

Appeal to An Coimisiún Pleanála

Planning and Development Act 2000 (as amended)

Appeal Reference: D26A/0534/WEB

Site Address: 5 Sorrento Road, Dalkey, Co. Dublin

Appellant: Joe Hughes, 28 Tubbermore Road, Dalkey, Co. Dublin

Date: 17th September 2026

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COVER LETTER

The Secretary An Coimisiún Pleanála 64 Marlborough Street Dublin 1

Dear Sir / Madam,

I wish to lodge a **third-party appeal** against the decision of Dún Laoghaire–Rathdown County Council to **Grant Permission & Grant Retention** for planning application **D26A/0534/WEB**, relating to the retention of two rooflights and the provision of attic access at **5 Sorrento Road, Dalkey**.

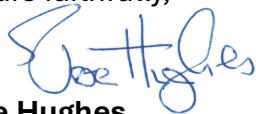
I am the owner and resident of **28 Tubbermore Road**, which directly adjoins the rear of the subject site. I made a valid submission to the Planning Authority on **4 August 2026** and therefore have standing to appeal under **Section 37 of the Planning and Development Act 2000 (as amended)**.

Please find enclosed:

- Full appeal statement, including photographic evidence (below)
- Technical Annex with Privacy Impact Diagram, addressing overlooking and rooflight geometry (below)
- Acknowledgement of my submission to DLR (attached separately)
- Prescribed appeal fee

For the reasons set out in the attached appeal, I respectfully request that An Coimisiún Pleanála **refuse permission and retention in full**, or alternatively impose strict conditions to protect residential amenity and ensure compliance with the **Dalkey Architectural Conservation Area (ACA)** policies.

Yours faithfully,



Joe Hughes

28 Tubbermore Road Dalkey Co. Dublin

1. Introduction and Standing

I, **Joe Hughes**, am a resident of **28 Tubbermore Road**, directly to the rear (north) of the subject site. I made a valid submission on the application to Dún Laoghaire–Rathdown County Council on **4 August 2026** and therefore have standing to appeal under **Section 37** of the Planning and Development Act 2000 (as amended).

This appeal is made within the statutory four-week period.

2. Grounds of Appeal

Ground 1 — Failure to Properly Assess Overlooking and Loss of Privacy

The Planning Authority concluded that “the rooflights... are not considered to give rise to overlooking concerns.”

This conclusion is **incorrect** and contradicted by photographic evidence submitted with my observation. The Planning Authority did not inspect my property at 28 Tubbermore Road. A proper assessment of overlooking requires inspection of the affected property, not solely the applicant’s site. The failure to inspect my home resulted in a material error of fact and an incomplete assessment of residential amenity.

This overlooking is clearly visible in fig. 1-4 below, in addition to the evidence provided in the Objection.

As referenced in the objection, the late Hugh Wallace, acting on behalf of the architects and the owner, made two visits to our home when preparing the architect plans. He confirmed the overlooking would be severe and stated that no rear rooflights would be included in the planning submission.

The rooflights:

- directly overlook my living area and kitchen,
- are positioned on a roof plane approximately **8 metres high**,
- sit roughly **an additional 1 metre higher** than my home due to the slope of the land,
- have already resulted in builders standing at these rooflights and looking directly into my home.

While we have arranged for tree planting to screen from the bedroom windows of No. 5 Sorrento, it is not possible to screen from the rooflights.

The rooflights also create a clear sightline into our rear bedrooms, further intensifying the loss of privacy across multiple habitable rooms. (**Ref: Fig 6 - Privacy Impact Diagram in the Technical Annex.**)



Figure 1 -Photo showing direct sightline from rooflights to middle of kitchen



Figure 2 - Photo showing direct sightline from rooflights to a seated position at our dining table



Figure 3 - Photo showing direct sightline from rooflights to back of living room



Figure 4 - Photo showing direct sightline from rooflights to living room sofa

Additionally, the approved plans for No. 5 Sorrento Road specify a ridge height 0.68 m lower than the adjoining property at No. 6. However, the constructed ridge rises to within approximately 0.30 m of the ridge of No. 6 (see Fig. 5). This indicates that the overall height of the extension is greater than what was permitted. Because the rooflights sit directly below the ridge line, any increase in ridge height necessarily elevates the rooflight plane and steepens the downward viewing angle, intensifying the overlooking impact. This discrepancy further undermines the Planning Authority's assessment of privacy and residential amenity.



Figure 5 - Photo showing neighbouring elevation (no. 6 Sorrento on right)

The planner relied on generic assumptions about rooflight angles rather than a **site-specific assessment**, constituting a **material error of fact** and a failure to assess residential amenity under:

- Section 12.3.7 of the DLR Development Plan 2022–2028
- Policy Objective PHP20 — Protection of Existing Residential Amenity
- SPPR 1 of the Housing Guidelines (2007)

The overlooking is **severe, unavoidable, and permanent**.

Ground 2 — Failure to Consider Enforcement History and Unauthorised Works

The planner's report states: "No current enforcement files found."

This is **incorrect**. The planner's report contains a factual error. A Warning Letter is a current enforcement file under Section 152 of the Planning and Development Act.

A Warning Notice (Ref: **ENF14426**) was issued on **20 May 2026**. Works continued after the Warning Letter was issued, which is contrary to Section 154. The rooflights were installed in **June 2026**.

The Planning Authority failed to consider:

- breach of Condition 1 of D25A/0169/WEB,

- continuation of unauthorised works after enforcement action began,
- disregard for Sections **151–154** of the Planning and Development Act.

Retention should not regularise deliberate unauthorised development. This is especially true where the unauthorised development took place **after** DLR Planning Enforcement had issued a Warning Notice requiring cessation of works.

The failure to acknowledge an active enforcement file constitutes a material error in the planner's report and undermines the validity of the decision.

Ground 3 — Misleading of Neighbours Not Considered

The planner's report does not address that:

- Douglas Wallace architects assured my family that **no rear rooflights** would be installed,
- they provided a design image showing **no rooflights**,
- we relied on these assurances when choosing not to object to the original application.

This is relevant under **Section 18(5)** of the Planning and Development Regulations 2001 (as amended), which requires that public notices and application particulars not be misleading.

Ground 4 — Incorrect Assessment of Attic Use and Habitable Potential

The attic includes:

- a full staircase,
- standing height of **2.1 metres**,
- two large rooflights.

It is also relevant that the rooflights provide a view of the Irish Sea. This is a characteristic typically associated with habitable accommodation rather than storage. The amenity value created by these rooflights further undermines the credibility of the applicant's assertion that the attic is intended solely for non-habitable use.

These features are characteristic of **habitable accommodation** rather than storage.

The planner relied solely on Building Regulations ceiling height, which is not the correct planning test.

Planning assessment of habitable potential must consider:

- access (full staircase),
- layout (full floor area),
- lighting (two large rooflights),
- amenity (sea views),
- potential for future unauthorised use,
- compliance with previous conditions.

The attic is clearly capable of being used as an office, guest room, or exercise room, contrary to **Condition 2 of D25A/0169/WEB** and **Section 34(13)** of the Planning and Development Act 2000.

Ground 5 — Misinterpretation of ACA Protection

The Conservation Officer concluded that the proposal was “not detrimental to the character of the ACA.” However, the planner’s report incorrectly stated that “rear facing roof lights will not be visible from the ACA,” implying that visibility from the public realm is the sole test of ACA impact.

This is a misinterpretation of Section 82(2) of the Planning and Development Act 2000. ACA protection applies to the entire structure, including rear roofscape, and is not limited to what is visible from the street. ACA character includes roofscape integrity, architectural rhythm, and the relationship between buildings.

The original permission removed rooflights on the front pitch due to ACA sensitivity. The same principles apply to the rear roofscape, and the planner’s reliance on visibility alone represents an incomplete assessment of ACA policy.

Ground 6 — Failure to Impose Mitigation Measures

Given the height of the rooflights, the steep downward viewing angle, the proximity to my rear elevation, and the photographic evidence of direct overlooking, proportionate mitigation should have been considered.

The Planning Authority could have required:

- obscure glazing,
- raised cill height,
- limited opening mechanisms,
- screening,
- attic use restrictions.

No such conditions were applied. The Planning Authority failed to consider any proportionate mitigation despite acknowledging concerns raised in the third-party submission. This shows a **failure to address submissions**, which is a statutory requirement under Section 34(3).

Ground 7 — Decision Contrary to the Protection of Residential Amenity

The decision:

- fails to protect residential amenity,
- fails to uphold ACA policy,
- fails to consider enforcement history,
- fails to assess habitable potential,
- fails to address misleading of neighbours,
- fails to impose necessary conditions.

The cumulative effect of these materially injures the amenity of my home and undermines the integrity of the planning process.

3. Requested Outcome

I respectfully request that An Coimisiún Pleanála:

(a) Refuse permission and retention in full,

OR, if the Board is minded to grant permission:

(b) Impose strict conditions, including:

- removal or permanent closure of the rooflights,
- installation of fixed obscure glazing,
- prohibition of any habitable use of the attic,
- prohibition of any future conversion without permission,
- requirement for screening or alternative mitigation.

4. Documents Submitted

- Full Appeal Statement
- Technical Annex
- Photographic evidence (embedded within appeal document)
- Prescribed appeal fee
- Copy of acknowledgement of my submission to DLR

TECHNICAL ANNEX

Assessment of Overlooking, Rooflight Angles, and Sightlines

Appellant: Joe Hughes, 28 Tubbermore Road

Purpose of Annex

This annex provides a technical, evidence-based assessment demonstrating that the two rooflights installed at 5 Sorrento Road create direct overlooking into my home at 28 Tubbermore Road. It supplements the photographic evidence submitted and addresses deficiencies in the Planning Authority's assessment, which did not include a site inspection or any geometric analysis.

1. Key Measurements and Site Geometry

1.1 Height of Rooflights

Based on the architect's submitted drawings:

- Rooflight plane height above ground: **approx. 8 m**
- Height difference between properties: **approx. 1 m**
- Effective height relative to my rear elevation: **approx. 9 m**

At an effective 9 m above the ground level of 28 Tubbermore, the rooflights sit far higher than typical rear-to-rear window relationships, meaning that normal privacy protections such as boundary walls, fences, and planting cannot prevent downward overlooking.

1.2 Separation Distance Between Properties

The architect's submission states that the horizontal distance between:

- the second-floor rear elevation of No. 5 Sorrento Road, and
- the rear elevation of my home at 28 Tubbermore Road

is approximately **22 m**.

2. Rooflight Angle and Sightline Analysis

2.1 Roof Pitch

The architect's drawings (see Fig. 6 below) indicate:

- Vertical drop (rise): **2.25 m**
- Horizontal run: **2.90 m**

This corresponds to a roof pitch of:

$$\theta = \arctan\left(\frac{2.25}{2.90}\right) \approx 38^\circ$$

Therefore, the rooflights sit on a roof pitched at approximately 38°, facing downward toward the rear boundary.

This is a steep downward angle and significantly increases the potential for overlooking.

2.2 Rooflight Orientation

Because the roof plane slopes downward at $\sim 38^\circ$:

- The rooflights face **directly toward my property**,
- They do **not** face the sky,
- They create a **direct downward sightline** into my home.

This contradicts the planner's assertion that the angle of installation reduces overlooking.

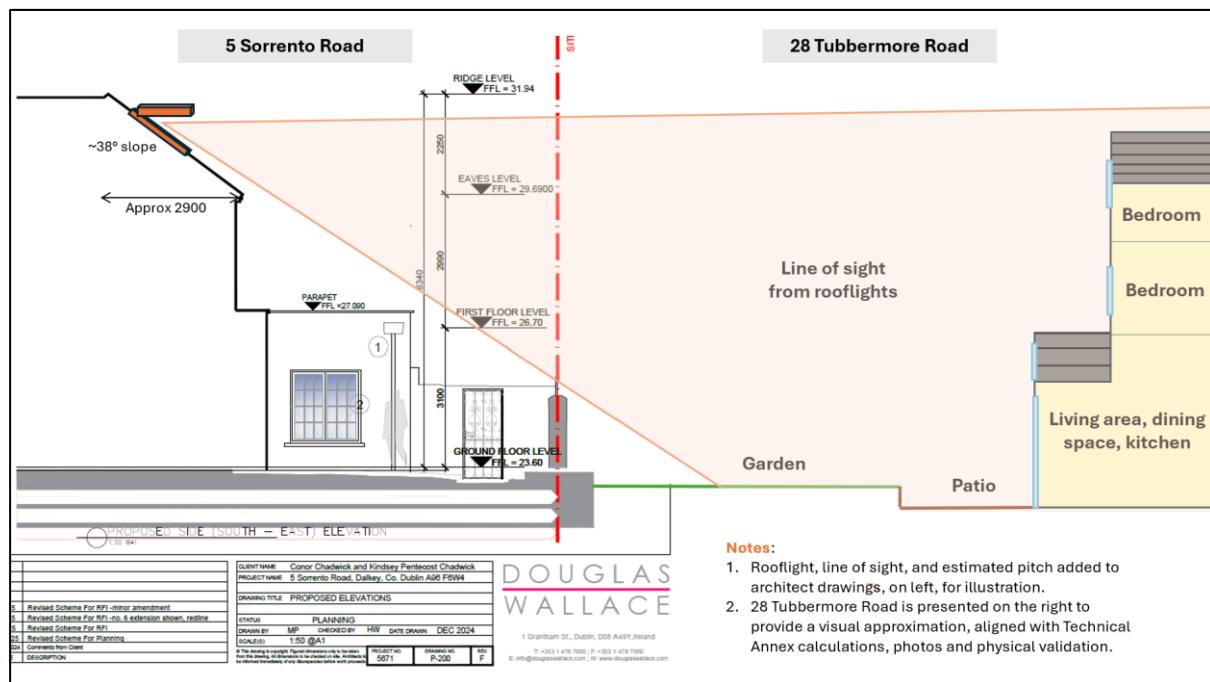


Figure 6 – Privacy Impact Diagram

2.3 Sightline Geometry

Using basic trigonometry, a rooflight located at approximately 8 m height on a 38° downward-sloping roof creates a sightline that intersects ground level at about **10.2 m** behind No. 5 Sorrento Road. As the rear elevation of my home at 28 Tubbermore Road is approximately **22 m** behind No. 5, the sightline passes through the vertical plane of my rear elevation before reaching the ground, confirming direct overlooking into my habitable rooms.

In practical terms:

The rooflights have a clear, unobstructed downward view into my kitchen, living area, dining space, rear bedrooms, and rear garden.

This matches the photographic evidence (Figures 1–4).

2.4 Human Positioning at Rooflights

The attic floor level is approximately **6 m** above ground level. The rooflight sill height is approximately **1.2 m** above the attic floor.

This means:

- A person standing at the rooflight has an unobstructed downward view into my home.
- This has been evidenced by builders standing at these rooflights and looking directly into my living area.
- This is consistent with the geometry and confirms the overlooking is not theoretical — it is already occurring.

3. Why the Planner's Assessment Is Technically Incorrect

The planner stated:

“due to their position within the sloping roof planes and the angle of installation, they are not considered to give rise to overlooking concerns.”

This conclusion is technically flawed because:

- Rooflights on a pitched roof face **downward**, not upward.
- A **38° downward pitch** increases, not reduces, the likelihood of overlooking.
- The height difference between properties amplifies the downward sightline.
- The sightline intersects my rear elevation **before** reaching the ground.
- The rooflights are positioned on the **highest part** of the extended structure.
- The attic floor level allows a person to stand directly at the rooflight.
- The Planning Authority did **not** conduct a site inspection.
- The assessment relied on a **generic assumption**, not a site-specific geometric analysis.

4. Conclusion

The technical evidence demonstrates:

- The rooflights create **direct, unavoidable overlooking** into multiple habitable rooms.
- The **38° roof pitch** significantly increases downward visibility.
- The sightline geometry contradicts the Planning Authority's conclusion.
- The overlooking is **severe, permanent, and materially injurious** to residential amenity.
- The Planning Authority's assessment contains **material errors of fact** and **technical misinterpretations**.

The retention permission should be refused, or strict mitigation conditions imposed.