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32A Ballinclea Heights,
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Co. Dublin
A96 N22E

An Coimisiún Pleanála,
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D01 V902

PLANNING APPEAL OF DUN LAOGHAIRE RATHDOWN COUNCIL DECISION TO REFUSE REF. D26B/0422/WEB FOR ALTERATIONS TO EXISTING DWELLING AT 32A BALLINCLEA HEIGHTS, KILLINEY, CO DUBLIN, A96 N22E

Dear Sir/Madam,

1.0 Introduction

This Planning Appeal has been prepared on behalf of the Applicants, Steven Amet and Sara Comerford, in respect of the decision of Dún Laoghaire-Rathdown County Council to refuse permission under Reg. Ref. D26B/0422/WEB for alterations to the existing dwelling at 32A Ballinclea Heights, Killiney, Co. Dublin.

The proposed development, as described in the statutory notices, comprises:

"Alterations to the existing dwelling comprising the replacement of the existing flat roof with a pitched (gable) roof with an increased ridge height, incorporating an attic level for storage and the provision of two dormer windows to the side elevation facing the road and one dormer window to the opposite side elevation."

Permission was refused by the Planning Authority on 9 September 2026 for the following reason:

"It is considered that the proposed alteration of the roof profile, including the provision of a pitched roof and dormer structures, would result in a significant increase in height and massing, which would appear overly dominant and incongruous at this prominent corner location. The proposed development would give rise to an overbearing impact and would thereby be seriously injurious to the residential amenities of adjoining property. The proposal would therefore be contrary to the site's Zoning Objective 'A' under the Dún Laoghaire-Rathdown County Development Plan 2022-2028, which seeks 'to provide residential development and improve residential amenity while protecting the existing residential amenities,' and Section 12.3.7.1(iv) Alterations at Roof/Attic Level, of the County Development Plan. The proposed development would therefore be contrary to the proper planning and sustainable development of the area."

The purpose of this appeal is to demonstrate that the proposed development represents an appropriate alteration to an existing dwelling, is consistent with the residential zoning of the site and does not materially contravene the relevant provisions of the Dún Laoghaire-Rathdown County Development Plan 2022–2028.

The appeal further demonstrates that the refusal relates primarily to a qualitative judgement concerning visual impact and residential amenity rather than a breach of any prescribed maximum building height or quantitative roof alteration standard.

In particular, the appeal has regard to:

- the established and varied character of Ballinclea Heights;
- the Planning Authority's acceptance that the principle of the proposed roof alteration is acceptable;
- the Planning Authority's conclusion that the development would **not result in undue additional overshadowing**;
- the unchanged footprint and separation of the existing dwelling from adjoining properties;
- recent planning permissions for taller and substantial contemporary residential development within Ballinclea Heights;
- the support expressed by neighbouring residents, including the occupiers of the immediately adjoining No. 32 Ballinclea Heights; and
- the provisions of Section 12.3.7.1(iv) of the Development Plan relating to alterations at roof/attic level.

The full Grounds of Appeal are set out in full in Section 6 of this report.

2.0 Site & Receiving Environment

The subject site comprises the existing detached two-storey dwelling at 32A Ballinclea Heights, Killiney, Co. Dublin, located on a prominent corner site within the established Ballinclea Heights residential estate. The site was originally formed through the subdivision of the side garden of No. 32 Ballinclea Heights and the existing dwelling was subsequently constructed pursuant to Reg. Ref. D20A/0398.

The site extends to approximately 0.028 ha and is bounded by No. 32 Ballinclea Heights to the west, a small portion of the front curtilage of No. 31 Ballinclea Heights to the north, and the public road network of Ballinclea Heights along the remaining boundaries. The dwelling is set back from the adjoining public roads and is served by existing off-street parking, with the principal private amenity space located to the south of the dwelling.



Figure 2.1: Site Location / Aerial Photograph

The surrounding area is an established residential neighbourhood characterised by a varied mix of dwelling types, heights, roof profiles and architectural styles. The Planning Authority has previously described the surrounding streetscape as including both single-storey bungalows and two-storey dwellings, together with more contemporary forms of residential development. The area therefore does not present as a uniform streetscape in terms of either building height or roof form.

The subject dwelling itself is contemporary in character and presently comprises a two-storey flat-roofed house. Its corner position results in a relatively high degree of visibility from the surrounding public realm, although the dwelling is read within a broader residential context containing pitched-roof houses, dormer-style properties, single-storey bungalows and two-

storey dwellings.



Figure 2.2: Street View Photographs

The site and surrounding residential area have also evolved incrementally through infill development and alterations to existing dwellings over time. This is reflected in the planning history of Ballinclea Heights, which includes permissions for new dwellings on corner and side-garden sites, contemporary residential forms and roof-level accommodation. The receiving environment is therefore one in which variation in scale, form and architectural expression is already established.

The site is zoned Objective 'A' under the Dún Laoghaire-Rathdown County Development Plan 2022–2028, with the zoning objective:

“To provide residential development and improve residential amenity while protecting the existing residential amenities.”

Residential development, including alterations and extensions to existing dwellings, is permitted in principle under this zoning objective, subject to compliance with the relevant Development Plan provisions and the protection of adjoining residential amenity.



Figure 2.3 – Dún Laoghaire-Rathdown County Development Plan Zoning Map

The existing vehicular access and parking arrangements serving the dwelling are unaffected by the proposed development. The current proposal relates solely to alterations at roof level and does not alter the existing site layout, building footprint, access arrangements or the position of the dwelling relative to adjoining properties. Accordingly, the principal planning considerations arising from the appeal relate to the proposed roof form, height and massing, its visual relationship with the surrounding streetscape and its potential effect on adjoining residential amenity.

3.0 Planning History

A review of Dún Laoghaire-Rathdown County Council's planning register identifies a number of directly relevant applications relating to the subject site at 32A Ballinclea Heights. The following section outlines the planning history of the site, including the original permission for the dwelling, subsequent development proposals and the two recent applications relating to the proposed roof alterations. Relevant local precedents within Ballinclea Heights and the surrounding area are also considered where they assist in assessing the proposed development in its wider planning and streetscape context.

3.1 Subject Site

3.1.1 Reg. Ref. D20A/0398

Reg. Ref.	D20A/0398
Description	Permission is sought for construction of a new two storey three-bedroom dwelling on the site adjacent, with a new vehicular access and associated site development and services.
Decision Date	23 rd October 2020
Decision	Grant Permission
Final Grant Date	26 th November

The permission granted under Reg. Ref. D20A/0398 established the principle of a detached infill dwelling on this prominent corner site. In its initial assessment, the Planning Authority noted that residential development was permitted in principle under Objective 'A' and that precedent existed within Ballinclea Heights for infill dwellings on corner garden sites. The Planner considered that such development could be acceptable where it protected established residential amenity and remained consistent with the proper planning and sustainable development of the area.

The original proposal comprised a contemporary two-storey dwelling of approximately 100 sqm and approximately 6 metres in height. While the principle of development was accepted, the Planning Authority raised concerns regarding the apparent height, massing and bulk of the dwelling at this visually prominent corner location and requested a revised design by way of Further Information.

In response, the design was amended to reduce the overall height and perceived massing of the dwelling, including adjustments to internal ceiling and floor levels, together with the introduction of horizontal brick banding and revised boundary treatment to visually ground the building within the streetscape. The Planner expressly welcomed these amendments, concluding that:

"The reduction in height and the attention given to materials and boundary treatment are welcomed."

The assessment further found that the revised design helped to reduce the apparent bulk of the dwelling at the prominent corner and successfully integrate the contemporary design within the surrounding streetscape. Item 1 of the Further Information request was therefore considered satisfactorily addressed.



Figure 3.1: Approved East Elevation under Reg. Ref. D20A/0398

Of particular relevance to the current appeal, the Planner's final assessment was positive in respect of both visual and residential amenity. The Planning Authority concluded that, having regard to the Objective 'A' zoning, massing, scale and form of the revised dwelling, the proposal would not adversely impact adjoining properties by reason of overshadowing, overlooking or overbearing appearance, and would not significantly detract from the character of the surrounding area.

The 2020 permission therefore establishes that the Planning Authority accepted the principle of a contemporary detached dwelling at this prominent corner location and, following design refinement, considered that the completed form could be successfully integrated into Ballinclea Heights without unacceptable effects on residential or visual amenity.

It is important, however, that the reduction in height secured through the 2020 Further Information process is understood in its proper planning context. That amendment formed part of the assessment of the **original proposal for a new dwelling on a then-vacant side-garden site**. It did not impose an express restriction preventing future alterations to the completed dwelling, nor did it establish the approved flat-roof form or approximately 5.7 metre height as a permanent maximum roof height for the property.

The current proposal is materially different in planning terms. It concerns a **subsequent alteration to an existing completed dwelling** and falls to be assessed under the **Dún Laoghaire-Rathdown County Development Plan 2022–2028**, including Policy Objective PHP19 relating to the adaptation and improvement of existing housing stock and the specific provisions of Section 12.3.7.1(iv) relating to roof and attic alterations.

The wider planning context has also evolved since 2020. The current Development Plan was not in force at the time of the original permission, and subsequent permissions within Ballinclea Heights, including those at No. 1 and No. 182, now form part of the contemporary local planning context. These later permissions demonstrate the continued evolution of the estate in terms of building height, roof form and contemporary architectural expression.

Accordingly, while Reg. Ref. D20A/0398 is clearly a material consideration and should be afforded appropriate weight, it should not be interpreted as permanently fixing No. 32A in its existing flat-roof form. The present proposal should instead be assessed on its own merits having regard to the current Development Plan, the completed physical context, the

additional technical evidence now available and the more recent planning history within Ballinclea Heights.

3.1.2 Reg. Ref. D24A/0293

Reg. Ref.	D24A/0293
Description	Construction of a new detached home office to side garden with associated site works.
Decision Date	21 st June 2024
Decision	Grant Permission
Final Grant Date	25 th July 2024

Under Reg. Ref. D24A/0293, permission was granted for the construction of a detached single-storey home office within the side garden of No. 32A Ballinclea Heights. The structure comprised approximately 13 sqm of additional floorspace and was designed as a low-level flat-roofed structure approximately 2.8 metres in height.

The Planner noted the established residential context of Ballinclea Heights and described the surrounding area as comprising single and two-storey dwellings of **varying architectural style**. The subject property itself was identified as a contemporary two-storey detached dwelling occupying a prominent corner site formerly subdivided from No. 32 Ballinclea Heights.

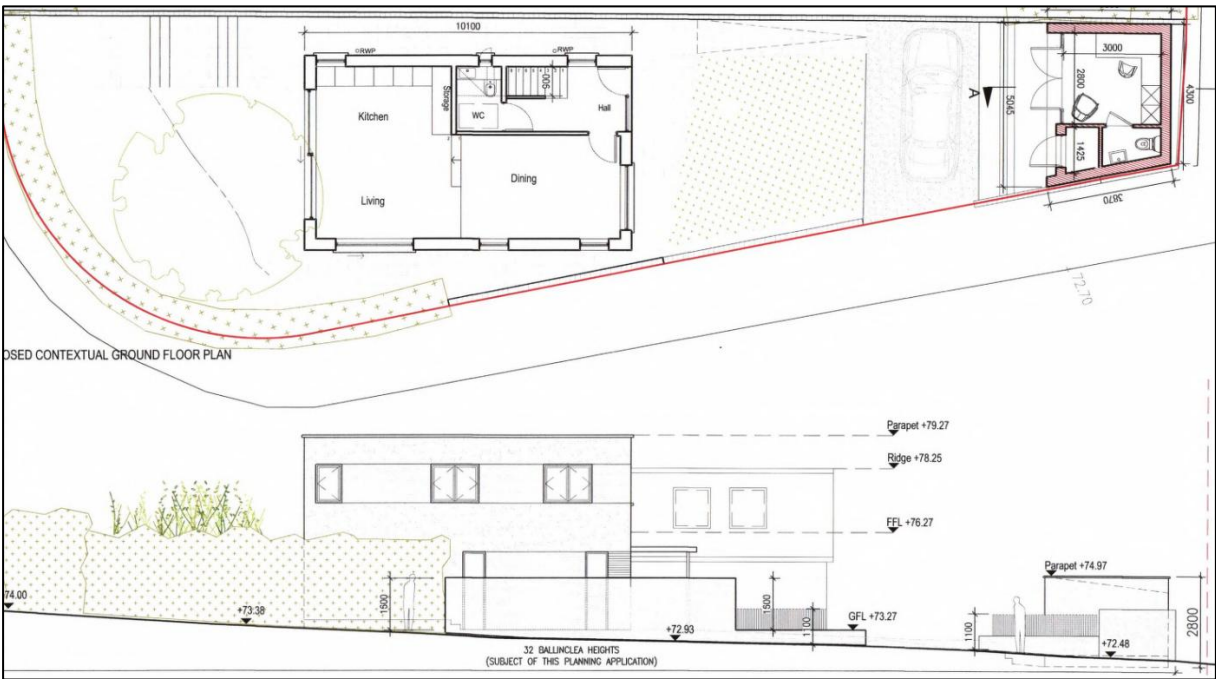


Figure 3.2: Approved Site Layout / Elevations under Reg. Ref. D24A/0293

Of particular relevance to the current appeal is the Planning Authority's assessment of the visual character of Ballinclea Heights. In considering the proposed home office, the Planner found that the structure would not adversely affect adjoining residential properties by reason of overlooking or overbearing appearance. **Importantly, the report also expressly recognised that the surrounding streetscape was not uniform, stating that its character had previously changed and that:**

“Ballinclea Heights contains dwellings of varying style and typology.”

On this basis, the Planner concluded that the proposed structure, notwithstanding its visibility from the public road, would ***“not read as visually obtrusive or dominant from the public roadway”*** and would not render the subject site inconsistent with the general area.

The final assessment was similarly positive. Having regard to the Objective ‘A’ zoning, together with the massing, scale and form of the development, the Planning Authority concluded that the proposal would not adversely affect neighbouring residential amenity through overshadowing, overlooking or overbearing appearance, nor would it significantly detract from the character of the surrounding area. Permission was therefore recommended and subsequently granted.

This permission is relevant to the current appeal insofar as it provides a relatively recent assessment by the Planning Authority of both No. 32A itself and its prominent corner setting. In particular, it records the Council's recognition that Ballinclea Heights comprises a varied and evolving residential environment rather than a uniform streetscape, and confirms that development visible at this corner can be accommodated where its scale and design do not result in unacceptable visual or residential amenity impacts.

3.1.3 Reg. Ref. D26B/0251/WEB

Reg. Ref.	D26B/0251/WEB
Description	Change of roof profile from flat to pitched (gable) with increased ridge height, including the creation of attic level for storage, with two dormer windows to the side elevation facing the road and one dormer window to the opposite side elevation.
Decision Date	15 th June 2026
Decision	Refuse Permission

Under Reg. Ref. D26B/0251/WEB, permission was sought for the replacement of the existing flat roof with a pitched gable roof, increasing the overall ridge height from approximately 5.7 metres to 8.5 metres, together with attic-level storage and three dormer windows.

The Planning Authority accepted that the principle of roof alterations and dormer windows to an existing dwelling was permissible in principle under the Objective ‘A’ zoning, subject to compliance with the relevant Development Plan provisions and the protection of residential amenity.

In assessing the proposal, the Planner placed significant weight on the planning history of the site under Reg. Ref. D20A/0398. The report noted that the original dwelling had previously been reduced in height and massing in response to concerns associated with its prominent corner location, and that the permitted height of approximately 5.7 metres had formed part of the revised design considered acceptable at that time.

The Planner considered that the proposed increase in height of approximately 2.8 metres, together with the pitched roof and dormer structures, would reintroduce concerns previously identified under the 2020 permission. It was considered that the resulting roof form would appear visually dominant and incongruous within the streetscape and that the dormers would further add to the perceived bulk of the roof when viewed from the public realm.

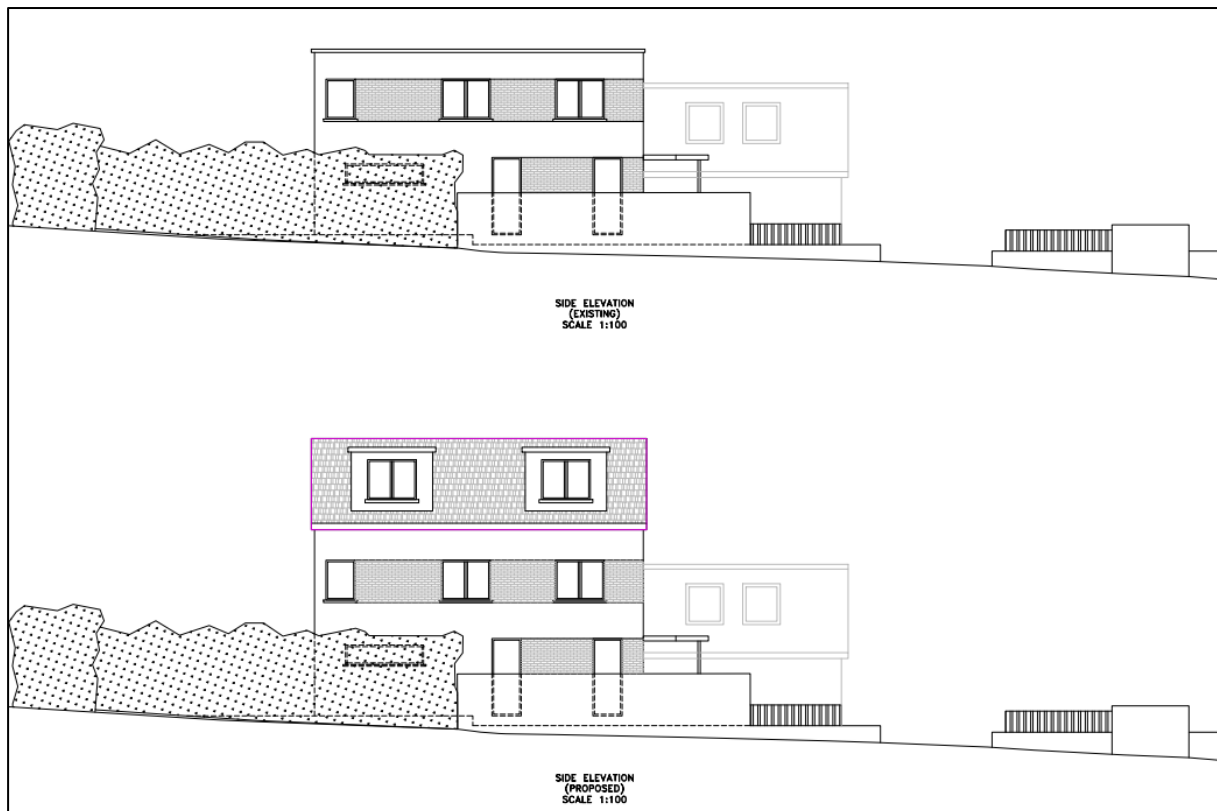


Figure 3.3: Existing (Top) and Proposed (Bottom) Elevations under Reg. Ref. D26B/0251/WEB

The Planner also concluded that the proposal would give rise to both **overbearing and overshadowing impacts** on adjoining properties. The final refusal reason stated:

“It is considered that the proposed alteration of the roof profile, including the provision of a pitched roof and dormer structures, would result in a significant increase in height and massing, which would appear overly dominant and incongruous in this prominent corner location. The proposed development would give rise to overbearing and overshadowing impacts and would thereby be seriously injurious to the residential amenities of adjoining properties.”

The refusal further cited conflict with the site's Objective 'A' zoning and Section 12.3.7.1(iv) of the Dún Laoghaire-Rathdown County Development Plan 2022–2028.

This application is therefore of direct relevance to the planning history of the subject site, as it represents the first assessment by the Planning Authority of the proposed pitched-roof form, with the principal concerns relating to **height, massing, visual dominance, overbearing impact and overshadowing**.

3.2 Reg. Ref. D26B/0422/WEB (Subject of this Appeal)

Reg. Ref.	D26B/0422/WEB
Description	Alterations to the existing dwelling comprising the replacement of the existing flat roof with a pitched (gable) roof with an increased ridge height, incorporating an attic level for storage and the provision of two dormer windows to the side elevation facing the road and one dormer window to the opposite side elevation.
Decision Date	9 th September 2026

Decision	Refuse Permission
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Reg. Ref. D26B/0422/WEB comprises the development which is the subject of this appeal. The application sought permission for substantially the same physical roof alteration previously considered under Reg. Ref. D26B/0251/WEB. However, following the earlier refusal, the Applicants appointed specialist consultants and submitted a materially enhanced evidence base to directly address the matters previously raised by the Planning Authority.

The Planner expressly acknowledged that the physical proposal remained materially unchanged from the earlier application but noted that the current application was accompanied by additional supporting documentation, including a planning statement, illustrative 3D visualisations and detailed summer and winter shadow analysis.



Figure 3.4: 3D Visualisation of Proposed Development

The three-dimensional visualisations were prepared to illustrate the proposed roof form within its actual streetscape setting and demonstrate its relationship with the adjoining dwellings and the wider character of Ballinclea Heights. The submitted images show the proposed pitched roof and dormer arrangement from a number of public viewpoints around the prominent corner location.

Of particular importance, the application included a detailed evidence-based shadow analysis, prepared following the previous refusal which had specifically cited overshadowing as a reason for refusal. The analysis examined the existing and proposed conditions during both the summer and winter solstices, including comparative shadow layouts at different times of day.



Figure 3.5: Extract from Summer / Winter Shadow Analysis – Existing (left) and Proposed (right)

Having reviewed this information, the **Planning Authority expressly accepted the findings of the shadow analysis. The Planner concluded:**

“Having regard to the foregoing, it is considered that the submitted shadow analysis demonstrates that the proposed development would not result in undue overshadowing of adjoining properties.”

This represents a significant change from the assessment under Reg. Ref. D26B/0251/WEB. Under that earlier application, overshadowing formed an express component of the refusal reason. Following submission of the specialist shadow analysis, the Planning Authority accepted that **undue additional overshadowing would not occur.**

The measurable concern regarding loss of sunlight/shadow impact was therefore satisfactorily addressed through objective technical evidence. The remaining concerns identified by the Planning Authority related principally to the perceived height, scale, massing, visual dominance and alleged overbearing character of the proposed roof form. The Planner expressly distinguished the alleged overbearing impact from overshadowing and continued to consider that the additional roof volume would appear visually dominant when viewed from the streetscape and adjoining property.

Importantly, the Planning Authority also accepted a number of other aspects of the proposal. The Planner confirmed that alterations and extensions to existing dwellings are **permitted in principle** under the site's Objective 'A' zoning and that the proposed roof alteration, dormer windows and attic-level storage were acceptable in principle, subject to satisfactory design and amenity considerations. No concerns arose in relation to access or parking, with the report noting that the existing vehicular arrangements remained unchanged.

The application also attracted **six third-party submissions, comprising three objections and three submissions in support.** The supportive submissions considered that the proposed pitched roof would improve the appearance of the dwelling, better reflect the prevailing character of the area and would not adversely affect residential amenity. Of particular relevance, support was received from neighbouring residents, including the occupiers of the immediately adjoining No. 32 Ballinclea Heights, being those most directly positioned to experience any alleged residential amenity impact.

Notwithstanding the positive findings in relation to overshadowing and the principle of the development, the Planning Authority maintained concerns regarding the visual and overbearing effect of the proposed roof form and issued a decision to refuse permission for the following reason:

“It is considered that the proposed alteration of the roof profile, including the provision of a pitched roof and dormer structures, would result in a significant increase in height and massing, which would appear overly dominant and incongruous at this prominent corner location. The proposed development would give rise to an overbearing impact and would thereby be seriously injurious to the residential amenities of adjoining property. The proposal would therefore be contrary to the site's Zoning Objective 'A' under the Dún Laoghaire-Rathdown County Development Plan 2022-2028, which seeks 'to provide residential development and improve residential amenity while protecting the existing residential amenities,' and Section 12.3.7.1(iv) Alterations at Roof/Attic Level, of the County Development Plan. The proposed development would therefore be

contrary to the proper planning and sustainable development of the area.”

The significance of the current assessment is therefore that the previous **quantifiable concern relating to overshadowing has been addressed and accepted by the Planning Authority**. The proposal has not been demonstrated to cause an unacceptable loss of sunlight or shadow impact to adjoining properties, while no issue arises in respect of overlooking, access or parking.

The remaining dispute relates principally to the Planning Authority's qualitative assessment of **visual dominance and overbearing appearance**. Unlike the shadow analysis, these matters do not arise from a prescribed numerical threshold or measurable Development Plan standard, but require an exercise of planning judgement having regard to the particular streetscape and built context.

It is respectfully submitted that this distinction is fundamental to the present appeal. The proposed development complies with the measurable amenity considerations assessed as part of the application and would facilitate the reasonable adaptation and improvement of an existing family home. This is consistent with the underlying purpose of Objective 'A', which seeks not only to protect existing residential amenities but also **“to provide residential development and improve residential amenity”**. The question now before the Commission is therefore whether the proposed roof form is visually capable of being accommodated within the varied and evolving character of Ballinclea Heights, rather than whether it gives rise to a demonstrated quantitative residential amenity impact.

3.3 Planning Precedent for Comparable Roof Alterations in Dun Laoghaire Rathdown

The following section considers a number of recent permissions within Ballinclea Heights which are relevant to the assessment of the proposed development. These permissions are not relied upon as binding precedents, as each application must be assessed on its own merits, but they provide useful local planning context in relation to matters including building height, roof form, dormer treatment, contemporary architectural expression and development at prominent residential locations. Taken together, they assist in demonstrating the varied and evolving built character of the estate against which the current appeal should be assessed.

3.3.1 No. 1 Ballinclea Heights – Reg. Ref. D25A/0348/WEB

A particularly relevant recent permission within the estate relates to No. 1 Ballinclea Heights, where permission was granted for the construction of a new two-storey detached dwelling within the side garden of the existing property, together with associated site development works.

The Planner's Report describes the wider context as comprising a mix of architectural styles along Ballinclea Road and Wanford Close, including bungalows, two-storey terraced dwellings and two-storey detached dwellings. This is relevant in demonstrating that the immediate residential context is varied rather than uniform in terms of scale and built form.

The approved Further Information drawings record:

- an overall ridge height of **8.615 metres**;

- eaves height of **5.50 metres**;
- parapet height of **5.90 metres**;
- dormer top level of **8.30 metres**; and
- attic floor level of **5.70 metres**.

The approved scheme therefore incorporates a substantial pitched-roof form with active roof-level accommodation and a street-facing dormer. The submitted CGI material also illustrates the approved dwelling in direct relationship with materially lower adjoining development, reinforcing the relevance of the permission as a local height and roof-form comparator.



Figure 3.6: No. 1 Ballinclea Heights Approved CGI / Contextual View

The Planner's Report considered the proposal against the relevant corner/side-garden and infill development criteria. While concerns were initially raised regarding the relationship with No. 7 Wanford Close, these matters were addressed through Further Information, including repositioning the proposed dwelling further back within the site and revising the associated boundary treatment. The Planning Authority subsequently concluded that the applicant had ***"satisfactorily addressed"*** the Further Information requirements.

Most importantly, the final assessment concluded that, having regard to the **massing, scale and form** of the development, the proposal would not adversely affect adjoining residential amenity by reason of **overshadowing, overlooking or overbearing appearance**, and would not detract from the character of the surrounding area. Permission was therefore recommended and subsequently granted.

This permission is of particular relevance to the current appeal because it demonstrates that DLRCC has recently accepted within Ballinclea Heights a domestic form of approximately **8.6 metres in height**, incorporating dormer treatment and roof-level accommodation, where the detailed relationship with surrounding dwellings was considered acceptable. While not relied upon as a binding precedent, it provides strong and recent local planning context for the assessment of the proposed roof form at No. 32A.

3.3.2 No. 182 Ballinclea Heights – Reg. Ref. D24A/0687/WEB

A further relevant permission within Ballinclea Heights relates to No. 182 Ballinclea Heights,

where DLRCC granted permission for the construction of a substantial contemporary two-storey detached dwelling on a prominent corner site.

This permission is relied upon primarily as a contextual precedent rather than a direct dimensional comparator. The Planner's Report expressly assessed the proposal in terms of its architectural design, relationship with neighbouring houses, visual impact and residential amenity. The Planning Authority concluded that the proposed dwelling would be of a high-quality contemporary design, that the arrangement of windows and external materials would complement neighbouring houses, and that:

"there would not be any negative visual impacts as a result of the proposed development."

The Planner also considered the proposal in terms of overlooking and overshadowing. It was concluded that there would be **no significant overlooking impacts** to adjoining properties and that any additional overshadowing would not have a material impact on neighbouring residential amenity.

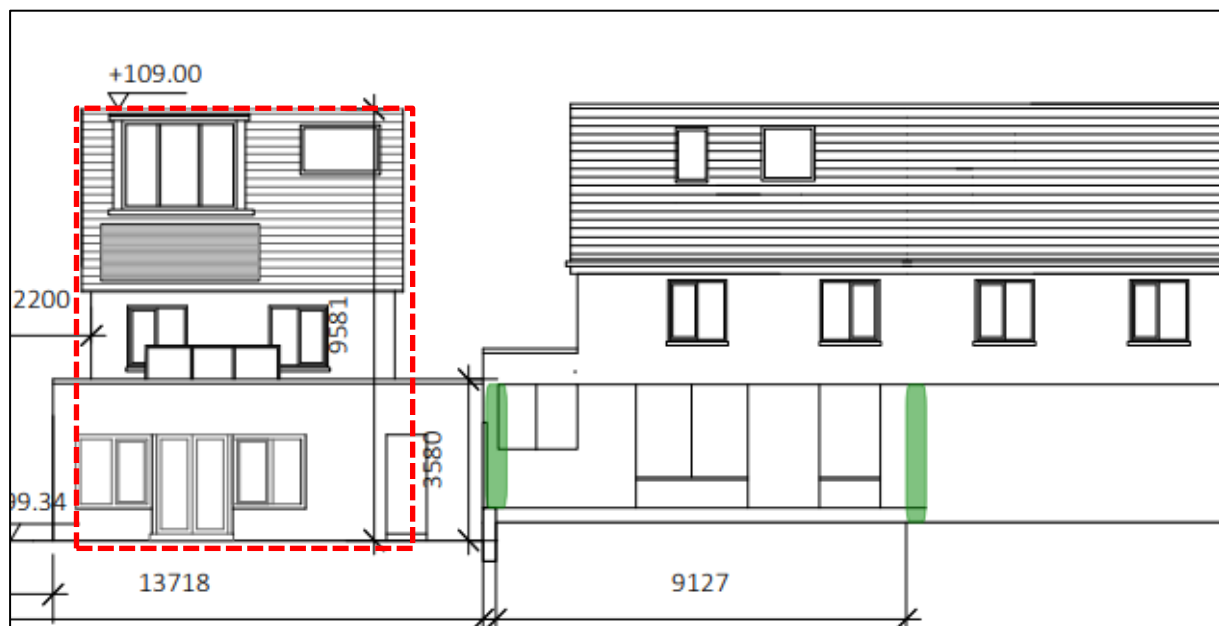


Figure 3.7: No. 182 Ballinclea Heights Approved Site / Elevation / CGI

The final assessment was similarly positive. Having regard to the Objective 'A' zoning, the site character and context, the Planning Authority concluded that the proposed development would not adversely affect neighbouring residential amenity by reason of **overlooking or overbearing appearance** and would not detract from the character of the surrounding area. Permission was therefore recommended and subsequently granted.

While No. 182 is not directly comparable in terms of exact dimensions or roof geometry, it is relevant in demonstrating that DLRCC has accepted **substantial contemporary residential development at a prominent corner location within Ballinclea Heights**, where the detailed visual and amenity impacts were considered satisfactory. It therefore provides useful local context for the assessment of the current appeal at No. 32A.

3.3.3 Kilfenora, 3 Killiney Road (Reg. Ref. D24B/0158/WEB / ACP-320017-24)

A particularly relevant recent permission relates to Kilfenora, No. 3 Killiney Road, where permission was granted for the construction of a master bedroom suite above an existing two-storey flat-roofed contemporary dwelling. The proposal effectively introduced an additional floor level above the existing roof, increasing the overall height from approximately 6.27 metres to 8.7 metres, an increase of approximately 2.44 metres, and providing an additional 53.47 sq m of floorspace.

The surrounding context is particularly relevant. The Inspector described the immediately adjoining development as comprising a detached bungalow to the south and a dormer bungalow to the north, with a mix of single and two-storey dwellings elsewhere in the vicinity. The proposal therefore introduced a materially taller third-level element within a predominantly lower-rise residential context rather than within an established three-storey streetscape.

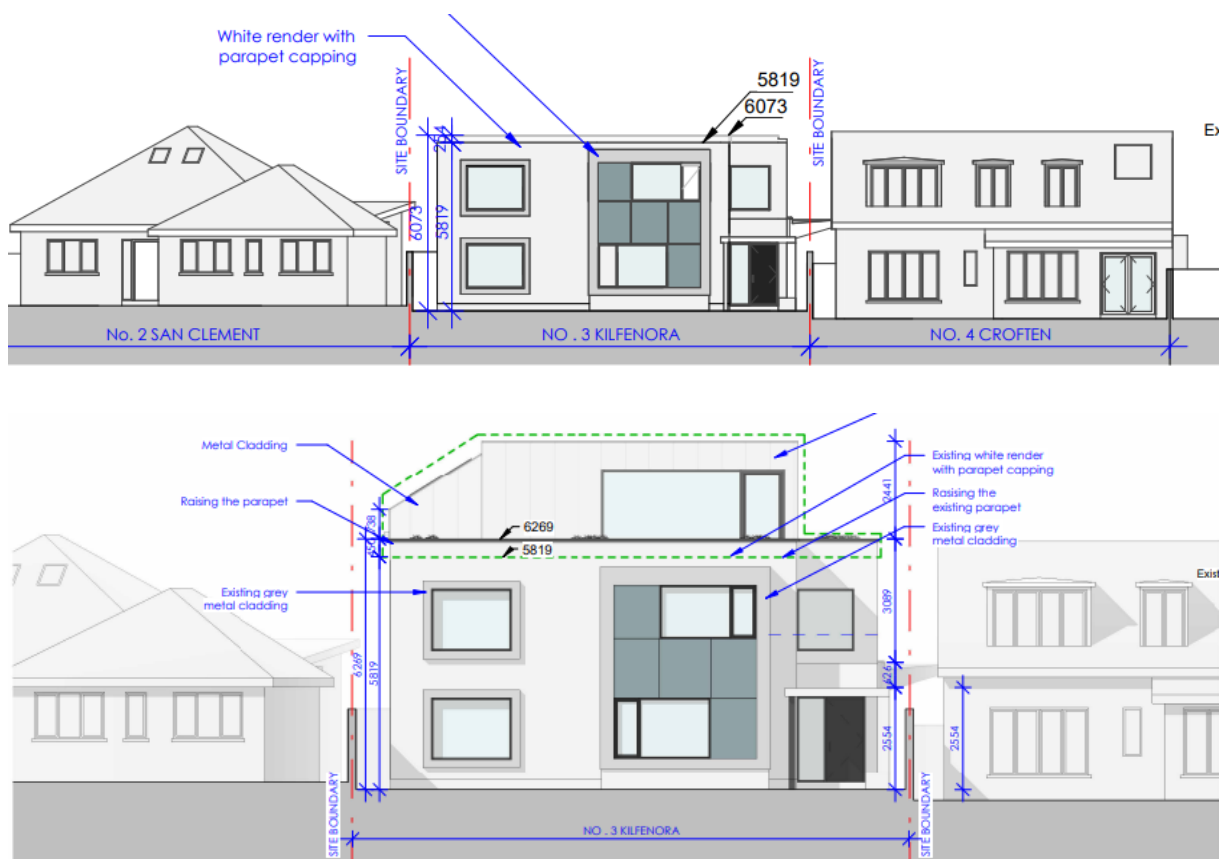


Figure 3.8: Existing (Top) and Permitted (Bottom) Front Elevations at Kilfenora, No. 3 Killiney Road

As illustrated above, the permitted development involved a clear vertical extension of the existing flat-roof dwelling, with the new upper level set back from the principal elevations. The resulting built form increased the height of the dwelling by approximately 2.4 metres while retaining the contemporary architectural expression of the existing house.

The DLRCC assessment is particularly instructive. While the Case Planner initially expressed concern that the additional level could appear visually overbearing and obtrusive, the **Senior Planner expressly disagreed with that assessment**, having regard to the setback of the

extension from the roof edges, the detached nature of the site and adjoining properties, and the ***“existing variety in dwelling types and design along Killiney Rd”***. The Senior Planner concluded that the proposal would not have a significant adverse impact on the visual or residential amenities of the area.

The final DLRCC assessment accordingly concluded that, having regard to the Objective ‘A’ zoning and the ***“massing, scale and form”*** of the development, the proposal would not adversely affect adjoining residential amenity by reason of ***“overshadowing, overlooking or overbearing appearance”***, and would not significantly detract from the character of the surrounding area. Permission was therefore granted.

That decision was subsequently subject to a third-party appeal to An Bord Pleanála, where the principal issues included visual impact, overbearing effect, overlooking and overshadowing. The Inspector assessed the proposal specifically against **Section 12.3.7.1(iv) – Alterations at Roof/Attic Level** of the current Dún Laoghaire-Rathdown County Development Plan 2022–2028.

Of particular relevance to the present appeal, the Inspector concluded that, notwithstanding the proposed increase from approximately **6.2 metres to 8.6 metres** and the presence of a bungalow and dormer bungalow immediately adjoining the site, the extension:

“would not appear excessively dominant in the streetscape”

and could be ***“reasonably absorbed”*** by the built character of the area. The Inspector further concluded that the proposal would not have a significant visual impact and would accord with Section 12.3.7.1(iv) of the Development Plan.

The residential amenity assessment was similarly positive. Having considered the relationship with adjoining properties, the Inspector concluded that the additional level would not result in **undue overbearing**, and ultimately found that the development would not cause significant adverse impacts through overbearing, overlooking, overshadowing or loss of privacy.

Permission was therefore recommended on appeal on the basis that the development would comply with the Objective ‘A’ zoning, would not seriously injure the visual or residential amenities of the area and would accord with the proper planning and sustainable development of the area.

This permission is considered **highly relevant to the current appeal**. While the architectural treatment differs from No. 32A — comprising a setback contemporary flat-roofed upper level rather than a pitched roof — the case provides a particularly strong comparator in terms of **vertical extension, resulting building height and alleged overbearing impact**. In both cases, an existing two-storey flat-roofed dwelling is proposed to increase substantially in height to approximately **8.5–8.7 metres** within an established residential context containing materially

lower neighbouring dwellings.

Importantly, the Kilfenora case demonstrates that neither the introduction of an additional level above an existing flat-roof dwelling nor a resulting height of approximately 8.7 metres is inherently incompatible with Objective 'A' or Section 12.3.7.1(iv). Rather, the appropriate test is whether the resulting form can be satisfactorily absorbed into its particular context without unacceptable visual or residential amenity impacts. In Kilfenora, both DL RCC and the Board ultimately concluded that it could.

3.3.4 No. 12 Ludford Road, Dundrum – Reg. Ref. D26B/0085

A further recent permission of relevance relates to No. 12 Ludford Road, Dundrum, an established two-storey semi-detached dwelling within an Objective 'A' residential area. Permission was granted in April 2026 for a series of alterations and extensions which included the replacement of the existing **flat roof over a converted garage/side element with a new pitched roof incorporating four rooflights**, alterations to the principal roof to form a mini-hip profile, an extended attic conversion, additional rooflights and a rear dormer.

The approved drawings illustrate a material alteration to the existing roof profile, including the conversion of the lower flat-roofed side element to a pitched form integrated with the broader composition of the dwelling.



Figure 3.9: No. 12 Ludford Road – Existing and Permitted Elevations

In its assessment, the Planning Authority considered the proposal under the current Dún Laoghaire-Rathdown County Development Plan 2022–2028, including **Policy Objective PHP19 – Existing Housing Stock – Adaptation** and Section 12.3.7.1 relating to extensions and alterations at roof/attic level.

The Planner concluded that the alterations to the main roof were “**not considered to be excessive in size/scale**” and would not result in overlooking, overshadowing or overbearing impacts on adjoining residential properties. The dormer and roof windows were similarly considered acceptable having regard to their size, location and relationship with the dwelling.

The final assessment concluded that, having regard to the Objective ‘A’ zoning and the **massing, scale and form** of the proposed works, the development would not adversely affect neighbouring residential amenity by reason of overshadowing, overlooking or overbearing appearance and would not significantly detract from the character of the surrounding area. Permission was therefore granted.

While the scale and configuration of No. 12 Ludford Road differ from the proposal at No. 32A, the permission provides relevant recent planning context demonstrating DLRCC's acceptance, under the current Development Plan, of the **replacement of an established flat-roof element with a pitched-roof form together with substantial wider alterations to the roof and attic configuration of an existing dwelling**.

3.4 Planning History Summary

The planning history of the subject site establishes that the principle of residential development at this prominent corner location has long been accepted by Dún Laoghaire-Rathdown County Council. The existing dwelling was permitted under Reg. Ref. D20A/0398 following design refinement, with the Planning Authority ultimately concluding that the resulting form would not give rise to unacceptable overlooking, overshadowing or overbearing impacts and would not detract from the character of the area. A subsequent permission under Reg. Ref. D24A/0293 further confirmed that additional development at No. 32A could be accommodated satisfactorily within the established Ballinclea Heights streetscape.

The two recent roof applications are also of particular relevance. Reg. Ref. D26B/0251/WEB was refused on grounds which included height, massing, visual dominance, overbearing impact and overshadowing. The current application under Reg. Ref. D26B/0422/WEB was subsequently supported by additional technical and visual material, including detailed summer and winter shadow analysis and 3D visualisations. Importantly, the Planning Authority accepted that the submitted shadow analysis demonstrated that the proposal would not result in undue overshadowing of adjoining properties, materially narrowing the outstanding issues to the qualitative assessment of height, massing, visual prominence and alleged overbearing effect.

The wider planning history within Ballinclea Heights also demonstrates an evolving residential context, including recent permissions for taller contemporary dwellings, dormer treatment

and active roof-level accommodation. In particular, the permissions at No. 1 and No. 182 Ballinclea Heights provide relevant local context in assessing whether the proposed roof form at No. 32A can be satisfactorily integrated within the estate.

4.0 Proposed Development

The proposed development, as described in the statutory notices, consists of the following:

“Alterations to the existing dwelling comprising the replacement of the existing flat roof with a pitched (gable) roof with an increased ridge height, incorporating an attic level for storage and the provision of two dormer windows to the side elevation facing the road and one dormer window to the opposite side elevation.”

The proposal relates solely to alterations to the existing dwelling at 32A Ballinclea Heights. No change is proposed to the existing building footprint, site access, parking arrangement or general site layout. The principal alteration is the replacement of the existing flat roof with a pitched gable roof, increasing the overall ridge height from approximately 5.7 metres to 8.5 metres.



Figure 4.1: Existing and Proposed Site Layout Plan

The proposed roof form is designed to accommodate attic-level storage within the new pitched roof profile. The attic is accessed internally and is contained entirely within the proposed upper roof form. The submitted drawings for the current application indicate an attic floor area of approximately 47.10 sq.m, with a maximum internal floor-to-ceiling height of approximately 2.40 metres at the highest point. For clarity, the reference to approximately 35 sq.m arose in the assessment of the previous application and does not represent the floor area shown on the current submitted drawings.

The proposal includes three dormer windows within the new roof form. Two dormers are positioned on the side elevation facing the public road, while a further dormer is proposed on the opposite roof slope. These openings provide light to the attic-level storage area while retaining the principal gable roof form as the dominant architectural element.

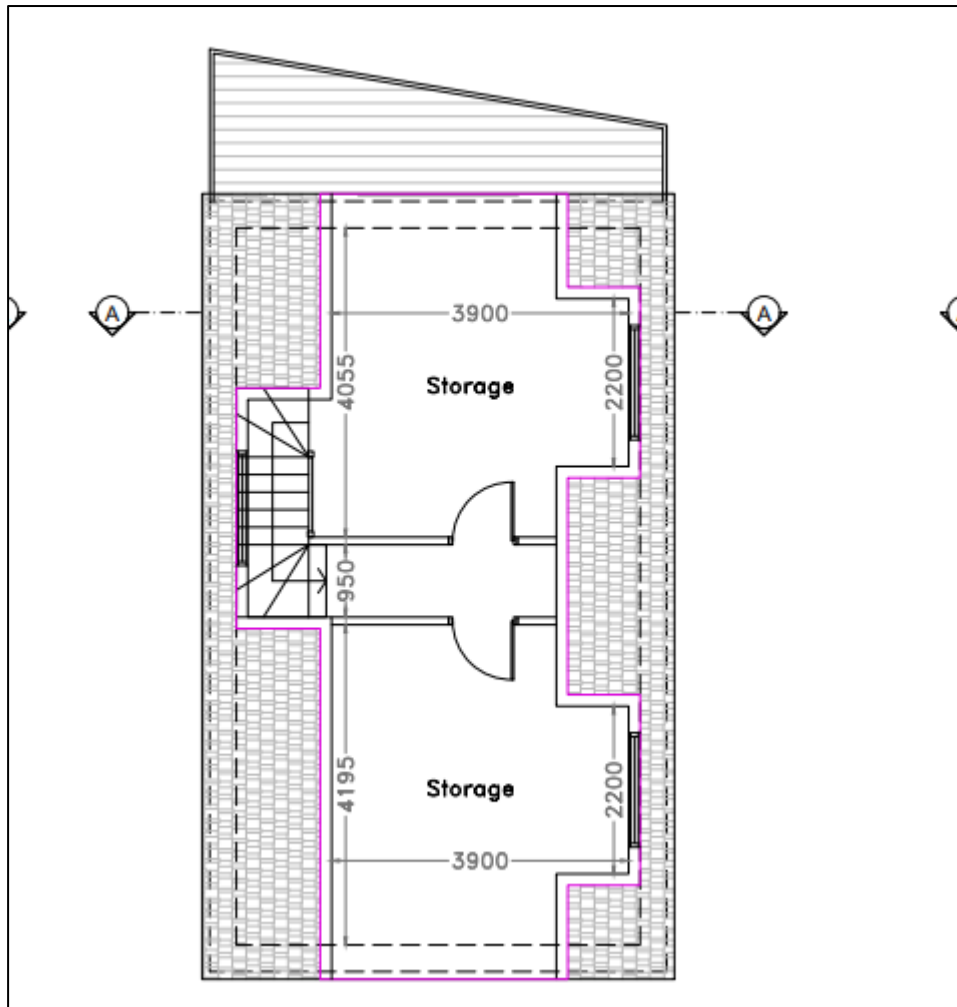


Figure 4.2: Proposed Attic Floor Plan

The proposed elevation treatment retains the contemporary architectural language of the existing dwelling. The two-storey lower portion of the house remains unchanged, with the proposed works concentrated above the existing flat-roof level. The new pitched roof would therefore sit over the established dwelling envelope rather than extending the building horizontally towards adjoining properties.

The resulting overall height would be approximately 8.5 metres, representing an increase of approximately 2.8 metres above the existing permitted roof level. The appeal acknowledges that this is a material increase in height; however, the building footprint, separation from adjoining dwellings and relationship with the site boundaries remain unchanged.



Figure 4.3: Existing (top) and Proposed (bottom) Front (left) / Side (right) Elevations

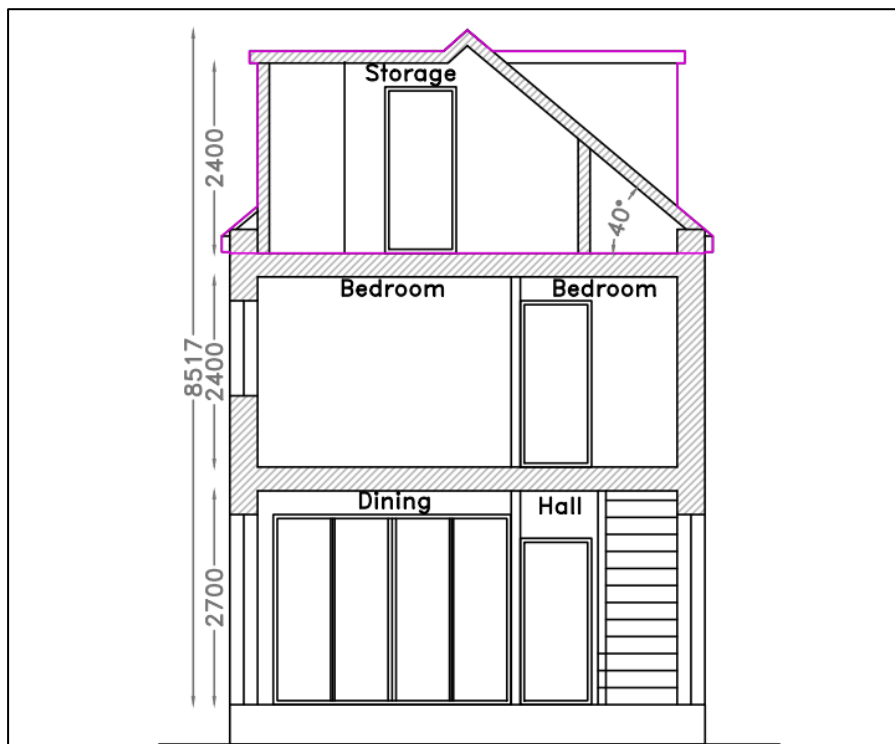


Figure 4.4: Proposed Building Section Showing Existing and Proposed Roof Profile

The proposal was also supported by a series of three-dimensional contextual visualisations illustrating the resulting pitched-roof form from surrounding public viewpoints. These show the proposed dormer arrangement and overall roof profile in relation to the adjoining bungalow at No. 32, the corner setting and the wider pattern of pitched-roof dwellings within Ballinclea Heights. The submitted 3D visualisations are illustrative contextual representations prepared to assist in understanding the proposed roof form and its relationship with the surrounding streetscape. They are not independently verified photomontages or surveyed visual impact images and should therefore be read in conjunction with the submitted architectural drawings, which remain the definitive dimensional representation of the proposed development.



Figure 4.5: 3D Visualisation of Proposed Roof Form in Streetscape Context

In addition, detailed summer and winter shadow analysis was submitted to demonstrate the effect

of the proposed increased roof height on adjoining properties. This evidence assessed the existing and proposed conditions at different times of day and was subsequently accepted by the Planning Authority as demonstrating that the development would not result in undue overshadowing of adjoining properties.



Figure 4.6: Summer and Winter Shadow Analysis

Overall, the proposed development represents a roof-level alteration to an established dwelling rather than an extension of its existing footprint. It seeks to replace the current flat roof with a pitched form more commonly found within Ballinclea Heights, provide additional domestic storage at attic level, and improve the functionality of the existing family home while maintaining the existing site layout, access and relationship with adjoining properties.

5.0 Positive Assessment of the Proposed Development by Dun Laoghaire Rathdown County Council

Notwithstanding the decision to refuse permission, the Planner's Report contains a number of positive findings which are directly relevant to the present appeal. In particular, the Planning Authority accepted the principle of the proposed development, found no unacceptable impacts in respect of overshadowing, access or parking, and raised no environmental assessment concerns. These positive findings materially narrow the matters in dispute.

5.1 Principle of Development

The Planning Authority confirmed that the site is subject to Objective 'A' zoning, under which residential development, including alterations and extensions to existing dwellings, is permitted in principle.

In relation specifically to the proposed works, the Planner stated:

“the proposed roof alteration, incorporating dormer windows and attic-level storage, is acceptable in principle”

subject to the Planning Authority being satisfied regarding the detailed design and residential amenity considerations.

This is an important starting point for the appeal. The proposed pitched roof, dormer windows and attic-level storage are therefore not development types which conflict with the zoning objective in principle.

5.2 Climate Action and Building Performance

The Planner also found no concerns arising in respect of climate action or energy performance. Having regard to the scope of the works, the report concluded that the proposal:

“does not create undue negative impacts in terms of energy use/performance”

and was considered acceptable in the context of the current Building Regulations.

Accordingly, no climate action or building-performance issue forms part of the Planning Authority's concerns.

5.3 Established Residential and Streetscape Context

The Planner's Report expressly recognises that Ballinclea Heights is not characterised by a single uniform building type. The site description records that the surrounding streetscape comprises detached dwellings of:

“varying height, architectural style and roof profile, including single-storey

bungalows and two-storey dwellings.”

The assessment further acknowledges that:

“pitched roofs are a feature of Ballinclea Heights”

This is relevant to the appeal insofar as the proposed pitched roof is not an architectural form which is inherently alien to the receiving residential environment.

5.4 Additional Supporting Information and 3D Visualisations

The Planning Authority acknowledged that the current application was supported by materially more information than the previous application, including:

- a planning statement;
- illustrative 3D visualisations;
- summer shadow drawings; and
- winter shadow drawings.

The Planner specifically noted that the current proposal was accompanied by this additional supporting information for consideration as part of the assessment.

The report also acknowledged that the submitted 3D visualisations provided additional representations of the proposal within its streetscape context.

5.5 Overshadowing and Residential Amenity

The most significant positive finding within the Planner’s Report relates to overshadowing.

The previous application, Reg. Ref. D26B/0251/WEB, had been refused partly on the basis that the proposed development would result in overshadowing impacts on adjoining properties.

In response, the current application was supported by detailed summer and winter shadow analysis specifically examining the existing and proposed shadow conditions.

Following review of this technical information, the Planning Authority expressly concluded:

“the submitted shadow analysis demonstrates that the proposed development would not result in undue overshadowing of adjoining properties.”

This represents an important positive finding. The technical evidence submitted with the application successfully demonstrated that the proposed increase in roof height would not result in an unacceptable overshadowing impact on neighbouring properties.

The finding is particularly relevant because it removes a measurable residential amenity concern which had formed an express part of the previous refusal.

5.6 Support from Adjoining and Local Residents

The application attracted six third-party submissions, comprising three objections and three submissions in support.

The Planner summarised the supportive submissions as considering that the proposed pitched roof would:

“improve the appearance of the dwelling”

and would be consistent with the prevailing character of the area without adversely affecting residential amenity.

Of particular relevance, support was received from neighbouring residents, including the occupiers of No. 32 Ballinclea Heights, the property immediately adjoining the subject site and therefore the property most directly positioned to experience any potential residential amenity effects arising from the proposed roof alteration.

While third-party support is not determinative of the planning assessment, it is a relevant consideration in the context of the alleged impact on adjoining residential amenity.

5.7 Access, Parking and Transportation

No concerns were identified in relation to access or parking.

The Planner noted that the proposal does not alter the existing vehicular access or parking arrangements and concluded:

“there are no concerns in relation to access and parking provision.”

Accordingly, access, traffic and parking matters do not form part of the refusal and are accepted by the Planning Authority.

5.8 Appropriate Assessment

The proposed development was screened for Appropriate Assessment.

The Planner concluded that:

“the development proposed would not significantly impact upon a Natura 2000 Site.”

No Appropriate Assessment issue therefore arises in respect of the proposed development.

5.9 Environmental Impact Assessment

The Planning Authority also considered the proposed development in the context of Environmental Impact Assessment.

Having regard to the nature and scale of the proposed works and the fully serviced urban location, the Planner concluded that there was no real likelihood of significant effects on the environment and that Environmental Impact Assessment could therefore be excluded at

preliminary examination stage.

5.10 Summary of Positive Findings

The Planning Authority's assessment therefore establishes a number of matters which are not in dispute for the purposes of the present appeal. In particular:

- the roof alteration, dormers and attic-level storage are acceptable in principle;
- pitched roofs are an established feature of Ballinclea Heights;
- the proposal raises no unacceptable climate or energy-performance concern;
- detailed technical shadow analysis demonstrates no undue overshadowing of adjoining properties;
- the existing access and parking arrangements are acceptable and unchanged;
- three local submissions supported the proposal, including support from the immediately adjoining property;
- no Appropriate Assessment issue arises; and
- no Environmental Impact Assessment issue arises.

Accordingly, the issues remaining for consideration by the Commission are substantially narrowed and relate principally to the Planning Authority's qualitative assessment of the proposed roof form in terms of visual dominance, massing and perceived overbearing effect

6.0 Grounds of Appeal

The following grounds of appeal address the principal matters arising from the Planning Authority's decision to refuse permission. They consider the proposal against the relevant Development Plan provisions, the accepted technical evidence, the residential amenity context, the established and evolving character of Ballinclea Heights, the planning history of the subject site and the relevant local planning precedents. Taken together, it is submitted that these matters provide a reasonable basis for the Commission to reach a different planning conclusion to that of the Planning Authority.

6.1 Ground 1: The Proposed Development is Acceptable in Principle and Does Not Materially Conflict with the Development Plan

It is submitted that the proposed development is acceptable in principle and does not materially conflict with the relevant provisions of the Dún Laoghaire-Rathdown County Development Plan 2022–2028.

The refusal reason cites both Zoning Objective 'A' and Section 12.3.7.1(iv) – Alterations at Roof/Attic Level. However, neither provision establishes a prescribed maximum ridge height for an alteration of this nature, nor does either provision prohibit the replacement of an existing flat roof with a pitched roof. Rather, the Development Plan requires roof-level alterations to be assessed having regard to their particular architectural, streetscape and residential context.

This distinction is important. The proposal does not represent a development type which is prohibited by the Development Plan. Instead, the matter in dispute relates to the Planning Authority's qualitative assessment of the resulting height, massing, prominence and perceived overbearing effect.

6.1.1 Objective 'A' – Residential Development and Improvement of Residential Amenity

The subject site is zoned Objective 'A', the stated objective of which is:

“To provide residential development and improve residential amenity while protecting the existing residential amenities.”

Residential development is expressly identified as a Permitted in Principle use within Objective 'A' lands. The proposed development does not alter the established residential use of the property, introduce an additional dwelling or intensify the use of the site. Rather, it comprises alterations to an existing family dwelling to provide a revised roof profile and additional attic-level storage.

This is consistent with the broader intent of the Objective 'A' zoning, which seeks both to protect existing residential amenities and to enable the continued provision and

improvement of residential accommodation.

This principle was expressly recognised by the Planning Authority in its assessment of the subject application. The Planner concluded that:

“the proposed roof alteration, incorporating dormer windows and attic-level storage, is acceptable in principle”

subject to the detailed consideration of design and residential amenity.

It is therefore submitted that there is **no objection to the principle** of the development under the land-use zoning objective. The issue is confined to whether the detailed design can be satisfactorily accommodated within its particular setting.

6.1.2 Policy Objective PHP19 – Existing Housing Stock: Adaptation

The proposed development is also consistent with the wider policy approach of the Development Plan towards the adaptation and improvement of existing housing stock.

Policy Objective PHP19 – Existing Housing Stock: Adaptation states that it is an objective of the Council to:

“Conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF.”

The supporting text recognises the importance of existing housing stock as a resource and expressly supports the adaptation of homes to respond to changing household requirements. It further states that the retention and adaptation of existing housing stock will be encouraged through the facilitation of suitably designed domestic extensions.

The proposal at No. 32A falls squarely within this policy context. It represents the adaptation of a recently constructed dwelling to provide improved domestic functionality and additional storage accommodation within a revised roof envelope. It does not involve demolition or replacement of the dwelling and does not increase the number of residential units on the site.

Accordingly, the proposal is consistent with the Development Plan’s wider policy objective of allowing established homes to adapt to the changing requirements of their occupants, subject to an appropriate design response and protection of adjoining amenity.

6.1.3 Section 12.3.7.1(iv) – Alterations at Roof/Attic Level

Section 12.3.7.1(iv) of the Development Plan specifically addresses alterations at roof and attic level. It provides that alterations or expansions to main roof profiles will be assessed against a number of criteria, including:

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

The wording of the policy is notable. It establishes a **contextual assessment framework** rather than a fixed numerical control. No maximum ridge height, permissible increase in metres, or prohibition on the conversion of a flat roof to a pitched roof is specified.

The relevant criteria are considered below.

Section 12.3.7.1(iv) Assessment Criterion	Response in Respect of the Proposed Development
Character and size of the structure, position on the streetscape and proximity to adjacent structures	The proposal relates to an established two-storey detached dwelling located on a prominent corner site. The existing footprint, building position, separation from neighbouring properties and access arrangements remain unchanged. The proposed works occur entirely above the existing roof level. The dwelling is already contemporary in architectural character and the proposed pitched roof represents an alteration to the upper profile rather than an enlargement of the building footprint.
Existing roof variations on the streetscape	Ballinclea Heights is not characterised by a uniform roofscape. The Planning Authority itself describes the surrounding area as containing dwellings of varying height, architectural style and roof profile, including bungalows and two-storey dwellings. Pitched roofs are expressly acknowledged by the Planner as an established feature of Ballinclea Heights. The proposal should therefore be assessed within this varied existing roofscape rather than solely against the current flat-roof form of No. 32A.
Distance / contrast /	The proposed roof will be visible by virtue of the corner

Section 12.3.7.1(iv) Assessment Criterion	Response in Respect of the Proposed Development
visibility of proposed roof end	position of the site. However, visibility does not in itself amount to an unacceptable visual impact. The submitted 3D visualisations demonstrate how the revised dwelling would be experienced from surrounding public viewpoints and show the proposed roof in the context of established pitched-roof development within the estate. The visibility of the roof should therefore be considered together with its actual contextual relationship to the surrounding built environment.
Harmony with the rest of the structure, adjacent structures and prominence	The proposed roof retains the established contemporary architectural treatment of the dwelling while introducing a conventional pitched form which is widely represented within Ballinclea Heights. The lower two-storey elevations remain substantially unchanged, and the roof is read as an upper architectural element rather than an additional full storey. The site is prominent, but prominence is an existing characteristic of the site and does not, of itself, render development unacceptable. The relevant question is whether the resulting form is capable of integrating satisfactorily with its surroundings, which is addressed further through the local context and precedent assessment.

The above assessment demonstrates that each of the criteria identified in Section 12.3.7.1(iv) is capable of being positively addressed through the specific context of the site and surrounding estate.

Section 12.3.7.1(iv) also provides specific guidance regarding dormer extensions. The Development Plan states that dormers will be considered having regard to their impact on the existing character and form of the dwelling and the privacy of adjacent properties, with the design, dimensions and bulk relative to the overall dwelling being the overriding considerations. Particular care is required in assessing large or visually dominant dormers, while excessive overlooking is to be avoided.

In this case, no refusal reason identifies overlooking or loss of privacy arising from the dormer windows. The principal concern relates instead to the overall perception of height, massing and prominence of the revised roof form. The dormers are therefore not considered unacceptable in principle and should be assessed as integrated components of the wider

pitched-roof design. The three dormers are individual elements contained within the pitched-roof planes and do not combine to form a continuous vertical upper-storey elevation; they should therefore be read as components of the overall roof form rather than as a conventional additional storey.



Figure 6.1: Existing and Proposed Elevations Demonstrating Roof Form



Figure 6.2: 3D Streetscape Visualisation Demonstrating Proposed Roof in Context

6.1.4 No Identified Quantitative Policy Breach

A central consideration in this appeal is that the refusal reason does not identify any breach of a prescribed quantitative Development Plan standard.

There is no numerical maximum ridge height specified within Section 12.3.7.1(iv) for alterations to existing dwellings. Nor does the policy identify a maximum permissible increase in ridge height, a mandatory roof pitch, or a prohibition on changing a flat-roof dwelling to a pitched-roof form.

Similarly, the refusal does not identify:

- a failure to meet a minimum separation distance;
- a breach of a prescribed overlooking standard;
- an unacceptable loss of daylight or sunlight;
- an access or parking deficiency; or
- any numerical standard of the Development Plan with which the proposal fails to comply.

Indeed, the technical shadow analysis submitted with the application was expressly accepted by the Planning Authority as demonstrating that the proposed development ***“would not result in undue overshadowing of adjoining properties.”***

The remaining concern therefore arises from the Planning Authority’s judgement that the proposed roof would appear overly dominant, incongruous and overbearing.

These are valid matters for planning assessment, but they are inherently **qualitative and contextual** rather than measurable policy breaches. In this regard, the Development Plan itself requires the decision-maker to examine such matters through the lens of the surrounding roofscape, architectural context, adjoining structures, visibility and prominence.

It is therefore respectfully submitted that the proposal should not be characterised as materially conflicting with the Development Plan. Rather, the issue is whether a different planning judgement can reasonably be reached having regard to the full contextual evidence presented as part of this appeal.

6.1.5 Reasonable Adaptation and Improvement of an Existing Dwelling

The proposal should also be viewed in the context of the Development Plan’s express support for the adaptation and improvement of existing housing.

Policy Objective PHP19 seeks to conserve and improve existing housing stock and facilitate its adaptation in response to changing household needs. The supporting Development Plan text further emphasises that:

“Retention and adaption of existing housing stock will be further encouraged by facilitating suitably designed domestic extensions.”

The current proposal represents precisely this type of intervention. The Applicants are not seeking to demolish or replace the dwelling, intensify the residential use of the site or introduce an additional unit. Instead, the proposal seeks to improve the functionality of an existing dwelling through the provision of additional attic-level storage within a revised roof

form.

The proposal therefore gives effect to both elements of Objective 'A': it facilitates the **improvement of residential amenity for the occupants of the existing dwelling**, while the technical evidence submitted demonstrates that this can be achieved without undue overshadowing or other measurable residential amenity impacts on surrounding properties.

The proposed works also respond to the practical needs of the Applicants as a growing family, providing additional domestic storage within the existing dwelling as household requirements evolve. This is precisely the type of incremental adaptation of existing housing stock contemplated by Policy Objective PHP19. While the Applicants' personal circumstances are not relied upon as overriding the normal planning assessment, they provide relevant context for the functional purpose of the proposal and reinforce that the development represents the adaptation of an established family home rather than an intensification of use or the creation of an additional residential unit. The proposal therefore represents a practical and proportionate adaptation of the existing dwelling, providing meaningful additional functionality for the occupants while, as demonstrated elsewhere in this appeal, avoiding undue overshadowing, overlooking or other measurable adverse effects on adjoining residential amenity.

On this basis, it is submitted that the proposed development is consistent with the overall direction of the Development Plan, including Objective 'A', Policy Objective PHP19 and the assessment framework set out under Section 12.3.7.1(iv).

The Development Plan does not require that the existing flat-roof form of the dwelling remain permanently unchanged. Rather, it provides a policy framework through which reasonable alterations to existing homes can be considered on their merits. When assessed against that framework, and having particular regard to the varied Ballinclea Heights roofscape, the accepted absence of undue overshadowing and the established residential use of the site, it is respectfully submitted that the proposed development does **not materially conflict with the Development Plan**.

6.2 Ground 2: The Proposal Does Not Give Rise to an Unacceptable Impact on Residential Amenity

It is submitted that the proposed development would not result in an unacceptable impact on the residential amenities of adjoining properties.

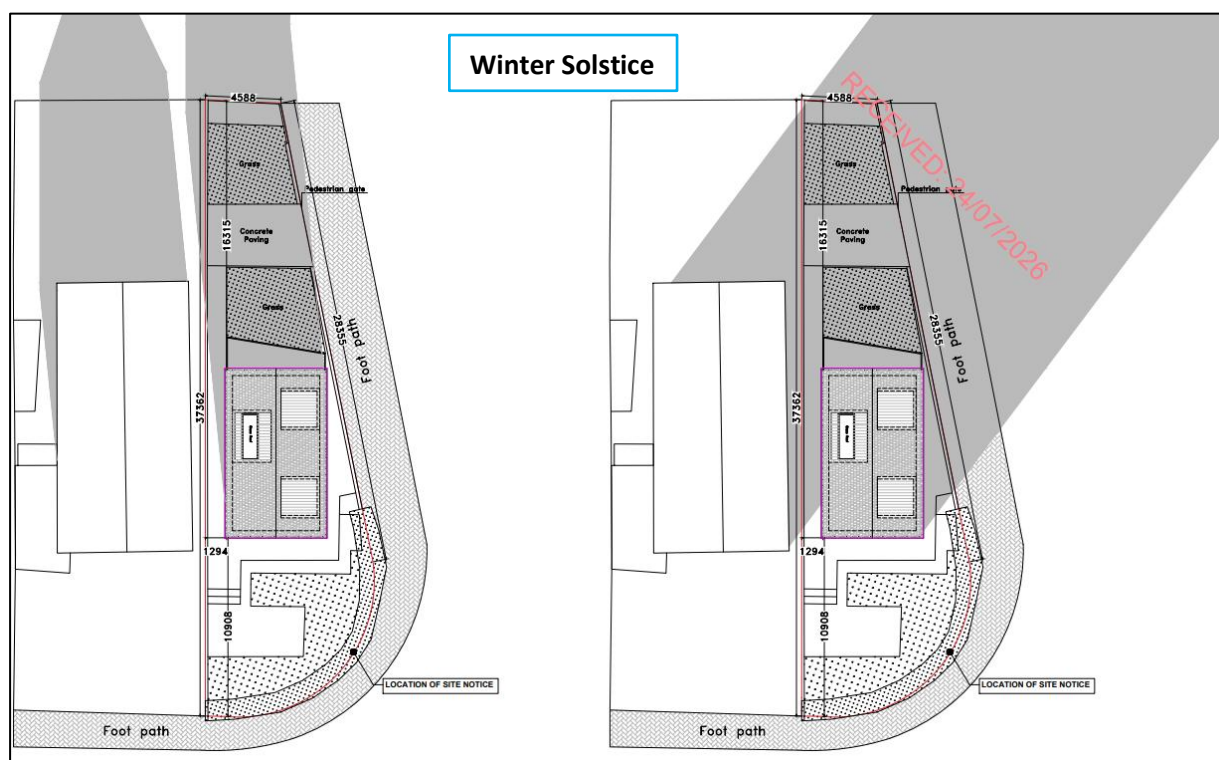
The earlier refusal under Reg. Ref. D26B/0251/WEB cited both "*overbearing and overshadowing impacts*". In response, the current application was supported by a detailed specialist shadow analysis examining existing and proposed conditions during both the summer and winter solstices.

6.2.1 Accepted Shadow Analysis

The submitted shadow analysis objectively assessed the potential impact of the increased roof height on adjoining properties. Having reviewed this evidence, the Planning Authority expressly concluded that:

“the submitted shadow analysis demonstrates that the proposed development would not result in undue overshadowing of adjoining properties.”

This is a significant finding. Overshadowing had formed an express element of the previous refusal, but the additional technical evidence submitted with the current application satisfactorily addressed that concern.



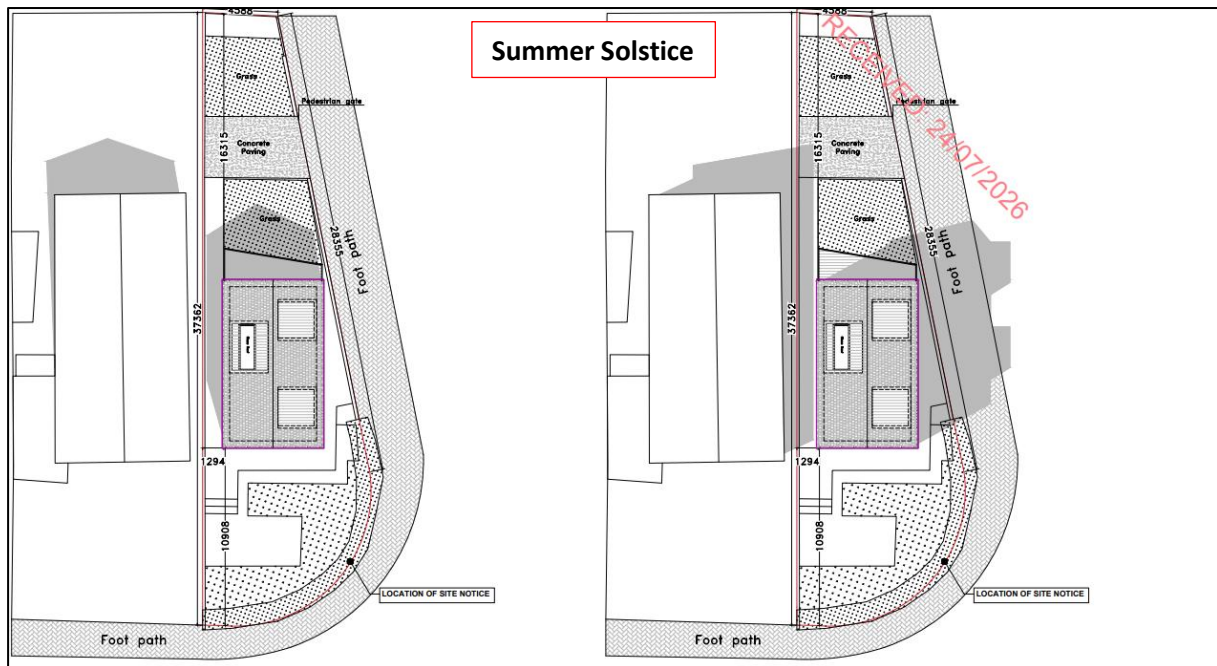


Figure 6.3: Extract from Summer and Winter Shadow Analysis

6.2.2 No Change to Building Footprint or Separation

The proposal is confined to alterations at roof level. There is *“no change to the existing building footprint, site position or separation distances from adjoining properties”*

The relationship between the dwelling and No. 32 Ballinclea Heights therefore remains unchanged at ground and first-floor level. The proposed works do not extend the dwelling closer to any neighbouring property and do not intensify the horizontal relationship between buildings.

6.2.3 No Overlooking, Access or Parking Concern

No unacceptable overlooking or loss of privacy forms part of the refusal reason.

Similarly, the Planning Authority confirmed that the proposal does not alter the existing vehicular access or parking arrangements and concluded that there were *“no concerns in relation to access and parking provision.”*

Accordingly, the residential amenity issue is substantially narrowed to the Planning Authority's remaining qualitative concern regarding perceived overbearing impact.

6.2.4 Support from Neighbouring Residents

The application attracted **six third-party submissions**, of which **three were in support** of the proposed development. As recorded in the Planner's Report, the supportive submissions considered that the proposed pitched roof would improve the appearance of the dwelling, would be consistent with the prevailing character of the area and would not adversely affect neighbouring residential amenity.

The spatial distribution of these submissions is illustrated in Figure 6.4 below. The figure shows that positive submissions were received from No. 25 Ballinclea Heights, No. 32 Ballinclea Heights and No. 134 Ballinclea Heights, while submissions raising concerns were received from Nos. 37, 38 and 184 Ballinclea Heights. The figure is useful in demonstrating that the views expressed on the application were mixed locally and that support for the proposal was not remote or abstract, but arose from properties within the wider Ballinclea Heights area, including the immediately adjoining property.



Figure 6.4: Map illustrating location of submissions received, (Yellow=Subject Site, Green=Positive submission & Red=Negative submission)

Of particular relevance is the support of the occupiers of No. 32 Ballinclea Heights, which is the property immediately adjoining the subject site and the dwelling most directly affected by the alleged residential amenity impacts identified in the refusal reason.

This relationship is illustrated in Figure 6.5, which shows the subject site and No. 32 in direct physical context. The figure highlights the existing relationship between the two dwellings and demonstrates clearly that No. 32 is the neighbouring property to which the Planning Authority's concern regarding alleged "overbearing impact" principally relates.



Figure 6.5: Location of No. 32 relative to the subject site

While neighbour support is not determinative of the planning assessment, the views of the immediately adjoining occupiers are plainly material. In circumstances where the refusal reason alleges that the proposal would be **“seriously injurious to the residential amenities of adjoining property,”** the express support of the occupiers of that adjoining property weighs materially against such a conclusion.

6.2.5 Alleged Overbearing Effect

Following the Planning Authority’s acceptance of the submitted specialist shadow analysis, the remaining residential amenity concern is confined to the assessment that the increased roof height and volume would give rise to an overbearing impact on No. 32.

It is respectfully submitted that this conclusion should be reconsidered in light of the actual physical relationship between the properties and the evidence before the Commission. The proposal does not alter the building footprint, site position or separation distances. No undue overshadowing has been identified, no overlooking concern forms part of the refusal reason, and no issue arises in relation to access or parking.

While the proposal would materially increase the overall height and visual presence of the dwelling, **increased height does not, of itself, establish an unacceptable overbearing impact on adjoining residential amenity.** That assessment must have regard to the particular form and geometry of the proposed development and its actual physical relationship with neighbouring properties.

In this instance, the additional volume is contained principally within a pitched roof form

which rises from the lower eaves towards the ridge, rather than presenting as a continuous full-height additional storey around the perimeter of the dwelling. The existing footprint, building position and separation distances remain unchanged. In addition, the Planning Authority has accepted that the proposal would not result in undue overshadowing, no unacceptable overlooking or loss of privacy forms part of the refusal reason, and the occupiers of the immediately adjoining No. 32 Ballinclea Heights have expressly supported the development.

Taken together, these matters indicate that the increased height and visual presence of the dwelling should not automatically be equated with an unacceptable overbearing effect. The issue falls to be assessed in the context of the actual roof geometry, the established relationship between the dwellings and the absence of demonstrated adverse impacts on sunlight, privacy or separation.

6.3 Ground 3: The Proposed Roof Form is Appropriate Having Regard to the Established and Evolving Character of Ballinclea Heights

It is submitted that the proposed roof form is capable of being satisfactorily accommodated within the established and evolving residential character of Ballinclea Heights.

The Planning Authority itself describes the surrounding area as comprising detached dwellings of **varying height, architectural style and roof profile, including bungalows and two-storey dwellings**. It also acknowledges that pitched roofs are an established feature of Ballinclea Heights.

Accordingly, the appeal site does not sit within a uniform streetscape characterised by a single ridge height, roof form or architectural expression. The appropriate assessment is therefore one which considers the proposal in the context of the wider estate and the range of development which has been permitted and constructed over time.

6.3.1 Existing Roofscape and Streetscape Character

Ballinclea Heights comprises a varied residential environment containing single-storey bungalows, conventional two-storey dwellings, pitched and hipped roofs and more contemporary residential forms.

The existing dwelling at No. 32A is itself a relatively recent contemporary infill dwelling occupying a prominent corner location. The proposed development would replace its existing flat roof with a pitched form which is widely represented elsewhere within the estate.

The submitted contextual visualisations demonstrate the proposed development from a number of surrounding viewpoints and show that the revised roof would be experienced as part of a broader streetscape containing multiple pitched roof forms and varying building scales. In the longer street view in particular, the dormers read as components of the roof

rather than as a continuous additional storey.



Figure 6.6: 3D Visualisation / Long Streetscape View



Figure 6.7: 3D Visualisation / Corner View

It is therefore submitted that the proposed development should not be assessed solely by reference to the existing flat-roof form of No. 32A or the immediately adjoining bungalow. Section 12.3.7.1(iv) expressly requires consideration of **existing roof variations on the streetscape**, and the wider Ballinclea Heights context is therefore directly relevant.

6.3.2 No. 1 Ballinclea Heights – Recent Height and Roof-Level Comparator (Reg. Ref. D25A/0348/WEB)

A particularly relevant recent permission relates to **No. 1 Ballinclea Heights**, where DLRCC granted permission for a new two-storey detached dwelling incorporating dormer accommodation on a side-garden infill site within the same residential estate.

The approved Further Information drawings record:

- an overall ridge height of **8.615 metres**;
- eaves height of **5.50 metres**;
- parapet height of **5.90 metres**;
- dormer top level of **8.30 metres**; and
- attic floor level of **5.70 metres**.

The approved scheme therefore incorporates a substantial pitched roof profile, active roof-level accommodation served by a permanent stair, and a street-facing dormer. The contextual drawings also illustrate the approved taller form in direct relationship with a materially lower adjoining dwelling.

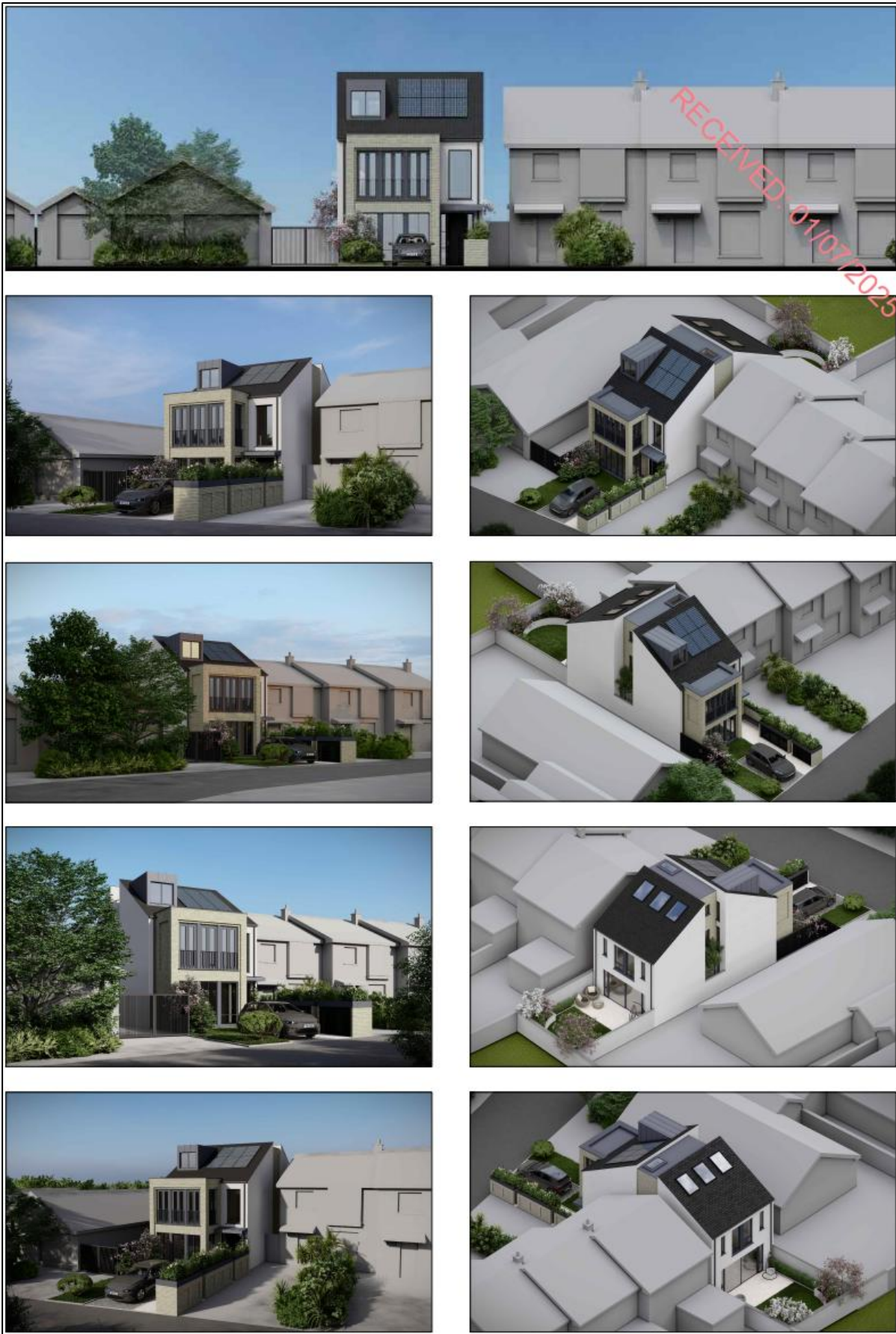


Figure 6.8: No. 1 Ballinclea Permitted CGI – Demonstrating Height in Context of Surrounding Dwellings

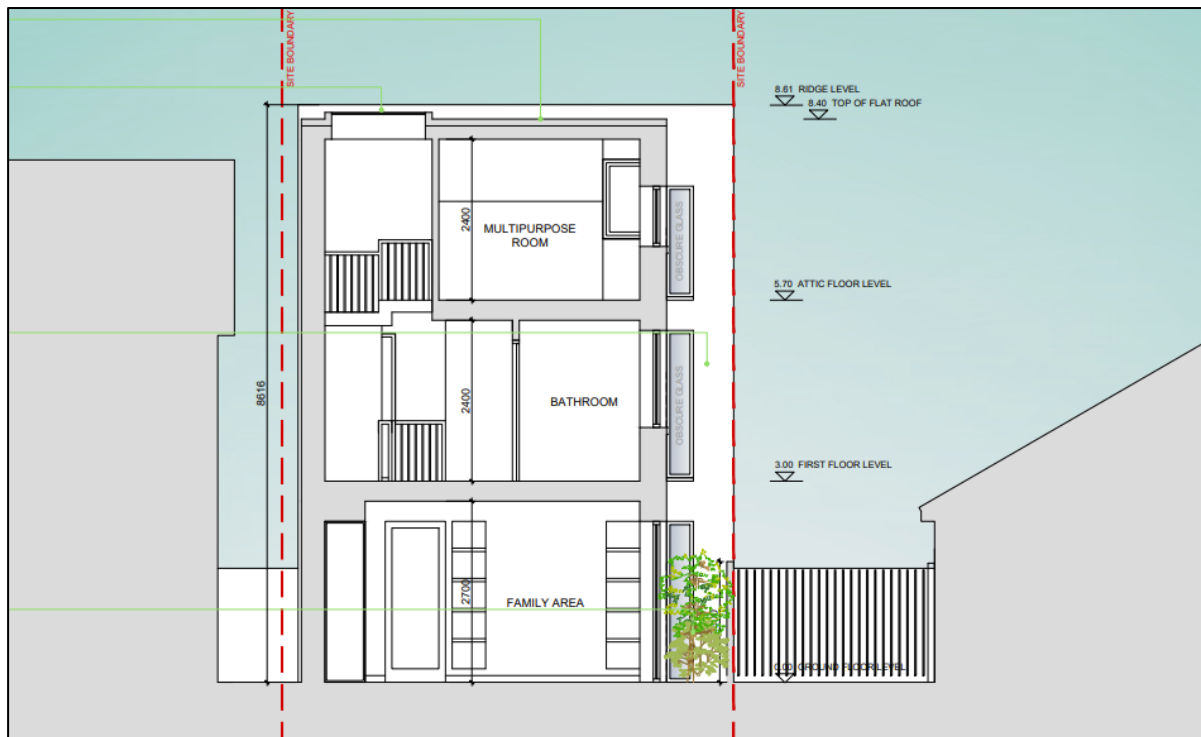


Figure 6.9: No. 1 Ballinclea Heights Approved Section / Attic Accommodation

The Planner's Report is also of particular relevance. In its assessment of the proposal, DLRCC expressly considered the scale, massing and relationship of the proposed dwelling with adjoining properties. While concerns were initially raised regarding its relationship with No. 7 Wanford Close, the scheme was amended at Further Information stage, including moving the dwelling approximately **1.535 metres further back** and revising the associated boundary treatment. The Planning Authority subsequently concluded that the Further Information response had **"satisfactorily addressed"** the concerns raised.

Most importantly, the Planner's final assessment concluded that, having regard to the *"massing, scale and form"* of the development, the proposal would not adversely affect neighbouring residential amenity by reason of ***"overshadowing, overlooking or overbearing appearance"*** and would ***"not detract from the character of the surrounding area."*** Permission was therefore recommended and subsequently granted.

This permission is particularly relevant to the present appeal because DLRCC assesses the proposed ridge height at No. 32A at approximately **8.5 metres**. On the respective stated building-height figures, the approved ridge at No. 1 is therefore of essentially the same order and is approximately **115 mm higher**. The sites have separate ground-level datums and are not advanced as directly interchangeable dimensional comparisons; nevertheless, the permitted overall building height and roof treatment provide highly relevant local planning context.

The significance of No. 1 extends beyond the numerical ridge comparison. It demonstrates that DLRCC has recently accepted within Ballinclea Heights a substantial domestic pitched-

roof form incorporating dormer accommodation, including in circumstances where the proposal was required to respond carefully to lower and adjoining residential development. Following design refinement, the Planning Authority was satisfied that such a form could be accommodated without unacceptable overbearing, overshadowing or visual-character impacts.

The appeal does not rely on No. 1 as a binding precedent. Rather, it provides strong and recent evidence that an approximately **8.6 metre domestic form with roof-level accommodation and dormer treatment** is not intrinsically inconsistent with the established residential character of Ballinclea Heights.

6.3.3 No. 182 Ballinclea Heights – Prominent Corner Development (Reg. Ref. D24A/0687/WEB)

The recent permission at No. 182 Ballinclea Heights provides a further relevant example of substantial contemporary residential development within the estate. The proposal comprised a new two-storey detached dwelling of approximately 164 sqm, positioned on a corner site within the side garden of the existing property.

In assessing the proposal, the Planning Authority expressly considered the development against the Objective 'A' zoning and the relevant residential development criteria, including scale, visual harmony, relationship with adjoining properties and residential amenity. The Planner noted that the proposed dwelling would have a ***“contemporary architectural design”*** and concluded that the arrangement of windows and the proposed external materials would complement neighbouring houses.

Importantly, the Planner found that:

“there would not be any negative visual impacts as a result of the proposed development.”

The report also considered the relationship with surrounding residential properties in detail. In relation to privacy and overlooking, the Planner concluded that:

“there would be no significant overlooking impacts to adjoining property”

and further considered that any additional overshadowing associated with the proposed dwelling would not have a material impact on the amenity of neighbouring houses.

The final conclusion was notably positive. Having regard to the site character and context, the Planner considered that the proposal would not adversely impact the residential amenity of adjoining properties by reason of ***“overlooking, overbearing appearance”*** and would not detract from the character of the surrounding area. Permission was accordingly recommended and granted.

No. 182 is not relied upon as a direct dimensional comparator to No. 32A. Its relevance is broader. It demonstrates that **corner prominence, substantial built form and contemporary architectural expression are not in themselves incompatible with Ballinclea Heights.**

Rather, the Planning Authority's own assessment at No. 182 confirms that the key consideration is whether the particular development can be satisfactorily integrated into its surroundings without giving rise to unacceptable visual or residential amenity impacts.

That same contextual approach should be applied to No. 32A. In the present case, the proposal is substantially more limited in scope, comprising alterations to the roof of an existing dwelling rather than the construction of a new house, while the Planning Authority has already accepted that the proposal would not result in undue overshadowing of adjoining properties.

6.3.4 Kilfenora, 3 Killiney Road (Reg. Ref. D24B/0158/WEB / ACP-320017-24)

As outlined in Section 3.3.3 above, the recent permission at Kilfenora, No. 3 Killiney Road is considered particularly relevant to the present appeal. The existing property comprised a contemporary two-storey flat-roofed dwelling, above which permission was granted for a new master-bedroom suite forming an additional floor level. The development increased the overall building height from approximately 6.27 metres to 8.7 metres, an increase of approximately 2.44 metres, and provided approximately 53.47 sq m of additional habitable floorspace.

The receiving context is also directly relevant. The Inspector recorded that the property immediately to the south comprised a detached bungalow, while the dwelling immediately to the north comprised a dormer bungalow, with a broader mix of single and two-storey dwellings in the vicinity. The permission therefore involved the introduction of a substantially taller third-level element within an established lower-rise residential context.

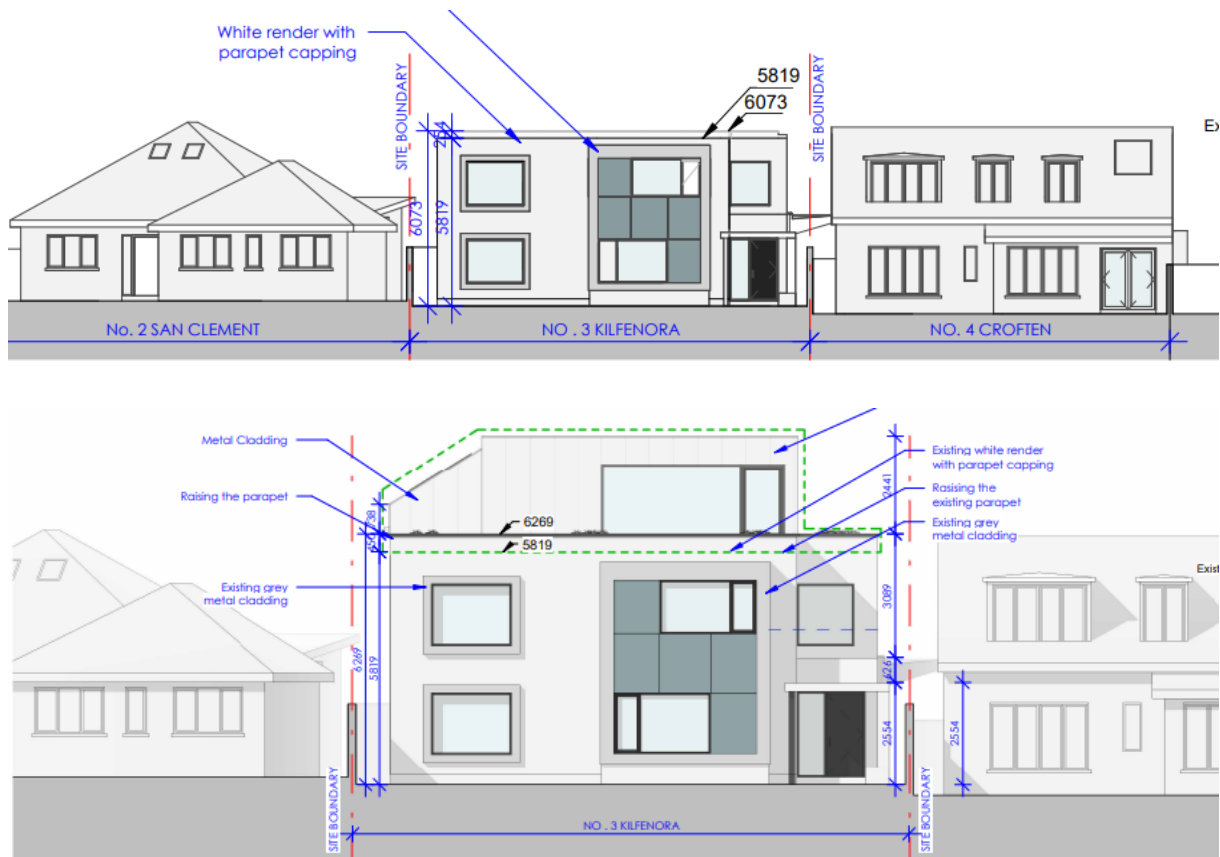


Figure 6.10: Existing (Top) and Permitted (Bottom) Front Elevations at Kilfenora, No. 3 Killiney Road

The DLRCC assessment is instructive. Although the Case Planner initially expressed concern regarding visual dominance and overbearing impact, the Senior Planner reached a different conclusion having regard to the setback of the additional level, the detached nature of the site and adjoining properties and the **“existing variety in dwelling types and design along Killiney Rd”**. The Planning Authority ultimately concluded that the proposal would not have a significant adverse impact on the visual or residential amenities of the area and granted permission.

The decision was subsequently appealed by third parties on grounds which included **visual impact, overbearing effect, overlooking and overshadowing**. The Board’s Inspector assessed the proposal expressly against **Section 12.3.7.1(iv) – Alterations at Roof/Attic Level**, being the same Development Plan provision relied upon in the refusal of the present proposal.

Of particular significance, the Inspector considered the relationship between the proposed **8.6–8.7 metre form** and the materially lower adjoining bungalow and dormer bungalow and concluded that the additional level:

“would not appear excessively dominant in the streetscape”

and could be **“reasonably absorbed”** by the existing built character. The Inspector further

concluded that the proposal would not result in a significant visual impact and would accord with Section 12.3.7.1(iv) of the Development Plan.

The residential amenity conclusions are equally relevant. Having examined the proposal from the surrounding properties, the Inspector found that the additional floor would not result in **undue overbearing**, and ultimately concluded that it would not cause significant adverse effects through overbearing, overlooking, overshadowing or loss of privacy.

The Kilfenora permission therefore provides a particularly strong comparator to No. 32A. In both cases, an established **two-storey flat-roofed dwelling** is proposed to increase substantially in height to approximately **8.5–8.7 metres** within a residential context containing materially lower neighbouring dwellings. Indeed, the Kilfenora proposal introduced a fully habitable third-level master-bedroom suite, whereas the proposed roof space at No. 32A is identified for storage purposes.

It is acknowledged that the architectural treatment differs: Kilfenora comprises a setback contemporary upper-floor addition, whereas No. 32A proposes a pitched gable roof incorporating dormer elements. However, this distinction does not diminish the relevance of the comparison. **At No. 32A, the additional built form rises from the eaves towards the ridge through sloping roof planes, rather than presenting as a continuous full-height additional storey around the perimeter of the dwelling. The roof volume therefore tapers away from its maximum height towards the outer edges of the building, with the dormers accommodated as components within the overall roof form. This is relevant when considering the perceived massing and overbearing effect of the proposal.** The relevance of Kilfenora is therefore not that the two architectural treatments are identical, but that a substantial vertical extension of an existing flat-roof dwelling to a comparable overall height was found by both DL RCC and the Board to be capable of satisfactory integration without unacceptable visual or overbearing effects.

This is important in the context of the present refusal. It demonstrates that neither an overall height approaching **8.7 metres**, nor the introduction of substantial additional volume above an existing two-storey flat-roof dwelling, is inherently inconsistent with Objective 'A' or Section 12.3.7.1(iv). The determining question is whether the particular form can be absorbed satisfactorily within its receiving environment. Having regard to the varied built character of Ballinclea Heights, the accepted shadow analysis and the absence of any identified overlooking impact, it is respectfully submitted that the same site-specific approach should be applied to No. 32A.

6.3.5 12 Ludford Road – Flat to Pitched Roof (Reg. Ref. D26B/0085)

As outlined in Section 3, a further relevant recent permission is Reg. Ref. D26B/0085 at No. 12 Ludford Road, Dundrum. While this permission is not relied upon as a direct dimensional comparator to No. 32A, it is relevant to the principle of substantial roof alteration within an

established Objective 'A' residential area under the current Development Plan.

The permitted development included the replacement of an existing flat roof over the converted garage/side element with a new pitched roof incorporating four rooflights, together with alterations to the main roof profile to create a mini-hip, an extended attic conversion, rooflights and a rear dormer. The approved elevations reproduced below demonstrate the extent to which the existing roof form was altered and integrated into the overall pitched-roof profile of the dwelling.



Figure 6.11: Existing (Top) and Permitted (Bottom) Elevations

Of particular relevance, the Planner assessed the roof alterations expressly in terms of their size, scale and relationship with adjoining properties. The report concluded that the proposed alterations to the main roof were:

“not considered to be excessive in size/scale”

and were not considered to result in overlooking, overshadowing or overbearing impacts. The proposed dormer and roof windows were similarly considered acceptable having regard to their scale, position and relationship with the existing dwelling.

The Planning Authority ultimately concluded that the development accorded with Section 12.3.7.1 – Extensions to Dwellings, including the provisions relating to alterations at roof/attic level. In its overall assessment, DLRCC further found that, having regard to the “massing, scale and form” of the development, it would not adversely impact adjoining residential amenity by reason of “overshadowing, overlooking or overbearing appearance”, nor would it significantly detract from the character of the surrounding area. Permission was accordingly granted.

The relevance of No. 12 Ludford Road is therefore not that its precise scale or configuration replicates the proposal at No. 32A. Rather, it demonstrates that the replacement of an established flat-roof element with a pitched-roof form, together with substantial alterations to the wider roof profile and additional attic-level accommodation, is not inherently inconsistent with Objective ‘A’ or Section 12.3.7.1(iv). The determining consideration remains the site-specific effect of the resulting roof form on visual character and neighbouring residential amenity.

In the present case, the proposal at No. 32A should similarly be assessed on its particular merits, having regard to the varied roofscape of Ballinclea Heights, the accepted shadow analysis and the absence of any identified overlooking impact, rather than on the basis that the existing flat-roof form should remain unaltered simply because it formed part of the original dwelling design.

6.3.6 Wider Ballinclea Heights Planning Context

The cumulative local planning context is more important than any one individual permission.

Since the original permission for No. 32A in 2020, the built and planning context within Ballinclea Heights has continued to evolve. Recent permissions include taller contemporary dwelling forms, active accommodation within roof profiles and dormer treatment, while the estate itself already contains significant variation in building height, scale and architectural expression.

The appeal therefore does not seek to establish that any one nearby permission predetermines the outcome of the present case. Each application must properly be assessed on its own site-specific merits.

Rather, the purpose of the precedent analysis is to demonstrate that the character of Ballinclea Heights cannot reasonably be characterised as a uniform low-rise environment in which an approximately 8.5 metre pitched-roof dwelling is inherently incongruous.

Taken together, the local planning history demonstrates that DLRCC has accommodated:

- differing dwelling heights;

- substantial pitched roof profiles;
- dormer windows;
- active roof-level accommodation;
- contemporary architectural forms; and
- development on visually prominent sites.

6.3.7 Overall Character and Visual Integration

The proposed development should therefore be considered against the **actual character of Ballinclea Heights**, rather than against the existing flat roof of No. 32A in isolation.

The proposed ridge height of approximately 8.5 metres is materially higher than the existing dwelling and this is acknowledged. However, local planning evidence demonstrates that this height is not intrinsically outside the range of residential development considered acceptable within Ballinclea Heights. In particular, the approved No. 1 scheme provides a very recent example of an approximately 8.6 metre residential form incorporating active roof accommodation and dormer treatment, while No. 182 demonstrates DLRCC's acceptance of substantial contemporary development at a prominent corner location.

The contextual visualisations submitted with the application further demonstrate how the proposal would be perceived within the surrounding roofscape rather than as an isolated architectural object.

It is therefore respectfully submitted that the proposed pitched roof would not introduce a form which is inherently alien or incompatible with Ballinclea Heights. When the proposal is assessed against the **cumulative streetscape character and recent local planning context**, there is a sound basis to conclude that the revised dwelling can be satisfactorily integrated within the established and evolving character of the estate.

6.4 Ground 4: The Planning History of No. 32A Should be Afforded Appropriate, but Not Determinative, Weight

The planning history of No. 32A is clearly a material consideration in the assessment of the current appeal. In particular, under Reg. Ref. "D20A/0398", the original proposal for the dwelling was amended during the Further Information process to reduce its overall height and perceived massing at this prominent corner location. The Planning Authority has relied heavily on that history in assessing the current roof proposal.

That history should be acknowledged and afforded appropriate weight. However, it is respectfully submitted that it should not be treated as establishing a permanent or immutable maximum roof height for the dwelling.

6.4.1 Relevance of Reg. Ref. D20A/0398

Under Reg. Ref. D20A/0398, the original design for the new dwelling was revised in response to concerns regarding height, massing and prominence. The amended form, with a reduced overall height of approximately 5.7 metres, was subsequently considered acceptable and permission was granted.

The 2020 planning history therefore explains the form in which the dwelling was originally approved. It is relevant context and is not disputed.

However, that permission did not expressly impose a future prohibition on roof alteration, nor did it establish the approved ridge level as a permanent maximum applicable to all subsequent development proposals.

The current proposal must therefore be distinguished from the original assessment of a “*new dwelling on a vacant side-garden site*”. The present application concerns an alteration to an existing and completed dwelling which now forms part of the established Ballinclea Heights streetscape.

6.4.2 Changed Planning and Built Context

The planning and physical context has also evolved since the original 2020 permission.

A different statutory Development Plan is now in force, namely the Dún Laoghaire-Rathdown County Development Plan 2022–2028, which specifically provides for the assessment of roof and attic alterations under Section 12.3.7.1(iv) and supports the adaptation of existing housing stock through Policy Objective PHP19.

The local built context has likewise continued to evolve. As set out under Ground 3, subsequent permissions within Ballinclea Heights demonstrate the acceptance of a range of building heights, roof forms, dormer treatments and contemporary residential forms. The Planning Authority itself describes *the area as containing dwellings of* “varying height, architectural style and roof profile”, confirming that the wider estate does not comprise a uniform low-rise context.

In addition, the current proposal is supported by technical evidence which was not available as part of the original 2020 assessment. In particular, specialist summer and winter shadow analysis has now been undertaken and expressly accepted by DLRCC as demonstrating that the proposed development would not result in undue overshadowing of adjoining properties.

These matters form part of the current evidential and planning context and should be considered alongside, rather than subordinated to, the design history of the original dwelling.

6.4.3 Current Proposal Must Be Assessed on its Own Merits

It is therefore submitted that Reg. Ref. D20A/0398 should inform the assessment of the appeal but should not determine its outcome.

The relevant question is not whether the current proposal departs from the exact roof form approved in 2020; it plainly does. The appropriate question is whether the proposed alteration is acceptable *“now”*, having regard to the current Development Plan, the completed physical context, the evidence submitted with the application, the relationship with adjoining properties and the subsequent planning context within Ballinclea Heights.

The Development Plan expressly provides a framework for considering alterations to existing roof profiles. The fact that No. 32A was originally approved at a lower height does not remove the ability of the Applicants to seek permission for a later alteration, nor does it predetermine that such an alteration must necessarily be unacceptable.

Accordingly, while the 2020 reduction in height should be afforded appropriate weight as part of the site’s planning history, it is respectfully submitted that the current proposal should be considered independently on its own planning merits and against the full contemporary policy and physical context.

6.5 Ground 5: The Refusal is Based Predominantly on Qualitative Visual Judgement and a Different Planning Conclusion is Reasonably Open

The preceding grounds demonstrate that the proposed development is acceptable in principle, does not give rise to undue overshadowing, does not alter the existing building footprint or separation distances, raises no access or parking concerns, benefits from support from neighbouring residents, and is capable of being considered within a varied and evolving local roofscape. No specific numerical Development Plan standard has been identified as being breached.

The remaining basis for refusal therefore relates principally to the Planning Authority’s qualitative assessment that the proposed roof would appear ***“overly dominant”, “incongruous”*** and ***“overbearing”*** at this ***“prominent corner location.”***

These are legitimate planning considerations. However, they are inherently contextual and require an exercise of planning judgement rather than compliance with a prescribed numerical threshold.

In this regard, the proposal should be assessed having regard to the full body of evidence before the Commission, including:

- the submitted 3D contextual visualisations;
- the accepted summer and winter shadow analysis;

- the unchanged footprint and building position;
- the physical relationship with No. 32 Ballinclea Heights;
- the support of the immediately adjoining occupiers;
- DLRCC's own description of Ballinclea Heights as containing varied building heights, architectural styles and roof profiles; and
- the recent local permissions identified within this appeal, including development incorporating greater height, substantial pitched roof forms, dormer treatment and contemporary architectural expression.

When these matters are considered cumulatively, it is respectfully submitted that there is a reasonable evidential basis upon which the Commission may reach a different planning judgement to that reached by the Planning Authority.

The proposed increase in height is acknowledged. However, the issue is not simply whether the dwelling becomes taller than its existing flat-roof form, but whether the resulting development can be satisfactorily accommodated within the actual residential context without giving rise to an unacceptable impact on visual or residential amenity.

For the reasons set out throughout this appeal, it is submitted that it can.

Without prejudice to the primary position that the proposed development should be permitted as submitted, should the Commission retain a residual concern regarding an individual dormer, element of the roof treatment or other limited design detail, it is respectfully submitted that such a matter could be appropriately addressed by way of condition requiring a minor design refinement.

In that circumstance, a limited amendment by condition would represent a proportionate planning response and would avoid the refusal of an otherwise acceptable alteration to an established residential dwelling.

6.6 Ground 6: Recent National Changes to Exempted Development Provide Relevant Policy Context

While the development the subject of this appeal **does not fall within the scope of the new exempted development provisions**, the recent national changes introduced in July 2026 provide useful context as to the broader direction of planning policy for alterations to existing homes.

The Planning and Development (Exempted Development) Regulations 2026 introduced, among other matters, a new exemption for certain **dormer roof extensions to the side or**

rear of a dwelling, together with roof lights, subject to specified limitations. The changes were introduced as part of a wider policy objective to reduce unnecessary regulatory burdens and give homeowners greater freedom to adapt existing homes to changing needs.

The Government expressly described the reforms as intended to facilitate homeowners in adapting their homes while allowing planning authorities to focus resources on development requiring greater scrutiny.

It is fully acknowledged that these provisions do **not** render the proposed development at No. 32A exempt, nor are they relied upon as overriding the relevant Development Plan policies applicable to this appeal. Rather, they are cited as part of the contemporary planning context within which the proposal falls to be considered.

The recent changes demonstrate a broader policy movement towards facilitating the **reasonable, efficient and proportionate adaptation of existing dwellings**, including the utilisation of roof space and the introduction of dormer forms where their scale and effect are sufficiently limited.

In that context, the present proposal should be considered as an adaptation of an existing family home rather than as an intensification of land use or the introduction of a new dwelling. While the proposal remains subject to a full planning assessment, the current national policy direction provides additional support for an approach which facilitates appropriate residential adaptation where unacceptable impacts on adjoining amenity have not been demonstrated.

6.7 Ground 7: The Evidence Does Not Support a Finding of Serious Injury to Residential Amenity

The refusal reason concludes that the proposed development would give rise to an overbearing impact and would thereby be ***“seriously injurious to the residential amenities of adjoining property.”*** It is respectfully submitted that the evidence before the Commission does not support a conclusion of that severity.

The proposal would undoubtedly increase the height and visual presence of the dwelling. However, increased visibility or prominence within the streetscape is not synonymous with an unacceptable overbearing impact upon residential amenity. The Planning Authority has expressly accepted that the proposal would not result in undue overshadowing, no unacceptable overlooking or loss of privacy forms part of the refusal reason, and the proposal would not alter the existing footprint, building position or separation distances from adjoining properties.

Of particular relevance, the occupiers of No. 32 Ballinclea Heights — the dwelling immediately adjoining the subject site and the property most directly positioned to experience any alleged overbearing effect — submitted in support of the development.

The remaining concern therefore arises principally from the perceived visual scale and presence of the roof rather than from a demonstrated loss of sunlight, privacy, separation or other measurable residential amenity. While visual impact is a legitimate planning consideration, it is respectfully submitted that the evidence does not establish that the proposal would result in the level of adverse residential amenity impact described in the refusal reason as ***“seriously injurious.”***

This conclusion is further supported by the recent Kilfenora decision, where a comparable increase in the height of an existing two-storey flat-roof dwelling to approximately 8.6–8.7 metres was considered capable of being absorbed within a lower-rise residential context without undue overbearing impact.

7.0 Conclusion and Requested Outcome

Having regard to the assessment set out in this appeal, it is respectfully submitted that the proposed development at 32A Ballinclea Heights, Killiney represents an appropriate alteration to an established residential dwelling and is capable of being accommodated without giving rise to an unacceptable impact on adjoining residential amenity or the character of the surrounding area.

The proposal is **acceptable in principle** under the site's Objective 'A' zoning and is consistent with the wider Development Plan policy approach which supports the adaptation and improvement of existing housing stock. The relevant roof/attic provisions of Section 12.3.7.1(iv) establish a contextual assessment framework rather than a prescribed numerical height limit, and the appeal has demonstrated that the proposed development does not materially breach any identified quantitative Development Plan standard.

The Planning Authority's own assessment is particularly important. DL RCC accepted that the proposed roof alteration, dormer windows and attic-level storage are acceptable in principle, that the proposal would not result in undue overshadowing of adjoining properties, and that no concerns arise in relation to access or parking. The application also attracted three submissions in support, including from the occupiers of the immediately adjoining No. 32 Ballinclea Heights.

The remaining refusal case therefore turns principally on the qualitative assessment that the proposed roof would appear overly dominant, incongruous and overbearing at this prominent corner location. It is submitted that those conclusions should be reconsidered in the context of the full evidence now before the Commission, including the accepted specialist shadow analysis, the submitted 3D visualisations, the unchanged footprint and separation from adjoining properties, the support of the most directly affected adjoining occupiers, and the established variation in building height, roof profile and architectural character throughout Ballinclea Heights.

The local planning context further supports this position. Recent permissions within Ballinclea Heights demonstrate that the estate is not characterised by a single uniform building height or roof form. In particular, the permitted development at **No. 1 Ballinclea Heights** provides a recent example of an approximately **8.615 metre** domestic form incorporating roof-level accommodation and dormer treatment, while **No. 182 Ballinclea Heights** demonstrates the Planning Authority's acceptance of substantial contemporary development at a prominent corner location where visual and residential amenity impacts were considered satisfactory. These permissions are not relied upon as binding precedents, but collectively demonstrate the evolving and varied residential character within which the present proposal falls to be assessed.

The planning history of No. 32A under Reg. Ref. D20A/0398 is acknowledged as a material consideration. However, the reduction in height secured as part of the original 2020 permission should not be interpreted as establishing a permanent maximum roof height for the property. The present proposal concerns an alteration to a completed dwelling, falls to be assessed under the current Development Plan and is supported by additional technical and contextual evidence which was not available as part of the original assessment.

Accordingly, it is respectfully submitted that the proposal accords with the overall intent of Objective 'A', Policy Objective PHP19 and Section 12.3.7.1(iv) of the Dún Laoghaire-Rathdown County Development Plan 2022–2028, and would not be contrary to the proper planning and sustainable development of the area.

Requested Outcome

The Applicants therefore respectfully request that **An Coimisiún Pleanála overturn the decision of Dún Laoghaire-Rathdown County Council under Reg. Ref. D26B/0422/WEB and grant permission for the proposed development as submitted**, subject to such standard and appropriate conditions as the Commission considers necessary.

Without prejudice to that primary request, should the Commission retain a residual concern in relation to any individual dormer, roof element or limited aspect of the proposed treatment, it is respectfully requested that consideration be given to resolving such matters by way of an appropriately worded condition requiring minor design refinement, rather than refusing permission for the development in its entirety.

For the reasons set out throughout this appeal, it is submitted that there is a clear and reasonable planning basis for the Commission to reach a different conclusion to the Planning Authority and to permit the proposed development.

Yours sincerely,

Steven Amet & Sara Comerford