

05/06/2025

TO WHOM IT CONCERNS,

PLEASE FIND ATTACHED

APPEAL AS WELL AS THE

APPROPRIATE FEE.

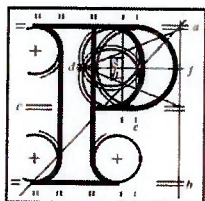
SHOULD YOU HAVE ANY

QUERIES PLEASE FEEL FREE

TO CALL ON 086 4023 185.

KINDEST REGARDS,

EUGENE



An
Bord
Pleanála

AN BORD PLEANÁLA	
LDG-	080700-25
ABP-	
06 JUN 2025	
Fee: €	20 220
Type:	cheque
Time:	4.51
By:	courier

Planning Appeal Form

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name

Eugene and Amy Jane O'Reilly

(b) Address

73 Grosvenor Road,
Rathmines, Dublin 6, D06 KX81

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

Goodwin + Lee Architects

(b) Agent's address

Hillcourt Road, Glenageary, Co. Dublin, A96Y9C2

Postal address for letters

3. During the appeal we will post information and items to you **or** to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the
address in Part 1

☒

The agent at the address in
Part 2

☐

Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

Dublin City Council

(b) Planning authority register reference number

(for example: 18/0123)

Dublin City Council; Application # 0151/25; Decision Order # P3202

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

73 Grosvenor Road, Rathmines, Dublin 6, D06 KX81

Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

1. These are minor works that do not materially affect the external appearance or use of a structure so as to render it inconsistent with the character of the structure or the area.
2. Works that were not shown in the drawings approved under the planning permission are trivial, & minor in nature, and their absence or presence would be imperceptible when compared to the past.
3. Decision Order P3202 DCC handles in each of their three conclusions in respect of all three items under consideration as one, instead of dealing with each of them individually. Each of the three specifics for consideration should be dealt with on their own individual merit.
4. The gate as constructed is exempted development as set out in Class 5 of Schedule 2, Part 1 of the Planning and Development Regulations 2021-2025.
5. The gate complies fully with condition 9 of Planning Permission 3758/22 as the railings in the gate incorporate both the design and materials of the railings in the pedestrian gate which it replaced.
6. The 50 centimetre railing on top of the front boundary wall is also exempted development as set out in Class 5 of Schedule 2, Part 1 of the Planning and Development Regulations 2021-2025.
7. The temporary wooden fence at the boundary with 74 Grosvenor Road is exempted development as set out in Class 16 of Schedule 2, Part 1 of the Planning and Development Regulations 2001-2025.
8. Please see attached comprehensive submission providing a detailed explanation of the grounds of our appeal.

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

--

Supporting material

6. If you wish you can include supporting materials with your appeal.

Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

Fee

8. You **must** make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website.

Oral hearing request

9. If you wish to request the Board to hold an oral hearing on your appeal, please tick the “yes, I wish to request an oral hearing” box below.

Please note you will have to pay an **additional non-refundable fee** of €50. You can find information on how to make this request on our website or by contacting us.

If you do not wish to request an oral hearing, please tick the “No, I do not wish to request an oral hearing” box.

Yes, I wish to request an oral hearing

☐

No, I do not wish to request an oral hearing

☒

NALA has awarded this document its Plain English Mark

Last updated: April 2019.

An Bord Pleanála
64 Marlborough Street,
Dublin 1,
D01 V902,
appeals@pleanala.ie

26/05/2025

Request for the Bord to Review DCC Section 5 Decision

Re: Whether certain works carried out as part of the overall refurbishment works at 73 Grosvenor Road, Rathmines, Dublin 6 permitted under planning permission Ref: 3758/22 constitute development and, if so, are they exempted development.

[Dublin City Council Section 5 Application # 0151/25; Decision Order # P3202]

Dear Sir/Madam,

We are carrying out a comprehensive refurbishment of the house and gardens at 73 Grosvenor Road in accordance with Planning Permission Ref: 3758/22. The property was in very poor condition when we purchased the property in 2021, and so we had to undertake very substantial restoration works. We have endeavoured at all times, with the invaluable assistance of our Conservation Architect and other conservation professionals, to retain as many as possible of the original features of the existing property. We have ensured that any important items which couldn't be retained were replaced with new elements which respect the historic integrity of the original house, whilst creating a new home with modern facilities suitable for our young family. At all times in this project, we were cognisant of the character of the original structure and indeed of the area.

The specifics for consideration relate to three items:

1. Vehicle entrance gate with backing.
2. Wooden fencing at part of side boundary of 73 Grosvenor Rd with 74 Grosvenor Rd.
3. Decorative railing on front boundary wall of 73 Grosvenor Rd.

Grounds for Appeal:

- I. Where we would respectfully suggest that DCC has erred in their decision is in their assessment that three elements of our project are:
 - a. Development within the meaning of Section 3 of the Planning and Development Act, 2000, and
 - b. Would not constitute exempted development as they are not in accordance with the Conditions and Limitations under Class 5 of Part 2 of Schedule 1 of the Planning and Development Regulations (2001, as amended).

The error in DCC's decision is the fact that these are minor works that do not materially affect the external appearance or use of a structure so as to render it inconsistent with the character of the structure or the area. In response to this, within this submission we present:

- ⇒ **Evidence of the character of the structure and area.**
- ⇒ **Evidence of the precedent that existed on this site.**
- ⇒ **Evidence that the 3 items are exempted development.**

The purpose of the aforementioned Sections and Acts is to ensure minor works can proceed without unnecessary regulation while protecting environmental and heritage interests. We hope that we can demonstrate to you here that the three items for consideration here are a) indeed minor, and b) we have at every junction sought to protect environmental and heritage interests.

We submit that these minor works are clearly exempted development as set out in Classes 5 and 16 of Schedule 2, Part 1 of the Planning and Development Regulations 2021-2025.

- II. DCC has asserted that the works were not shown in the drawings approved under the planning permission (Reg. Ref. 3758/22), and therefore fall outside the scope of the permission of Condition 1 and would not be in accordance with the submitted plans and particulars.

However the reality is that any perceived differences are trivial, minor in nature, and their absence or presence would be imperceptible when compared to the past.

Please observe the vastly overgrown precedent that existed on this site before works commenced. The level of over-growth makes it impossible to establish whether fencing or railings atop the wall were in situ or not.





- III. Where we would additionally respectfully suggest that DCC has also erred in their decision is that Decision Order # P3202 handles in each of their three conclusions all three items as one, instead of dealing with them individually. In this manner DCC has not evaluated each of the three items on their own, but rather has taken an all or nothing approach.

We would propose to deal with these three items individually. Our view in each of the three cases is that these works are not development for the purposes of Section 3 of the Planning and Development Act 2000 as amended or in the alternative, if the works constitute development, that they are exempted development for the purposes of the 2000 Act.

- IV. In the DCC planner's report it is stated that whilst images of the vicinity had been included; images of our own site have not been included in our section 5 application. However this is not accurate as you will see amongst the following images (see 'Our Approach' and 'Current' Railings) which were also included in the original section 5 application.

1) Applying a Backing to a Vehicle Entrance Gate

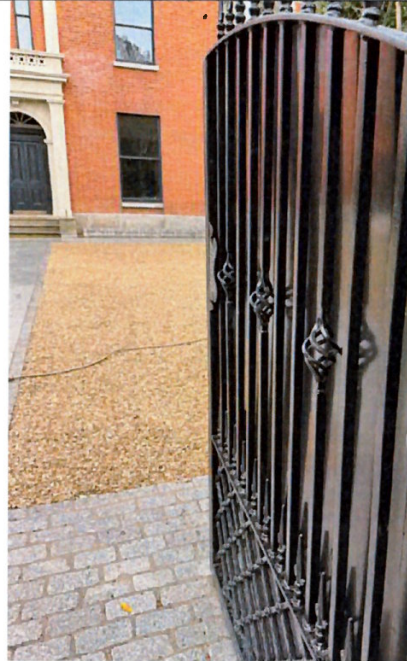
- a. Part 1 of Schedule 2 of the Regulations exempts certain works to gates, fences, and walls within specified height limits, provided they are not within an Architectural Conservation Area or associated with a protected structure. Our property is neither a protected structure nor in an Architectural Conservation Area.
- b. Minor alterations to gates, such as applying a backing (for privacy, security, or aesthetic purposes), generally constitute works of a minor nature.
- c. Such works typically do not materially affect the external appearance of the gate in a way that would render it inconsistent with the character of the structure or the area.

Please consider now the character of the structure and indeed the area with these examples as evidence of that we have not materially affected the external appearance of the gate in a way that would render it inconsistent with the character of the structure or the area:

The Best of Grosvenor Road



Our Approach at 73 Grosvenor Road



66
Grosvenor
Road
(7 Doors
Down)



A Second
Example on
Grosvenor Rd



A Third
Example on
Grosvenor Rd

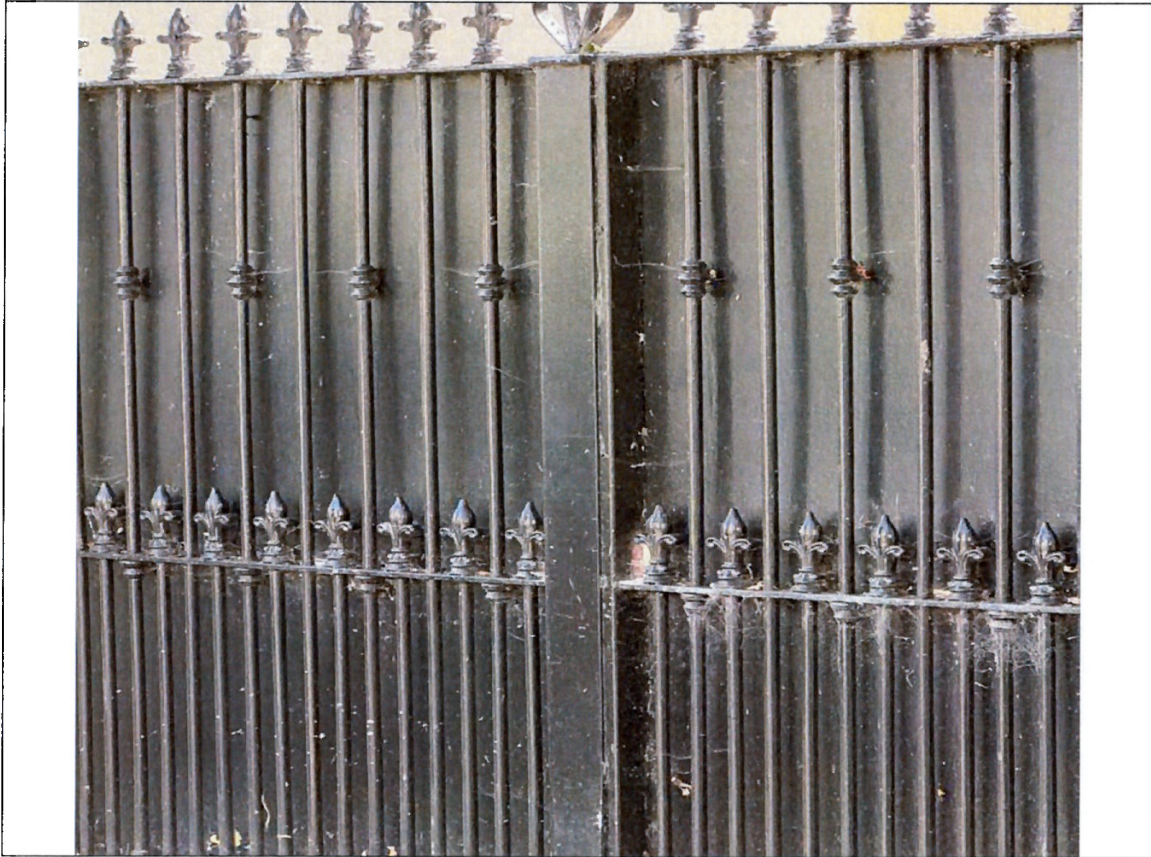
Further Examples on Adjoining Roads



Further Examples on Adjoining Roads



Further Examples on Adjoining Roads



As you can see we examined the vehicular entrances and railings on many similar properties on Grosvenor Road and the adjoining roads. We believe that what we have now provided at our home is very similar to the best of those in the neighbourhood and improves the visual amenity of the area.

Class 5 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended provides that *"The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete"* is exempted development.

This exemption is subject to the limitation that *"The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres."*

It is clear from the above that the exemption for a wall or fence within or bounding any garden or other space in front of a house, is specifically restricted to 1.2 metres, but that the exemption for a gate or railing is actually restricted to 2 metres.

It must also be emphasised that the gate complies fully with condition 9 of Planning Permission 3758/22 as the railings in the gate incorporate both the design and materials of the railings in the pedestrian gate which it replaced.

2) Temporary Wooden Fencing Along a Boundary Wall Until Hedging Matures



- It is submitted that this temporary wooden fence is a structure, erected on land on which works are being carried out pursuant to the Planning Permission 3758/22 granted by Dublin City Council and other works being carried out as exempted development, and needed temporarily in connection with that development. It is submitted that the wooden fence therefore comes within the ambit of the exemption set out in Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001-2025. It should be noted that the period within which the permitted and exempted works are being carried out has not yet expired.
- The wooden fence also prevents others from entering our property while the authorised and exempted works are being carried out.
- Temporary fencing, particularly for the purpose of supporting new hedging, is minor and reversible, and its temporary nature further reduces its planning impact.
- The intention to remove the fencing once all of the works are completed and the hedge matures reinforces its temporary and minor character.
- Indeed the objective of the temporary Wooden Fencing is to protect environmental and interests. There has been a considerable investment in planting along raised bedding just inside this fence and the landscaping advice is that it requires significant wind sheltering until it becomes mature.

- The wooden fence at the side boundary with 74 Grosvenor Road also has the added benefit of preventing our children from straying into the adjoining property, which is very much open to that extremely busy road.

We believe the result of our delicate restoration project is that the gates and railings are complementary and consistent with others in the immediate vicinity and which are of a high standard.

3) Decorative railing on front boundary wall of 73 Grosvenor Rd.

The original gates contained a railhead design which was typical of the Victorian period. Therefore we approached a welder and asked him to find the closest possible railhead design currently available. Using traditional techniques, the patterns chosen faithfully replicate those found in the original Victorian gate. As you can see every effort has been made to retain the enduring appeal of the Victorian gates.

Original	Current
	

The railings are also a complementary and consistent extension of the gate around the originally restored pillars, with the same design colour and materials, and so do fall within the current planning permission as long as they 'incorporate the design and materials' of the previous railings, which as you can see from the above is the case.

If the railing matches the style and prominence of similar features in the locality, it is unlikely to materially affect the character of the area. There are 79 properties on Grosvenor Rd of which 44 have railings, and so again they are consistent with the visual amenity on Grosvenor Road, and a characteristic of the immediate locality.

Indeed, in the direct vicinity, just circa 30 metres from our home, at no's 5 and 6 Grosvenor Rd there is another excellent example of Victorian railings delicately incorporated both above and within a beautifully repointed redbrick front wall. Notice same Victorian railhead design consistent with 73.

It should be noted that the front boundary wall has been in existence at 73 Grosvenor Road for more than a century. The height of the decorative railing is a mere 50 centimetres.

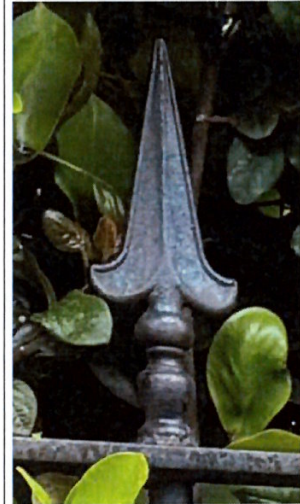
Class 5 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended provides that *"The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete"* is exempted development.

This exemption is subject to the limitation that *"The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres."*

It is clear from the above that the exemption for a wall or fence within or bounding any garden or other space in front of a house, is specifically restricted to 1.2 metres, but that the exemption for a gate or railing is deliberately excluded from this 1.2 restriction. It is equally clear that the exemption for railings applies to railings up to 2 metres.

The height of our front wall and railings is less than 2 metres.

No's 5 & 6 Grosvenor Road



In the other direction also on Grosvenor Road here again are several other examples of railings atop walls, including one example within 45 metres of our property.

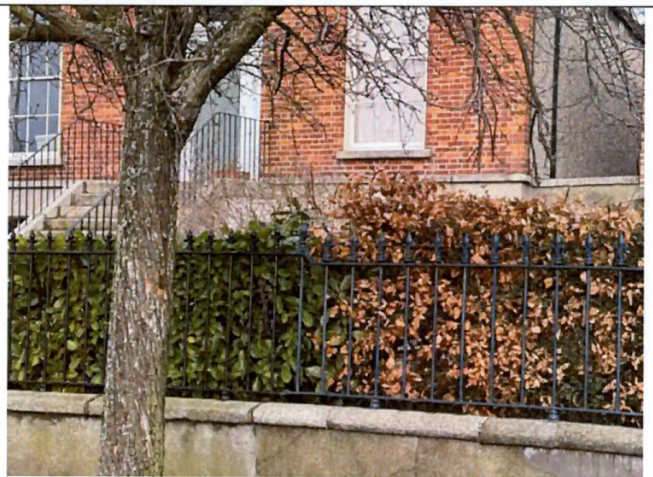


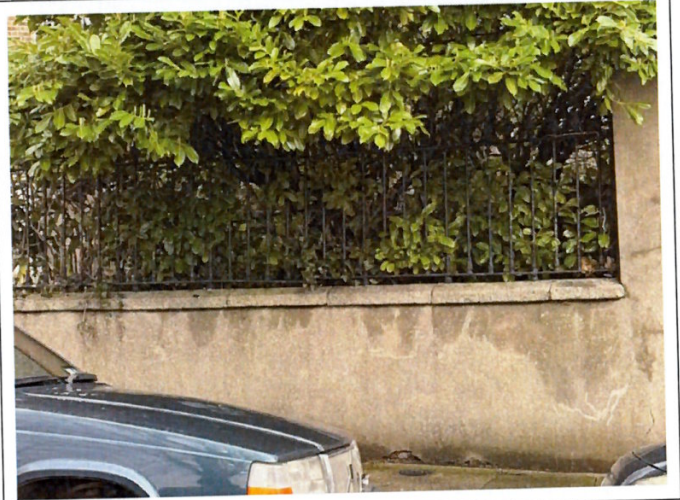
No 15
Grosvenor
Road



Grosvenor
Road Baptist
Church

Further Examples of Railings in Immediate Vicinity





Conclusion

The error in DCC's decision is the fact that these are minor works that do not materially affect the external appearance or use of a structure so as to render it inconsistent with the character of the structure or the area. In response to this within this submission we present:

We have provided very numerous examples of the character of the structure and the area. The sheer scale of identical examples available in the direct locality evidences the fact that ours are minor works that do not materially affect the external appearance or use of a structure so as to render it inconsistent with the character of the structure or the area.

DCC has also asserted that the works were not shown in the drawings approved under the planning permission

The vastly overgrown precedent that existed on this site before works commenced mean that the absence or presence of finishings like decorative railings or a wooden fencing would not have been visible in the property's previous iteration.

The inclusion or exclusion therefore in on drawings approved under the planning permission is trivial in nature.

None of these minor items change either the nature or principle of the restoration of this previously very run down property which was approved by Planning Permission 3758/22 of Dublin City Council.

The extension of the logic DCC is applying is that if upon cutting back an overgrown garden one comes across an old fence; then it would be necessary to re-submit planning drawings even after works have commenced.

Finally in Decision Order P3202, DCC handles in each of their three conclusions all three items under consideration as one, instead of dealing with them individually.

This appears to ignore the ability for the facts surrounding one item to stand apart from the facts surrounding another.

We would respectfully ask that each of the three specifics for consideration be dealt with on their own individual merit.

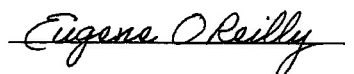
It is respectfully submitted that:

- The gate as constructed is exempted development as set out in Class 5 of Schedule 2, Part 1 of the Planning and Development Regulations 2021-2025.
- The gate complies fully with condition 9 of Planning Permission 3758/22 as the railings in the gate incorporate both the design and materials of the railings in the pedestrian gate which it replaced.
- The 50 centimetre railing on top of the front boundary wall is also exempted development as set out in Class 5 of Schedule 2, Part 1 of the Planning and Development Regulations 2021-2025.
- The temporary wooden fence at the boundary with 74 Grosvenor Road is exempted development as set out in Class 16 of Schedule 2, Part 1 of the Planning and Development Regulations 2001-2025.

It is respectfully submitted that Dublin City Council erred in their Declaration P3202, and we hereby request An Bord Pleanála to carry out a Review of this Declaration and to confirm that each of the three items does not constitute development or in the alternative if the Bord concludes that any one of them does constitute development, it is exempted development.

Thank you for your time.

Yours Sincerely,



Eugene & Amy Jane O'Reilly

An Bord Pleanála
64 Marlborough Street,
Dublin 1,
D01 V902,
appeals@pleanala.ie

26/05/2025

Request for the Bord to Review DCC Section 5 Decision

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However the reality is that any perceived differences are trivial, minor in nature, and their absence or presence would be imperceptible when compared to the past.

Please observe the vastly overgrown precedent that existed on this site before works commenced. The level of over-growth makes it impossible to establish whether fencing or railings atop the wall were in situ or not.



1) Applying a Backing to a Vehicle Entrance Gate

- a. Part 1 of Schedule 2 of the Regulations exempts certain works to gates, fences, and walls within specified height limits, provided they are not within an Architectural Conservation Area or associated with a protected structure. Our property is neither a protected structure nor in an Architectural Conservation Area.
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Please consider now the character of the structure and indeed the area with these examples as evidence of that we have not materially affected the external appearance of the gate in a way that would render it inconsistent with the character of the structure or the area:



A Second
Example on
Grosvenor Rd



A Third
Example on
Grosvenor Rd

Further Examples on Adjoining Roads



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In the other direction also on Grosvenor Road here again are several other examples of railings atop walls, including one example within 45 metres of our property.

Further Examples of Railings in Immediate Vicinity



Conclusion

The error in DCC's decision is the fact that these are minor works that do not materially affect the external appearance or use of a structure so as to render it inconsistent with the character of the structure or the area. In response to this within this submission we present:

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DCC has also asserted that the works were not shown in the drawings approved under the planning permission

The vastly overgrown precedent that existed on this site before works commenced mean that the absence or presence of finishings like decorative railings or a wooden fencing would not have been visible in the property's previous iteration.

The inclusion or exclusion therefore in on drawings approved under the planning permission is trivial in nature.

None of these minor items change either the nature or principle of the restoration of this previously very run down property which was approved by Planning Permission 3758/22 of Dublin City Council.

The extension of the logic DCC is applying is that if upon cutting back an overgrown garden one comes across an old fence; then it would be necessary to re-submit planning drawings even after works have commenced.

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