



An  
Bord  
Pleanála

## Inspector's Report ABP-315100-22

<b>Development</b>	Permission is sought for extension, courtyard garden and all associated site works.
<b>Location</b>	No. 114 Killester Avenue, Dublin 5, D05 XT63.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	WEB1782/22.
<b>Applicant(s)</b>	Liam Coburn.
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party.
<b>Appellant(s)</b>	Liam Coburn.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	2 <sup>nd</sup> day of February, 2023.
<b>Inspector</b>	Patricia-Marie Young.

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## 1.0 Site Location and Description

- 1.1. No. 114 Killester Avenue, the appeal site has a stated area of 161.5m<sup>2</sup>, and it is located c100m to the east of Killester Avenue's junction with Clanhugh Road, in the city suburb of Killester, in Dublin 5. The site contains a mid-terrace two storey dwelling house that is setback from its roadside boundary by a pedestrian path flanked by an unkempt former lawn. Adjoining the rear boundary is a single storey outbuilding that extends the width of the plot. The space in between it and the rear elevation is unkempt. The subject property forms part of a once highly coherent in-built form, appearance, design and layout residential scheme, mainly characterised by groups of terrace and semi-detached pairs that date back to circa 1940s/1950s.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for a two-story extension to the rear. This is described as comprising: kitchen, bathroom and corridor at ground floor level and bedroom, bathroom, and corridor at first floor level. New windows at first floor level facing south, north, and east with glazing design preventing views to east and north; windows at ground floor level facing south, north and east. It is also indicated that the proposed development includes a courtyard garden facing the east boundary and also associated site works.
- 2.2. According to the planning application form the floor area of buildings to be retained on site is 58m<sup>2</sup>; the floor area of new buildings on site is 68m<sup>2</sup>; and, the floor area of new and retained is 126m<sup>2</sup>. In addition, the proposed plot ratio is given as 0.78 and the site coverage is 39%.

## 3.0 Planning Authority Decision

### 3.1. Decision

On the 19<sup>th</sup> day of October, 2022, the Planning authority decided to **refuse** planning permission for the following single stated reason:

*"Having regard to the scale and depth of the proposed two-storey extension, the proposed development will have a significant and negative impact on the residential*

*amenity to the occupants of the adjoining dwellings by way of reducing levels of daylight and sunlight and by having an overbearing and obtrusive appearance when viewed from the neighbouring dwellings. It is considered that the proposed development in itself and by the precedent established for similar scale of extensions, would seriously injure the amenities of property in the vicinity and would be contrary to the policies and objectives of the current Dublin City Development Plan, in particular Section 16.10.12 and Appendix 17, and the proper planning and sustainable development of the area.”*

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planning Officer’s report, dated the 19<sup>th</sup> day of October, 2022, is the basis of the Planning Authority’s decision. It includes the following comments:

- If permitted, it would significantly reduce daylight and give rise to excessive overshadowing of properties in its vicinity.
- There is precedent for two storey extensions in the area, but these are of a lesser scale.
- Concerns are raised in relation to overlooking.
- The extension would be overbearing and obtrusive in its appearance.
- Concludes with a recommendation of refusal.

#### **3.2.2. Other Technical Reports**

**Drainage:** No objection, subject to safeguards.

### **3.3. Prescribed Bodies**

3.3.1. None.

### **3.4. Third Party Observations**

3.4.1. None.

## 4.0 Planning History

### 4.1. Site and Setting

- 4.1.1. No recent and/or relevant planning history.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Dublin City Development Plan, 2022-2028, came into effect on the 14<sup>th</sup> day of December, 2022, under which the site is zoned 'Z1 – Sustainable Residential Neighbourhoods'.
- 5.1.2. Chapter 14 sets out the Land Use Zonings.
- 5.1.3. Section 14.7.1 of the Development Plan in relation to Z1 zoned land states that the land use objective is: *“to protect, provide and improve residential amenities”* and that the vision is: *“for residential development in the city is one where a wide range of high quality accommodation is available within sustainable communities, where residents are within easy reach of open space and amenities as well as facilities such as shops, education, leisure and community services”*.
- 5.1.4. Section 15.5.3 of the Development Plan which deals with alterations and extensions. It sets out that works of alteration and extension should be integrated with the surrounding area, ensuring that the quality of the townscape character of buildings and areas is retained and enhanced, and environmental performance and accessibility of the existing building stock improved.
- 5.1.5. It further sets out that: *“alterations and extensions will be sensitively designed and detailed to respect the character of the existing building, its context, and the amenity of adjoining occupiers. In particular, alterations and extensions should:*
- *Respect any existing uniformity of the street, together with significant patterns, rhythms, or groupings of buildings.*
  - *Not result in the loss of, obscure, or otherwise detract from, architectural features which contribute to the quality of the existing building.*
  - *Retain characteristic townscape spaces or gaps between buildings.*

- *Not involve the infilling, enclosure, or harmful alteration of front lightwells.*
- *Incorporate a high standard of thermal performance and appropriate sustainable design features.”*

5.1.6. Volume 2 - Appendix 18 of the Development Plan is also relevant.

## 5.2. **Natural Heritage Designations**

5.2.1. None within the zone of influence.

## 5.3. **EIA Screening**

5.3.1. The proposed development is not of a nature or scale which would fall within the fifth schedule of the Planning and Development Regulations, 2001, (as amended), such as would necessitate the carrying out of an EIAR.

# 6.0 **The Appeal**

## 6.1. **Grounds of Appeal**

6.1.1. The grounds of appeal can be summarised as follows:

- The decision to refuse permission does not give due consideration to the need to conserve embodied carbon and energy in the existing structure.
- The proposed development is a site specific response and it is therefore not accepted that it would give rise to any undesirable precedent.
- The decision to refuse limits the development potential and value of this dwelling as well as other similar houses types by way of constraining the rear building line at first floor level in an arbitrary manner.
- The Planning Authority has applied an overly restrictive interpretation to development control.
- The level of overshadowing that would arise is within accepted limits.
- There are numerous similar extensions in the setting.
- No Third Parties objections were received by the Planning Authority.

- The proposed development would give rise to no more overshadowing or would it be any more overbearing than other two-storey rear extensions in this area.
- There are large mature trees to the rear of No. 114 and 112 Killester Avenue. It is proposed to reduce the extent of their canopy or remove them completely.
- The Board is sought to overturn the decision of the Planning Authority.

## **6.2. Planning Authority Response**

- 6.2.1. The Planning Authority seek that the Board do not overturn their decision but in the event that permission is granted an appropriate Section 48 contribution condition be imposed.

## **6.3. Observations**

- 6.3.1. None.

## **7.0 Assessment**

- 7.1. I have read the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal. Having regard to the residential zoning objective for the site, the planning precedent for similar type extensions to residential developments in the wider area, and the fact that no observations were received objecting to the proposed development, I concur with the Planning Authority in this case that the general principle of an extension to the rear of No. 114 Killester together with associated alterations as part of its modernisation are acceptable.
- 7.2. I also concur with the Planning Authority that no other substantive planning concerns arise from the proposed development that cannot be satisfactorily addressed by way of appropriately worded standard conditions. With this including matters such as sustainable drainage measures, limiting future development on site given the significant reduction in rear private amenity space that would remain, through to agreement of external materials, treatments, and finishes.

- 7.3. I am therefore of the view that the Board can restrict its deliberations to the issues raised in the grounds of appeal. Namely the Planning Authority's notification to refuse planning permission.
- 7.4. As set out under Section 3.1 of this report above the Planning Authority refused permission for the proposed development, a development which consists of alterations and additions to an existing modest two storey mid terrace dwelling, on the basis of the negative impact it would give rise to for the occupants of adjoining properties by way of reducing levels of daylight and sunlight to them.
- 7.5. It was also considered that the proposed development would as a result of its overall built form and level of projection to the rear of this terrace property would be overbearing as well as obtrusive in its appearance when viewed from properties in its vicinity.
- 7.6. Further to this the Planning Authority also considered that the proposed development, if permitted, would give rise to undesirable precedent, and it would be a type of development that failed to accord with the provisions set out in the Dublin City Development Plan, 2016-2028, for this type of development.
- 7.7. In relation to the Dublin City Development Plan, 2016-2018, this plan has been recently superseded by the Dublin City Development Plan, 2022-2028. Therefore, this is the applicable Development Plan under which the individual merits in terms of local planning context that the proposed development should be assessed against by the Board in their *de novo* consideration of this appeal case.
- 7.8. The First Party in their grounds of appeal contend that the site specific two storey extension as proposed would not give rise to any undue residential and/or visual amenities that would be over and above that arising from other similar developments in its context.
- 7.9. This contention is supported by an daylight/shadow analysis study setting out the existing and proposed context. Alongside they argue that no Third-Party observations have been received from properties in its vicinity or otherwise. Nor do they accept that it is reasonable to conclude that the proposed development, if permitted, would it be a type of development that as a result of it being designed to have regard to the latent potential and constraints of the site could be reasonably be considered could give rise to other similar future developments. They also raise it as a concern that the decision



of the Planning Authority not only has devalued the potential of this property for its occupants but also it has diminished the property value of other similar properties to carry out similar residential improvements.

- 7.10. The Planning Authority in their response to the grounds of appeal consider that the Appellant has raised no new issues that would warrant or justify a change in their decision. Should however the Board be minded to grant permission they seek that a Section 48 contribution condition be imposed. The latter I note is appropriate and reasonable given that the floor area that would arise from the proposed development, if permitted, is not exempt in totality from the payment of such a contribution under the current City Council Section 48 Development Contribution Scheme.
- 7.11. In relation to the proposed development, the primary concerns arise from the proposed rear two storey extension which has an L-shape that wraps around a rectangular in shape courtyard positioned immediately alongside the south eastern side of the original rear elevation and adjoining the property boundary shared with No. 112 Killester Avenue. The given dimension of this courtyard is 2.649m by 4.215m. Of note the existing rear elevation measures c4.9m. Running alongside the western side of this courtyard is a linear two storey addition which links into the main ground floor and first floor level extensions proposed.
- 7.12. At ground floor level this is indicated as consisting of a 'Shower Room/WC' and a 'Kitchen'.
- 7.13. At first floor level a bathroom and a master bedroom is proposed. The width of this space is slightly setback from the boundary with No. 112 Killester Avenue and extends to the boundary with No. 116 Killester Avenue. The maximum height of this extension measures 5.8m with the top ridge projecting slightly above the eaves level of terrace dwelling.
- 7.14. The submitted shadow analysis/daylight drawings do not show the existing and the proposed context but do show that, if permitted, the proposed extension would give rise to significant overshadowing and loss of daylighting to properties in its vicinity despite the southerly aspect of the rear of the site. The loss is considerably added to at first floor level by the extension's significant depth, which is indicated at 11.204m from the original rear elevation of the host dwelling.

- 7.15. With the property to the immediate west being more significantly adversely impacted upon due to this side not including the two storey indent associated with the provision of a courtyard to the immediate rear of the original rear elevation and with its blank monotonous elevational treatment. The treatment of the western elevation is in my view visually incongruous and overbearing in its context. Alongside this I also consider that it is not consistent with the pattern of development that characterises residential development in this area. Including where two storey extensions have been constructed to the rear of properties in this residential scheme.
- 7.16. The lack of subordination with the host dwelling can also be contrasted to the original two storey built form of the host dwelling which has a more modest depth from front to rear elevation of c6.8m. As such the rear extension provides a built insertion that is largely legible within its visual setting as a two storey addition that is double the depth of the original host terrace dwelling.
- 7.17. The overall design approach is one that I consider is not consistent with the provisions of the Development Plan which firstly on 'Z1' zoned land seeks that new developments achieve a balance between the protection and improvement of residential amenities. In addition, it is not consistent with Section 15.5.3 of the Development Plan which sets out that works of alteration and extension to existing dwellings should be integrated with the surrounding area and that they are sensitively designed and detailed to respect the character of the existing building, its context, as well as the amenity of adjoining occupiers.
- 7.18. In this regard, Section 15.5.3 also requires such interventions to respect any existing uniformity with significant patterns, rhythms or groupings of buildings. No. 114 Killester Avenue as said forms part of a formally designed residential scheme of highly uniform and coherent in built form, appearance, design and layout dwellings. Modifications to them whether exempted development or permitted have not included significant two storey extensions that failed to protect the established residential amenities of properties in their immediate vicinity and/or their highly coherent pattern of development which in essence defines the character of this mature residential scheme.
- 7.19. Of further relevance is Section 1.1 of Volume 2, Appendix 18, of the Development Plan. This sets out that design of extensions to existing residential properties should

have regard to the amenities of adjoining properties and in particular, the need for light and privacy. As already discussed the proposed development, if permitted, as proposed would give rise to a significant and material deterioration in the level of sunlight/daylight to properties in its vicinity. In so doing it would also give rise to serious diminishment of residential amenities by resulting in significant overshadowing of adjoining properties, in particular No.s 112 and 116 Killester Avenue, on either side.

- 7.20. Section 1.1 sets out that applications for extensions to existing residential units should not have an adverse impact on the scale and character of the existing dwelling and that they should not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, outlook and access to daylight / sunlight. As discussed above the proposed development does not demonstrate that this is the case and is a design that would effectively give rise to these residential and visual amenity issues such developments are required not to give rise to.
- 7.21. Moreover, Section 1.2 of Volume 2 of Appendix 18 of the Development Plan, reinforces these requirements and sets out that extensions should not give rise to significant negative impact on surrounding residential or visual amenities. Alongside, Section 1.7 sets out that: *“extension should not dominate the existing building and should normally be of an overall scale and size to harmonise with the existing house and adjoining buildings; the appearance of the existing structure should be the reference point for any consideration of change that may be proposed”*. The proposed development as put forward in this application fails to be consistent with these design principles for extensions to existing dwellings.
- 7.22. On the matter of depreciation of property values, the contentions made by the Appellant that a refusal of permission adversely depreciates the value of this property and other properties in the area which may seek to provide similar alterations as well as additions, is not supported by any evidence nor is there any professional consideration given to the counter argument.
- 7.23. In conclusion, I concur with the Planning Authority’s reasons for refusal and I consider that the concerns raised in relation to undesirable precedent for other similar developments are also reasonable given that the proposed development fails to demonstrate that it accords with the Development Plan provision for development on ‘Z1’ zoned land and with the principles set out in the said Plan for extensions to existing

dwellings. If the proposed development were permitted it would adversely impact the residential and visual amenities of the area for the considerations set out above.

- 7.24. **Appropriate Assessment:** The subject site is located in an established residential area and is not located adjacent to nor in close proximity to any European sites, as defined in Section 177R of the Habitats Directive. Having regard to the nature and scale of the proposed development and/or the nature of the receiving environment and/or proximity to the nearest European site, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

- 8.1. I recommend that permission be **refused**.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the pattern of development in this highly uniform mature residential urbane setting, it is considered that the proposed extension, by reason the design, layout, built form, depth, height, and mass of the proposed two-storey extension, would seriously injure the residential amenities of the area by reason of overshadowing and visual obtrusion. It is also considered that the proposed development would be contrary to the policies and objectives of the Development Plan, in particular those set out under Section 15.5.3 and Section 1 of Volume 2 of Appendix 18 of the Dublin City Development Plan, 2022-2028. Moreover, it is considered that the proposed development in itself and by the precedent it would give rise to would give rise to deterioration of the visual and residential amenities of this area. The proposed development would, therefore be, contrary to the proper planning and sustainable development of the area.

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Patricia-Marie Young  
Planning Inspector – 7<sup>th</sup> day of March, 2023.