



## Development

The extension and remodification of existing semi-detached dwelling. The development will consist of the following principal elements: 1) Construction of new single storey extension to the front & side and relocation of existing front door 2) Construction of new single storey extension with pitched roof to the rear 3) An attic conversion and raising the roof & increased ridge height to allow for first floor accommodation and a balcony to the front 4) Demolition of the garage & conservatory 5) reconfiguration of existing side, front and rear elevations to include new windows, 10 No. of rooflights and associated works 6) Relocation of the existing vehicular entrance with new 3.5m gate and alteration to existing front garden to create an additional car parking space, new pedestrian entrance, permission for dishing of public footpath and all associated landscaping and ancillary works.

**Location** No. 11 Ballinclea Heights, Killiney, Co. Dublin, A96 KX25.

**Planning Authority** Dún Laoghaire Rathdown County Council

**Planning Authority Reg. Ref.** D21A/0631

**Applicant(s)** Kaya and Mark Scannell

**Type of Application** Permission

**Planning Authority Decision** Refusal

**Type of Appeal** First Party v. Decision

**Appellant(s)** Kaya and Mark Scannell

**Observer(s)** Ursula Gough & Family

**Date of Site Inspection** 16<sup>th</sup> November, 2021

**Inspector** Robert Speer

## 1.0 Site Location and Description

- 1.1. The proposed development site is located at No. 11 Ballinaclea Heights, Killiney, Co. Dublin, in a well-established residential area characterised by a variety of conventional suburban housing that includes two-storey, semi-detached / terraced dwellings, dormer-style properties, and single storey bungalows. It occupies a position alongside the turning bay at the western end of a small cul-de-sac of housing which predominantly comprises single-storey properties of varying design, although several of the houses along the southern (and more elevated) side of the roadway (with particular reference to Nos. 12 & 13 Ballinaclea Heights to the east of the application site) have been extended to provide for first floor / dormer / attic-type accommodation
- 1.2. The site itself has a stated site area of 0.044 hectares, is rectangular in shape, and is presently occupied by a conventional single-storey, semi-detached dwelling with front and rear garden areas and off-street parking. The existing dwelling comprises a front-gabled property with a hipped roof extension to the east and an attached flat-roofed garage (with a conservatory to the rear) to the west which adjoins that of the neighbouring semi-detached property of No. 10 Ballinaclea Heights. Both the subject dwelling and the adjoining property are set back from the roadway and recessed behind the building lines of the neighbouring housing to the east and west.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the extension, modification, and reconfiguration of an existing single-storey, semi-detached dwelling to provide for an enlarged, two-storey detached residence and includes for the following works:
- The demolition of an attached garage & conservatory to the (western) side of the existing dwelling.
  - The construction of ground floor extensions to the front and side (north-eastern and north-western corners) of the existing dwelling.
  - The construction of a new single storey extension with a pitched roof to the rear of the dwelling.

- The raising of the roof construction, walls and ridge height to allow for the provision of first floor living accommodation with a new balcony area to the front elevation.
- The relocation of the front door.
- The reconfiguration of the internal floorspace.
- Amendments to the existing side, front and rear elevations to include for new fenestration, 10 No. rooflights, and associated works.

2.2. Provision has also been included for the relocation and widening of the vehicular entrance, the alteration of the front garden to provide for an additional car parking space, the provision of a new pedestrian entrance, the dishing of public footpath, and all associated landscaping and ancillary works.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. On 24<sup>th</sup> August, 2021 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following single reason:

- The proposed development by reason of its design, bulk and scale, would constitute the overdevelopment of the subject site, would be visually incongruous and overbearing when viewed from Ballinlea Heights, would be injurious to the visual amenities of the Ballinlea Heights streetscape and would depreciate the value of property in the vicinity. The proposed development would be contrary to the provisions of Section 8.2.3.4 Additional Accommodation in Existing Built-up Areas (i) Extensions to Dwellings of the Dun Laoghaire - Rathdown County Development Plan 2016-2022, and would, if permitted, be contrary to the proper planning and sustainable development of the area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports:

States that further clarity is required as to the extent of the demolition works proposed and how much of the original building fabric will be retained as part of the extended dwelling (in the event the proposal involves the demolition of the entire house, it is stated that any such development should be assessed against the criteria set out in Section 8.2.3.4(iv): '*Demolition and Replacement Dwellings*' of the Development Plan). No concerns arise in relation to the potential for overlooking of neighbouring properties, however, it is considered that the proposal would be visually dominant / overbearing when viewed from the public road (given its positioning relative to the eastern and western site boundaries), would detract from the wider streetscape, and would amount to an overdevelopment of the site by reason of its design, scale, bulk, and height. It is further stated that the roof profile and detailing of the front balcony would be out of character with the established pattern of development and would have an adverse impact on the visual amenity of the area. The report then concludes by recommending the refusal of permission for the reason stated.

### 3.2.2. Other Technical Reports:

*Transportation Planning*: No objection, subject to conditions.

*Municipal Services Dept., Drainage Planning*: No objection, subject to conditions.

## 3.3. Prescribed Bodies

None.

## 3.4. Third Party Observations

3.4.1. A single submission was received from a neighbouring third party and the principal grounds of objection / areas of concern raised therein can be summarised as follows

- Concerns that the change from a bungalow to a two-storey construction will be out of character with the surrounding pattern of primarily single storey dwelling houses.
- Detrimental impact on the residential amenity of No. 10 Ballinclea Heights by reason of overlooking / loss of privacy, overshadowing / loss of light, an

excessively overbearing appearance, and general disturbance arising from the relocation of the building entry / exit points.

- Concerns that the scale of the construction could disturb the foundations of the property boundary.

## 4.0 Planning History

### 4.1. On Site:

None.

### 4.2. On Adjacent Sites:

PA Ref. No. D02B/0522. Was granted on 10<sup>th</sup> October, 2002 permitting Mr. T. Richardson permission for garage and attic conversions, raising of roof height, and bathroom & sunroom additions to the existing house at No. 12 Ballinclea Heights, Killiney, Co. Dublin.

### 4.3. Other Relevant Files:

PA Ref. No. D96B/0718 / ABP Ref. No. PL06D.101655. Was granted on appeal on 23<sup>rd</sup> June, 1997 permitting Pascal King permission for extensions and alterations, including reconstruction of existing roof to provide new first floor rooms, conversion of existing garage to living accommodation and erection of conservatory to rear at No. 13 Ballinclea Heights, Killiney, Co. Dublin.

## 5.0 Policy and Context

### 5.1. Dún Laoghaire Rathdown County Development Plan, 2016-2022:

#### 5.1.1. Land Use Zoning:

The proposed development site is zoned as 'A' with the stated land use zoning objective '*To protect and-or improve residential amenity*'.

#### 5.1.2. Other Relevant Sections / Policies:

*Chapter 8: Principles of Development:*

*Section 8.2.3: Residential Development:*

Section 8.2.3.4: *Additional Accommodation in Existing Built-up Areas: (i) Extensions to Dwellings:*

First floor rear extensions will be considered on their merits, noting that they can often have potential for negative impacts on the amenities of adjacent properties, and will only be permitted where the Planning Authority is satisfied that there will be no significant negative impacts on surrounding residential or visual amenities. In determining applications for first floor extensions the following factors will be considered:

- Overshadowing, overbearing and overlooking - along with proximity, height and length along mutual boundaries.
- Remaining rear private open space, its orientation and usability.
- Degree of set-back from mutual side boundaries.
- External finishes and design, which shall generally be in harmony with existing.

Ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining.

Side extensions will be evaluated against proximity to boundaries, size and visual harmony with existing (especially front elevation), and impacts on residential amenity. First floor side extensions built over existing structures and matching existing dwelling design and height will generally be acceptable, though in certain cases a set-back of an extension's front façade and its roof profile and ridge may be sought to protect amenities, integrate into the streetscape and avoid a 'terracing' effect. External finishes shall normally be in harmony with existing.

Any planning application submitted in relation to extensions shall clearly indicate on all drawings the extent of demolition/wall removal required to facilitate the proposed development and a structural report may be required to determine the integrity of walls/structures to be retained and outline potential impacts on adjoining properties. This requirement should be ascertained at pre-planning stage. A structural report must be submitted in all instances where a basement or new first/upper floor level is proposed within the envelope of an existing dwelling.

Side gable, protruding parapet walls at eaves/gutter level of hip-roofs are not encouraged.

The proposed construction of new building structures directly onto the boundary with the public realm (including footpaths/open space/roads etc) is not acceptable and it will be required that they are set within the existing boundary on site. The provision of windows (particularly at first floor level) within the side elevation of extensions adjacent to public open space will be encouraged in order to promote passive surveillance

Roof alterations/expansions to main roof profiles - changing the hip-end roof of a semi-detached house to a gable/'A' frame end or 'half-hip' for example - will be assessed against a number of criteria including:

- Careful consideration and special regard to the character and size of the structure, its position on the streetscape and proximity to adjacent structures.
- Existing roof variations on the streetscape.
- Distance/contrast/visibility of proposed roof end.
- Harmony with the rest of the structure, adjacent structures and prominence.

More innovative design responses will be encouraged, particularly within sites where there may be difficulty adhering to the above guidance and where objectives of habitability and energy conservation are at stake.

Section 8.2.3.5: *Residential Development – General Requirements*

Section 8.2.4.9: *Vehicular Entrances and Hardstanding Areas*

## 5.2. Natural Heritage Designations

5.2.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Dalkey Coastal Zone and Killiney Hill Proposed Natural Heritage Area (Site Code: 001206), approximately 300m south of the site.
- The Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately 2.1km east of the site.



- The Dalkey Islands Special Protection Area (Site Code: 004172), approximately 2.2km east of the site.

### **5.3. EIA Screening**

- 5.3.1. Having regard to the minor nature and scale of the development proposed, the site location in an established built-up area outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- The overall design, bulk and scale of the proposal is appropriate to the site and in keeping with the surrounding built context.
  - It is not accepted that the proposal would be overbearing when viewed from the public road as a result of its proximity to the eastern and western site boundaries. Sufficient separation has been maintained from neighbouring properties with the overall width of the building footprint reduced by setting the western elevation c. 1m back from the adjacent boundary.
  - At ground floor level, the proposed side extension will infill the north-eastern corner of the building footprint while maintaining the existing building lines to the front and side of the dwelling. For clarity purposes, it is not proposed to move the building line any closer to the site boundary shared with No. 12 Ballinclea Heights to the east.
  - The demolition of the existing garage and conservatory will make room for an enlarged living area at ground floor level while also allowing for the western elevation to be set back from the boundary shared with No.

10 Ballinclea Heights. This will result in an intervening passageway between Nos. 10 & 11 Ballinclea Heights with the physical separation rendering both properties fully detached.

- The building has been designed to respect the height and massing of existing development in the vicinity. The first floor will provide for new bedroom accommodation through the conversion of the existing attic and by modestly raising the ridge height from 5.3m to 6.6m. The first-floor construction will also respect the building line to the rear of No. 12 Ballinclea Heights with the proposal having been carefully designed to avoid any sense of enclosure to the rear of the neighbouring property.
- The design of the external building envelope aims to ensure a modest contemporary elevation to complement the streetscape while echoing the design features of neighbouring dwellings. The colour palette will be sympathetic to adjacent residences while the use of high-quality materials will provide for a durable, low maintenance finish.
- The first floor element will retain the open-gable effect of the roof structure. The ridge height will match that of No. 12 Ballinclea Heights although the proposed parapet height will step down noticeably from that of the neighbouring property thereby underscoring the sensitive design approach to the bulk and massing of the construction. The shape and pitch of the roof will mirror that of Nos. 7 & 8 Ballinclea Heights while the ridge height will be only marginally higher than that of No. 10 Ballinclea Heights and is in keeping with the surroundings and appropriate given the separation distances involved.
- The rear ground floor extension will only extend the building line by 1.94m to match that of the existing ensuite bathroom with the associated reconfiguration of the ground floor space allowing for an open plan kitchen / living / dining area with access to the south-facing back garden.
- The design of the rear extension is in keeping with the surrounding pattern of development and will retain an adequate quantum of private open space.

- In terms of scale, the proposed extension provides for a modest increase in floor area with the building footprint only increasing by 7%.
- The modest enlargement proposed has been designed to respect neighbouring dwellings and the surrounding area.
- The proposed development is visually harmonious and appropriately scaled when viewed from Ballinlea Heights.
  - The neighbouring dwelling at No. 12 Ballinlea Heights (which has been extended significantly at first floor level) sits forward of the front building line of the application site by c. 7m. The subject dwelling is set well back from the row of houses lining the entrance to the cul-de-sac and is effectively screened by the bulk of No. 12 as well as by a mature hedge that forms the boundary between Nos. 11 & 12 and extends as far as the footpath.
  - The proposed development matches the height of neighbouring dwellings and will appear subservient to No. 12 by virtue of the considerable set back from the public road.
  - There is a variety of roof types in the immediate vicinity and the design of the proposed development has been conceived to match the angle of the roof pitch of the dwellings opposite (Nos. 7 & 8 Ballinlea Heights). Proper regard has been had to the surrounding built context and the design is in keeping with the character of the area.
- Contrary to the assertion by the Planning Authority that the proposed development would be '*injurious to the visual amenities of the Ballinlea Heights streetscape and would depreciate the value of property in the vicinity*', it is considered that the proposal will make a positive contribution to the visual amenity and character of the area.
  - The modern and contemporary design proposed should be considered an acceptable approach to the redevelopment of the site. The property is not a protected structure and is not within an Architectural Conservation Area (although it is notable that even within ACAs the Council encourages 'contemporary design').

- It is questionable whether an alleged impact on property prices is a planning consideration. It is not the role of the planning system to 'shore up' property prices, particularly given the current affordability crisis and rising house prices.
- It is not accepted that the proposal would negatively impact on house prices in the vicinity. The development is appropriate to the context and the improvements proposed will most likely increase the value of houses in the area.

Ballinlea Heights is situated in a highly desirable area in close proximity to significant amenities. The original housing stock is of a mid-century design and generally in need of modernisation / refurbishment due to poor insulation and energy efficiency qualities. Many of the houses are detached or are properties joined by garages (such as the appeal site) that can be rendered detached through redevelopment. These properties represent significant renovation and improvement opportunities for those looking to move to the area and convert older houses to meet the needs of modern living. A grant of permission for the subject proposal will improve the development prospects of houses in the area and will likely increase property prices.

- The proposed development is fully compliant with the Development Plan.
  - It accords with the provisions set out in Section 8.2.3.4: *'Additional Accommodation in Existing Built-up Areas'*.
  - The principle of the development is consistent with the land use zoning.
  - The proposal is consistent with the primary objectives of the Housing Strategy.
  - The design of the proposal has been mindful of the principles for ensuring *'Quality Residential Design'* set out in Section 8.2.3.1 of the Development Plan and the report of the case planner has concluded that no concerns arise as regards overlooking or a loss of sunlight / daylight.

- There is considerable precedent in Ballinlea Heights for the design, bulk & scale of the development proposed. The proposal does not constitute overdevelopment with the key indicators of site coverage (41%) and plot ratio (0.57) demonstrating quantitatively that the development is appropriate to the site context. The following grants of permission further demonstrate that comparable plot ratios and building heights have been deemed acceptable in the vicinity:
  - PA Ref. No. D02B/0522: Granted permission at No. 12 Ballinlea Heights (directly adjacent to the subject site) for an attic conversion and the raising of the roof height to accommodate additional first floor accommodation. In the assessment of the application, it was considered that the development would not seriously detract from the residential amenity of adjoining dwellings despite the distance to the site boundaries and the building height proposed.
  - PA Ref. No. D16A/0927: Granted permission at No. 48A Ballinlea Heights for a new two-storey, detached dwelling on a side garden site. The separation from the side boundaries and plot ratio (0.58) are comparable to the subject proposal.
  - PA Ref. No. D20A/0398: Granted permission at No. 32 Ballinlea Heights for a two-storey, contemporary dwelling on a corner site. Elements of the proposal, including the distance to boundaries, the profile of the roof structure, and the height & massing at a prominent corner location, were all considered acceptable despite the design approach being less sensitive than the subject development.

## 6.2. Planning Authority Response

- States that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

### 6.3. Observations

#### 6.3.1. Ursula Gough & Family (No. 10 Ballinaclea Heights):

- The overall design, height, scale and proximity of the proposed development will have a significant detrimental impact on the residential amenity of the adjoining property of No. 10 Ballinaclea Heights by reason of overshadowing / loss of light, overlooking, and an excessively overbearing appearance. In this regard, the Board is requested to note the following:
  - The submitted drawings do not accurately detail the observers' dwelling and fail to show a bay window and patio doors that open from its kitchen onto a paved patio area sited along the eastern side of the property. Therefore, the full impact of the proposal on the observers' property cannot be determined from the submitted drawings.
  - The proposed development will result in a loss of sunlight & daylight within the kitchen, hallway, bathrooms and side patio of No. 10 Ballinaclea Heights.
  - Overshadowing of the observers' patio area and kitchen window.
  - The overbearing impact / appearance arising from the construction of a large expanse of blank wall and the associated loss of views from the observers' kitchen and patio.
  - The potential for overlooking of the observers' property from the proposed first floor bathroom window (when opened).
  - The proposed development does not comply with the requirements of Section 8.2.3.4: '*Additional Accommodation in Existing Built-up Areas: (i) Extensions to Dwellings*' of the Development Plan.
  - Contrary to the assessment by the Planning Authority, the first-floor rear bedroom windows will overlook the rear garden of No. 10 Ballinaclea Heights. This is exacerbated by the fact that the rear wall of the first-floor extension will be set back c. 4m behind the rear elevation of the observers' dwelling house.

- The proposed development amounts to the demolition of the existing dwelling and the construction of a new house i.e. the description of the proposal is inaccurate and unclear.
  - The Planning Authority has correctly identified that the submitted plans and particulars do not clearly identify the areas for demolition.
  - If the existing floor plan is overlaid the proposed floor plan, it is apparent that there are almost no existing walls at ground level to be retained in their original positions.
  - Although the eastern and western walls are to be retained, it is proposed to enlarge / modify the window openings in these walls. It would not be practicable to carry the extent of modifications proposed to these walls and to then extend the construction overhead as the original foundations would not have been designed for the additional loadings. Therefore, the likelihood is that the walls in question will be demolished along with the other walling on the ground floor. In effect, the proposal amounts to the complete demolition and reconstruction of the dwelling house.
  - The description of the development is misleading and does not represent what is proposed, for example:
    - “attic conversion” – due to the complete removal of the existing roof, there will be no attic to convert.
    - “construction of single storey extension to front and side” – the front and side walls in question will have already been demolished.
  - The Planning Authority has expressed concern as regards the extent of demolition proposed and has indicated that, in the event of a grant of permission, the matter would require further assessment.
  - The proposed development should be described as entailing the demolition of the existing dwelling and the construction of a new house. By extension, it would need to be assessed under Section 8.2.3.4: *‘Additional Accommodation in Existing Built-up Areas: (xiv) Demolition*

*and Replacement Dwellings'* of the Development Plan which states that:

*'The Planning Authority will assess single replacement dwellings within an urban area on a case by case basis and may only permit such developments where the existing dwelling is beyond repair due to structural defects. For all applications relating to replacement dwellings, a strong justification / rationale shall be provided by the applicant'.*

Given the Government's commitment to reducing carbon emissions from the construction sector, careful consideration is required of the environmental impact arising from any demolition of the existing dwelling and the construction of a new house in terms of "embodied carbon emissions". It is a well-established principle that the most sustainable route is the refurbishment / retrofitting of existing housing rather than their replacement / reconstruction.

- The proposal will double the floor area of the existing dwelling, however, the full extent of the new floor area has not been clearly described in the application documentation.
  - The total floor area of the proposed development has not been clearly stated in the particulars.
  - The Planning Authority concluded that the proposal constitutes overdevelopment of the site.
  - The assertion in the grounds of appeal that the development amounts to '*a modest increase in floor area*' and that the building footprint will increase by only 7%, does not take account of the fact that almost all of the additional floor area proposed will be at first floor level (giving rise to the residential amenity concerns previously outlined).
- The proposed roof design and elevational treatment is out of character with the existing streetscape and will have an adverse impact on the visual amenities of the cul-de-sac.



- Although many of the surrounding houses have been altered since they were originally built, the characteristic gable-fronted elevation has largely remained the same. In addition, where houses have been extended into the attic space, the eaves height on the front elevation has been retained. This demonstrates that it is possible to extend into the attic without significantly changing the character of the original house.
- The proposal seeks to replace the steeply pitched front gable with a shallow roof construction and to raise the eaves height by almost 3m. While the applicants have submitted that the new roof design will echo that of Nos. 7 & 8 Ballinlea Heights opposite, it is considered that the design should more appropriately reflect the neighbouring housing on the southern side of the cul-de-sac. i.e. the house types with the steeply pitched gables.
- The proposed roof design is out of character with the neighbouring properties (with a cross-section more akin to an industrial warehouse type structure).
- Given the roof pitch proposed it is questionable whether it will be technically possible to use roof tiles as has been stated.
- The proposal will be '*visually incongruous by reason of the design, bulk and mass, and would adversely impact on the visual amenities of the Ballinlea Heights streetscape*'.
- The planning precedents cited in the grounds of appeal are not relevant.
  - PA Ref. No. D16A/0927 - 48A Ballinlea Heights: This application was for a new two-storey dwelling located between existing housing and the residential amenity considerations were very different to the subject proposal.
  - PA Ref. No. D20A/398 – 32 Ballinlea Heights: This application concerned the development of a new two-storey house on a corner site and differs from the subject case in two important respects. Firstly, it did not block light into the habitable rooms of adjoining property, and

secondly, as a corner site it was subject to different streetscape considerations.

- The demolition works will have a significant impact on No. 10 Ballinlea Heights.
  - Nos. 10 & 11 are semi-detached properties with connected garages and the demolition of the garage at No. 11 would involve considerable disruption to the structure and roof fabric of No. 10. Existing structures often require strengthening / support works after an adjoining structure is removed (even if they are theoretically structurally independent). In addition, the issue of weathering of the party wall / roof junction would need to be addressed.
  - Concerns arise as regards the reduction in ground level around the rear patio of the proposed development.
- The proposed front balcony will result in overlooking of adjoining properties with an associated loss of privacy and will also set an undesirable precedent. Given the change in levels across the cul-de-sac, the front balcony would likely to overlook the gardens of Nos. 7 & 8 Ballinlea Heights which are at a much lower ground level. The balcony would also look directly into the first floor window of the adjoining property at No. 12 which sits forward of the building line of No. 11 and has a west-facing side window.

#### 6.4. Further Responses

None.

#### 7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- Procedural issues
- Overall design and layout
- Impact on residential amenity

- Appropriate assessment

These are assessed as follows:

## 7.2. Procedural Issues:

- 7.2.1. Concerns have been raised in the report of the case planner and by observers to the appeal that the description of the development as set out in the public notices does not accurately reflect the nature and extent of the works proposed. More specifically, it has been submitted that the extent of the demolition works proposed and the removal of existing building fabric amounts to the complete demolition of the dwelling as opposed to its extension and remodelling. In effect, the argument has been put forward that the proposal involves the reconstruction / replacement of the existing house in its entirety and thus should be assessed as such pursuant to Section 8.2.3.4: '*Additional Accommodation in Existing Built-up Areas: (xiv) Demolition and Replacement Dwellings*' of the Development Plan (as opposed to Section 8.2.3.4(i): '*Extensions to Dwellings*').
- 7.2.2. From a review of the submitted plans and particulars, with particular reference to Drg. No. P-03: '*Proposed Ground Floor Plan*', it is apparent that a considerable amount of the existing building is to be removed as part of the proposed development. This will include the removal of all internal partitions, the chimneybreast, and the demolition of most of the external walls, save for part of the outermost eastern elevation and a section of walling towards the south-western corner of the building (although the elevational changes proposed, including the provision of amended fenestration etc., will further reduce the amount of building fabric to be retained). It is also likely that the nature of the works will necessitate the complete rewiring and replumbing of the property.
- 7.2.3. While I would acknowledge the legitimacy of the concerns raised as regards the description of the proposed works, it is my opinion that procedural matters, such as a determination as to the adequacy (or otherwise) of the public notices and the subsequent validation (or not) of a planning application, are generally the responsibility of the Planning Authority which in this instance took the view that the submitted documentation satisfied the minimum regulatory requirements. It is of further relevance to note that not only was the planning application accepted as valid upon receipt but it was not subsequently invalidated following further assessment nor

was it refused permission for reasons relating to the inadequacy / inaccuracy of the submitted particulars. Furthermore, the Board is not empowered to correct any procedural irregularity which may have arisen during the Planning Authority's initial assessment of the application.

- 7.2.4. Notwithstanding the foregoing, I would advise the Board that Article 18(1)(d) of the Planning and Development Regulations, 2001, as amended, only requires a newspaper notice to provide 'a *brief description of the nature and extent of the development*'. While the description of the proposal does not detail all of the demolition works proposed, it does refer to the 'extension' and 'remodification' of the existing dwelling. In this regard, the use of the term 'remodification' in combination with the later reference to 'associated' and 'ancillary' works could be interpreted as relating to the wider demolition works proposed. Accordingly, I propose to assess the application on the basis of the submitted particulars.

(By way of further comment, it should be noted that non-compliance with the terms and conditions of any grant of permission could be subject to enforcement action by the Planning Authority).

### 7.3. Overall Design and Layout:

- 7.3.1. The proposed development involves the extension, modification and reconfiguration of an existing single-storey, semi-detached dwelling house to provide for a larger, two-storey, detached residence. This will require the demolition of the garage & conservatory adjoining the western side of the dwelling as well as the removal of a significant proportion of the existing building fabric. The new construction will expand the footprint of the dwelling itself, however, it will maintain the separation distance between the existing house and the eastern site boundary while the omission of the garage & conservatory will allow for the creation of a side access through to the rear of the property alongside No. 10 Ballinclea Heights to the west (thereby rendering both properties detached). The existing front, rear & side (eastern) building lines will be maintained at ground level while the first floor accommodation will be set back behind the rear building line with a recessed balcony area to be provided to the front elevation. The overall height of the structure will increase from 5.55m to 6.94m when viewed from the roadside through the raising of the external walls, eaves and ridge line to allow for the provision of first floor living accommodation in the (former) 'attic'

area. The total floor area of the dwelling (exclusive of the existing garage) will double in size from 134m<sup>2</sup> to 268m<sup>2</sup>.

- 7.3.2. With regard to the overall design, scale and massing of the proposed development, including its relationship with neighbouring properties, and whether it is in keeping with the character of the surrounding area, while I would acknowledge that the redeveloped dwelling will be noticeably larger and more contemporary in appearance than the prevailing pattern of development, there is considerable variation in building typology and design in the immediate site surrounds. For example, Nos. 12 & 13 Ballinlea Heights to the immediate east have both been extended to include for first floor 'dormer' accommodation with elements of the broader design, height & massing of the former not unlike the subject proposal. Further east, the corner plot occupied by No. 14 Ballinlea Heights includes for a two-storey construction that utilises a 'mansard'-type roof detail which differs considerably from neighbouring housing. Other properties, such as Nos. 9 & 10 Ballinlea Heights, have made provision for first floor accommodation by way of attic conversions while the housing to the immediate (rear) south of the application site (on more elevated lands) comprises two-storey terraced units. In addition, I would suggest that the variety of building forms, extensions and external finishes etc. within the cul-de-sac further diminishes the uniformity of house design and provides scope for an alternative and contemporary response to the extension of property.
- 7.3.3. In a wider context, there are also multiple examples of more contemporary house designs having been accommodated through the subdivision of plots in the estate, such as at Nos. 61, 148 & 166 Ballinlea Heights, although I would acknowledge that there are a number of cases where infill development has been refused permission by the Planning Authority / Board on the basis that they would have been visually obtrusive and out of character with the area.
- 7.3.4. In specific reference to the concerns of the Planning Authority that the proposal, by reason of its overall design, scale, bulk and proximity to the eastern & western site boundaries, would amount to an overdevelopment of the site and would appear visually incongruous and overbearing within the established streetscape, having regard to the site location, the variation in the pattern of development (with particular reference to Nos. 12, 13 & 14 Ballinlea Heights), the planning history of the wider area, and the provisions of Section 8.2.3.4 of the Development Plan, it is my opinion

that the overall design of the proposed development as submitted is an acceptable design response given the context and achieves a suitable balance between the need to respect the established character of the surrounding area and the desire to provide for additional living accommodation by way of contemporary design.

- 7.3.5. In support of the foregoing, I am cognisant that the proposed development will maintain the approximate 3.2m separation between the subject dwelling and the two-storey / dormer-type construction at No. 12 Ballinclea Heights in addition to the setback behind the front building line of that property. The proposal will also physically sever the existing dwelling house from No. 10 Ballinclea Heights thereby increasing the separation distance between the respective dwellings and rendering both properties detached. Furthermore, given the site location towards the end of the cul-de-sac and the recessed positioning of the dwelling relative to the roadway and building line of those properties to the east, the proposed development will not be visible from beyond the confines of the immediate locality and thus its impact on the wider streetscape will be limited. From a broader perspective, the proposal will also satisfy the minimum requirements of the Development Plan in terms of private open space and off-street car parking.
- 7.3.6. On balance, while I would acknowledge the increased scale and massing of the proposed development when compared to the existing dwelling, in my opinion, the submitted proposal can be accommodated without detriment to the visual amenity or character of the surrounding area and does not amount to an overdevelopment of the site. However, I would recommend the omission of the covered bicycle stand and bin storage area to the front of the dwelling in the interest of visual amenity (noting that these could be accommodated to the rear of the property).

#### **7.4. Impact on Residential Amenity:**

- 7.4.1. Having reviewed the available information, and in light of the site context, including its location within a built-up urban area and relationship with surrounding housing, in my opinion, the overall design, scale and form of the proposed development will not give rise to any significant detrimental impact on the residential amenity of neighbouring properties by reason of overlooking, overshadowing, loss of daylight / sunlight, or an unduly overbearing appearance.

- 7.4.2. In this regard, I would advise the Board that in light of the rear garden depth and the available separation distance there is no potential for any overlooking of those properties to the immediate south of the proposed development. Similarly, notwithstanding the change in elevation, and noting the intervening public road, I am inclined to suggest that the recessed positioning of the dwelling and its separation from those properties on the opposite side of the roadway, will serve to mitigate against any potential overlooking from the proposed first floor balcony area (although this may be omitted by way of condition should the Board deem it necessary). Furthermore, given that the ground floor windows within the side elevations of the proposed development will face onto existing boundary walls / hedging while the first-floor bathroom windows overhead are to be fitted with opaque glass, the proposal will not give rise to any significant overlooking of the adjacent properties to the immediate east and west.
- 7.4.3. With respect to the potential for the overshadowing of neighbouring properties, I would accept that the proposed development will result in some degree of additional shading of the adjacent properties to the east and west at different times of the day and year. However, given the site context in a built-up area where some degree of overshadowing / shading is not to be unexpected, and the existing levels of sunlight / daylight received by the rear elevations and garden areas of those properties as a result of their south-facing orientation, it is my opinion that the subject proposal will not impact on the residential amenity of neighbouring houses by reason of overshadowing to such an extent as to warrant a refusal of permission.
- 7.4.4. In relation to the suggestion that the proposal will be unacceptably overbearing and domineering in appearance when viewed from within the confines of neighbouring properties, having considered the overall design, scale, siting and proximity of the proposed development and its relationship with adjacent housing (with particular reference to the two-storey element of the construction), as well as the separation distances involved, I am satisfied that the proposal will not give rise to such an overbearing or visually dominant appearance as to significantly impact on the residential amenity presently enjoyed by the occupants of adjoining dwellings.
- 7.4.5. While concerns have also been raised that the proposed development may result in the obstruction of certain views available from adjacent properties, it is of relevance to note that any such views are not of public interest nor are they expressly identified

as views worthy of preservation in the relevant Development Plan. They are essentially views enjoyed by a private individual from a private property. A private individual does not have a right to a view and whilst a particular view from a property is desirable, it is not definitive nor is it a legal entitlement and, therefore, I am of the opinion that the proposed development would not seriously injure the amenities of property in the vicinity simply by interfering with their views of the surrounding area.

- 7.4.6. Furthermore, any damage to adjacent private property (with particular reference to the adjoining semi-detached dwelling at No. 10 Ballinclea Heights) is essentially a civil matter for resolution between the parties concerned and in this respect I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property. It is not the function of the Board to adjudicate on property disputes or to act as an arbitrator in the assessment of damages and thus I do not propose to comment further on this matter.

#### **7.5. Appropriate Assessment:**

- 7.5.1. Having regard to the minor nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

### **8.0 Recommendation**

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below:



## 9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, and to the scale, form and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

3. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

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

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

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Robert Speer  
Planning Inspector

12<sup>th</sup> January, 2022