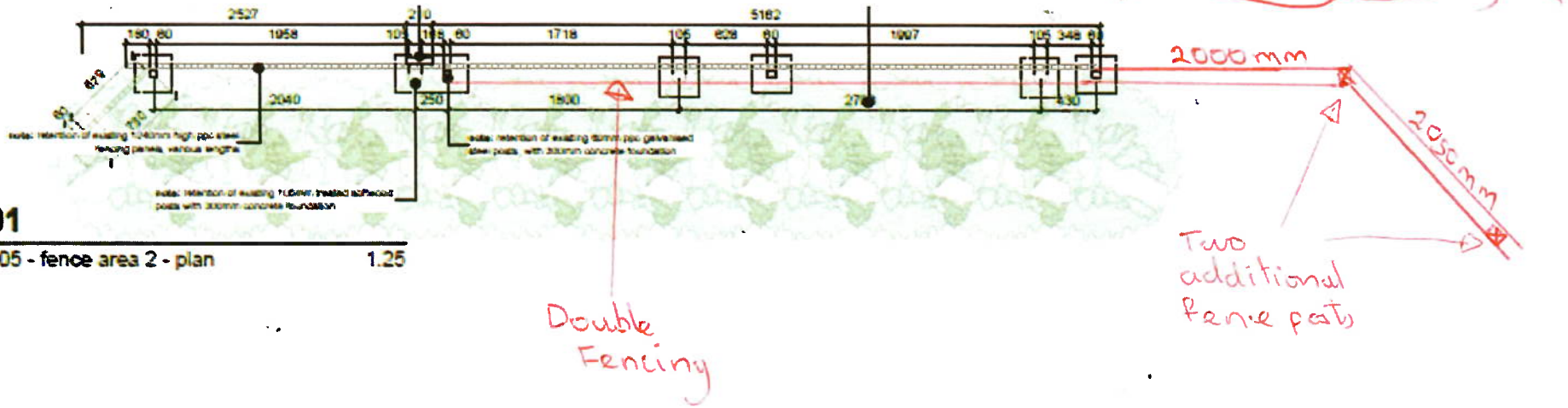
ANNEX 3.

Unauthorised Addition to Two Fences on Killiney Hill

Fence 1 Additions



Fence 2 Additions



Attachment B

Comhairle Contae County Council

Comhairle Contae Dhún Laoghaire-Ráth an Dúin, Halla an Chontae, Dún Laoghaire, Co. Átha Cliath, Éire. *Ag6 K6C9*
Dún Laoghaire-Rathdown County Council, County Hall, Dún Laoghaire, Co. Dublin, Ireland. Ag6 K6C9
T: 01 205 4700 E: info@dlrcoco.ie W: www.dlrcoco.ie

Planning Department
Rannóg Pleanála
Decision Section
Direct Tel: 01 2054700
Email: planning@dlrcoco.ie

Professor Patrick Drudy
95, Ballinclea Heights
Killiney
DUBLIN
A96V6K7

Reference No:	REF14026
Application Type:	Declaration on Development and Exempted Development Act – Section 5, Planning & Development Act (as amended)
Registration Date:	14-Sep-2026
Decision Date:	07-Oct-2026
Location:	RochesHill, Killiney, Co Dublin
Development Works:	Rocheshill, Killiney: Section 5 re Erection of additional Fencing etc by Killiney Golf Club Planning Ref. D25A/0891

NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

In pursuance of its functions under the Planning & Development Act, 2000 (as amended), Dún Laoghaire-Rathdown County Council has, by Order No. P/1976/26 Dated 07-Oct-2026 decided to issue a Declaration pursuant to Section 5 of the Planning & Development Act 2000 (as amended), to Professor Patrick Drudy 95, Ballinclea Heights, Killiney, DUBLIN, A96V6K7 that, having regard to:

A) Sections 2, 3, and 4(1)(h), of the Planning and Development Act 2000, as amended,
B) Articles 6 (1) and 9 (1) of the Planning and Development Regulations, as amended.

It is considered that the proposed works constitute **DEVELOPMENT** and constitute **EXEMPTED DEVELOPMENT**.

Dated: 07-Oct-2026 Signed: *Mary Quinlan*
For Senior Executive Officer.

NOTE: *Where a Declaration is issued under Section 5, any Person issued with such a Declaration, may, on payment to An Coimisiun Pleanala, 64, Marlborough Street, Dublin 1, of a fee of €220, refer the Declaration for review,* ***within 4 weeks*** *of the date of issue of the Declaration.*

Comhairle Contae County Council

Copy to Jeremy

Comhairle Contae Dhún Laoghaire-Rath an Dúin, Halla an Chontae, Dún Laoghaire, Co. Átha Cliath, Éire. *A96 K6C9*
Dún Laoghaire-Rathdown County Council, County Hall, Dún Laoghaire, Co. Dublin, Ireland. A96 K6C9
T. 01 205 4700 E: rnp@dlrcoco.ie W: www.dlrcoco.ie

Planning Department
Rannóg Pleanála
Decision Section
Direct Tel: 01 2054700
Email: planning@dlrcoco.ie

Professor Patrick Drudy
95, Ballinclea Heights
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DUBLIN
A96V6K7

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Application Type:	Declaration on Development and Exempted Development Act – Section 5, Planning & Development Act (as amended)
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A) Sections 2, 3, and 4(1)(h), of the Planning and Development Act 2000, as amended,
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No. P1[illegible]

Dún Laoghaire-Rathdown County Council

LOCAL GOVERNMENT ACTS 1925 - 2014

RECORD OF EXECUTIVE BUSINESS CHIEF EXECUTIVE'S ORDERS

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

Section 5 – Planning and Development Act 2000 (as amended)

Reference No.:	REF14026
Date Received:	14-Sep-2026
Name & Address:	Professor Patrick Drudy 95, Ballinclea Heights, Killiney, DUBLIN, A96V6K7
Applicant:	Professor Patrick Drudy Professor Patrick Drudy 95, Ballinclea Heights, Killiney, DUBLIN, A96V6K7
App. Type:	Section 5
Location:	RochesHill, Killiney, Co Dublin
Development Works:	Rocheshill, Killiney: Section 5 re Erection of additional Fencing etc by Killiney Golf Club Planning Ref. D25A/0891

Report
(Aisling Cleary)

S.5 REF: 14026

Query
A section 5 referral has been submitted in relation to the works at *Rocheshill (Mullins Hill), Killiney, Co. Dublin.*

Proposal
The submitted declaration as stated in the submitted documentation, seeks a determination as to whether or not the proposed works are development and if so, are they exempted development. The completed application detailing the works states:

> *'Rocheshill, Killiney: Section 5 re Erection of additional Fencing etc. by Killiney Golf Club Planning Ref. D25A/0891.'*

Dún Laoghaire-Rathdown County Council

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RECORD OF EXECUTIVE BUSINESS CHIEF EXECUTIVE'S ORDERS

Submission
This Section 5 Declaration application includes:

- Completed application form,
- Supporting letter,
- Drawings of additional fencing,
- Photographs of the fencing,
- Site Location Map.

Matter for Determination
The matter for determination is whether the proposed fencing at lands that form part of Roacheshill, would or would not constitute development, and whether the proposal would or would not constitute exempted development.

Site Description
The subject site is held under the ownership of Killiney Golf Club, however, the subject land, pertinent to this application, do not form part of the Golf Club golfing lawns, in that this area is overgrown with scrub and vegetation similar to that of the rest of the lands of Roacheshill, which is held under the ownership of Dun Laoghaire Rathdown County Council.

Publicly accessible historical aerial photography of the lands, pertinent to this section 5 application, indicate that there is, and has been, a path on them.

The stated site area is 1.25 Ha.

Zoning of Site
Under the Dún Laoghaire-Rathdown County Development Plan 2022-2028, the site is subject to zoning objective F, which seeks *'To preserve and provide for open space with ancillary active recreational amenities.'*

The subject lands are covered by the proposed Dalkey Costal Zone and Killiney Hill/Roacheshill Natural Heritage Area (pNHA).

The part of the Roacheshill owned by Dun Laoghaire Rathdown County council is covered with Special Local Objective 70 which states:

> *'To prepare a management plan for Killiney Hill Park and to include the area comprising the entire pNHA of Killiney Hill and Roches/Mullins Hill in consultation and liaison with the National Parks and Wildlife Service, and to retain and preserve the natural environment and biodiversity on Roches/Mullins Hill, Killiney.'*

No. P/1976/2

Dún Laoghaire-Rathdown County Council

LOCAL GOVERNMENT ACTS 1925 - 2014

RECORD OF EXECUTIVE BUSINESS CHIEF EXECUTIVE'S ORDERS

Planning History

Subject site

D25A/0891/WEB: Permission was GRANTED by the Planning Authority at the subject site for the retention of two lengths of fence that have been erected at two separate locations on either side of lands in the ownership of Killiney Golf Club on lands at Roches Hill, Killiney; and the retention of all works required in erecting them:
- Fence 1 – c. 11.36m in length and height of fencing c. 1.24m;
- Fence 2 – c. 8.05m in length and height of fencing c. 1.24m; and
- The height above ground of both fences varies throughout.

The development will consist also of the erection of 2 no. notices (one on each fence that are both 0.0624sqm in area – 0.1248sqm in total) and proposed new landscaping works to the rear of each fence.

D25A/0763/WEB: Permission was GRANTED by the Planning Authority at the subject site for the construction of a single storey steel shed structure adjacent to the existing clubhouse facilities for use as of a golf simulator. This application supersedes the previously consented planning reference D24A/0940/WEB, granted permission on 22/01/2025.

D24A/0940/WEB: Permission was GRANTED by the Planning Authority at the subject site for the relocation of the existing driving nets and the construction of a new golf simulator contained within a single storey structure to the south of the existing clubhouse and all associated works.

D13A/0617: RETENTION Permission was GRANTED by the Planning Authority at the subject site to retain and operate an existing 21-metre-high antenna support structure to carry antennas, radio links, plus containerised equipment, as previously granted under Planning Register Reference D08A/1104, which forms part of their cellular digital and broadband communications network.

D08A/1104: RETENTION Permission was GRANTED by the Planning Authority at the subject site for the existing 21 m high antenna support structure to carry antennas, radio links, plus containerised equipment at Killiney Golf Course. (prev. PL Ref D03A/0100 and ABP PL06D.202655).

Dún Laoghaire-Rathdown County Council

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D07A/1742: Permission was GRANTED by the Planning Authority at the subject site for A) New entrance gates, B) New maintenance men canteen located adjacent to existing club house, C) New groundsmen canteen located adjacent to existing machinery shed, D) New machine wash yard area and all associated site works.

D95A/0106: Permission was REFUSED by the Planning Authority at the subject site for Extension to golf course of 1.2 hectares at Roches Hill, Killiney, Co. Dublin. The decision was appealed to An Bord Pleanála (ABP) under File Ref: PL 06D.097552 and was subsequently REFUSED.

Section 5 Referrals

REF 3125: Deemed exempt for Certificate of Exemption. Application for declaration for *Erection of metal fencing which blocks public access at two locations at either end of an established right of way*. The decision was appealed to An Coimisiún Pleanála (ACP) under File Ref: ABP-322368-25 and was subsequently deemed NOT EXEMPT.

REF 12724: Deemed exempt for Certificate of Exemption. Application for declaration for *An established Right of Way is blocked at two locations. There is a two meter fence close to the Golf Club 'Wicket Gate' and a 10 meter fence has been erected close to the other end of this path. There are signs directing people away from the Public Right of Way on the Golf Club suggesting use of the other paths on Rockes (Mullins Hill). All states routes are in regular and sustained use by the residents of Killiney and visitors*.

REF 12624: Deemed exempt for Certificate of Exemption. Application for declaration for *An established Right of Way is blcoked at two locations. There is a two meter fence close to the Golf Club 'Wicket Gate' and a 10 meter fence has been erected close to the other end of this path. There are signs directing people away from the Public Right of Way on the Golf Club suggesting use of the other paths on Rockes (Mullins Hill). All states routes are in regular and sustained use by the residents of Killiney and visitors.*

REF 10424: Deemed exempt for Certificate of Exemption. Application for declaration for *An established Right of Way is blocked at two locations. There is a 12 meter fence close to the Golf Club 'Wicket Gate' and a 10 metre fence has been erected close to the other end of this path. There are signs directing people away from the Public Right of Way on the Golf Club suggesting use of the other paths on Roches Hill. This is a short cut used by many from Glenalua Road to Killiney Shopping Centre*.

P/1976/

No.

Dún Laoghaire-Rathdown County Council

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REF 9124: Deemed exempt for Certificate of Exemption. Application for declaration for *Fencing erected at two locations blocking off established right of way. See Map. Length of fencing: approx.12 metres close to Golf Club Wicket Gate and 10 metres at the other end of an established right of way. No permission sought. See separate letter for detail*. The decision was appealed to An Bord Pleanála (ABP) under File Ref: ABP-320914-24 and was subsequently REFUSED.

Enforcement History
No current enforcement files found.

Departmental Reports
No referrals made.

Proposed works
The *application form received* states the following:

> *'Rocheshill, Killiney: Section 5 re Erection of additional Fencing etc. by Killiney Golf Club Planning Ref. D25A/0891.'*

Planning Comment
The Council is requested to determine, in accordance with Section 5 of the Planning and Development Act 2000 (as amended) whether or not the erection of the fence constitute development or not, and if so, whether said works are exempted development.

Legislative Context
Planning and Development Act 2000 (as amended)
Consideration as to whether a development constitutes exempted development or not is governed by Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended).

Under Section 2(1), the following is the interpretation of 'works':

> *"...includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."*

Section 3 (1) states as follows:

> *"In this Act, 'development' means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land."*

No. P/1970/2

Dún Laoghaire-Rathdown County Council

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Section 4(1) of the Act states that the following shall be exempted developments for the purposes of this Act:

> *"(h) development consisting of the use of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.*

Section 4 (2)(a) of the Act enables certain classes of development to be deemed exempted development by way of regulation.

Planning and Development Regulations 2001 (As amended)
Article 6 (1) of the Planning and Development Regulations 2001, (as amended), states:

> *'Subject to Article 9, development of a class specified in Column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1'*

Article 9(1) of the Planning and Development Regulations, 2001 (as amended);

> *'Development to which article 6 relates shall not be exempted development for the purposes of the Act— (a) if the carrying out of such development would— (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.*

Assessment
Having regard to the submitted details, it is considered that the fencing at Roacheshill in Killiney shall be assessed under Sections 2(1), 3(1) 4(1)(h) of the Planning and Development Act 2000 (as amended), and can be assessed under article 6 & 9 of the Planning and Development Regulations 2001 (as amended).

Is the proposal development?
The first matter for determination is whether the proposal would or would not constitute development.

Having regard to Sections 2(1) and 3(1) of the Planning and Development Act 2000 (as amended), it is considered that the proposed development as detailed in the Section 5 Declaration submission would constitute the carrying out of works and can therefore be considered to comprise 'development'.

Dún Laoghaire-Rathdown County Council

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Is the proposal exempted development?
The second matter for determination is whether the proposal would or would not constitute exempted development.

Planning Assessment:
Having regard to the documentation submitted and the question referred to the Planning Authority, the issue for consideration is whether the extensions to the existing fencing at Roacheshill constitute exempted development.

Following a site inspection, during which the fencing was measured, it was established that Fence No. 1 has been extended by approximately 0.5 metres and Fence No. 2 has been extended by approximately 2 metres.

In considering this matter, regard is had to the planning history of the site, specifically Reg. Ref. D25A/0891/WEB, under which the retention of the fencing structures was granted. It is noted that the subject works were undertaken to sections of the fencing and comprised reinstatement and reinforcement works, which resulted in an extension of the overall fence lengths.

Having regard to the nature, scale and extent of the works, it is considered that the matter may be assessed under Section 4(1)(h) of the Planning and Development Act 2000, as amended. The works comprise the maintenance, improvement and alteration of an existing fencing structure and do not materially affect its external appearance or result in an appearance that is inconsistent with the character of the fencing previously permitted under Reg. Ref. D25A/0891/WEB.

Furthermore, the additional sections of fencing are consistent with the design, materials, height and overall appearance of the permitted fencing which was deemed to have a neutral and visually unobtrusive finish. Having regard to the limited extent of the extensions and their visual continuity with the existing fencing, it is not considered that the works give rise to any material adverse visual impact on the proposed Dalkey Costal Zone and Killiney Hill/Roacheshill Natural Heritage Area (pNHA).

Accordingly, it is considered that the subject works fall within the scope of Section 4(1)(h) of the Planning and Development Act 2000, as amended, and constitute exempted development.

(Other) Restrictions to Exempted Development
Article 9(1)(a)(viiB) of the *Planning and Development Regulations, 2001* (as amended), states that the following would restrict exempted development:

'(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the

Dún Laoghaire-Rathdown County Council

LOCAL GOVERNMENT ACTS 1925 - 2014

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development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site'.

The proposed development has been assessed against all restrictions to exempted development set out in Article 9(1), and that there are no restrictions that would prevent the works subject of this Section 5 declaration from being exempt development, under that Article of the regulations.

Conclusion
Having regard to the documentation submitted in support of the application, and to the above assessment, it is considered that the additional fencing erected by Killiney Golf Club on lands owned by Killiney Golf Club subject of this Section 5 Declaration, constitutes development and constitutes exempt development. The applicant shall be advised accordingly.

Appropriate Assessment (AA) Screening
The development subject to this assessment has been screened for AA (report on file) and it has been determined that the development would not significantly impact upon a Natura 2000 Site.

Environmental Impact Assessment (EIA) Screening
Having regard to the nature of the development subject to this assessment, which comprises of the erection of a metal fence, it is considered that there is no real likelihood of significant effects on the environment arising from the development. The need for environmental assessment can, therefore, be excluded at preliminary examination and as such a screening determination is not required.

Recommendation

I recommend that Dún Laoghaire-Rathdown County Council advise the Applicant, Professor Patrick Drudy 95, Ballinclea Heights, Killiney, DUBLIN, A96V6K7

A) Sections 2, 3, and 4(1)(h), of the Planning and Development Act 2000, as amended,
B) Articles 6 (1) and 9 (1) of the Planning and Development Regulations, as amended.

It is considered that the proposed works **CONSTITUTE DEVELOPMENT** and **CONSTITUTE EXEMPTED DEVELOPMENT.**

Sharon Byrne

Administrative Officer.

Executive Planner.

No. P/1970/

Dún Laoghaire-Rathdown County Council

LOCAL GOVERNMENT ACTS 1925 - 2014

RECORD OF EXECUTIVE BUSINESS CHIEF EXECUTIVE'S ORDERS

ORDER

The issuing of a Declaration pursuant to Section 5 of the Planning & Development Act 2000 (as amended), to Professor Patrick Drudy 95, Ballinclea Heights, Killiney, DUBLIN, A96V6K7, that:

A) Sections 2, 3, and 4(1)(h), of the Planning and Development Act 2000, as amended,
B) Articles 6 (1) and 9 (1) of the Planning and Development Regulations, as amended.

It is considered that the proposed works **CONSTITUTE DEVELOPMENT** and **CONSTITUTE EXEMPTED DEVELOPMENT.**

Signed: _____ Date: 7/10/26
Approved Officer

Thereunto empowered by order of Príomhfheidhmeannach, Comhairle Contae Dhún Laoghaire-Ráth An Dúin, Order No. 253, dated 29/9/23., delegating to me all his powers, functions and duties in relation to the County Council of Dún Laoghaire-Rathdown in respect of this matter.

Comhairle Contae County Council

Comhairle Contae Dhún Laoghaire-Ráth an Dúin, Halla an Chontae, Dún Laoghaire, Co. Átha Cliath, Éire. A96 K6C9
Dún Laoghaire-Rathdown County Council, County Hall, Dún Laoghaire, Co. Dublin, Ireland. A96 K6C9
T: 01 205 4700 E: info@dlrcoco.ie W: www.dlrcoco.ie

Planning Department
Rannóg Pleanála
Decision Section
Direct Tel: 01 2054700
Email: planning@dlrcoco.ie

Jeremy Towns
100, Ballinclea Heights
Killiney
DUBLIN
A96H2C5

Reference No:	REF14426
Application Type:	Declaration on Development and Exempted Development Act – Section 5, Planning & Development Act (as amended)
Registration Date:	17-Sep-2026
Decision Date:	07-Oct-2026
Location:	RochesHill, Killiney, Co Dublin
Development Works:	The unauthorized works comprise of two fences within the proposed National Heritage Area that materially (just under 1 Meter and 3 Meters respectively) exceed the the size of fencing previously permitted by the Council in the Spring of 2026. As well as the quantum of fencing the orientation of the fencing has a serious detrimental affect on public access to a previously open space and has a serious and discordant visual impact in an otherwise natural area of the County. Please see Annex 2 for more details.

NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

In pursuance of its functions under the Planning & Development Act, 2000 (as amended), Dún Laoghaire-Rathdown County Council has, by Order No. P/1977/26 Dated 07-Oct-2026 decided to issue a Declaration pursuant to Section 5 of the Planning & Development Act 2000 (as amended), to, Jeremy Towns 100, Ballinclea Heights, Killiney, DUBLIN, A96H2C5 that, having regard to:

A) Sections 2, 3, and 4(1)(h), of the Planning and Development Act 2000, as amended,
B) Articles 6 (1) and 9 (1) of the Planning and Development Regulations, as amended.

It is considered that the proposed works constitute **DEVELOPMENT** and constitute **EXEMPTED DEVELOPMENT**.

Dated: 07-Oct-2026 Signed: *Mary Quinlan*
For Senior Executive Officer.

NOTE: *Where a Declaration is issued under Section 5, any Person issued with such a Declaration, may, on payment to An Coimisiun Pleanala, 64, Marlborough Street, Dublin 1, of a fee of €220, refer the Declaration for review,* ***within 4 weeks*** *of the date of issue of the Declaration.*

No. P/1977/26

Dún Laoghaire-Rathdown County Council

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RECORD OF EXECUTIVE BUSINESS CHIEF EXECUTIVE'S ORDERS

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

Section 5 – Planning and Development Act 2000 (as amended)

Reference No.:	REF14426
Date Received:	17-Sep-2026
Name & Address:	Jeremy Towns 100, Ballinclea Heights, Killiney, Dublin, A96H2C5
Applicant:	Jeremy Towns Jeremy Towns 100, Ballinclea Heights, Killiney, Dublin, A96H2C5
App. Type:	Section 5
Location:	RochesHill, Killiney, Co Dublin
Development Works:	The unauthorized works comprise of two fences within the proposed National Heritage Area that materially (just under 1 Meter and 3 Meters respectively) exceed the the size of fencing previously permitted by the Council in the Spring of 2026. As well as the quantum of fencing the orientation of the fencing has a serious detrimental affect on public access to a previously open space and has a serious and discordant visual impact in an otherwise natural area of the County. Please see Annex 2 for more details.

Report
(Aisling Cleary)

S.5 REF: 14426

Query
A section 5 referral has been submitted in relation to the works at *Rocheshill (Mullins Hill), Killiney, Co. Dublin.*

Proposal
The submitted declaration as stated in the submitted documentation, seeks a determination as to whether or not the proposed works are development and if so, are they exempted development. The completed application detailing the works states:

Dún Laoghaire-Rathdown County Council

LOCAL GOVERNMENT ACTS 1925 - 2014

RECORD OF EXECUTIVE BUSINESS CHIEF EXECUTIVE'S ORDERS

'The unauthorized works comprise of two fences within the proposed National Heritage Area that materially (just under 1 Meter and 3 Meters respectively) exceed the size of fencing previously permitted by the Council in the Spring of 2026. As well as the quantum of fencing the orientation of the fencing has a serious detrimental affect on public access to a previously open space and has a serious and discordant visual impact in an otherwise natural area of the County. Please see Annex 2 for more details.'

Submission
This Section 5 Declaration application includes:

- Completed application form,
- Supporting letter,
- Drawings of additional fencing,
- Photographs of the fencing,
- Site Location Map.

Matter for Determination
The matter for determination is whether the proposed fencing at lands that form part of Roacheshill, would or would not constitute development, and whether the proposal would or would not constitute exempted development.

Site Description
The subject site is held under the ownership of Killiney Golf Club, however, the subject land, pertinent to this application, do not form part of the Golf Club golfing lawns, in that this area is overgrown with scrub and vegetation similar to that of the rest of the lands of Roacheshill, which is held under the ownership of Dun Laoghaire Rathdown County Council.

Publicly accessible historical aerial photography of the lands, pertinent to this section 5 application, indicate that there is, and has been, a path on them.

The stated site area is 1.25 Ha.

Zoning of Site
Under the Dún Laoghaire-Rathdown County Development Plan 2022-2028, the site is subject to zoning objective F, which seeks *'To preserve and provide for open space with ancillary active recreational amenities.'*

The subject lands are covered by the proposed Dalkey Costal Zone and Killiney Hill/Roacheshill Natural Heritage Area (pNHA).

The part of the Roacheshill owned by Dun Laoghaire Rathdown County council is covered with Special Local Objective 70 which states:

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'To prepare a management plan for Killiney Hill Park and to include the area comprising the entire pNHA of Killiney Hill and Roches/Mullins Hill in consultation and liaison with the National Parks and Wildlife Service, and to retain and preserve the natural environment and biodiversity on Roches/Mullins Hill, Killiney.'

Planning History

Subject site

D25A/0891/WEB: Permission was GRANTED by the Planning Authority at the subject site for the retention of two lengths of fence that have been erected at two separate locations on either side of lands in the ownership of Killiney Golf Club on lands at Roches Hill, Killiney; and the retention of all works required in erecting them:
- Fence 1 – c. 11.36m in length and height of fencing c. 1.24m;
- Fence 2 – c. 8.05m in length and height of fencing c. 1.24m; and
- The height above ground of both fences varies throughout.

The development will consist also of the erection of 2 no. notices (one on each fence that are both 0.0624sqm in area – 0.1248sqm in total) and proposed new landscaping works to the rear of each fence.

D25A/0763/WEB: Permission was GRANTED by the Planning Authority at the subject site for the construction of a single storey steel shed structure adjacent to the existing clubhouse facilities for use as of a golf simulator. This application supersedes the previously consented planning reference D24A/0940/WEB, granted permission on 22/01/2025.

D24A/0940/WEB: Permission was GRANTED by the Planning Authority at the subject site for the relocation of the existing driving nets and the construction of a new golf simulator contained within a single storey structure to the south of the existing clubhouse and all associated works.

D13A/0617: RETENTION Permission was GRANTED by the Planning Authority at the subject site to retain and operate an existing 21-metre-high antenna support structure to carry antennas, radio links, plus containerised equipment, as previously granted under Planning Register Reference D08A/1104, which forms part of their cellular digital and broadband communications network.

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D08A/1104: RETENTION Permission was GRANTED by the Planning Authority at the subject site for the existing 21 m high antenna support structure to carry antennas, radio links, plus containerised equipment at Killiney Golf Course. (prev. PL Ref D03A/0100 and ABP PL06D.202655).

D07A/1742: Permission was GRANTED by the Planning Authority at the subject site for A) New entrance gates, B) New maintenance men canteen located adjacent to existing club house, C) New groundsmen canteen located adjacent to existing machinery shed, D) New machine wash yard area and all associated site works.

D95A/0106: Permission was REFUSED by the Planning Authority at the subject site for Extension to golf course of 1.2 hectares at Roches Hill, Killiney, Co. Dublin. The decision was appealed to An Bord Pleanála (ABP) under File Ref: PL 06D.097552 and was subsequently REFUSED.

Section 5 Referrals

REF 3125: Deemed exempt for Certificate of Exemption. Application for declaration for *Erection of metal fencing which blocks public access at two locations at either end of an established right of way*. The decision was appealed to An Coimisiún Pleanála (ACP) under File Ref: ABP-322368-25 and was subsequently deemed NOT EXEMPT.

REF 12724: Deemed exempt for Certificate of Exemption. Application for declaration for *An established Right of Way is blocked at two locations. There is a two meter fence close to the Golf Club 'Wicket Gate' and a 10 meter fence has been erected close to the other end of this path. There are signs directing people away from the Public Right of Way on the Golf Club suggesting use of the other paths on Rockes (Mullins Hill). All states routes are in regular and sustained use by the residents of Killiney and visitors.*

REF 12624: Deemed exempt for Certificate of Exemption. Application for declaration for *An established Right of Way is blcoked at two locations. There is a two meter fence close to the Golf Club 'Wicket Gate' and a 10 meter fence has been erected close to the other end of this path. There are signs directing people away from the Public Right of Way on the Golf Club suggesting use of the other paths on Rockes (Mullins Hill). All states routes are in regular and sustained use by the residents of Killiney and visitors.*

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REF 10424: Deemed exempt for Certificate of Exemption. Application for declaration for *An established Right of Way is blocked at two locations. There is a 12 meter fence close to the Golf Club 'Wicket Gate' and a 10 metre fence has been erected close to the other end of this path. There are signs directing people away from the Public Right of Way on the Golf Club suggesting use of the other paths on Roches Hill. This is a short cut used by many from Glenalua Road to Killiney Shopping Centre.*

REF 9124: Deemed exempt for Certificate of Exemption. Application for declaration for *Fencing erected at two locations blocking off established right of way. See Map. Length of fencing: approx.12 metres close to Golf Club Wicket Gate and 10 metres at the other end of an established right of way. No permission sought. See separate letter for detail*. The decision was appealed to An Bord Pleanála (ABP) under File Ref: ABP-320914-24 and was subsequently REFUSED.

Enforcement History
No current enforcement files found.

Departmental Reports
No referrals made.

Proposed works
The *application form received* states the following:

> *'The unauthorized works comprise of two fences within the proposed National Heritage Area that materially (just under 1 Meter and 3 Meters respectively) exceed the size of fencing previously permitted by the Council in the Spring of 2026. As well as the quantum of fencing the orientation of the fencing has a serious detrimental affect on public access to a previously open space and has a serious and discordant visual impact in an otherwise natural area of the County. Please see Annex 2 for more details.'*

Planning Comment
The Council is requested to determine, in accordance with Section 5 of the Planning and Development Act 2000 (as amended) whether or not the erection of the fence constitute development or not, and if so, whether said works are exempted development.

Legislative Context
Planning and Development Act 2000 (as amended)

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Consideration as to whether a development constitutes exempted development or not is governed by Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended).

Under Section 2(1), the following is the interpretation of 'works':

"...includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."

Section 3 (1) states as follows:

"In this Act, 'development' means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land."

Section 4(1) of the Act states that the following shall be exempted developments for the purposes of this Act:

"(h) development consisting of the use of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

Section 4 (2)(a) of the Act enables certain classes of development to be deemed exempted development by way of regulation.

<u>Planning and Development Regulations 2001 (As amended)</u>

Article 6 (1) of the Planning and Development Regulations 2001, (as amended), states:

'Subject to Article 9, development of a class specified in Column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1'

Article 9(1) of the Planning and Development Regulations, 2001 (as amended);

'Development to which article 6 relates shall not be exempted development for the purposes of the Act— (a) if the carrying out of such development would— (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.

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Assessment
Having regard to the submitted details, it is considered that the fencing at Roacheshill in Killiney shall be assessed under Sections 2(1), 3(1) 4(1)(h) of the Planning and Development Act 2000 (as amended), and can be assessed under article 6 & 9 of the Planning and Development Regulations 2001 (as amended).

Is the proposal development?
The first matter for determination is whether the proposal would or would not constitute development.

Having regard to Sections 2(1) and 3(1) of the Planning and Development Act 2000 (as amended), it is considered that the proposed development as detailed in the Section 5 Declaration submission would constitute the carrying out of works and can therefore be considered to comprise 'development'.

Is the proposal exempted development?
The second matter for determination is whether the proposal would or would not constitute exempted development.

Planning Assessment:
Having regard to the documentation submitted and the question referred to the Planning Authority, the issue for consideration is whether the extensions to the existing fencing at Roacheshill constitute exempted development.

Following a site inspection, during which the fencing was measured, it was established that Fence No. 1 has been extended by approximately 0.5 metres and Fence No. 2 has been extended by approximately 2 metres.

In considering this matter, regard is had to the planning history of the site, specifically Reg. Ref. D25A/0891/WEB, under which the retention of the fencing structures was granted. It is noted that the subject works were undertaken to sections of the fencing and comprised reinstatement and reinforcement works, which resulted in an extension of the overall fence lengths.

Having regard to the nature, scale and extent of the works, it is considered that the matter may be assessed under Section 4(1)(h) of the Planning and Development Act 2000, as amended. The works comprise the maintenance, improvement and alteration of an existing fencing structure and do not materially affect its external appearance or result in an appearance that is inconsistent with the character of the fencing previously permitted under Reg. Ref. D25A/0891/WEB.

Furthermore, the additional sections of fencing are consistent with the design, materials, height and overall appearance of the permitted fencing which was

deemed to have a neutral and visually unobtrusive finish. Having regard to the limited extent of the extensions and their visual continuity with the existing fencing, it is not considered that the works give rise to any material adverse visual impact on the proposed Dalkey Costal Zone and Killiney Hill/Roacheshill Natural Heritage Area (pNHA).

Accordingly, it is considered that the subject works fall within the scope of Section 4(1)(h) of the Planning and Development Act 2000, as amended, and constitute exempted development.

(Other) Restrictions to Exempted Development
Article 9(1)(a)(viiB) of the *Planning and Development Regulations, 2001* (as amended), states that the following would restrict exempted development:

'(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site'.

The proposed development has been assessed against all restrictions to exempted development set out in Article 9(1), and that there are no restrictions that would prevent the works subject of this Section 5 declaration from being exempt development, under that Article of the regulations.

Conclusion
Having regard to the documentation submitted in support of the application, and to the above assessment, it is considered that the additional fencing erected by Killiney Golf Club on lands owned by Killiney Golf Club subject of this Section 5 Declaration, constitutes development and constitutes exempt development. The applicant shall be advised accordingly.

Appropriate Assessment (AA) Screening
The development subject to this assessment has been screened for AA (report on file) and it has been determined that the development would not significantly impact upon a Natura 2000 Site.

Environmental Impact Assessment (EIA) Screening
Having regard to the nature of the development subject to this assessment, which comprises of the erection of a metal fence, it is considered that there is no real likelihood of significant effects on the environment arising from the development. The need for environmental assessment can, therefore, be excluded at preliminary examination and as such a screening determination is not required.

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Recommendation
I recommend that Dún Laoghaire-Rathdown County Council advise the Applicant, Jeremy Towns 100, Ballinclea Heights, Killiney, DUBLIN, A96H2C5

A) Sections 2, 3, and 4(1)(h), of the Planning and Development Act 2000, as amended,
B) Articles 6 (1) and 9 (1) of the Planning and Development Regulations, as amended.

It is considered that the proposed works **CONSTITUTE DEVELOPMENT** and **CONSTITUTE EXEMPTED DEVELOPMENT**.

Shona Regan

Administrative Officer.

Executive Planner.

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ORDER

The issuing of a Declaration pursuant to Section 5 of the Planning & Development Act 2000 (as amended), to Jeremy Towns 100, Ballinclea Heights, Killiney, DUBLIN, A96H2C5, that:

A) Sections 2, 3, and 4(1)(h), of the Planning and Development Act 2000, as amended,
B) Articles 6 (1) and 9 (1) of the Planning and Development Regulations, as amended.

It is considered that the proposed works **CONSTITUTE DEVELOPMENT** and **CONSTITUTE EXEMPTED DEVELOPMENT**.

Signed: _____ Date: 7/10/26
Approved Officer

Thereunto empowered by order of Príomhfheidhmeannach, Comhairle Contae Dhún Laoghaire-Ráth An Dúin, Order No. 2513, dated 22/9/23 delegating to me all his powers, functions and duties in relation to the County Council of Dún Laoghaire-Rathdown in respect of this matter.

Attachment E

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To the Registrar for Registering Deeds and soforth in IRELAND.

A Memorial of an Indenture of Conveyance dated the 24th day of January 1989 and made BETWEEN XJS INVESTMENTS LIMITED having its registered office at Cranford Court, Cranford Centre, Montrose in the City of Dublin (therein and hereinafter called "the Vendor") of the one part and SAMUEL KENNETH McCOMAS, LIONEL CHARLES CRANFIELD AND RODERICK J. TIERNEY the Trustees of Killiney Golf Club, Killiney in the County of Dublin (therein and hereinafter called "the Purchasers") of the other part WHEREBY after reciting that the Vendor was seized of the hereditaments and premises thereinafter described and thereby assured for an estate in fee simple in possession free from encumbrances and further reciting as therein it was witnessed that for the consideration therein the Vendor as beneficial owners thereby granted and conveyed unto the Purchasers ALL THAT the two pieces of ground being part of the lands of Rochestown otherwise called Rocheshill or Flagstaffhill situate in the Parish of Killiney Barony of Rathdown and County of Dublin more particularly delineated on the map annexed thereto and thereon edged in red TO HOLD the same unto and to the use of the Purchasers in fee simple subject to the trusts relating to the same as declared in the Rules of Killiney Golf Club and which said as to the execution thereof by the said XJS Investments Limited by affixing its Common Seal thereto. was witnessed by Richard Bennett Solicitor Dublin .

Which said Deed as to the due execution thereof by the Samuel Kenneth Mc Comas and Roderick J.Tierney was witnessed by ; Henry N.Robinson Solicitor 94 Merrion Square W,Dublin 2.

Which said Deed as to the due execution thereof by the said Lionel Charles Cranfield was witnessed by ; John Green 9 Silchester Road Glenageary Co Dublin Gentleman.

NOT
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Tailte Éireann
Clarlann na nGniomhas
Registry of Deeds

P2026RP001740J

Coip deimnithe de Uimh.....Táille.....

Mheabhraehain / Iarrátais (Nó).....(Fee)...5.20...

Attested copy of Iarrathóir PATRICK DRUDY

Memorial / application (applicant)

Castletown Press Ltd