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AN COIMISIÚN PLEANÁLA
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ACP- _____

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THIRD PARTY APPEAL

PROPOSED RESIDENTIAL DEVELOPMENT

32 DEERPARK ROAD, MOUNT MERRION, DUBLIN, A94X7K4

DÚN LAOGHAIRE-RATHDOWN COUNTY COUNCIL REG. REF. D26A/0521/WEB

SUBMITTED ON 28th SEPTEMBER ON BEHALF OF:

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1.0 Introduction

Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2, have been appointed by Dónall King, 30 Deerpark Road, Mount Merrion, Dublin, A94 Y0E3, to prepare this appeal in respect of the following application which was granted permission by Dún Laoghaire Rathdown County Council on 31st August 2026:

Reg. Ref.: D26A/0521/WEB

Applicant: Steve & Sarah Hiles

Address: 32, Deerpark Road, Mount Merrion, Dublin, A94X7K4

Proposal: a) Demolition of existing c.178sqm two-storey (plus non-habitable attic space), 4 bedrooms dwelling; b) Construction of a c.345 sq.m three-storey, 5 bedrooms dwelling; c) Modification to the existing site entrance, including the provision of dedicated pedestrian access; and, d) All associated site development and drainage works to facilitate the development.

Our client resides at No. 30 Deerpark Road, immediately adjoining the appeal site to the west, and made a detailed submission to Dún Laoghaire-Rathdown County Council during its consideration of the application. The concerns raised at application stage remain materially unresolved and form the basis of this appeal.

From the outset, it is acknowledged that the current proposal represents a revision of the development previously sought at the subject site. However, whilst the proposal has been amended relative to an earlier refused scheme, this does not, in itself, establish its acceptability. The current development must be assessed on its own merits, having regard to the policies and objectives of the Dún Laoghaire-Rathdown County Development Plan 2022–2028, the characteristics of the existing site and receiving environment, and, critically, its potential effects upon the residential amenities of adjoining properties.

This is particularly relevant having regard to the planning history of the subject site. Permission has previously been refused on two occasions for demolition of the existing dwelling and its replacement with a substantially larger three-storey dwelling. Under Reg. Ref. D23A/0539, permission was refused on the basis of significant overshadowing and impact upon the residential amenities of the adjoining property to the west. Subsequently, under Reg. Ref. D24A/0993/WEB, permission was refused because the Planning Authority was not satisfied that an adequately robust justification had been provided for demolition, finding that the existing dwelling did not appear fundamentally uninhabitable and that its demolition would conflict with Policy Objective CA6 and Section 12.3.9 of the County Development Plan.

The significance of the latter issue extends beyond the planning history of the site. The Dún Laoghaire-Rathdown County Development Plan establishes a clear policy preference for the retrofitting and reuse of existing buildings rather than demolition and reconstruction where possible, reflecting the embodied energy inherent within the existing building stock and the wider transition towards more sustainable forms of development. The present application therefore raises an important question as to whether the evidence now submitted is sufficient to justify the wholesale demolition of an established dwelling which DLRCC had, as recently as June 2025, determined had not been demonstrated to be fundamentally uninhabitable. The applicant's Demolition Justification Report itself acknowledges that its inspection of the dwelling was visual and non-intrusive and that certain individual defects identified may be remediable.

It must be also noted that the dwelling is in fact habitable and is currently lived in therefore indicating that wholesale demolition of the dwelling should not be considered as the dwelling is not uninhabitable. Section 12.3.9 of the Development Plan 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 uninhabitable.**'*

Furthermore, there are serious errors in the daylight/sunlight assessment submitted with the application resulting in an incorrect and inaccurate assessment of the impact of the proposal on our clients dwelling, in particular the impact of the proposed dwelling on their residential amenity. The decision of the Council was fundamentally flawed and based on an inaccurate daylight assessment and was therefore invalid. It failed to take account of the detailed observations made and was also

invalid for this reason and clearly open to challenge by way of judicial review. However our client is conscious of his obligation to exhaust any alternative remedy. This appeal is lodged in line with the procedural requirements/processes of the planning system and it is noted that our clients reserve their right to judicial review a decision that is made based on an inaccurate/incorrect impact assessment.

The appellant also maintains substantive concerns regarding the scale, massing and relationship of the proposed replacement dwelling with No. 30 Deerpark Road, the daylight, sunlight and overshadowing, privacy and overlooking, site levels and boundary treatment, and the adequacy of the information upon which the Planning Authority reached its decision. Of particular concern is that acknowledged discrepancies relating to proposed site levels and boundary treatment, together with arboricultural matters for which the Council's Parks and Landscape Section expressly recommended Further Information, remained unresolved at the time permission was granted.

Accordingly, while recognising the Planning Authority's assessment and the revisions made since the previous applications, it is respectfully submitted that the current proposal has not been demonstrated to represent an acceptable form of development when assessed in its own right, having regard to the applicable Development Plan provisions, the established character and context of Deerpark Road and the protection of adjoining residential amenity. The grounds of appeal set out herein examine these matters in detail and demonstrate why the decision to grant permission warrants reconsideration by An Coimisiún Pleanála.

For the reasons set out in this appeal, the Appellant respectfully requests that An Coimisiún Pleanála overturn the decision of Dún Laoghaire-Rathdown County Council and **refuse permission** for the proposed development in the interests of the proper planning and sustainable development of the area. This appeal is accompanied by the prescribed fee of €220 and the relevant documentation confirming the Appellant's submission at application stage (Appendix A). We respectfully request that An Coimisiún Pleanála give full and careful consideration to the grounds of appeal set out herein in its determination of the application.

2.0 Site Description

The appeal site is located at No. 32 Deerpark Road, Mount Merrion, Co. Dublin, within an established residential area approximately 280 metres east of Mount Anville Road (R112). The site has a stated area of approximately 0.089 hectares and is occupied by an existing detached dwelling set within a substantial residential plot, with off-street parking and garden space to the front and private amenity space to the rear.



Figure 1.0 Aerial image showing the immediate site context with the subject site outlined red and our client's property outlined yellow.

The existing dwelling comprises a detached cottage-style property with a hipped roof profile and lower-ground/basement accommodation, which, owing to the topography of the site, presents as part two-storey when viewed from the rear. The site falls noticeably from Deerpark Road towards the rear and also rises towards the east. Mature vegetation and trees form an established feature of the site, including within the front garden and along the western side boundary.

The site is bounded by established residential properties, including No. 30 Deerpark Road immediately to the west and No. 34 Deerpark Road to the east, with the rear gardens of properties on Wilson Road located to the north. Deerpark Road itself is characterised predominantly by established detached and semi-detached dwellings situated within generous plots with substantial front and rear gardens.

The character of the streetscape varies somewhat along Deerpark Road. Towards the eastern end, particularly where semi-detached dwellings predominate, a greater variety of architectural treatments and contemporary alterations and extensions is evident. By contrast, the stretch of detached dwellings within which the appeal site is situated retains a comparatively consistent scale and residential character. Notwithstanding variations in individual architectural treatment, the established roof forms and ridge heights along this part of the street generally respond to the pronounced topography, which falls from south to north, resulting in a relatively coherent roofscape when viewed along Deerpark Road.

The site is located diagonally opposite a pedestrian entrance to Deer Park and the view from this park at the hill top has been designated a point of scenic interest as it shows the view of the city below. The Park forms a substantial area of public open space immediately to the south of Deerpark Road and accommodates a range of recreational and sporting facilities. The wider area is well established and predominantly residential in character, with schools and other community and recreational facilities located within walking distance.

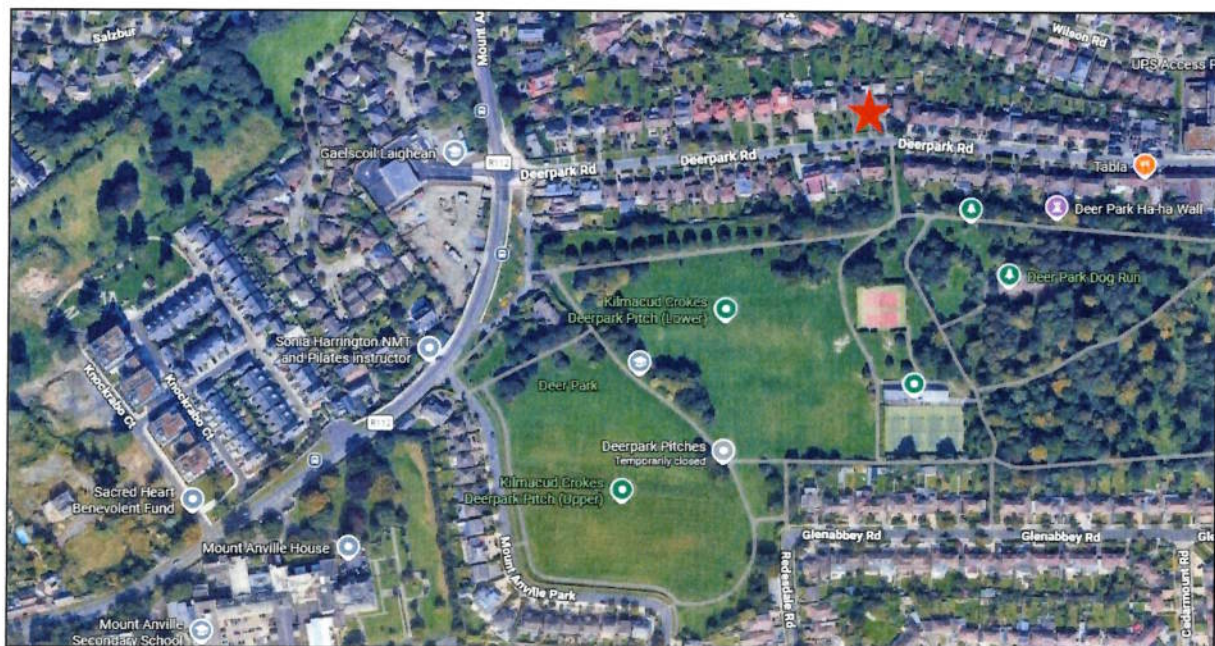


Figure 2.0 Aerial image showing the wider surrounding context of the subject site (starred red).



Figure 3.0 Street view image showing the subject site in relation to the appellant's property.

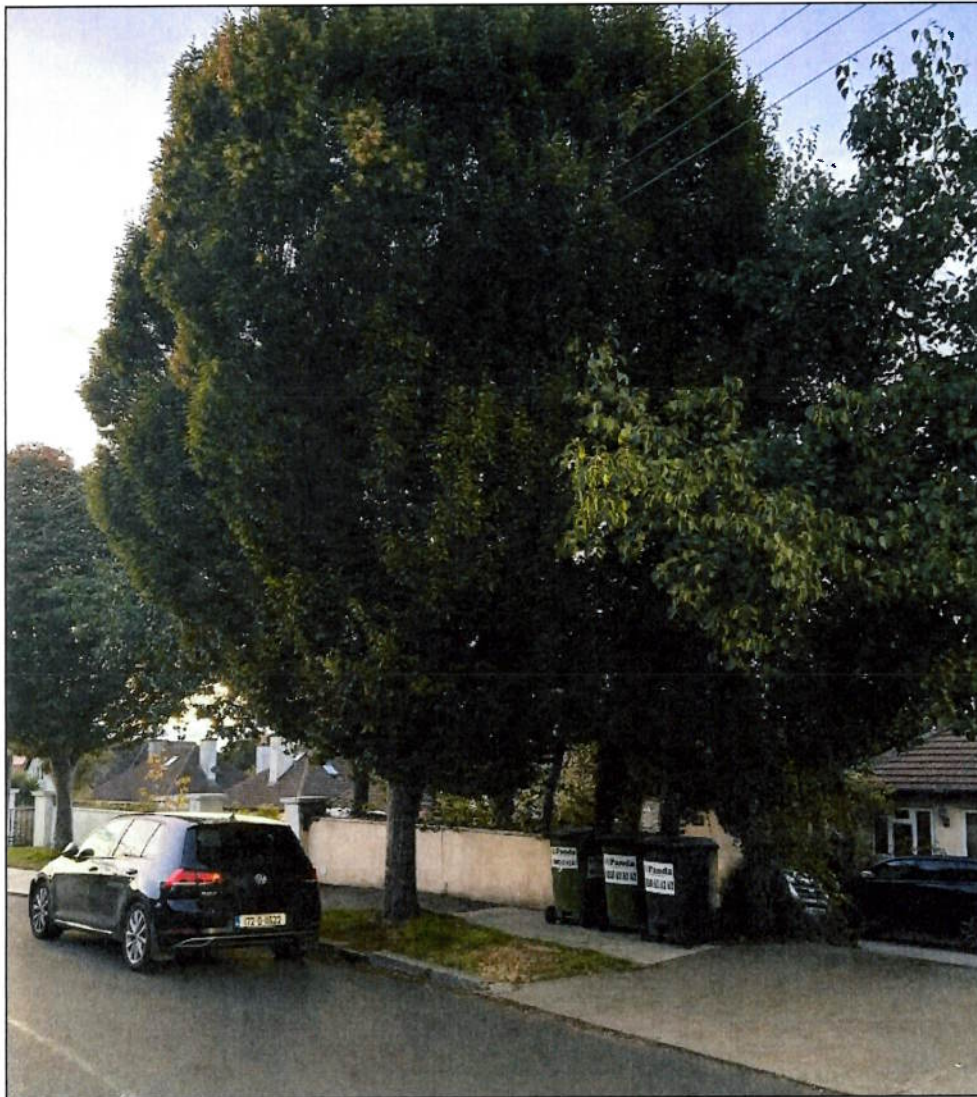


Figure 4.0 Photo taken 21.9.26 illustrating residents residing at No. 32 Deerpark Road



Figure 5.0 Subject Dwelling at No. 32 Deerpark Road

3.0 Planning History

A review of the Dún Laoghaire-Rathdown County Council online planning register identified the following planning applications pertaining to the subject site which are considered relevant to the current appeal.

Reg. Ref. D23A/0539	Permission was refused by Dún Laoghaire-Rathdown County Council on 11 th April 2024 for (A) Demolition of existing 178sqm two storey (plus non habitable attic space), 4 bedrooms dwelling (B) Construction of 1no. 385sqm three storey 6 bedrooms dwelling. (C) Modifications to existing vehicular entrance. (D) All associated site development and drainage works to facilitate the development.
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In its initial assessment of the above application, DLRCC considered the principle of residential development, including a replacement dwelling, to be acceptable having regard to the Objective 'A' zoning of the site. However, the proposed demolition was separately assessed against **Section 12.3.9, Demolition and Replacement Dwellings**, of the Dún Laoghaire-Rathdown County Development Plan 2022–2028. The Planning Authority noted that there was an absence of information capable of demonstrating that its demolition was justified, stating:

"The applicant has not put forward a Justification in relation to the proposed demolition and replacement dwelling and has not included information regarding the current condition of the dwelling, its energy rating and a comparison of this with the proposed dwelling."

DLRCC consequently determined that this information should be sought by way of Further Information.

The initial assessment also examined the scale and physical relationship of the proposed replacement dwelling with the adjoining properties. The proposed dwelling would have followed the existing front building line but substantially expanded the building footprint to the rear and sides at ground-floor level, while the first-floor accommodation to the rear would have been *"significantly expanded by comparison with the existing dwelling"*. Of particular relevance to No. 30, the proposal extended up to the western side boundary.

The Planner also identified that the rear extension to No. 30 had not been accurately represented on the architectural drawings and considered that further information was necessary *"for completeness and in relation to visual impact"*. This is relevant to the current appeal, as the Appellant has consistently raised concerns regarding the accurate representation of No. 30 within the application documentation. Earlier applications omitted or inaccurately represented part of the accommodation at No. 30, including its rear/lower-level living accommodation, thereby affecting the basis upon which the relationship between the properties could be assessed.

The relationship with No. 30 Deerpark Road, required further examination. In respect of the western side of the proposed first-floor rear element, DLRCC concluded at the initial assessment stage that:

"having regard to its alignment with the existing bungalow and the lack of information on the drawings in relation to the absence of the rear extension of no.30, it is considered that an assessment of this impact cannot be made at this time relative to the adjacent property."

The Planning Authority similarly considered the submitted overshadowing information insufficient to establish the effects of the proposal upon adjoining residential amenity and required:

"an external daylight (APSH) assessment of the adjacent side facing windows of the dwellings at no. 30 and no. 34 in accordance with BRE standards to enable an assessment as to whether there would be any significant negative impacts, in terms of loss of daylight and sunlight, on adjacent residential amenities..."

Accordingly, the Planner initially concluded that while the principle of development was acceptable, further information was necessary in respect of *"the proposed demolition, incomplete drawings and in relation to daylight and sunlight impacts."*

In response to the demolition item, the applicant stated that the existing dwelling had a BER rating of D2, experienced significant damp and mould issues and contained noticeable cracking to structural walls. It was submitted that consideration had been given to retention and upgrading, but that retrofit would not achieve the targeted A3 BER rating and that demolition and redevelopment represented the only viable option.

Having assessed this response against Section 12.3.9 and Policy Objective CA6, the Planning Authority was not satisfied that sufficient evidence had been provided to justify demolition. The Planner noted:

"the applicant has not presented a report of sufficient detail, including photographs, from a qualified practitioner such as a structural engineer, to demonstrate that there are significant issues with the structure requiring demolition in preference to retention and adaptation."

The Planner therefore concluded *"based on the information presented I do not consider the requirements of the above policies to be met."* Accordingly, DLRCC was *"not satisfied that the applicant has satisfactorily addressed Item 1 of the further information request"*.

In the submitted **daylight and sunlight assessment**, the applicant acknowledged that the development would result in some loss of direct daylight to side-facing windows at No. 30, principally during the morning. The Planning Authority undertook its own consideration of the submitted APSH analysis and identified particular concern regarding Window No. 3, while also considering the effects upon Windows Nos. 1 and 4 relevant.

The Planner disagreed with the applicant's approach of excluding certain windows from consideration, noting that this would disregard the potential for future internal reconfiguration and development of the adjoining property. Having reviewed the results, the Planner found a *"significant deterioration in APSH available to these windows and rooms as a result of the proposed development"* and concluded that the effects demonstrated by the assessment would result in significant impacts upon adjoining residential amenity.

The Planning Authority ultimately concluded:

"The applicant has not demonstrated that the proposed development would not result in significant overshadowing of residential property to the west behind the main building line and this negative impact on adjacent residential amenities is significant such that permission should be refused."

Permission was therefore refused on the basis that:

"The proposed development, due to the design of the first floor level, would result in significant overshadowing behind the main building line and this is contrary to Section 12.3.7.1 of the County Development Plan as it would result in a significant impact on adjacent residential amenities to the west and is contrary to the proper planning and sustainable development of the area."

It should be noted that the Planning Authority recorded that the demolition issue also remained unresolved. The Planner included the following note alongside the recommendation:

"clarification of the applicant's response in relation to the rationale for the demolition of the existing dwelling would have been sought if it were not otherwise recommended to refuse permission for the above reason. The applicant's further information response in this regard was not considered to accord with policy in relation to demolition of existing dwellings."

The application submitted and refused under Reg. Ref. D23A/0539 therefore established two principal matters requiring further consideration in any subsequent redevelopment of the site, namely the relationship of a replacement dwelling with the residential amenities of No. 30 Deerpark Road and the justification for demolition of the existing dwelling. A revised proposal was subsequently submitted under Reg. Ref. D24A/0993/WEB, as considered below.

Reg. Ref. D24A/0993/WEB Permission was refused by Dún Laoghaire-Rathdown County Council on 12th June 2025 for a) Demolition of existing c.178sqm two-storey (plus non-habitable attic space), 4 bedrooms dwelling; b) Construction of a c.369 sq.m three-storey, 6 bedrooms dwelling; c) Modification to the existing vehicular entrance, including the provision of dedicated pedestrian access; and, d) All associated site development and drainage works to facilitate the development.

The above application followed the earlier refusal under Reg. Ref. D23A/0539 and incorporated a number of amendments to the scale and form of the replacement dwelling. In its assessment, the Planning Authority specifically noted that the width of the dwelling had been reduced from 11.4 metres to 10.6 metres, its depth at first/attic-floor level had been reduced from 13.86 metres to 10.7 metres, an approximately 1.9-metre setback had been provided from the western boundary and the roof profile adjoining No. 30 Deerpark Road had been revised.

The principal outstanding issue arising in the assessment of this application related to the demolition of the existing dwelling and the justification advanced for its replacement.

In this regard, the Planning Authority assessed the proposal having regard to Section 12.3.9, *Demolition and Replacement Dwellings*, of the Dún Laoghaire-Rathdown County Development Plan 2022–2028, which provides that:

"The Planning Authority has a preference for and will promote the deep retro-fit of structurally sound, habitable dwellings in good condition as opposed to demolition and replacement unless a strong justification in respect of the latter has been put forward by the applicant."

The Planner's Report also expressly referenced the further provision of Section 12.3.9 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 uninhabitable."

Reference was additionally made to Policy Objective CA6, *Retrofit and Reuse of Buildings*, which seeks:

"to require the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible recognising the embodied energy in existing buildings and thereby reducing the overall embodied energy in construction..."

The application was accompanied by a Demolition Justification Report, prepared by ARC Design Architecture. The Planner's initial assessment acknowledged the issues identified within the demolition justification, including water and moisture ingress, the unknown condition and capacity of the approximately 80-year-old foundations, the unknown condition of timber joists and rafters, the unsuitability of the existing roof structure and the absence of a radon barrier. However, the Structural Appraisal Report prepared by GNCE, upon which the demolition justification relied, had not accompanied the original application. The Planning Authority therefore sought this document by way of Further Information.

Following receipt of the Further Information response, DLRCC considered the submitted structural evidence. The Planner's Report records that photographs had been provided demonstrating, inter alia, *"condensation and dampness in en-suite bathroom, crack at hall/living room and at junction of original and extension and eastern external wall."*

Notwithstanding the evidence submitted, the Planning Authority ultimately concluded that the threshold for demolition under Section 12.3.9 had not been demonstrated. The assessment stated:

"Having regard to the submitted structural appraisal report, it is considered that the Applicant has not provided an adequately robust justification for the demolition of the existing dwelling at the subject site to facilitate the construction of a replacement dwelling."

It continued:

"The subject dwelling does not appear to be fundamentally uninhabitable, and it is considered that appropriate ameliorative, repair, and renovation works (subject to planning permission, as applicable) would result in the existing dwelling providing an improved level of habitability and energy efficiency."

Permission was therefore refused for one reason only, which related to the proposed demolition of the existing dwelling. The reason for refusal stated:

"It is considered that the Applicant has not provided an adequately robust Justification for the demolition of the existing dwelling at the subject site to facilitate the construction of a replacement dwelling. The subject dwelling does not appear to be fundamentally uninhabitable, and it is considered that appropriate ameliorative, repair, and renovation works (subject to planning permission, as applicable) would result in the existing dwelling providing an improved level of habitability and energy efficiency."

The reason further concluded that the proposal was not compliant with Policy Objective CA6 and Section 12.3.9 of the County Development Plan and that permitting the development would:

“set an undesirable and negative precedent for similar demolition of habitable dwellings in their entirety in the local area and the wider County...”

The planning history therefore demonstrates the progressive evolution of proposals for demolition and replacement development at No. 32 Deerpark Road, with the earlier proposals not considered acceptable. While the revised scheme under Reg. Ref. D24A/0993/WEB was considered to have addressed the residential amenity concerns arising under the earlier application, DLRCC remained unsatisfied that sufficient justification had been demonstrated for demolition of the existing dwelling and permission was again refused.

The current application, Reg. Ref. D26A/0521/WEB, represents a further revision of these previous proposals and has now been granted permission by DLRCC. The previous assessments are therefore directly relevant to understanding the evolution of the current scheme, the recurring concerns regarding its relationship with No. 30 and the extent to which those concerns have, or have not, been satisfactorily addressed.

4.0 Proposed Development

The proposed development provides for the demolition of the existing dwelling at No. 32 Deerpark Road in its entirety and the construction of a replacement detached dwelling, together with associated alterations to the site.

The existing property comprises a four-bedroom dwelling, stated within the statutory development description to extend to approximately 178 sq.m, arranged over two storeys with additional non-habitable attic space. In its place, permission is sought for a c.345 sq.m, three-storey, five-bedroom dwelling, representing a substantial increase in the overall scale and floor area of residential accommodation provided on the site.

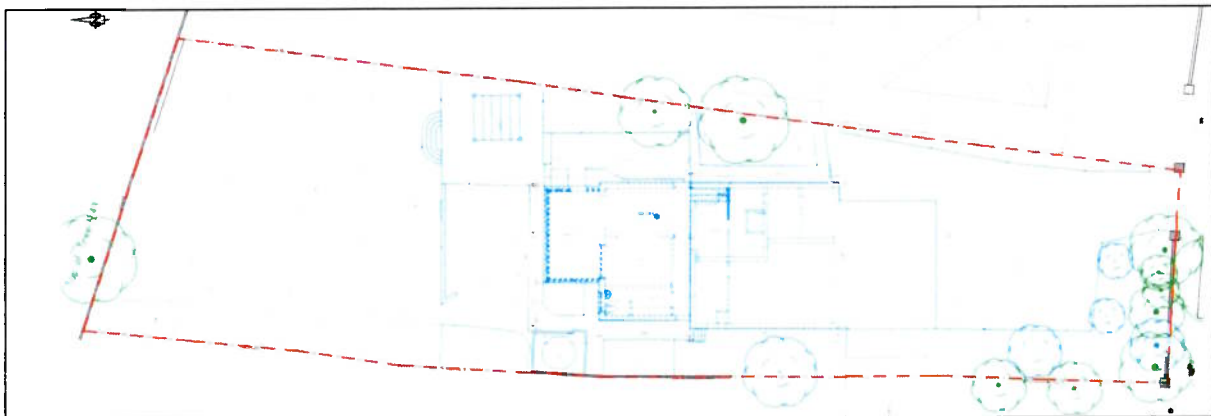


Figure 6.0 Extract from the submitted drawings of the existing lower-level plan.

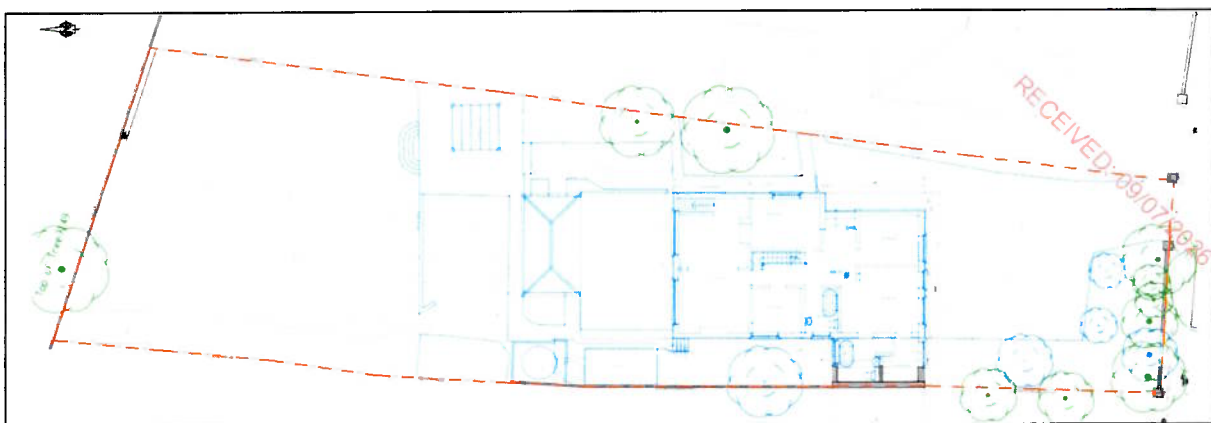


Figure 7.0 Extract from the submitted drawings of the existing entrance-level plan.

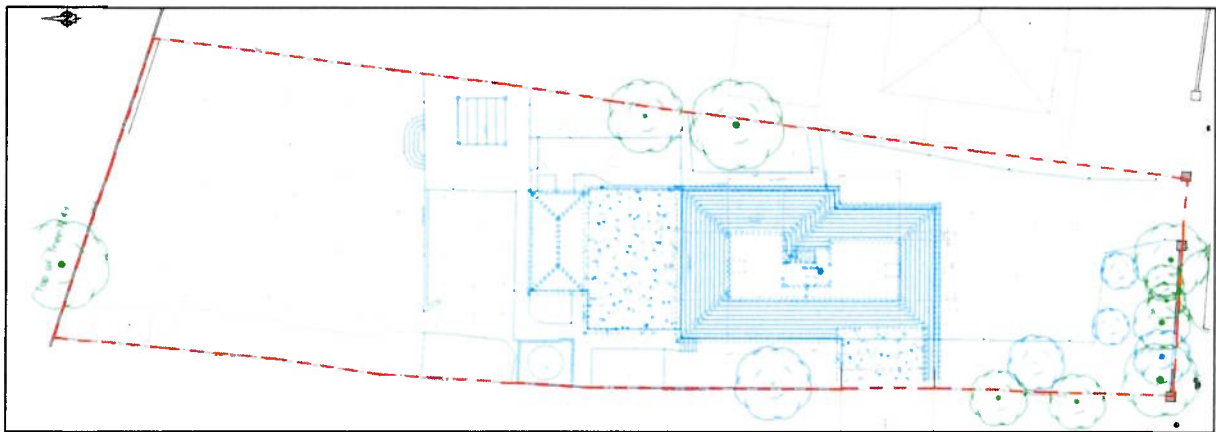


Figure 8.0 Extract from the submitted drawings of the existing upper-level plan.

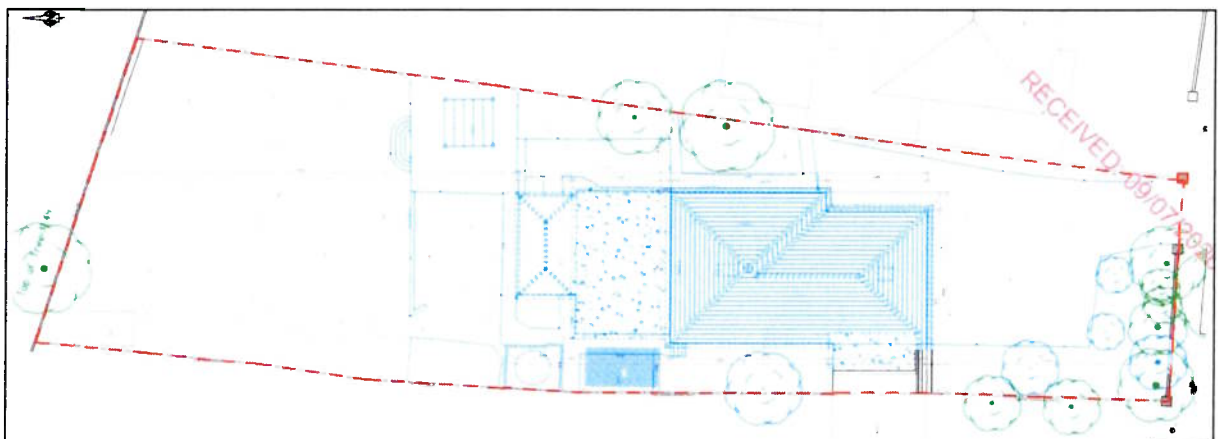


Figure 9.0 Extract from the submitted drawings of the existing roof plan.

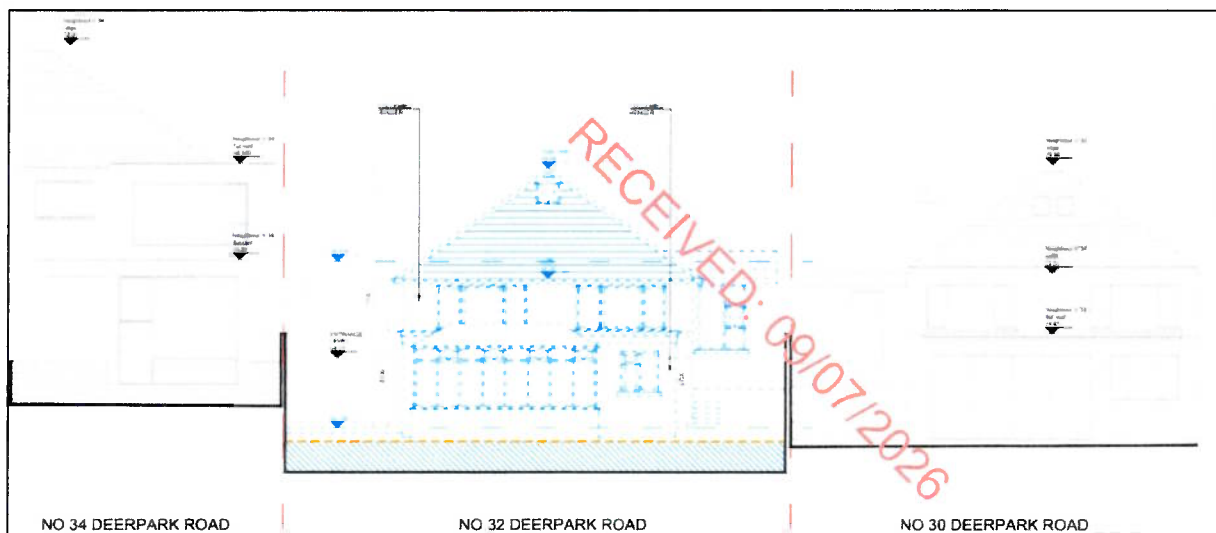


Figure 10.0 Extract from the submitted drawings of the existing north/rear elevation.

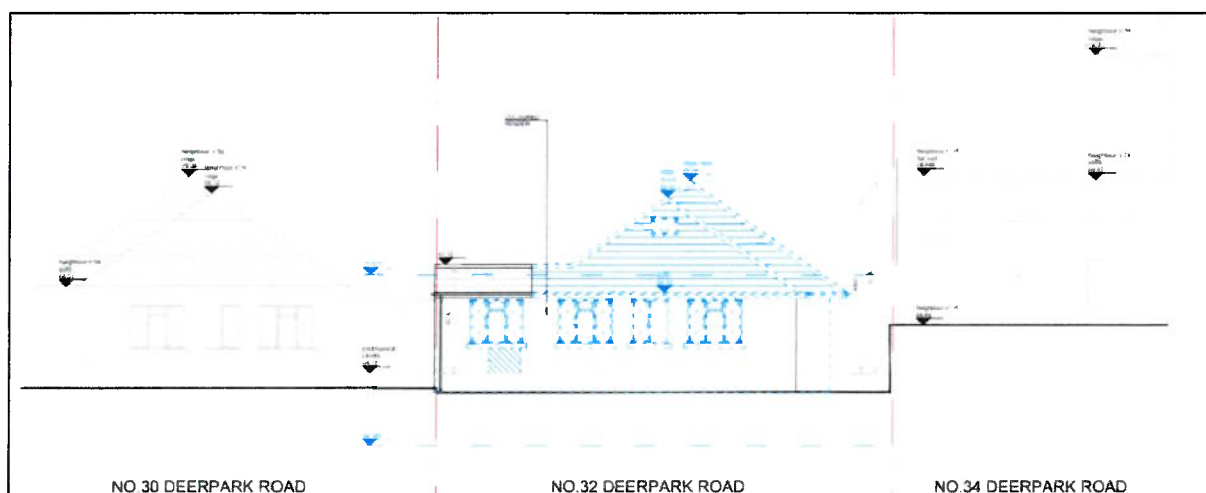


Figure 11.0 Extract from the submitted drawings of the existing south/front elevation.

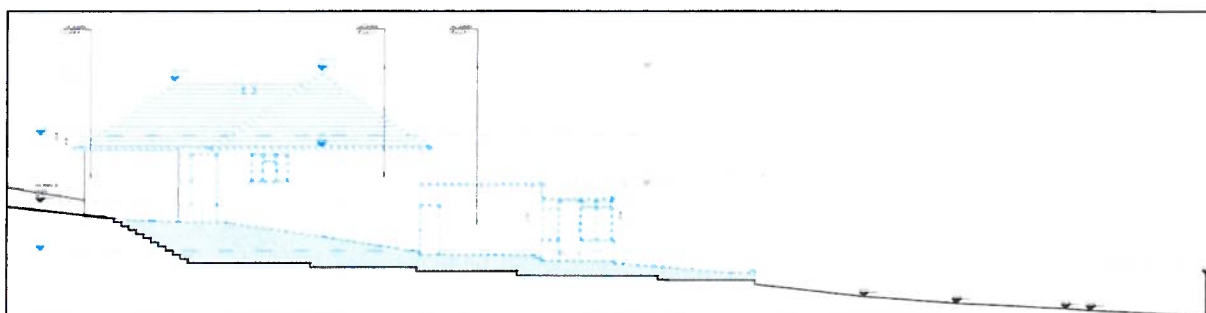


Figure 12.0 Extract from the submitted drawings of the existing east/side elevation.

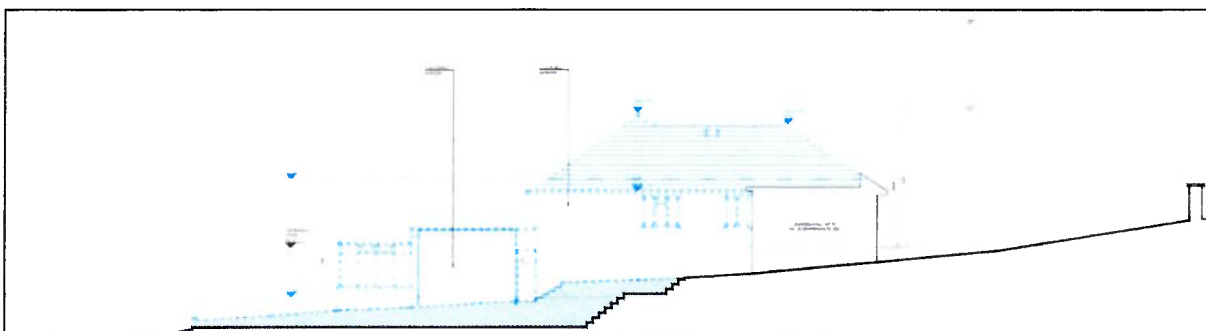


Figure 13.0 Extract from the submitted drawings of the existing west/side elevation.

The replacement dwelling is arranged across lower-ground, entrance and first-floor levels, responding to the existing fall in levels across the site. Architecturally, the proposal comprises a principal pitched-roof volume with additional lower and flat-roofed elements extending towards the rear of the property. The proposed development also incorporates alterations to the existing site entrance from Deerpark Road, including the provision of a dedicated pedestrian access, together with associated boundary treatments, landscaping, site development and drainage works.

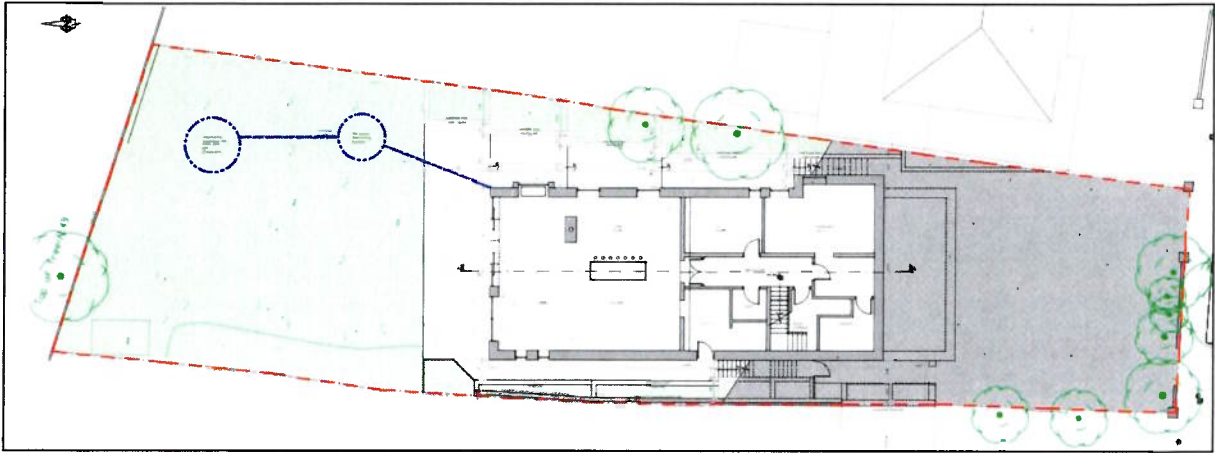


Figure 14.0 Extract from the submitted drawings of the proposed lower-level plan.

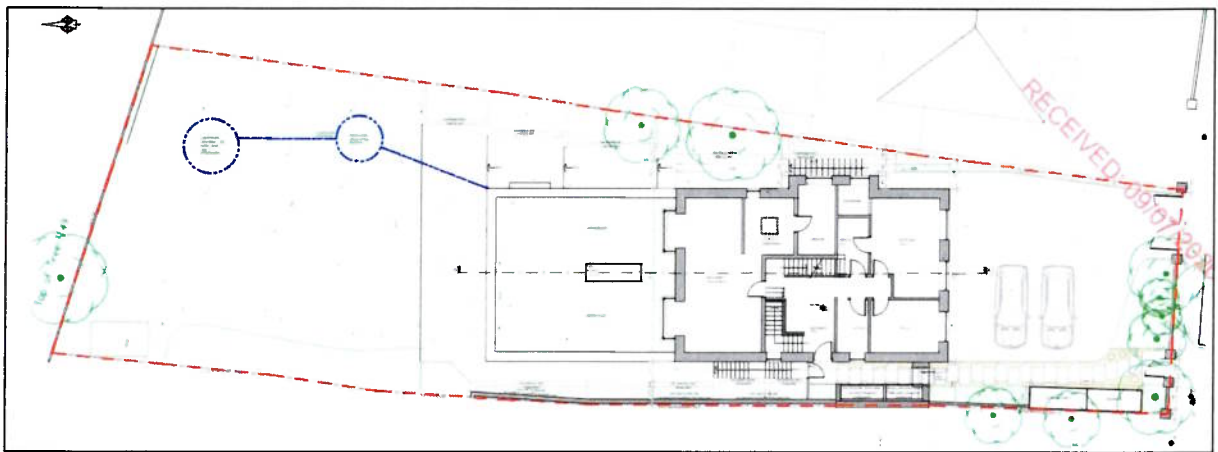


Figure 15.0 Extract from the submitted drawings of the proposed entrance-level plan.

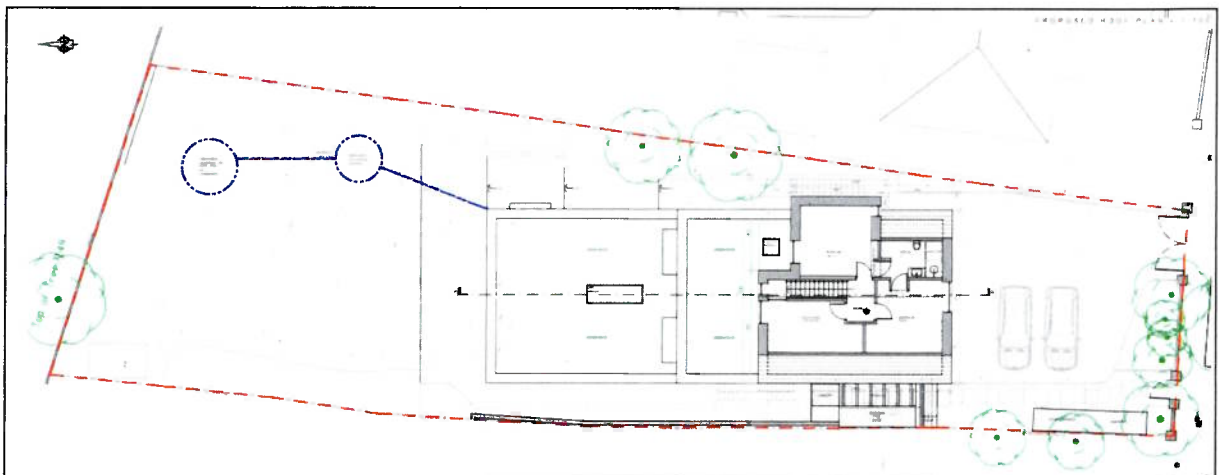


Figure 16.0 Extract from the submitted drawings of the proposed upper-level plan.

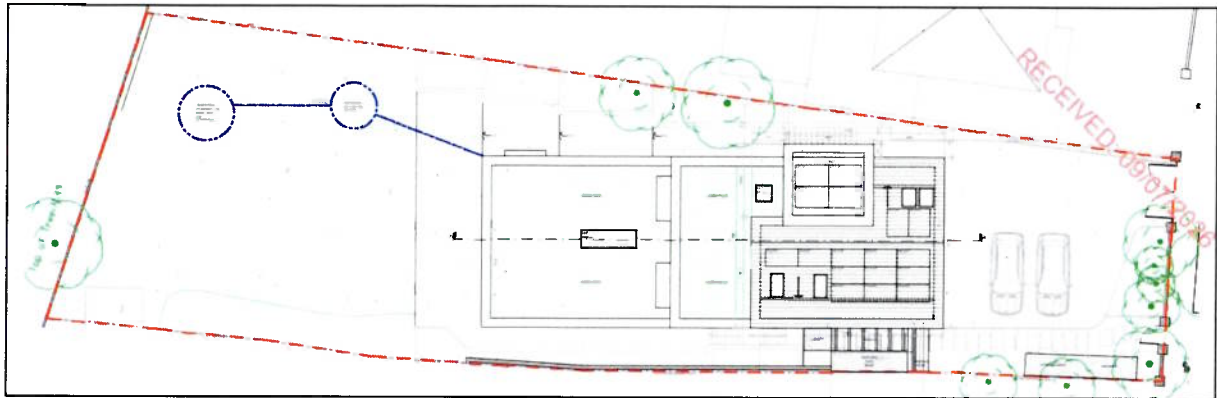


Figure 17.0 Extract from the submitted drawings of the proposed roof plan.

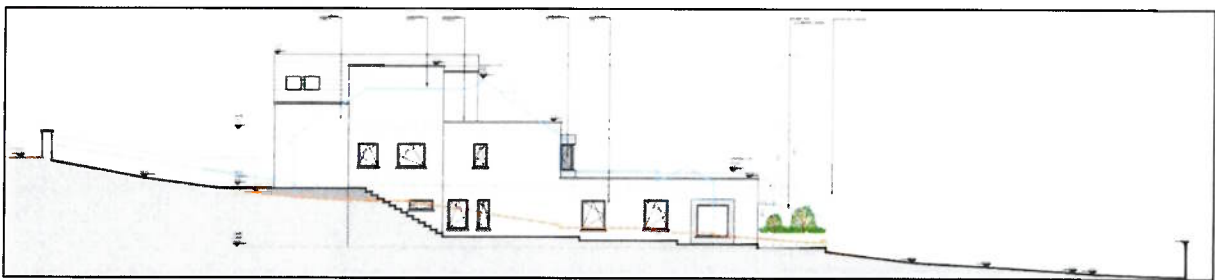


Figure 18.0 Extract from the submitted drawings of the proposed east/side elevation.

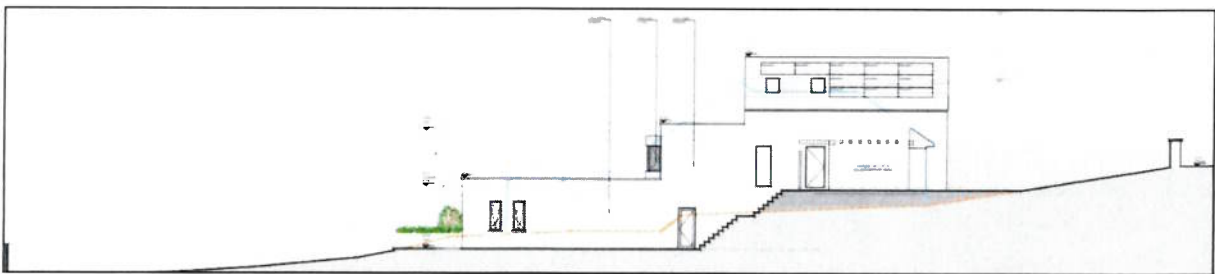


Figure 19.0 Extract from the submitted drawings of the proposed west/side elevation.

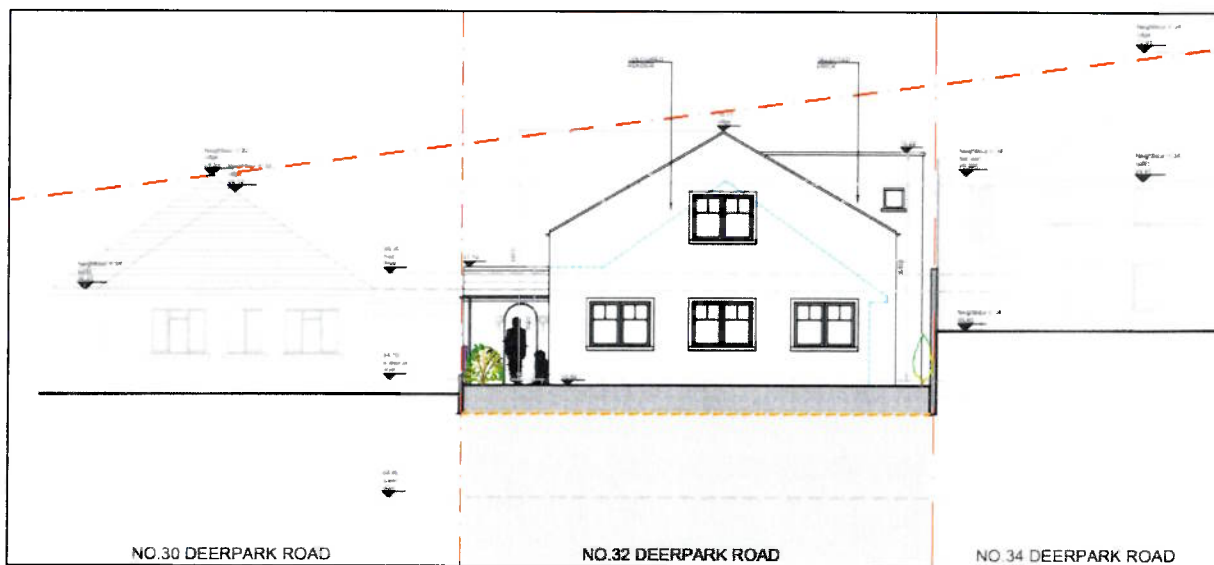


Figure 20.0 Extract from the submitted drawings of the proposed south/front elevation.



Figure 21.0 Extract from the submitted drawings of the proposed north/rear elevation.

The current proposal follows two previous applications for demolition and replacement development at No. 32 Deerpark Road. The immediately preceding application, Reg. Ref. D24A/0993/WEB, sought permission for a c.369 sq.m, three-storey, six-bedroom replacement dwelling. The present proposal reduces the stated floor area to c.345 sq.m and the accommodation from six to five bedrooms, together with amendments to the overall design and its relationship with the adjoining properties.

The application is accompanied by architectural drawings, visualisations, and a Daylight and Sunlight Assessment prepared by Arc Design, and a Demolition Justification and Whole Life Carbon Assessment prepared by CORA Consulting Engineers.

4.0 Decision of Dún Laoghaire-Rathdown County Council

The Appellant considers that the decision to grant permission was reached without adequate consideration of a number of material matters raised in his detailed observation, particularly those concerning the accuracy of the submitted daylight and sunlight assessment, the relationship of the proposed development with No. 30, discrepancies in site and boundary levels and the resulting implications for residential amenity. Our client submits the decision of the Council was fundamentally flawed and invalid and failed to take account of material considerations for the reasons set out below

The Appellant therefore respectfully requests that An Coimisiún Pleanála consider the original observation in conjunction with the present appeal and undertake a fresh and comprehensive assessment of the matters raised.

In assessing the subject application, Reg. Ref. D26A/0521/WEB, DLRCC first had regard to the Objective 'A' residential zoning of the site and considered the principle of residential development, including a replacement dwelling, acceptable in principle.

The Planner then considered the planning history of the subject site and specifically referenced the two previous refusals under Reg. Refs. D23A/0539 and D24A/0993/WEB. The report acknowledged that D23A/0539 had been refused due to the impact of the first-floor design upon the residential amenities of No. 30 Deerpark Road through significant overshadowing, while D24A/0993/WEB had subsequently been refused because an adequately robust justification for demolition had not been demonstrated.

Having regard to the planning history, the Planner described the current proposal as:

"similar in scale, size, height and form of the proposal under D24A/0993/WEB."

The report noted, however, that the current application was accompanied by a new demolition justification prepared by CORA Consulting Engineers, before stating:

"The full extent of the current proposed works shall be assessed on their own merits under the relevant sections below."

In respect of demolition and replacement, the Planning Authority assessed the application against Policy Objective CA6 and Section 12.3.9 of the County Development Plan. The Planner acknowledged the Development Plan requirement that the Planning Authority:

"may only permit such developments where the existing dwelling is uninhabitable."

The demolition justification report was considered in this context, with the Planner recording the identified presence of black mould, water ingress, structural cracking, undersized and visibly deflecting first-floor joists and previous interventions stated to have trapped moisture within the building fabric. The report also noted CORA's appraisal of three scenarios comprising the do-nothing option, refurbishment and extension, and complete demolition and replacement.

The Planner compared this evidence with that submitted under the immediately preceding application, stating:

"The Planning Authority has reviewed the Applicant's submitted demolition justification report with photographs of current conditions, compared to the structural appraisal report prepared by ARC Design Architecture under D24A/0993/WEB."

The report noted that the current submission provided a record of black mould, water ingress, wall cracking and structural inadequacies and further stated that:

"The Planning Authority also acknowledges the difference between the current and previous demolition justification assessment."

On this basis, DLRCC concluded that:

"sufficient evidence has been provided to demonstrate that the receiving dwelling is uninhabitable due to structural deficiencies, black-mould conditions and water ingress."

The Planning Authority therefore considered the requirements of Section 12.3.9 to have been adequately addressed.

The Appellant considers that this conclusion does not sufficiently engage with the matters raised in his observation regarding the condition and recent maintenance of the dwelling. In particular, the observation identified the period during which the property had received limited upkeep and questioned the extent to which matters such as damp, mould and ventilation had been aggravated during that period. More fundamentally, the assessment does not reconcile the finding of "uninhabitability" with the Applicant's own engineering evidence confirming that repair is possible and identifying a deep-retrofit option capable of achieving an A2 BER.

The assessment of site layout and residential amenity similarly made a number of comparisons with the previously refused development. The Planner recorded that the proposed replacement dwelling would extend forward of the front building line of No. 30, while remaining behind the building line of No. 34, and that the footprint would expand to the rear and sides at ground-floor level. The report further noted that the floor area to the rear at first-floor level would be:

"significantly expanded by comparison with the existing dwelling."

The Planner nevertheless identified the c.1.9m setback from the western boundary with No. 30 as a change which:

"would mitigate the negative amenity impact on the adjacent property compared to the previous site layout that was located up to the western side boundary."

The reduction in overall floor area from c.369 sq.m under Reg. Ref. D24A/0993/WEB to c.345 sq.m under the current proposal was also specifically noted.

Under its assessment of residential amenity and visual impact, the Planner once again made reference to the previous proposal, recording that:

"The scale, height, form and design of current proposal is broadly similar to that considered under application D24A/0993/WEB..."

and noting that no general concern had previously been raised by DLRCC regarding the overall scale, height, form and design of that scheme.

The contemporary architectural style was considered appropriate within the established streetscape, with the staggered built form considered to assist in breaking up the overall massing. In comparing the current development with D24A/0993/WEB, the Planner identified reductions in the width of the dwelling and rear single-storey element and concluded:

"The reduction in width, together with the overall decrease in scale, massing and height, mitigates the visual impact of the development and improves its relationship with adjoining properties."

The Planning Authority thereafter concluded:

"Having regard to the location, scale, height and overall form of the proposed dwelling in relation to the neighbouring properties, it is considered that the proposed development is acceptable and would not adversely impact on the amenities of existing adjacent properties by way of overshadowing or overbearing appearance, or on the streetscape."

In respect of overlooking and privacy, DLRCC considered that, having regard to the manner in which the existing dwelling reads as a two-storey structure to the rear, the additional rear-facing attic windows and proposed bay windows at entrance-floor level would not result in a significant increase in overlooking or loss of privacy. Three east-facing windows serving wardrobe and ensuite accommodation were considered capable of being addressed by way of opaque glazing through an attached condition.

The Appellant's specific concern regarding the proposed rear bay window relationship with No. 30 does not, however, appear to have been substantively addressed. As raised in the original observation, the proposed first-floor built form extends further to the rear and incorporates glazed bay windows from which views may arise towards the master bedroom of No. 30, which is located at the rear at a corresponding level. The uncertainty regarding proposed floor and site levels further affects the ability to determine the precise overlooking relationship. This is a material residential amenity issue which requires assessment by reference to the actual relationship between the two properties rather than solely by reference to the general orientation of the proposed windows.

The Planner's Report does not contain a separate substantive technical assessment of the submitted Daylight and Sunlight Assessment within its consideration of residential amenity. The Council's conclusion in respect of overshadowing is instead recorded as part of the overall assessment of the scale, height, form and relationship of the proposed dwelling with neighbouring properties. No identified reference was made to the submitted Daylight and Sunlight Assessment or to the specific discrepancies raised by the Appellant concerning that assessment.

In relation to boundary treatment and site levels, the Planner recorded that new walls were proposed along the western boundary with No. 30 and stepped boundary walls along the eastern side of the site. The assessment identified, however, that:

"there are discrepancies in relation to the proposed site levels and designed step levels between the drawings of proposed boundary wall and 'proposed side elevation'."

The report also noted that no detailed drawings had been submitted for the two proposed piers associated with the new pedestrian entrance. DLRCC determined that these matters could be addressed by condition, recommending:

“confirmation of proposed site levels and boundary treatment prior to the commencement of any development.”

The application was referred to the relevant internal departments and prescribed bodies for assessment. Notably, Parks and Landscape, in its report dated 7th August 2026, expressed concerns regarding the proposed development and the mature trees located on and adjoining the site. The report considered their retention to be:

“particularly important in preserving the established sylvan character, visual amenity, and historic landscape setting of the area.”

Parks and Landscape further identified a *“strong presumption in favour of the protection, retention and enhancement of existing tree stock wherever feasible”* and recommended that Further Information be sought. The requested information included a comprehensive Arboricultural Survey, Tree Constraints/Survey Plan, Arboricultural Impact Assessment Plan, Tree Protection Plan and Arboricultural Method Statement, with the stated purpose of ensuring compliance with the relevant tree protection provisions of the County Development Plan and DLR Trees Strategy 2023–2030.

The Planner acknowledged that Parks and Landscape had requested Further Information which was ultimately never issued and instead these items were required by condition.

Following assessment of the application, DLRCC concluded that the proposal would not result in unacceptable impacts upon adjoining residential properties by reason of overshadowing, overlooking or overbearing appearance and considered the principle of the proposal to accord with the County Development Plan 2022–2028.

The Planner recommended that permission be granted, with the stated Reasons and Considerations providing:

“Having regard to the Objective ‘A’ zoning of the site, and policies and objectives as set out in the 2022-2028 Dún Laoghaire-Rathdown County Development Plan, it is considered that the development would not detract from the amenities of the area and is consistent with the provisions of the current Development Plan, and is therefore considered to be in accordance with the proper planning and sustainable development of the area Subject to Conditions.”

On 31st August 2026, DLRCC issued a Decision to Grant Permission subject to 16 No. conditions. The conditions address, inter alia, site levels and boundary treatment, opaque glazing, drainage and SuDS, pedestrian access, construction activity, arboricultural assessment and tree protection, and development contributions.

Accordingly, the application was determined without a request for Further Information. In reaching its decision, the Planning Authority had particular regard throughout its assessment to the planning history of the site and to the manner in which the current proposal and supporting documentation differed from, or responded to, the schemes previously considered under Reg. Refs. D23A/0539 and D24A/0993/WEB. The resulting assessment and the matters arising therefrom in the context of the current proposal are considered further within the Grounds of Appeal below.

5.0 Grounds for Appeal

Having regard to the nature and scale of the proposed development, the planning history of the subject site, the established residential amenities of No. 30 Deerpark Road and the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022–2028, the Appellant considers that there are substantive grounds for reconsideration of the Planning Authority’s decision to grant permission.

The principal Grounds of Appeal may be summarised as follows:

1. Demolition of the Existing Dwelling - Policy, Evidence and Established Planning Approach

The complete demolition of the existing dwelling has not been sufficiently justified against the clear policy preference for retention and retrofit under Policy Objective CA6 and Section 12.3.9 of the Development Plan. In particular, the Applicant's own engineering assessment confirms that repair and deep retrofit are possible and identifies an alternative capable of achieving an A2 BER. The evidence does not satisfactorily establish that the dwelling is "uninhabitable" for the purposes of Section 12.3.9. This is also inconsistent with the approach taken by DLRCC and An Coimisiún Pleanála in comparable recent cases where demolition has been refused in the absence of clear evidence that retention and retrofit are not reasonably achievable. It must also be noted that the dwelling has been lived in for the past 20 years and is currently lived in with the applicants residing at the premises and therefore is not uninhabitable. This is contrary to Section 12.3.9 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 uninhabitable.*

2. Scale, Form and Impact upon Residential Amenity

The proposal would replace the existing c.178 sq.m dwelling with a c.345 sq.m three-storey dwelling, representing an almost twofold increase in floor area and a substantial increase in built form immediately adjoining No. 30. While amendments have been made relative to the previously refused proposals, an improvement upon an earlier proposal does not establish the acceptability of the current development. Concerns remain regarding its height, depth, massing and relationship with No. 30, together with the resulting potential for overbearing impact, overlooking and loss of privacy.

3. Daylight, Sunlight and Overshadowing – Invalidity of Submitted Assessment

The invalidity of the submitted Daylight and Sunlight Assessment is called into question by discrepancies in the modelling of both No. 30 and the proposed development. These include the incorrect representation and classification of the open-plan kitchen/living accommodation at No. 30, apparent inconsistencies in the extent of development modelled, and uncertainty regarding the treatment of site levels and the proposed western boundary wall. These matters are particularly significant given the previous refusal at this site specifically identified significant overshadowing of No. 30. Notwithstanding this history, the Planner's Report contains no substantive appraisal of the submitted technical assessment or the discrepancies raised by the Appellant.

4. Adequacy of Information and Matters Deferred by Condition

Material matters affecting the relationship with No. 30 remain unresolved, including acknowledged discrepancies between the submitted site levels and boundary treatment drawings. The application is also not accompanied by an adequate structural engineering assessment of the proposed demolition, excavation and construction works, notwithstanding the pronounced site topography, the scale of the proposed three-storey replacement and its proximity to the adjoining property. The Planning Authority nevertheless deferred clarification of certain levels and boundary details by condition, notwithstanding their relevance to the assessment of residential amenity and the physical relationship between the properties.

These grounds collectively raise concerns as to whether the proposed development has been demonstrated to accord with the proper planning and sustainable development of the area and to adequately protect the established residential amenities of No. 30 Deerpark Road.

Each of the above Grounds of Appeal is considered in further detail below.

5.1 Demolition of the Existing Dwelling – Policy, Sustainability and Established Planning Approach

5.1.1 Policy Basis for Retention, Retrofit and Reuse

The proposed development provides for the complete demolition of the existing c.178 sq.m dwelling at No. 32 Deerpark Road and its replacement with a substantially larger c.345 sq.m dwelling. The principle of residential development on the subject Objective 'A' zoned lands is not disputed, however, it is submitted that the complete demolition of the existing dwelling fails to comply with the specific policy requirements of the Dún Laoghaire-Rathdown County Development Plan 2022–2028.

The Development Plan establishes a clear and deliberate policy preference for the retention, repair, retrofit and reuse of the existing building stock. Under Section 3.4.1.2, Policy Objective CA6: Retrofit and Reuse of Buildings provides:

*"It is a Policy Objective to **require the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible** recognising the embodied energy in existing buildings and thereby reducing the overall embodied energy in construction as set out in the Urban Design Manual (Department of Environment Heritage and Local Government, 2009). (Consistent with RPO 7.40 and 7.41 of the RSES)."*

*"With 30% of construction related emissions locked into the completed building as 'embodied carbon' **priority should be given to repairing and re-using existing buildings in preference to demolition and new-build.**"*

The Development Plan further provides that sustainably sourced materials and the reuse and recycling of existing materials should be supported in both new development and repair or retrofit works. While circumstances are identified in which demolition *"may be acceptable"*, including *"where an existing building cannot be incorporated into a new layout and redevelopment facilitates a significant increase in density"*, that circumstance does not arise in this case. The proposal involves the replacement of one dwelling with one dwelling.

This policy approach is reiterated under Section 12.2.1 - Built Environment, which provides:

*"The Planning Authority **will encourage and promote the repair, retrofitting and reuse of buildings in preference to their demolition and reconstruction where possible** (Refer also Section 12.3.9 Demolition and Replacement Dwellings). Where this cannot be achieved, the Planning Authority will support the use of sustainably sourced building materials and the reuse of demolition and excavated materials."*

More specifically, **Section 12.3.9 – Demolition and Replacement Dwellings** states:

*"The Planning Authority **has a preference for and will promote the deep retro-fit of structurally sound, habitable dwellings in good condition as opposed to demolition and replacement** unless a strong justification in respect of the latter has been put forward by the applicant. (See Policy Objective CA6: Retrofit and Reuse of Buildings and Policy Objective PHP19: Existing Housing Stock - Adaptation).*

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 uninhabitable.

Applications for replacement dwellings shall also have regard to Policy Objectives HER20 and HER21 in Chapter 11. In this regard, the retention and reuse of an existing structure will be preferable to replacing a dwelling, and the planning authority will encourage the retention of exemplar nineteenth and twentieth century dwellings on sites in excess of 0.4 hectares. Applications for replacement dwelling within the rural area will be assessed under the provision of Section 12.3.10.4."

Having regard to the above, which provides that permission **"may only"** be granted where the existing dwelling is **uninhabitable**, the relevant consideration is not whether replacement would provide a better-performing dwelling or represent a less costly or technically preferable solution, but whether the

evidence demonstrates that the existing dwelling is uninhabitable such that demolition is justified notwithstanding the stated preference for retention and retrofit.

The existing dwelling remains occupied by the Applicants and continues to function as their residence. This is difficult to reconcile with the conclusion that the dwelling is “*uninhabitable*” for the purposes of Section 12.3.9, particularly where the Applicant’s own technical evidence confirms that “*repair is possible*” and identifies a refurbishment and deep-retrofit option capable of improving the condition and energy performance of the dwelling. While remedial works are evidently required, the continued residential occupation of the property, together with the identified potential for repair and retrofit, does not support a clear conclusion that the dwelling is uninhabitable such that complete demolition is warranted.

Having regard to the planning history on the subject site, under **Reg. Ref. D23A/0539**, while permission was refused on residential amenity grounds, the Planner expressly noted that the applicant’s Further Information response concerning demolition “***was not considered to accord with policy in relation to demolition of existing dwellings.***”

Under the subsequent **Reg. Ref. D24A/0993/WEB**, demolition formed the basis for refusal. DLRCC concluded that:

“The subject dwelling does not appear to be fundamentally uninhabitable, and it is considered that appropriate ameliorative, repair, and renovation works ... would result in the existing dwelling providing an improved level of habitability and energy efficiency.”

The Council accordingly found the proposal contrary to Policy Objective CA6 and Section 12.3.9 and considered that permitting demolition would establish an “***undesirable and negative precedent for similar demolition of habitable dwellings***” in the local area and wider County.

The current application is therefore the third substantive proposal for demolition of the dwelling, against an unchanged Development Plan policy context. The Council’s assessment of the subject application acknowledges that the proposal remains “*similar in scale, size, height and form*” to that refused under Reg. Ref. D24A/0993/WEB. The principal additional evidence relied upon to address the previous refusal is the *Demolition Justification Report – Structural & Whole-Life Assessment in Support of a Replacement Dwelling*, prepared by CORA Consulting Engineers.

The CORA Report was prepared to address the previous reason for refusal. It relies upon a visual inspection undertaken by a Chartered Engineer, photographic evidence and a 60-year whole-life cost and carbon appraisal. The defects identified include black mould, water ingress, internal and external cracking, undersized and visibly deflecting first-floor joists and previous interventions stated to have trapped moisture within the building fabric.

The existence of these defects is not disputed although the reason for some of the issues clearly lies with the lack of proper maintenance of the property by the Applicants in recent years and appear to have aggravated these defects such as through failing to ventilate bathrooms etc. The relevant issue is whether they establish uninhabitability for the purposes of Section 12.3.9, particularly having regard to the remedial option identified in the applicant’s own report.

CORA assesses three scenarios:

- retention in its current condition;
- refurbishment and extension; and
- complete demolition and replacement.

Under **Scenario 2 – Refurbishment and Extension**, the existing cottage would be retained and deep-retrofitted, including removal of failed dry-lining and spray foam, upgrading of the building fabric, renewal of services and finishes and works to address the upper-floor structure. The stated target is an **A2 BER**. CORA identifies approximately 30 linear metres of underpinning and 18m³ of concrete as being required to facilitate that option. Crucially, CORA does not conclude that repair or retrofit is unfeasible stating:

“This report does not dispute that repair works would improve the building...”

and ultimately concludes:

“Repair is possible but is not the reasonable and proportionate response on this site.”

Its preference for demolition is based upon the comparative whole-life cost assessment which estimates a 60-year net present cost of approximately €1.19 million for replacement, compared with approximately €1.40 million for refurbishment and extension.

It is submitted that **a finding that repair is possible but less advantageous is not equivalent to a finding that the dwelling is uninhabitable and warrants wholesale demolition and replacement.** Section 12.3.9 does not establish comparative cost, construction complexity or the applicant's preferred development solution as the consideration for permitting a replacement dwelling. It provides that such development may only be permitted where the existing dwelling is uninhabitable.

The applicant's carbon assessment also requires consideration in the context of Policy Objective CA6. CORA acknowledges that, in terms of upfront embodied carbon, retention performs better, estimating approximately **151 tCO₂e** for refurbishment compared with approximately **214 tCO₂e** for demolition and reconstruction. This is attributed directly to the reuse of the existing structure and avoidance of new material.

CORA's preference for replacement arises from its modelling of operational carbon over a 60-year period. However, the report itself qualifies that conclusion as *“not unconditional”* and identifies future grid decarbonisation as the principal sensitivity, acknowledging that the whole-life carbon comparison could reverse in favour of retrofit as the grid decarbonises. The applicant's evidence therefore confirms, rather than displaces, the embodied-carbon benefit of retention which underpins Policy Objective CA6.

Having regard to the foregoing, it is noted that there has been no change to the applicable Development Plan policy framework since the previous applications were determined, nor has any fundamental change in the circumstances of the existing dwelling been demonstrated. The property remains in residential occupation and the current proposal continues to seek its complete demolition and replacement. The principal change is therefore the additional technical justification submitted with the current application, which must be considered against the same policy test under which DLRCC previously concluded that the dwelling was not *“fundamentally uninhabitable”*.

In granting permission, DLRCC considered that the additional evidence was sufficient to overcome its previous concerns. The Planner noted the evidence of mould, water ingress, cracking and structural deficiencies, together with the three-scenario and whole-life appraisal, and *“acknowledges the difference between the current and previous demolition justification assessment.”* The Planner subsequently concluded:

“the Planning Authority is satisfied that sufficient evidence has been provided to demonstrate that the dwelling is uninhabitable due to structural deficiencies, black-mould conditions and water ingress.”

While the current application contains more detailed technical evidence than that submitted under Reg. Ref. D24A/0993/WEB, the Council's assessment does not reconcile its finding of uninhabitability with the applicant's own evidence that repair is possible, that a defined deep-retrofit option capable of achieving an A2 BER has been identified, and that retention performs better in terms of upfront embodied carbon.

The evidence therefore demonstrates that the existing dwelling requires substantial remedial works; it does not establish that retention and rehabilitation are impossible. The justification advanced for demolition ultimately relies substantially upon the proposition that replacement represents the less complex, lower-risk and more economically advantageous option. It is submitted that this does not, of itself, satisfy the policy test imposed by Section 12.3.9.

The whole-life assessment must also be considered in the context of the substantial replacement development proposed. The subject site is steeply sloping and the replacement dwelling itself will require significant demolition, excavation, structural works and new construction. The Applicant's own carbon assessment acknowledges that retention performs better in upfront embodied-carbon terms. Accordingly, the greater construction complexity associated with retrofit cannot, without more, be treated as establishing that demolition is the appropriate policy response.

Having regard to **Policy Objective CA6 and Sections 12.2.1 and 12.3.9 of the Development Plan**, the planning history of the subject dwelling and the applicant's own technical evidence, it is submitted that a sufficiently robust basis has not been established for complete demolition of No. 32 Deerpark Road.

The consistent application of these provisions in recent comparable DLRCC decisions is considered further under Section 5.1.2 below.

5.1.2 Comparable DLRCC Decisions

The inconsistency of this grant in the context of previous decisions of the Council is clear. The policy position outlined above is reflected in a number of recent decisions by DLRCC and An Coimisiún Pleanála concerning the demolition and replacement, or substantial reconstruction, of existing dwellings. While each application falls to be considered on its individual merits, the decisions below demonstrate the approach taken to Policy Objective CA6 and Section 12.3.9, particularly in circumstances where an existing dwelling remains habitable or capable of repair and retrofit.

Rossbeg, 24 Deerpark Road, Mount Merrion, Blackrock, Dublin, A94E0P4

Reg. Ref. D25A/0600/WEB

Permission was refused by Dún Laoghaire-Rathdown County Council on 19th September 2025 for the demolition of the existing house, 131.4 sq.m.s, and two existing sheds, 24.6 sq.m.s, the construction of a new house, 372 sq.m.s, two storied to the front and three storied to the rear, alterations to the existing hardstanding, alterations to the existing vehicular entrance and the formation of a separate pedestrian entrance in the front boundary wall, all works to include all associated site works.

It should be noted that the above subject site is located less than 50m west of the subject site at No. 32 Deerpark Road and is a similar style cottage dwelling to No 32, four houses away. Under Reg. Ref. D25A/0600/WEB, the Planner assessed the proposal against Policy Objective CA6 and Section 12.3.9. stating:

"The proposed demolition of the existing dwelling is contrary to Policy Objective CA6, which promotes the retrofitting and reuse of existing buildings over demolition and reconstruction. The proposal, which involves complete demolition rather than refurbishment or adaptive reuse, disregards the potential for sustainable upgrading and fails to demonstrate that retrofitting is not a viable option."

The Planner further found that inadequate information had been submitted to demonstrate that the dwelling was uninhabitable, noting that its existing energy rating did not justify demolition. DLRCC accordingly concluded that:

"a strong justification has not been provided for the demolition of the existing dwelling on site, nor has it been demonstrated that the existing dwelling has fallen into such a state of disrepair to render it uninhabitable or structurally unsound."

The foregoing concerns a recent proposal on the same residential road, under the same Development Plan provisions, for the one-for-one replacement of an existing dwelling with a substantially larger dwelling. DLRCC did not regard poor energy performance or other deficiencies affecting the existing property as sufficient in themselves to justify demolition. The determining consideration remained whether a strong justification had been established and whether the existing dwelling had been demonstrated to be uninhabitable.

The decision is of further relevance having regard to the subsequent planning history at No. 24 which is acknowledged under DLRCC's own assessment of No. 32. It is noted that a later proposal at No. 24 under Reg. Ref. D25A/0754/WEB, involving alterations and extensions rather than a replacement dwelling, was again refused where the Planning Authority was not satisfied that the existing dwelling would genuinely be retained. DLRCC again relied upon Policy Objective CA6 and Section 12.3.9, finding that it had not been demonstrated that the dwelling was uninhabitable or structurally unsound.

A subsequent proposal under Reg. Ref. D26A/0228 adopted a retention and extension approach and was granted permission. The permitted development retained and altered the existing dwelling while providing additional accommodation and rear extension. The planning history at No. 24 therefore demonstrates, in a directly comparable local context, the practical application of the Development Plan's preference for retention and adaptation over wholesale demolition.

33, Coolkeel, Knocknacree Park, Dalkey, Dublin, A96V250

Reg. Ref. D24A/0678/WEB
ABP Ref. ABP-321283-24

Permission was refused by Dún Laoghaire-Rathdown County Council on 30th August 2024 and refused by An Coimisiún Pleanála on 12th February 2025 for (i) demolition of existing 1960's, two-storey over sub-basement detached three-bedroom dwelling (c. 245sq.m) on-site and demolition of the existing vehicular gate and front boundary wall; (ii) construction of a replacement, two-storey over sub-basement, three-bedroom contemporary flat roofed dwelling (c. 371sq.m). The lower ground floor level of the proposed development will comprise a private spa, including a steam room, sauna, sunken hot tub, WC and plant rooms. The ground floor level of the proposed dwelling will comprise the kitchen/dining, utility, washroom, WC and living room, with the bedrooms, WC, store, and balcony to the front and terrace area to the rear at first floor level; (iii) The proposed pedestrian and vehicular access to the subject site will be via the north, off Knocknacree Park. A new pedestrian gate is proposed on the northern site boundary; (iv) The proposed development also includes: all ancillary site works, inclusive of tree removal and replacement landscaping, boundary treatments, lighting, SuDs drainage, and all other engineering/drainage works necessary to facilitate the development.

Under Reg. Ref. D24A/0678/WEB / ABP Ref. ABP-321283-24, DLRCC refused permission for demolition of an existing c.245 sq.m 1960s dwelling and construction of a c.371 sq.m replacement dwelling and that decision was subsequently upheld on appeal.

The application was supported by a range of technical evidence concerning the condition, structural integrity and energy performance of the existing dwelling. The documentation identified, inter alia, moisture issues, damp, cracking, deteriorating building elements and a BER of F, while the sustainability assessment indicated that a new A1-rated dwelling would perform better in whole-life terms after accounting for embodied carbon. Importantly, however, the Condition Survey found that the property appeared to be in satisfactory structural condition and identified the potential to upgrade the existing dwelling to a B2 BER through refurbishment and extension.

The Inspector undertook a detailed assessment of whether the identified deficiencies were sufficient to justify demolition for the purposes of Policy Objective CA6 and Section 12.3.9. In considering the layout and design of the existing dwelling, the Inspector did not accept that the shortcomings identified necessitated wholesale demolition. For example, in relation to the existing rear conservatory, the Inspector observed that:

"it could be dismantled or reduced in size without demolition of the house as a whole."

More generally, the Inspector concluded:

"while the house has unusual aspects in its layout and design, the applicant has not demonstrated that it is so idiosyncratic or deficient that demolition is warranted. I do not consider the layout and design of the existing house to constitute a strong justification for its demolition."

The Inspector then considered the structural evidence. The Structural Assessment identified a significant number of observed defects, including excessive deflection to a lintel, potentially undersized columns, excessive bounce and noise to floor joists and internal cracking. However, importantly, that same assessment recommended further investigation into a number of these matters, including a geotechnical investigation to establish whether internal cracking was attributable to differential settlement associated with the sloping site.

The Inspector expressly concluded:

"In the absence of certainty regarding the cause of the internal cracking, and in the absence of further geotechnical investigations as recommended, the recommendation for demolition in the Structural Report is not based on the contents of the report."

The Inspector similarly distinguished between the extent or inconvenience of works required to modernise a dwelling and the considerably higher policy threshold for its demolition. Although the Condition Survey recommended that serious consideration be given to complete demolition and rebuilding due to the extent of refurbishment required, shortcomings of the existing building and the owners' requirement for additional space, the Inspector emphasised that the same report:

"does conclude that the property appears to be in a satisfactory condition from a structural perspective."

The Inspector continued:

"I do not consider the shortcomings in layout and design to be fatal flaws, nor do I consider the appellant's requirement for significantly more accommodation to be relevant to the issue of demolition."

Having considered the competing technical evidence, the Inspector concluded:

"Having regard to the information on file, and having regard to Policy Objective CA6 and Section 12.3.9, it has not been demonstrated that retrofitting and reuse of the house is not possible, and no strong justification is given for its demolition. As such, I find a refusal is in order."

The recommendation was reflected in the refusal, which described the property as an **"existing habitable house"** and concluded that:

"a strong justification has not been provided for the demolition of the existing dwelling on site, nor has it been demonstrated that the existing dwelling has fallen into such a state of disrepair to render it uninhabitable."

Of further relevance, the Inspector did not consider an absence of particular architectural merit to displace the policy preference for retention. Rather, the Inspector observed:

"The onus is on the Local Authority to encourage retention; rather than on the owner to retain such buildings."

The foregoing demonstrates that the identification of genuine defects within an existing dwelling does not, of itself, establish that demolition is justified. In the above case, defects were identified through technical assessment and demolition was recommended within one of the submitted reports, nevertheless, the Inspector assessed whether those defects actually rendered the dwelling incapable of retention and reuse, particularly where further investigation remained outstanding and the Condition Survey itself found the structure to be satisfactory.

The same distinction applies at No. 32 Deerpark Road where the consideration under Policy Objective CA6 and Section 12.3.9 is not simply whether the existing dwelling suffers from defects, whether substantial intervention would be required, or whether a replacement dwelling would provide a technically preferable outcome. Rather, consistent with the approach adopted by the Inspector at Knocknacree Park, the relevant question is whether the evidence establishes that retention and retrofit are not reasonably available and, critically in the case of an urban replacement dwelling, whether the existing dwelling has actually been demonstrated to be uninhabitable.

Reg. Ref. D25A/1004/WEB
ACP Ref. PL-501044-DR-26

Permission was refused by Dún Laoghaire-Rathdown County Council on 24th February 2026 and refused by An Coimisiún Pleanála on for (i) the retrofit, upgrade and extension of the existing 1960's, two-storey over sub-basement detached three-bedroom dwelling (c. 236sq.m), including refurbishment and internal reconfiguration; (ii) partial demolition of sections of the existing dwelling, including removal of portions of external and internal walls, floors, and roof structures as necessary to facilitate proposed works; (iii) extension of the existing dwelling resulting in a two-storey over sub-basement, three-bedroom contemporary flat roofed dwelling (c. 388sq.m). The lower ground floor level of the proposed development will comprise a private spa, including a steam room, sauna, sunken hot tub, WC and plant rooms. The ground floor level of the proposed dwelling will comprise the kitchen/dining, utility, washroom, WC and living room, with the bedrooms at first floor level; (iv) alterations to all elevations including revised fenestration, insulation, new wall and roof finishes (v) installation of rooflights; (vi) The proposed pedestrian and vehicular access to the subject site will be via the north, off Knocknacree Park. A new pedestrian gate is proposed on the northern site boundary; (vii) refurbishment of the existing rustic timber cabin located to the rear of the site; and (viii) The proposed development also includes: all ancillary site works, inclusive of tree removal and replacement landscaping, boundary treatments, lighting, SuDs drainage, and all other engineering/drainage works necessary to facilitate the development.

Following the refusal of wholesale demolition, a revised application was submitted for the retrofit, upgrade and extension of the existing dwelling. DLRCC refused permission on the basis that the works amounted to the ***“substantial and almost complete demolition and reconstruction of a residential dwelling”*** and that a strong justification had not been provided for the extent of demolition proposed.

That decision was subsequently appealed. The Inspector examined the actual extent of fabric proposed for retention and having reviewed the floor plans, the Inspector found that only limited areas of the original external and internal walls would remain and concluded:

“the proposed development involves substantial demolition, as a significant proportion of the original fabric will be removed.”

The appellant's own structural evidence acknowledged that greater retention would be ***“more costly and time consuming”***, while the more extensive reconstruction option was considered more cost-efficient, practical and less disruptive. The technical evidence nevertheless demonstrated that retained walls could be temporarily supported and structurally incorporated into the refurbished dwelling.

The Commission did not treat the greater cost or complexity of retention as sufficient justification for demolition. The Inspector instead returned to the Development Plan requirement to prioritise repair and reuse and the requirement under Section 12.3.9 for a strong justification for demolition.

The Inspector also recorded that:

“the appeal property is currently habitable and occupied by the applicants”

and concluded on that basis that the development did not comply with Section 12.3.9, which provides that a single replacement dwelling within an urban area may only be permitted where the existing dwelling is **uninhabitable**. The Inspector further concluded *that “it has not been demonstrated that retrofitting and reuse of the house is not possible, and no strong justification is given for its demolition.”*

Permission was consequently refused, with the final reason concluding that the applicants had failed to provide a strong justification for the ***“substantial and almost complete demolition and reconstruction of the existing dwelling”***, contrary to Policy Objective CA6, Policy Objective PHP19 and Section 12.3.9.

Having regard to the above, it is noted that the dwelling at No. 32 Deerpark Road, similarly remains occupied by the Applicants and their own engineering assessment confirms that repair and deep retrofit are technically possible, albeit considered more costly and complex than replacement.

Avila, York Road, Dun Laoghaire, Dublin, A96TW10

Reg. Ref. D25A/0540/WEB

Permission was refused by Dún Laoghaire-Rathdown County Council on 27th August 2025 for '(i) demolition of existing two-storey detached 4-bedroom dwelling (c. 195sq.m) on-site; (ii) construction of a replacement, three-storey (part two-storey with attic level), 4-bedroom contemporary dwelling (c. 354sq.m). The ground floor level of the proposed dwelling will comprise the entrance hall, kitchen/living/ dining, pantry, boot room, washroom, living room, and lounge. The first floor level will comprise 3 no. bedrooms, 3 no. ensuites, store, walk-in wardrobe and laundry with office, storage, WC, 1 no. bedroom, ensuite and rear-facing balcony; (iii) Development will be accessed via existing vehicular access from York Road; (iv) The proposed development also includes all ancillary site development works, including hard and soft landscaping, provision of private open space to the rear (c. 161 sq.m), SuDS drainage, and all associated engineering works necessary to facilitate the development.'

Under Reg. Ref. D25A/0540/WEB at Avila, York Road, Dún Laoghaire, the first reason for refusal applied Policy Objective CA6 and Section 12.3.9, with DLRCC concluding that:

“a strong justification has not been provided for the demolition of the existing dwelling on site, nor has it been demonstrated that the existing dwelling has fallen into such a state of disrepair to render it uninhabitable.”

DLRCC further considered that permitting the development would establish an undesirable precedent for the demolition of existing dwellings.

Collectively, these decisions demonstrate a consistent approach to the application of Policy Objective CA6 and Section 12.3.9. Complete demolition, or works amounting in substance to substantial demolition and reconstruction, requires more than evidence that a replacement dwelling would perform better, be easier to construct or provide a preferable development outcome. The determining consideration remains whether a strong justification for demolition has been established within the Development Plan framework and, in the case of a one-for-one urban replacement dwelling, whether the existing dwelling has been demonstrated to be **uninhabitable**.

In the present case, No. 32 remains occupied and the Applicant's own technical evidence confirms that repair and deep retrofit are possible. Against the recent decisions outlined above, it is submitted that the preference for demolition arising from comparative cost, construction risk and whole-life performance does not provide a sufficient basis to depart from the clear policy preference for retention

and reuse or to establish that the existing dwelling is uninhabitable for the purposes of Section 12.3.9. The granting of permission for the proposed development would be contrary to the policy and objectives of the development plan which states that demolition should only be considered if the dwelling is uninhabitable. In this instance, the dwelling is currently occupied. Therefore it is submitted that permission for the demolition of the dwelling should be refused.

5.2 Scale, Form and Impact upon Residential Amenity

5.2.1 Assessment of the Current Proposal and its Relationship with No. 30

The proposed development represents a substantial increase in the scale and form of development at No. 32 Deepark Road. The existing dwelling extends to approximately 178 sq.m, while the proposed replacement dwelling would provide approximately 345 sq.m of floorspace, an increase of approximately 167 sq.m or 94%. The proposal also introduces a three-storey built form and materially increases the extent of development to the rear and sides of the existing dwelling.

The Appellant has consistently stated that he does not object to the appropriate improvement or extension of No. 32. The concern relates to whether a replacement dwelling of the scale and form proposed can be satisfactorily accommodated having regard to its relationship with No. 30 and the established residential character of Deepark Road.

The Development Plan supports additional residential development within existing built-up areas, but expressly qualifies this objective by the requirement to protect established residential amenity. Policy Objective PHP18 seeks to encourage consolidation and re-intensification while ensuring:

"a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development."

Similarly, Policy Objective PHP19 supports small-scale infill development only where it has "due regard to the amenities of existing established residential neighbourhoods" and seeks to:

"Prevent any new development or change of use which would seriously reduce the amenity of nearby dwellings."

These requirements are reinforced by Section 12.3.1.1 of the Development Plan. In assessing residential development, the Planning Authority is required to have regard, inter alia, to:

"Levels of privacy and amenity, the relationship of buildings to one another, including consideration of overlooking, sunlight/daylight standards and the appropriate use of screening devices."

The same section requires consideration of:

"Context - having regard to the setting of the site, the surrounding character, streetscape, and the impact of any proposed development on the development potential of adjoining sites."

Accordingly, the principle of residential development at No. 32 is not disputed. The relevant consideration is whether the particular scale, massing and relationship of the replacement dwelling satisfactorily protect the established amenities of No. 30.

This issue has already arisen in the planning history of the subject site. Under Reg. Ref. D23A/0539, DLRCC refused an earlier replacement dwelling on the basis that:

"The proposed development, due to the design of the first floor level, would result in significant overshadowing behind the main building line and this is contrary to Section 12.3.7.1 of the County Development Plan as it would result in a significant impact on adjacent residential amenities to the west..."

The adjoining property to the west is No. 30 Deerpark Road. The previous refusal therefore establishes that the relationship between additional development at first-floor level at No. 32 and the amenities of No. 30 requires particular scrutiny.

The current proposal incorporates revisions from the previously refused schemes. However, the current Planner's Report itself records that the *"scale, height, form and design of current proposal is broadly similar to that considered under application D24A/0993/WEB"*. The report also acknowledges that the proposed footprint expands to the rear and sides at ground-floor level and that the rear first-floor element is *"significantly expanded by comparison with the existing dwelling."*

The Planning Authority places particular reliance on the increased western setback of approximately 1.9 metres, considering that this would:

"mitigate the negative amenity impact on the adjacent property compared to the previous site layout that was located up to the western side boundary."

The report further considers that the reduction in width, together with the decrease in overall scale, massing and height relative to the previous proposal, mitigates its visual impact.

While these revisions are acknowledged, comparison with a previously refused scheme is not, in itself, sufficient to establish the acceptability of the current proposal. The proposal must be assessed on its own merits against the existing receiving environment and the Development Plan requirement to protect the residential amenity of adjoining properties.

In the present case the Council failed to do this and failed to consider the very serious impact on No 30 despite the detailed observations made. The Council also failed to have regard to the invalid nature of the daylight assessment conducted and to the discrepancies in the site and wall levels, which meant that the true impact on No 30 could not be ascertained and yet despite this granted a permission. In the absence of proper evidence showing the impact on No 30 the Planning Authority were obliged to and should have declined permission. The Planning Authority's assessment appears to rely principally on the reductions in scale, massing and proximity achieved relative to the previously refused proposals, rather than a detailed assessment of the relationship of the current proposal with No. 30 in its own right. In circumstances where the planning history has already identified significant amenity impacts upon No. 30, an improvement upon a previously unacceptable scheme does not, of itself, demonstrate that the current proposal is acceptable. Without a sufficiently robust assessment of the proposed height, depth, massing and level relationship with No. 30, it cannot be satisfactorily established that the concerns which informed the previous refusal have been fully overcome.

In this regard, the relevant comparison is also between the **existing and proposed development**. The replacement dwelling would be almost twice the floor area of the existing house, increasing from approximately 178 sq.m to 345 sq.m. It introduces a materially greater three-dimensional building envelope and, as acknowledged by the Planning Authority, significantly expands the first-floor development to the rear as well as extending beyond the front building line with No. 30 Deerpark. The increase in scale is therefore not confined to additional accommodation contained within the existing building envelope but is expressed through additional height, depth and built form in proximity to No. 30 which in combination adversely impact the residential amenity of the appellants.

The c.1.9 metre western setback must similarly be considered as part of the overall relationship between the properties rather than as a determinative measure in isolation. Section 12.3.1.1 requires consideration of the *"relationship of buildings to one another"* and the particular context of the site. The effect of the proposal upon No. 30 consequently depends upon the combined height, depth, massing and proximity of the replacement dwelling, together with the established difference in levels between the properties.

The topography of the site is considered particularly relevant. The subject site and adjoining lands are characterised by significant changes in ground level, and the relationship of the proposed three-storey dwelling with No. 30 cannot be adequately understood from separation distances alone. The perceived scale and height of the development when viewed from the adjoining property, including from its rear amenity area, must form part of the assessment of whether the proposal would be overbearing.

Notwithstanding these circumstances and the previous refusal relating specifically to No. 30, the Planning Authority concludes that the revised proposal would not result in an unacceptable overbearing or overshadowing impact. It is submitted that insufficient weight has been afforded to the cumulative effect of the substantial increase in floorspace, enlarged rear building envelope, three-storey form, proximity to the common boundary and existing level relationship between the properties.

The Development Plan does not preclude the redevelopment or extension of existing dwellings within established residential areas. It does, however, require such development to respond appropriately to its context and to protect existing residential amenity. A reduction in scale relative to a previously refused proposal does not remove that requirement. The current development must itself demonstrate an appropriate relationship with No. 30.

Having regard to the almost doubling of floorspace, the materially enlarged built form and the particular physical relationship between Nos. 30 and 32, it is considered that the proposed development remains excessive in scale and massing at this location and would result in an overbearing relationship with the adjoining property. This concern is further informed by the detailed boundary, window and privacy relationship between the two properties, which is addressed in Section 5.2.2 below.

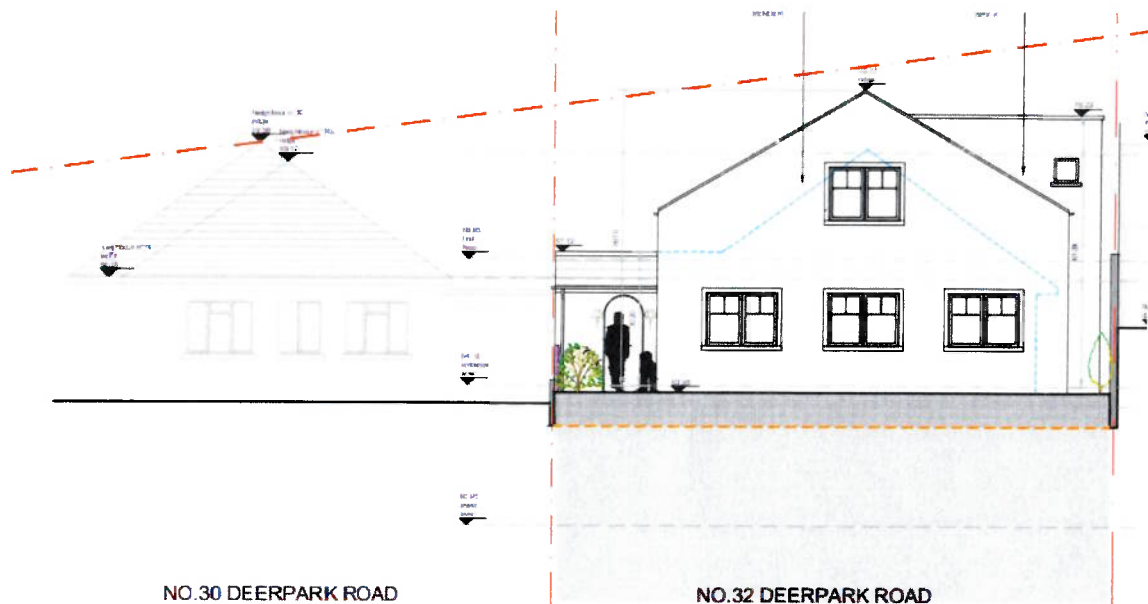


Figure 22.0 Extract from the submitted drawings of the proposed south/front elevation illustrating the increase in scale, bulk, mass and overbearance of the proposed dwelling in context of No. 30

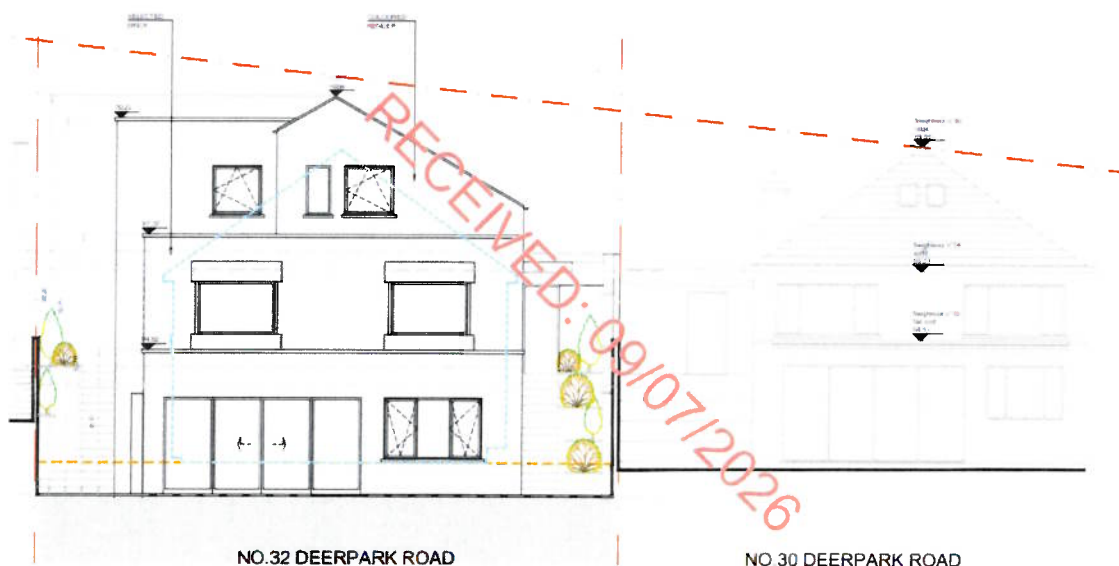


Figure 23.0 Extract from the submitted drawings of the proposed north/rear elevation illustrating the increase in scale, bulk, mass and overbearance of the proposed dwelling in context of No. 30

5.2.2 Overlooking, Privacy and Boundary Relationship

In addition to the concerns regarding scale and massing outlined above, the detailed relationship between the proposed dwelling and No. 30 requires consideration in terms of overlooking, privacy and the treatment of the shared western boundary.

Section 12.3.1.1 of the Development Plan identifies ***“levels of privacy and amenity”*** and ***“the relationship of buildings to one another”*** as specific design criteria, including consideration of overlooking and the appropriate use of screening measures. This is consistent with Policy Objective PHP19, which requires development within established residential areas to have due regard to existing residential amenities and seeks to prevent development which would seriously reduce the amenity of nearby dwellings.

These requirements are particularly relevant at No. 32 given the proximity of the proposed three-storey dwelling to No. 30, the extension of built form to the rear and the existing difference in levels between the properties. The assessment of privacy impacts cannot therefore be limited to compliance with a particular separation distance. Regard must be had to the position, level and orientation of proposed openings and external areas relative to the adjoining dwelling and its private rear garden.

The proposed dwelling would be set approximately 1.9 metres from the western boundary with No. 30. While this represents an improvement upon the previous proposal, which extended up to the western side boundary, the increased setback does not, in itself, resolve the potential for overlooking or loss of privacy arising from a substantially larger and taller replacement dwelling.

The proposal introduces additional accommodation across three levels and extends the first-floor built form significantly further to the rear than the existing dwelling. Of particular concern is the proposed glazed bay-window arrangement at this level and its relationship with the master bedroom at No. 30. The proposal also alters the existing built relationship towards both the front and rear of the properties. The relationship of the proposed openings with No. 30 must therefore be assessed in the context of the overall increase in height and depth and the particular level relationship between the sites.

The Planning Authority's conclusion that the proposal would not give rise to unacceptable overlooking appears to rely principally upon the orientation and treatment of the proposed openings and the increased setback from the western boundary. It does not, however, substantively address the specific concern raised regarding views from the proposed rear bay window towards the master bedroom at No. 30.

The issue is not confined to directly opposing windows. Oblique views from elevated first- and upper-floor openings towards the adjoining dwelling, together with views over the private rear amenity space of No. 30, are also relevant. The rear garden at No. 30 presently benefits from a substantial degree of privacy and forms the principal private amenity area associated with the dwelling.

This is particularly important in an established low-density residential setting where rear gardens provide the principal areas of private amenity. The introduction of a substantially greater extent of elevated accommodation immediately adjoining No. 30 changes the existing relationship between the properties. Any assessment of overlooking must therefore demonstrate that an appropriate degree of privacy would be maintained throughout the adjoining dwelling and garden, rather than simply establish that no window directly faces the common boundary.

The treatment of the shared boundary must also be considered alongside the proposed changes in levels. The Planner's Report identifies discrepancies between the proposed site levels and step levels shown on the boundary wall drawings and those indicated on the proposed side elevation. Where the acceptability of the relationship with No. 30 depends, in part, upon boundary treatment and screening, clarity as to the finished ground levels, boundary heights and their relationship with proposed windows is necessary to determine the effectiveness of those measures.

These matters have been raised consistently by the Appellant through the previous and current applications. Notwithstanding that history, the current application still does not provide a clear and coordinated representation of the site levels, boundary treatment and their relationship with No. 30. This is of particular concern given the scale of demolition and reconstruction proposed immediately adjoining an established dwelling. Without a consistent and clearly demonstrated relationship between finished levels, boundary treatments and the proposed elevations, it cannot be satisfactorily established that the boundary treatment relied upon would provide an appropriate and effective degree of screening between the properties.

The concerns regarding privacy must also be considered cumulatively with the scale and massing matters addressed in Section 5.2.1. The relevant consideration is the overall relationship created between the two properties: a replacement dwelling almost twice the floor area of the existing house, extending across three levels, with significantly increased rear first-floor development and elevated accommodation positioned in close proximity to the shared boundary. In this context, the protection of No. 30 from overlooking and loss of privacy requires a particularly clear and robust assessment. It is therefore considered that the information submitted does not provide sufficient certainty that the proposed development would maintain an appropriate relationship with No. 30 in terms of privacy and overlooking. This is compounded by the identified discrepancies concerning levels and boundary treatment. In the absence of a clear and coordinated assessment of these matters, it has not been satisfactorily demonstrated that the proposal would protect the established residential amenities of No. 30 in accordance with Section 12.3.1.1 and Policy Objective PHP19 of the Development Plan.

5.3 Daylight, Sunlight, Overshadowing and Reliability of the Submitted Assessment

The potential impact upon daylight and sunlight at No. 30 Deerpark Road is a significant concern of the appellant. Under Reg. Ref. D23A/0539, DLRCC refused permission specifically because the proposed first-floor development would result in *“significant overshadowing behind the main building line”* and a *“significant impact on adjacent residential amenities to the west”*, namely No. 30.

The current application is accompanied by a *Daylight and Sunlight Assessment + APSH*, prepared by Arc Design, which is relied upon in the Applicant's Planning Statement to support the conclusion that the proposal would not give rise to significant adverse effects in terms of daylight, sunlight or overshadowing. As stated in our client's observations to the Planning Authority, this assessment is fundamentally flawed and drawn up on an erroneous basis which departs significantly from the drawings.

Given the previous refusal, the accuracy of this assessment and, in particular, the model of No. 30 and the proposed development upon which its results depend, is fundamental to determining whether the previous amenity concern has in fact been overcome.

Section 12.3.1.1 of the Development Plan expressly requires consideration of ***“levels of privacy and amenity, the relationship of buildings to one another, including consideration of overlooking, sunlight/daylight standards”***. Section 12.3.4.2 further provides that residential development is to be guided by the principles of *Site Layout Planning for Daylight and Sunlight* and states that:

“The impact of any development on existing habitable rooms should also be considered.”

The submitted assessment cannot be used as a basis upon which to reach that conclusion in respect of No. 30 for the reasons set out below.

A significant concern relates to the representation and classification of the principal living accommodation at No. 30. The assessment identifies a number of windows and rooms as either *“Habitable Room”* or *“Non Habitable Room”*. Its own glossary states that Average Daylight Factor is *“tested for all habitable rooms”*. The correct identification of the internal accommodation at No. 30 is therefore fundamental to the methodology employed.

The assessment does not accurately represent the existing layout. The Appellant confirms that the ground-floor accommodation adjoining No. 32 comprises a large open-plan kitchen/living area. There is no dividing wall between these spaces. However, the three-dimensional model used for the Sun Exposure and Average Daylight Factor assessments depicts an internal wall subdividing this

accommodation and separately labels areas as “Habitable Room” and “Non Habitable Room”. This representation is clearly visible in the submitted before-and-after modelling.

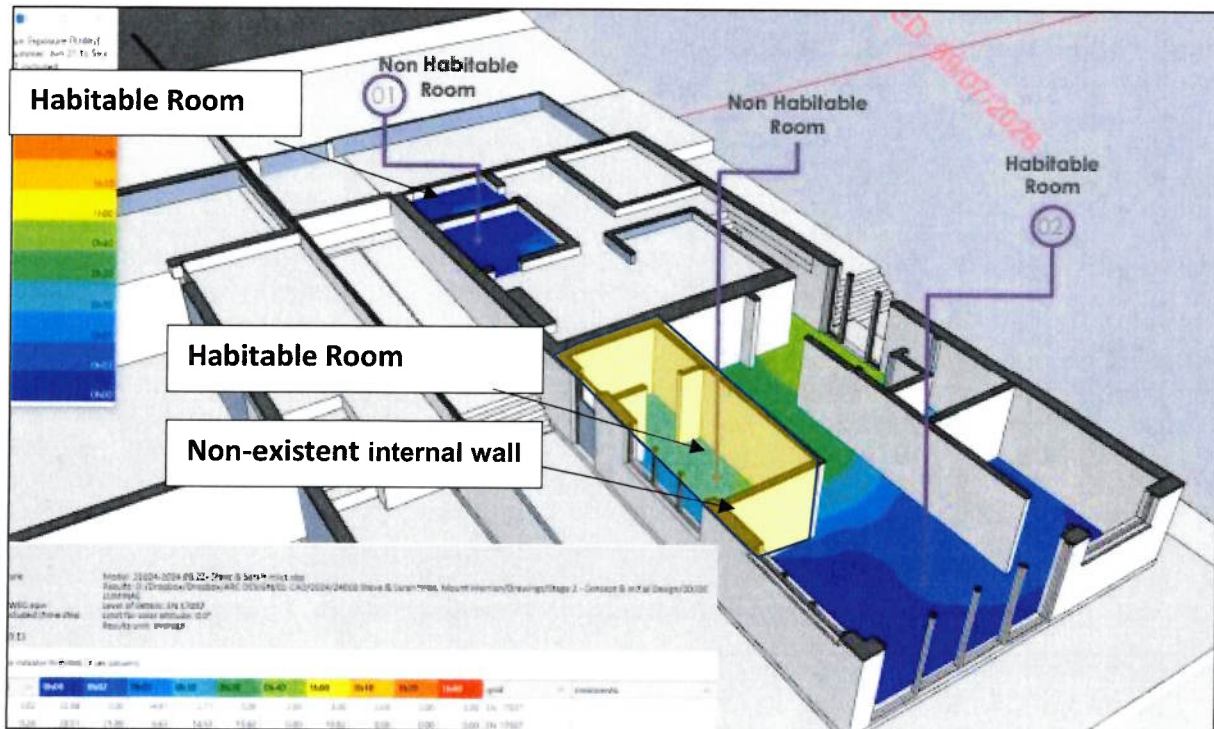


Figure 24.0 Extract from submitted Daylight and Sunlight Assessment showing the three-dimensional model depicting an internal wall subdividing the existing open-plan kitchen/living area labelled as a “Non Habitable Room”, highlighted in yellow.

This is not a minor discrepancy. The model divides what is in reality a continuous open-plan living space and consequently does not assess the existing accommodation in the form in which it is actually occupied and experienced. As stated in the appellant’s original observation:

“The assessment is wrong in showing a wall between the kitchen and living room. There is no wall. It is and always has been open plan and therefore any diminution in sunlight will affect both the kitchen and living areas and not simply the kitchen as the assessment appears to suggest.”

The photographs provided by the Appellant further demonstrate that natural light enters this open-plan kitchen/living area through the window facing towards No. 32 and permeates through the wider living space. The photographs also demonstrate that this occurs during winter conditions. They therefore provide important factual context to the model’s characterisation of portions of this accommodation as non-habitable and its representation of the internal layout.

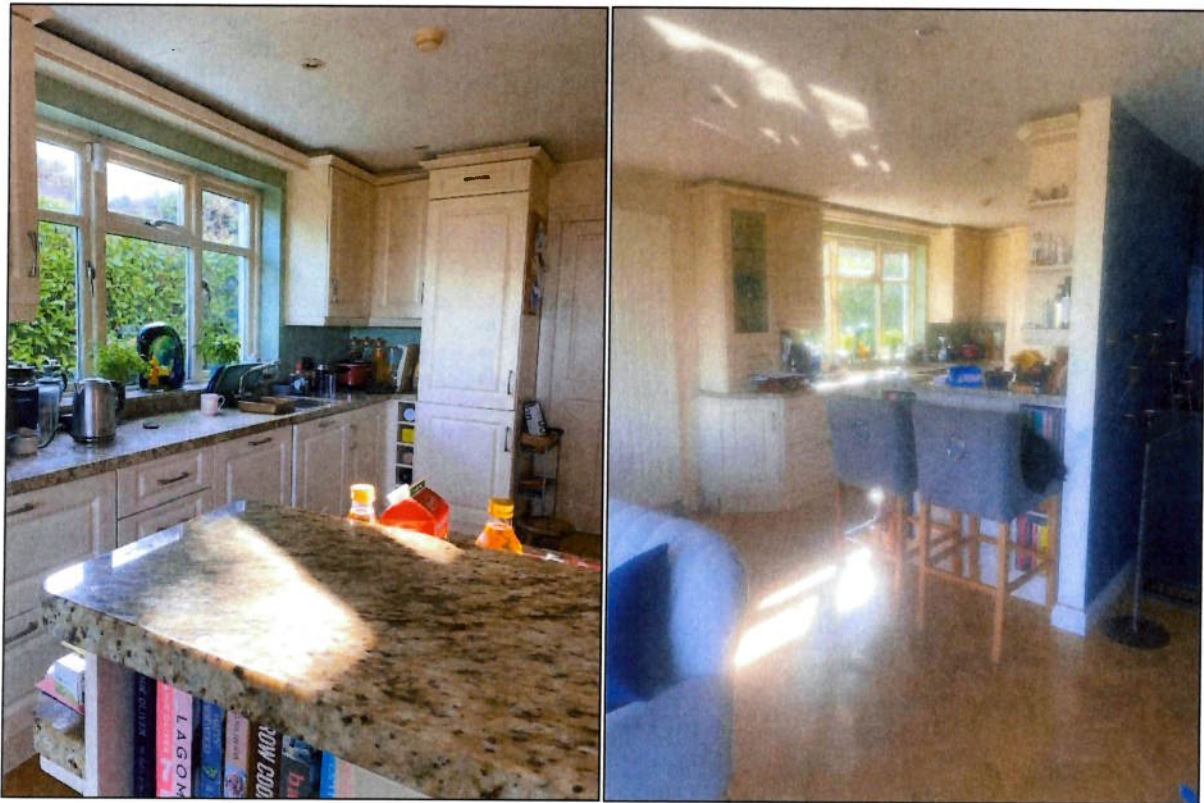


Figure 25.0 Images showing natural light which enters this open-plan kitchen/living area through the window facing towards No. 32 and permeates through the wider living space.

It is submitted that the above demonstrate that the physical assumptions upon which the technical assessment has been constructed do not correspond with the actual arrangement and use of No. 30. Where the model incorrectly subdivides an open-plan room and applies its analysis on that basis, confidence in the resulting assessment of effects upon that accommodation is materially reduced.

There is a fundamental flaw in the daylight and sunlight report as it does not accurately correspond with the development shown on the planning drawings.

Page no. 3 of the assessment presents side-by-side aerial models described as “*Existing Dwelling*” and “*Proposed Dwelling*”. However, comparison of the proposed model with the application drawings raises discrepancies concerning the extent and position of the proposed built form relative to No. 30. In particular, the submitted architectural drawings show the replacement dwelling projecting further forward than represented in the daylight/sunlight model. In contrast the daylight and sunlight report does not.

Further the report shows the building line at the back being maintained. Again, therefore the report is at variance with the drawings submitted and clearly drawn up on an erroneous basis and the assessment as to the impact on No 30 is therefore fundamentally flawed and cannot be relied upon. As a consequence, there is no evidence as to the true impact and our client has significant concerns as to how the light to his property will be impacted.

This is significant because the results of a daylight and sunlight assessment necessarily depend upon the geometry entered into the model. The position, depth, height and proximity of the proposed structure determine the degree to which it obstructs available sky and sunlight. A model which does not correspond with the development for which permission is sought cannot reliably demonstrate the effect of that development upon the adjoining property.

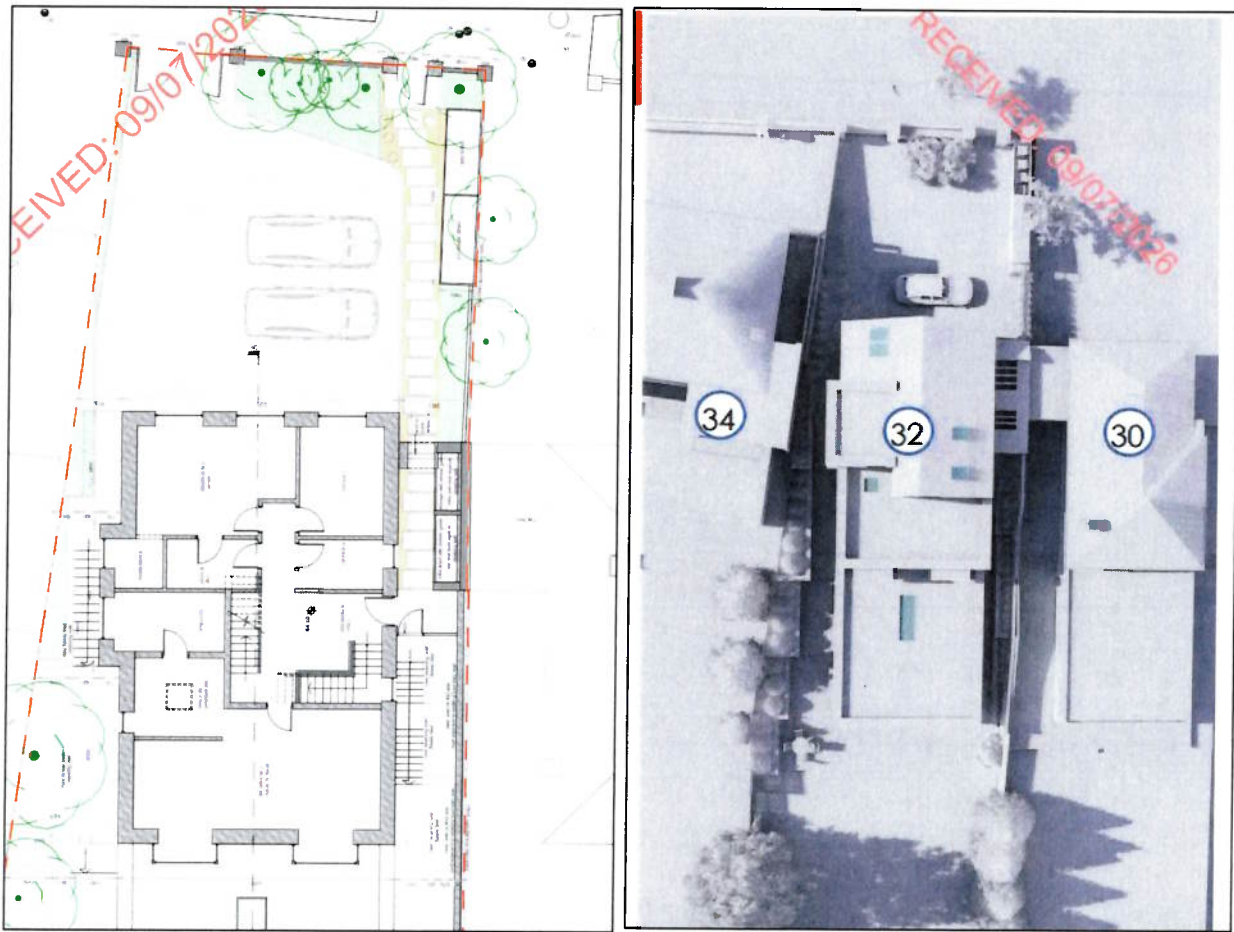


Figure 26.0 Extract of Site Plan and Extract from Sunlight/Daylight Assessment

Furthermore, we note that the building line extending beyond the established building line directly impacts on the sunlight entering not only the ground floor windows of our clients kitchen/living/dining room but also the first floor bedrooms which are incorrectly denoted as non-habitable rooms in the assessment report.



Figure 27.0 First floor window impacted by proposed development

There is also an apparent inconsistency within the assessment itself. The Sun Exposure “after” model on page no. 7 depicts a substantial element of the proposed dwelling immediately adjacent to the side of No. 30, whereas the relationship shown elsewhere in the application documentation differs. This was raised in the Appellant’s original observation, which identified that the first-floor development appeared in the assessment to extend towards the boundary in a manner inconsistent with the other submitted plans.

These discrepancies are particularly concerning given that the Planning Authority itself identifies inconsistencies elsewhere in the application drawings. The Planner’s Report records:

“there are discrepancies in relation to the proposed site levels and designed step levels between the drawings of proposed boundary wall and ‘proposed side elevation’.”

The accuracy of levels is directly relevant to a daylight and sunlight assessment. Where the relative ground levels, boundary treatment or development geometry are inconsistent across the application documentation, it is not clear which levels and dimensions have been incorporated into the daylight model.

A related deficiency concerns the proposed boundary treatment between Nos. 30 and 32. The application proposes new boundary walls against the existing western boundary treatment. The Planner acknowledges these works and, as noted above, identifies discrepancies concerning the proposed site and step levels. It must be observed that without clarity as to the precise ground levels the impact on No 30 cannot be assessed and the Planner’s conclusion was flawed and without a rational basis.

The Appellant raised during the application that the additional proposed wall does not appear to have been incorporated into the daylight model, which instead appears to show only the existing boundary treatment. The observation states:

“the daylight assessment does not include the new wall being built in No 32 beside the boundary wall. Only one wall is shown in the drawing (the current boundary as opposed to the additional new higher wall).”

This omission is critical because the affected kitchen/living window is positioned at the side of No. 30 facing towards the shared boundary. The height of any intervening wall, measured relative to the finished ground level at No. 30, is directly relevant to the amount of light reaching that window. Where the application documentation itself contains discrepancies concerning levels and the daylight assessment does not clearly demonstrate that the proposed boundary treatment has been incorporated, its effect cannot be established with sufficient certainty if at all. The Appellant’s original observations should be examined in full in conjunction with this submission as they point to detailed impact.

The report itself is notably limited in explanatory analysis. It comprises graphical before-and-after outputs for APSH, Sun Exposure and Average Daylight Factor, together with a single VSC section and a glossary. There is no substantive written assessment explaining the selection of rooms and windows, the source or verification of the geometry used to model No. 30, the treatment of the open-plan accommodation or the treatment of the proposed boundary wall.

The affected accommodation at No. 30 relies upon light entering from its particular orientation towards No. 32. A numerical or graphical output based upon an inaccurate representation of that accommodation cannot adequately establish the actual effect upon its daylight and sunlight environment.

Notwithstanding the previous refusal and the detailed concerns raised in the Appellant’s observation, the Planner’s Report does not contain a substantive appraisal of the submitted Daylight and Sunlight Assessment and does not appear to notice these fundamental flaws despite the observations submitted and is therefore flawed in its conclusions

The residential amenity assessment instead focuses principally on the extent to which the current design has been reduced relative to Reg. Ref. D24A/0993/WEB. The Planner notes the reduced width and western setback and concludes that:

"The reduction in width, together with the overall decrease in scale, massing and height, mitigates the visual impact of the development and improves its relationship with adjoining properties."

The report then concludes:

"Having regard to the location, scale, height and overall form of the proposed dwelling in relation to the neighbouring properties, it is considered that the proposed development is acceptable and would not adversely impact on the amenities of existing adjacent properties by way of overshadowing or overbearing appearance..."

There is no corresponding analysis of the results of the submitted daylight report, the rooms or windows assessed at No. 30, the accuracy of the model, or the specific discrepancies raised in the third-party observation. This is notable when compared with the assessment of the previous application under Reg. Ref. D24A/0993/WEB, where the Planner referred to the submitted daylight assessment and the treatment of the window which had been central to the D23A/0539 refusal.

The current conclusion on overshadowing therefore appears to derive primarily from a comparison with the scale and dimensions of the previous proposal rather than from a demonstrated assessment of the current development's effect upon No. 30. As addressed under Ground No. 2, a reduction from a previously refused or otherwise unacceptable scheme does not establish that the resulting development protects adjoining residential amenity.

The report submitted was conducted on an erroneous basis at variance with the actual plans submitted. It is therefore not a valid assessment and accordingly there is no evidence submitted of the true daylight and sunlight impact on No 30. In the absence of a daylight and sunlight assessment based upon an accurate representation of No. 30, the proposed development, the relevant site levels and boundary treatment, there remains significant uncertainty as to the effect of the proposal upon the principal kitchen/living accommodation at No. 30. It has therefore not been satisfactorily demonstrated that the proposed development would avoid an unacceptable loss of daylight or sunlight or significant overshadowing of the adjoining property, as required by the Development Plan.

5.4 Adequacy of Information and Matters Deferred by Condition

A final concern relates to the adequacy and consistency of the information submitted with the application and the extent to which matters relevant to the relationship between the proposed development and No. 30 Deerpark Road have been deferred for resolution by condition.

The subject site has a pronounced change in level, falling from front to rear and rising towards the eastern side. This topography is acknowledged in the application documentation. The proposed development involves the complete demolition of the existing dwelling and construction of a substantially larger c.345 sq.m, three-storey replacement dwelling, including development at the lower levels of the sloping site.

The significance of the site levels is also apparent from the Applicant's Demolition Report. In considering an alternative refurbishment scenario, the CORA report identifies excavation to a new formation level at the lower end of the site and estimates that retention of the existing structure in that scenario would require approximately 30 linear metres of underpinning, including excavation to depths of approximately 2 metres along the rear wall. This demonstrates that excavation and structural intervention on this site are not insignificant matters.

Notwithstanding this, the application does not appear to be accompanied by a structural engineering assessment specifically addressing the construction of the proposed replacement dwelling, the excavation and formation levels required, retaining arrangements, or the potential implications of those works for the adjoining property at No. 30. The CORA report is principally a demolition justification and whole-life assessment of the existing dwelling. While it addresses structural defects within No. 32 and

the engineering implications of retaining it, it does not provide a corresponding assessment demonstrating how the proposed three-storey replacement development would be constructed having regard to the site's topography and its relationship with adjoining structures.

This omission is particularly relevant given the close physical relationship with No. 30. The Applicant's Planning Statement itself acknowledges the potential for interference with the adjoining garage, stating that only partial demolition of the garage structure adjacent to No. 30 is proposed, *"thereby minimising the potential for interference with, or impact on, the adjoining garage."* That acknowledgement reinforces the need for adequate engineering information demonstrating how demolition, excavation and construction adjoining this boundary can be undertaken.

In particular there is no information of how this work (on a very steep site close to our client's property) will be undertaken in a safe manner without impacting the ground at No 30 and causing potential subsidence and problems to the old foundations.

There are also unresolved inconsistencies in the application drawings concerning site and boundary levels. The Planning Authority records that:

"there are discrepancies in relation to the proposed site levels and designed step levels between the drawings of proposed boundary wall and 'proposed side elevation'."

Rather than requiring these discrepancies to be resolved during the assessment of the application, the Planner recommended a condition *"requiring confirmation of proposed site levels and boundary treatment prior to the commencement of any development."*

This is entirely unsatisfactory in circumstances where the disputed levels and boundary treatment are directly relevant to the assessment of the development's impact upon No. 30. As addressed under Section 5.3 above, the height and position of the proposed western boundary treatment, relative ground levels and final built form are relevant to daylight, sunlight, overshadowing and the physical relationship between the two properties. They are therefore matters which inform whether the development is acceptable in principle, rather than simply matters of construction detail.

The Appellant expressly raised these uncertainties at application stage and requested that Further Information be sought, noting that the submitted documentation was unclear as to the proposed changes and their relationship with No. 30 and that, consequently, *"it is not possible to fully appraise the proposed development accurately."* No Further Information was sought to resolve these matters.

The decision to defer the clarification of site levels and boundary treatment is also notable given that the Planning Authority was prepared to seek further information on other technical matters. DLR Parks Planning requested further information in relation to the survey of existing trees on and adjoining the site. In contrast, the discrepancies identified by the Planner concerning site levels and boundary treatment were left to post-permission compliance.

Without having been furnished with clear details of site levels, boundary treatment and prevention of risks to neighbouring property it is submitted no valid conclusion could have been reached by the Planning authority. It is considered that sufficient information must be available to establish the form and levels of the development for which permission is being sought and to enable its effects upon adjoining residential property to be properly assessed. Without plans showing proper details of construction and levels our clients are unable to be professionally advised on the true impact. The Planning Authority itself identified inconsistencies in that information, while the application contains no apparent engineering assessment addressing the proposed excavation and structural works in the context of the site's sloping topography and proximity to No. 30.

These deficiencies are compounded by the matters identified under Section 5.3 concerning inconsistencies within the daylight and sunlight model. Collectively, there remains uncertainty as to the precise relationship between the proposed dwelling, finished site levels, western boundary treatment and No. 30 Deerpark Road.

It is therefore submitted that matters directly relevant to the acceptability of the proposed development have not been adequately resolved through the application documentation and should not have been

deferred for subsequent agreement by condition. In the absence of consistent drawings and levels and an appropriate engineering assessment of the proposed demolition, excavation and construction works, it is considered that it cannot be satisfied on the information provided that the development would adequately protect the residential amenity and property of the adjoining dwelling at No. 30. In fact, it is clear there will be a most significant impact.

The Appellant is conscious that the Applicant may seek, in responding to this appeal, to clarify discrepancies identified herein or to submit revised drawings, technical assessments or other additional information addressing matters which were not resolved during the Planning Authority's assessment. Should any such material materially alter, supplement or seek to correct the information upon which the application was assessed, the Appellant respectfully requests that An Coimisiún Pleanála consider whether, in the interests of procedural fairness, the Appellant should be afforded an opportunity to comment upon that material before the appeal is determined.

In particular, where revised information is submitted concerning the daylight and sunlight assessment, site or floor levels, boundary treatment, overlooking relationship or engineering implications for No. 30, such information may go beyond mere clarification and materially affect the basis upon which the impacts of the development fall to be assessed. The Appellant therefore respectfully requests that any such material be treated accordingly and that an opportunity to respond be afforded where considered appropriate by the Commission.

6.0 Conclusion

Having regard to the matters set out in this appeal, it is respectfully submitted that the proposed development has not been adequately demonstrated to accord with the relevant provisions of the Dún Laoghaire-Rathdown County Development Plan 2022–2028 or to satisfactorily protect the established residential amenities of No. 30 Deerpark Road.

In particular, the justification advanced for the complete demolition of the existing dwelling does not satisfactorily address the policy preference for retention and retrofit or establish that the dwelling is uninhabitable for the purposes of Section 12.3.9. The proposed replacement would also represent a substantial increase in scale and built form in close proximity to No. 30, with consequent concerns regarding overbearing impact, privacy, daylight, sunlight and overshadowing.

These concerns are compounded by material deficiencies and inconsistencies in the submitted Daylight and Sunlight Assessment, together with unresolved discrepancies concerning site levels and boundary treatment. The absence of adequate engineering information addressing the proposed demolition, excavation and construction works is also of concern having regard to the sloping topography of the site and its close relationship with the adjoining property. As set out above, a number of these matters were not substantively resolved during the Planning Authority's assessment and, in certain instances, were deferred for subsequent agreement by condition.

The Appellant does not object to the appropriate redevelopment or improvement of No. 32 Deerpark Road. The concern is that the particular development now proposed will have a significant impact on our client's privacy, daylight and sunlight and potentially cause structural problems to their property. The proposed development has not been supported by sufficiently clear and robust information to demonstrate that it can be accommodated without unacceptable effects upon No. 30 or that the complete demolition of the existing dwelling is justified under the applicable Development Plan policy.

Accordingly, the Appellant respectfully requests that An Coimisiún Pleanála have regard to the grounds advanced herein in undertaking its assessment of the application and, for the reasons set out above, **refuse permission** for the proposed development in the interests of the proper planning and sustainable development of the area.



Kevin Hughes MIPI MRTPI
Director for HPDC Ltd.

Appendix A – Dun Laoghaire Rathdown County Council Receipt of Objection

Mr. Dónall King
30, Deerpark Road
Mount Merrion
Dublin
A94 Y0E3

Receipt for Submission

Date: 12-Aug-2026

Register Ref: D26A/0521/WEB **Date Recd:** 09-Jul-2026
Development: a) Demolition of existing c.178sqm two-storey (plus non-habitable attic space), 4 bedrooms dwelling; b) Construction of a c.345 sq.m three-storey, 5 bedrooms dwelling; c) Modification to the existing site entrance, including the provision of dedicated pedestrian access; and, d) All associated site development and drainage works to facilitate the development.
Location: 32, Deerpark Road, Mount Merrion, Dublin, A94X7K4
Applicant: Steve & Sarah Hiles
App. Type: Permission

Dear Sir/Madam

I wish to acknowledge receipt of your submission/observation in relation to the above planning application.

All documents are available to view on-line.

You will be notified of the Council's decision in due course.

Please note that, in accordance with Section 251 of the Planning and Development Act, 2000, "where calculating any appropriate period or other time limit referred to in this Act or in any regulations made under this Act, **the period between the 24th Day of December and the first day of January, both days inclusive, shall be disregarded**".

Please note, in accordance with Article 35 of the Planning and Development Regulations 2001 – 2012, persons who made a submission or observation on a planning application will only be notified of the receipt of Further Information(FI) or Clarification of Further Information (CFI), where that FI or CFI is considered significant and requires new public notices.

PLEASE RETAIN THE ATTACHED ACKNOWLEDGEMENT OF RECEIPT OF SUBMISSION OR OBSERVATION. A PERSON MAKING AN APPEAL TO AN COIMISIUN PLEANALA MUST INCLUDE IN THEIR APPEAL THIS ACKNOWLEDGEMENT BY THE PLANNING AUTHORITY OF RECEIPT OF THE SUBMISSION/OBSERVATION.

Yours faithfully

Bernie Gilsenan

for SENIOR EXECUTIVE OFFICER

(email: planning@dlrcoco.ie telephone: 01-2054863)

**ACKNOWLEDGEMENT OF RECEIPT OF SUBMISSION OR OBSERVATION
ON A PLANNING APPLICATION**

THIS IS AN IMPORTANT DOCUMENT

Keep this document safely. You will be required to produce this acknowledgement to An Coimisiún Pleanála if you wish to appeal the decision of the Planning Authority. It is the only form of evidence which will be accepted by An Coimisiún Pleanála that a Submission or Observation has been made to the Planning Authority on the Planning Application.

DÚN LAOGHAIRE RATHDOWN COUNTY COUNCIL

Planning Application Reference Number: D26A/0521/WEB

A Submission/Observation in writing has been received from:

Mr. Dónall King
30, Deerpark Road
Mount Merrion
Dublin
A94 Y0E3

On: 12/08/2026 in relation to the above planning application.

The appropriate fee of €20 has been paid. (fee not applicable to prescribed bodies / Local Authority Elected Members).

The submission/observation is in accordance with the appropriate provisions of the Planning and Development Regulations 2001, (as amended) and will be taken into account by the Planning Authority in its determination of the planning application.

Bernie Gilsenan

For Senior Executive Officer

Date

12/08/2026

Planning Authority Stamp

12/08/2026

Appendix B – Copy of Original Objection prepared by Donall King

Observations On-Line Cover Sheet	
	D26A/0521/WEB
Location:	32, Deerpark Road, Mount Merrion, Dublin, A94X7K4
Observers Name:	Mr. Dónall King
Date Received	12/08/2026
Observer Address:	30, Deerpark Road Mount Merrion Dublin A94 Y0E3

Comments:

Observations

11th August 2026

Chief Planning Officer

County Hall

Marine Rd

Dún Laoghaire

Co Dublin

30 Deerpark Road,

Mount Merrion,

Co. Dublin

RE: Planning Reference D26A/0521/WEB

Dear Sir/Madam,

I refer to the above planning application and make the following observations.

1. As relayed to the Council with respect to the previous three applications which were made for demolition and development of No. 32 (one invalid and two refused), I reiterate that we have no difficulty with the Hiles carrying out building and renovation work to make their home more comfortable but I have serious concerns where it substantially affects my home. It is noticeable that despite these two previous refusals the Applicants have not engaged with us whatsoever in any attempt to reach an agreement as to how they can achieve their wishes without causing a significant impact to our property.

Demolition instead of retrofitting:

2. This is a matter for the Council and for it, especially, to ensure that it has due regard to Policy Objective CA6 and to the requirements of Section 12.3.9 of the County Development Plan 2022-2028 which expresses a clear policy preference for the retention, reuse and deep retrofit of existing dwellings where they are structurally sound, habitable and capable of being upgraded to meet modern standards.
3. Page 16 of the Demolition Justification Report demonstrates that this upgrading is possible. Indeed having conducted our own renovations on a very similar property we are satisfied that a deep retrofit is both possible and reasonable option.

4. Page 4 of the Planning Statement says that the Applicants waited over a year since the last refusal before submitting this application ostensibly to consider whether the house could be substantially refurbished. It should be noted that in this period, the Applicants effectively abandoned the property thereby allowing it fall into further disrepair. They had abandoned rubbish, branches and overgrowth on the grounds of the property to the rear and front (causing a rodent problem that extended into our rear property). They had abandoned a vehicle on the roadway which was an eyesore for over 18 months and it comes as no wonder that the house has deteriorated in the intervening period with the lack of upkeep and one would speculate whether this was a deliberate running down of the property.
5. The Demolition Justification Report submitted is incomplete and misleading. At para 2,3 the Planning History is incomplete as it does not refer to all the refusals previously made in respect of no 32. It surprisingly omits to refer to the refusal of permission under DLR D23A/0539 (application No 1).
6. More significantly the Planning Statement is incomplete and misleading in several material aspects. (others dealt with below). Para 3.2 of the Planning Statement purports to deal with no less than 8 similar precedent applications. However, there is one glaring omission namely DLR D25A/0754/WEB. This is for a house four doors up at 24 Deerpark Road. The application for demolition was refused in November 2025 for reasons similar to those in the Decision to Refuse for DLR D24A/0993/WEB. In that instance, the Applicants resubmitted for refurbishment and were granted permission under D25A/0754/WEB. They have just begun work now on the refurbishment. It is a curious omission that this relevant refusal in November 2025 on the basis of being contrary to the Development Plan 2022-2028 was not addressed in any of the documentation furnished in respect of the current application. This refusal also identified that the permitting of the demolition would create an undesirable precedent. I would submit that would equally apply here.

7. I reiterate the point previously made, that many neighbouring properties have been successfully renovated and retrofitted with insulation and modern conveniences to make them more energy efficient. These are well built and substantial houses as we noted ourselves when conducting a retrofit in 2007.
8. Para 3.1.2 of the Planning Statement submitted purports to recite *verbatim* the reason for the refusal of D24A/0993/WEB. (application No 2 for 32 Deerpark Road). It doesn't. It omits that a key part of the reason for refusal was that DLRCoCo did not accept that the current building at No 32 has become as stated in the refusal of D24A/0993/WEB "... *fundamentally uninhabitable...*" and incapable of "... *appropriate ameliorative, repair and renovation works...*". Similar to my own house, these buildings are structurally sound, very well-built houses most suitable for deep retrofit. No 32 is clearly not uninhabitable and is clearly amenable to a proper refurbishment.

Parking

9. No. 32 now has 5 cars including an old SUV which has long since fallen into disuse abandoned on the roadway causing significant obstruction for over 18 months. This is despite only 3 inhabitants being over 18 years old. Despite the proposed intensification of use to a five bedroom property with capacity for further adults, the plan only proposes car parking for 2 cars in the drive which will inevitably be inadequate. Already, the applicants' cars are parked on the street and, frequently, beside and directly outside my house. This is at a curve in the road opposite the pedestrian entrance to the park and frequently causing obstruction to vehicles travelling down a narrow road and to pedestrians crossing. I remain concerned that over time the intensification of use will lead to a further proliferation of vehicles belonging to No. 32 being parked on the road.

10. Impact of proposed development on No 30 Deerpark Road:

Incorrect information once again being submitted:

11. It is unfortunate that the Applicants have not addressed these concerns, despite the previous refusals and are once again putting in incorrect and misleading information to the Council and have failed to identify with precision the relevant heights and distances such that a proper assessment can be made as to the impact on our property. To be specific;

(A) the Applicants in their first application entirely omitted the downstairs living area of our house in their plans, in the second application the Applicants showed this but deemed these rooms non habitable (despite having visited many times well knowing this was the open plan kitchen living area of the house). Once again in this third application the Applicants have submitted an assessment showing our rooms to be non habitable. This is clearly untrue and misleading when the downstairs room is the main kitchen/ living area relying heavily on the windows on the eastern side to provide eastern and southern sunlight for most of the day.

(B) The Applicants have once again submitted plans that fail to provide specific details as to the proper heights and changing ground levels of both the building and new wall to be built on the western side. Both of these are likely to substantially impact on the overshadowing and privacy of our property and a full assessment is simply not possible without proper detailed information about these heights and changing ground levels being provided.

Proposed development does not maintain building line to the front or rear or side:

Significant overshadowing potential:

12. This new proposal does not maintain building line to the front or rear or side and we have been advised that this could have a critical impact on our property. Where the building line is being exceeded to the rear and west side and the height is being

increased, this will impact significantly on our habitable rooms (in particular the kitchen and living room).

13. Extension of front Building Line : Impact on rooms to the front of No 30 – invalid daylight assessment.

14. The proposed development at the front seeks to exceed the current building line which is already well-established since the time when the estate was originally planned out. It is not clear by how much. I request that the current building line be preserved as otherwise it would result in overshadowing the front bedrooms of my home.

15. The Daylight plan has clearly been conducted on a false premise. The Applicants propose moving the building line at the front of the property forwards. The scale of this move forward is unclear from the plans. This would cause a shadow to the front of our property throughout the day as this is eastern/southerly light, and the impact cannot be assessed without further detail. The daylight assessment submitted does not show any change to the front building line (proposed dwelling page 3) and therefore the daylight assessment has been conducted on an erroneous basis. This means no valid daylight assessment has been completed and a valid decision cannot be made as to the extent of overshadowing to our property. This could potentially seriously impact our front bedrooms and the garage which may be converted to an additional living area/ home office in due course subject to planning.

16. Extension of building line to the rear.

17. As we have consistently expressed to the Applicants and Council we have no difficulty with an extension of the building line to the rear at ground floor level as the sites are steep. We ourselves built a large extension without intrusion on the neighbours and the Council inspected the site prior to granting this and were satisfied given how steep the site was, that it would not impact on any neighbours.

18. However, in addition to this, the Applicants now propose to extend the building line at first floor level (namely the original bungalow) to the rear in two ways:
19. Firstly by the building itself coming out further (see daylight assessment page 7) where again the measurements of how much it extends from the current building line are unclear and therefore the impact unclear. Once again this assessment appears to significantly contradict the Applicant's planning statement (page 10) that the *"proposed rear façade aligns with the existing first floor building line and that of neighbouring properties"* This statement is untrue and misleading when one looks at the drawings P10-A1 Proposed section and B elevations. This change in the building line to the rear as well as to the side will cause significant shadow and will overshadow the eastern and southern light to our living areas. Sunlight into the kitchen and living room is significantly affected. These are the key living areas in the house. I cannot accept any diminution of light into these areas. It would be unfair, unnecessary and in contravention of Para. 12.3.7.1 (ii).
20. Secondly with the inclusion of bay windows with glass to the western side. Interestingly the measurements of these windows have not been provided, however assessing it proportionate to the build, they appear to be quite large and certainly appear large enough for someone to stand in the bay window and look across to the west into our house. Someone standing in these windows could look directly into our master bedroom which is also located at the rear of the house on the same level (the original bungalow).
21. Further as dealt with below the height levels are most inconsistent throughout the plans. However on one reading the first floor level will now be commencing higher than the current first floor level and this could have a far greater impact as they will be looking across and down into our bedroom (see below).

22. This would have a substantial impact on our privacy, which was a pivotal factor in us buying the house and carrying out our own work as the back of the house is not in any way overlooked. These bay windows are unnecessary and extremely intrusive. Windows flush with the wall to the rear of No 32 would mean that our privacy in our Master bedroom is preserved as they would not be looking into us.

23. To allow this extension of the building line to the rear (with windows to the west), would permit both overshadowing and overlooking contrary to section 12.3.7.1 of the Development Plan.

24. **Extension of building at side closer to western Boundary : Significant Impact**

25. The Applicants' previous application (No 2) dealt with this issue with the Council noting that since the Applicants had revised their plans from application (No 1) and the building was now going to be set back 1.9m from the western boundary this would reduce the overshadowing impact on No 30 Deerpark road.

26. It appears the Applicants have now deviated from this and are now proposing a development that will now only be 1.1m from the western boundary on one reading once again therefore coming closer to our house and causing significant overshadowing as a consequence. On looking at the drawings in the Daylight assessment it appears that the build is coming right up to the boundary wall at first floor level which is very concerning.

27. It is most unhelpful that the Applicants failed to have regard to the reasons for the refusal in the previous applications and continue to disregard this significant and reasonable concern.

28. **New Wall being built to the West side;**

29. The Applicants are proposing in addition to the building itself, to build a new wall adjacent to the current boundary wall to the rear and side of the properties. No full details as to the height of this wall have been provided. It could have a substantial

overshadowing impact on No 30 and block the easterly and southerly light into the habitable rooms. It could also impact the light in the non habitable rooms (the two bathrooms in the original bungalow part) which would affect our ability to reconfigure the property internally in the future if necessary. It is not clear whether this wall will exceed the height of the current boundary wall and hedging (approx. 7 feet high). It certainly appears from the drawings (see page 10 planning statement) that this wall is very significantly higher than the present wall directly opposite our kitchen window and would therefore block a very significant amount of easterly and southerly light. The daylight assessment conducted by the Applicants does not deal with this at all. Sunlight into the kitchen and living room is significantly affected. These are the key living areas in the house. I cannot accept any diminution of light into these areas. It would be unfair, unnecessary and in contravention of Para. 12.3.7.1 (ii).

30. It is disappointing that despite this issue being raised as a concern in the previous application (No 2) no clarity has been provided regarding the height of the wall each way along it's length meaning that the impact on our property cannot be properly assessed in reaching a decision.

31. Change in Ground Levels

32. Further the ground levels appear to be changing in No 32 this might mean the wall is substantially higher from the perspective of No 30. For example when one looks at drawing P11 -proposed boundary walls, the ground level appears to change meaning that the wall being built could potentially be 10.5 feet (3.2 meters) far exceeding the current high boundary wall. This in no way addresses the concerns that the Council had previously thought would be addressed and that we have.

33. Impact on Habitable rooms downstairs in No 30 – Daylight and Sunlight Assessment invalid

34. Para. 12.3.7.1 (ii) of the Development Plan states that first floor extensions will only be permitted where there are no significant negative impacts on surrounding residential or visual amenities. In support of their application, a Daylight and Sunlight

Assessment has been submitted. Once again, as was the case in DLR D24A/0993/WEB (No 2 application) the Assessment is misleading and inaccurate and reliance should not be placed on it. Once again this assessment is conducted on a completely false basis. [See proposed dwelling page 3.]

35. It appears to be premised on the assumption the building line to the front is maintained – incorrect when you look at the plans.
36. It is premised on the assumption the building line to the rear is maintained - again not correct when you look at the plans.
37. It is premised on the basis that the downstairs rooms are non habitable – again false. As the Applicants well know this is a large open plan kitchen and living area and relies heavily on and receives the easterly/southerly daylight. The assessment is fundamentally flawed in describing these rooms as non habitable. These rooms are intensively used and are the primary habitable spaces in my family home.
38. It is seriously flawed in describing the kitchen as receiving hardly any sunlight and the living room as receiving barely any at all and describing these rooms as dark. For the avoidance of doubt, both the kitchen and living room are bright and receive considerable sunlight throughout the year between 6am and 2/3pm. Photographs demonstrating the streaming in of sunshine can be provided. The assessment is utterly inaccurate and cannot be relied upon.
39. The assessment is wrong in showing a wall between the kitchen and living room. There is no wall. It is and always has been open plan and therefore any diminution in sunlight will affect both the kitchen and living areas and not simply the kitchen as the assessment appears to suggest.
40. The assessment is premised on a significant flaw in that it shows [see black roof page 7] the first floor level being built right up to the current boundary wall in contrast to other plans.

41. Further the daylight assessment does not include the new wall being built in No 32 beside the boundary wall. Only one wall is shown in the drawing (the current boundary as opposed to the additional new higher wall)
42. As set out above the Applicants have failed to identify how high the proposed new wall being built is which would fundamentally affect this daylight assessment. It is unclear how a valid daylight assessment can be conducted without showing the new wall and without knowing the specific height of the proposed wall (to take account of any changed ground levels that could result in an extremely high wall from our perspective).
43. It is unclear that the Daylight assessment conducted has taken into account the increased height at first floor level and increased extension to the rear at first floor level which will in our view significantly impact light to the kitchen below.
44. The daylight assessment is therefore incorrect in its description and drawings and therefore cannot be relied upon at all in reaching a proper decision as to the impact and overshadowing.
45. **New wall to the front of the property:**
46. We have consistently expressed that our two main concerns are Light and overshadowing of the kitchen/living area and (2) a high wall impeding exiting from our property. We are therefore anxious that the current wall in the front is maintained at the level it is and no visually intrusive fence is built impeding the view between the front gardens and onto the road. The houses and current walls were designed to allow safe viewing. This is of particular importance as we wish to maintain an ability to exit our drive safely. There is a Montessori, a playground and two primary schools at either end of Deerpark Road. This results in a large volume of children walking / scooting along the pathway. There has already been one severe accident on the road with a car exiting the drive and knocking down a passing child. High gates and fence to the front of the property will impede the safe viewing of children and elderly pedestrians.

47. Environmental impact

48. At present there is extensive hedging to the rear of the properties (predominantly laurel and fuchsia on our side). This is maintained by us at a height of 7-8 feet (growing higher during March to August nesting season) as it cannot be cut extensively owing to the fact that it houses a very significant amount of wildlife and birdlife. We note that the Applicants have cut down the hedge on their side during the current nesting season.

49. Any proposed building of a further wall where the current hedge is would be likely to kill off this hedgerow entirely and destroy the habitat of a large number of birds and insects in order to build a high brick wall.

50. Further Privacy concerns

51. In addition to overlooking the master bedroom, the proposed dwelling now seeks to locate the front entryway directly opposite our two bathrooms at a close distance of 1.1m from the boundary. This raises privacy concerns for us. The houses were originally well designed along the road to respect the neighbour's privacy. The bathrooms on the side of No 32 faced onto the bathrooms in No 30. The front door in no 30 is on the same side as the front door in No 28 etc. The proposed dwelling seeks to rearrange this and have a pedestrian walkway, front door and bike storage immediately outside the bathrooms of our house.

52. Ground levels inconsistent and not specified in drawing:

53. We are extremely disappointed that again the Applicants have submitted drawing which are unclear as to the precise levels of the ground and first floor (all of which appear to be changing from current levels). We were advised last time and again this time that it is not possible to accurately assess the daylight impact and overshadowing and privacy impact on our house given the lack of clarity about this. For example when

one looks at drawing P11 –A1 proposed boundary walls the levels are entirely inconsistent with the current levels of the houses and inconsistent as between the first floor level in black -v- the proposed first floor level in broken grey. This could have a significant impact on our privacy. If the first floor level is in fact as marked (proposed house profile in broken grey) it appears that their first floor will be much higher than our first floor by 3-4 feet and standing in their glass bay window they will be looking both down and across into our master bedroom which would be a most significant intrusion into our privacy. We have been advised that as a consequence it is unclear owing to these variations at what level the Applicants would be building each floor and therefore the impact on our property cannot be properly assessed.

54. Planning Precedents:

55. The planning precedents being relied upon are not appropriate. Firstly they do not take account of the new Development Plan. Secondly the precedents relate to very different geographic sites. For example the St Thomas Road has large detached houses on large private sites and therefore developments do not impact on the neighbouring properties such as it would here where they are smaller bungalows, built nearer with low walls. The first precedent D25A/0545/WEB was in respect of a property in Clonskeagh that was vacant for over 20 years and was in a state of serious disrepair. The second precedent D25A/744/WEB in Dalkey was in respect of a property that was vacant for a number of years and in very poor condition. It is currently the subject of appeal. The third precedent D24A/0046/WEB in Dundrum was a house that had a number of poorly constructed extensions and additions over a number of years so that little of the original structure remained. None of these are valid precedents.

56. Further information required:

57. The documents submitted in connection with this application are unclear with respect to the description of the changes to the property and its relationship to my home.

Consequently, it is not possible to fully appraise the proposed development accurately. I request that further information be provided should the Council be considering permitting the development so that a proper and fair assessment of the issues raised above can be considered by both us and the Council.

58. As currently presented and in so far as can be assessed given the inconsistencies and lack of specific measurements, the proposed plan overshadows and overlooks our property to a significant degree and now overlooks directly into the master bedroom of our property. The proposed dwelling will cause a serious diminution of sunlight and/or daylight into our habitable areas and profoundly affect our enjoyment and the value of our family home. As it stands it should be refused.

59. Thank you for considering these points.

60. I would appreciate if you would keep me apprised of any further development or further information received.

Yours sincerely,

Dónall King

