

An
Bord
Pleanála

Inspector's Report ABP317364-23

Development	A first floor utility room (6.1 sqm.) over the existing ground floor extension.
Location	53 Kylemore Avenue, Ballyfermot, Dublin 10.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3456/23.
Applicant(s)	Cristian Trofin.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Nicola Greene
Observer(s)	none.
Date of Site Inspection	21/08/23.
Inspector	Anthony Abbott King.

1.0 **Site Location and Description**

- 1.1. The applicant site comprises a mid-terrace house, in a terrace of six two-storey two-bay houses with front and long rear gardens, forming part of a larger mid-twentieth century suburban housing development. A number of the houses have been altered externally and extended.
- 1.2. No. 53 Kylemore Avenue has an existing deep ground-floor oblong extension to the rear projecting into the garden from the rear elevation of the terrace.
- 1.3. The site area is given as 198 sqm.

2.0 **Proposed Development**

- 2.1. The proposed development comprises the construction of a first-floor utility room extension (6.1 sqm.) to be constructed over an existing ground floor extension.

3.0 **Planning Authority Decision**

3.1. **Decision**

Grant permission subject to 8 conditions

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The decision of the CEO of Dublin City Council reflected the recommendation of the planning case officer.

3.2.2. **Other Technical Reports**

No objections subject to condition

4.0 **Planning History**

The relevant planning history is listed below:

- Under register reference 5064/22 planning permission was refused for the construction of a first floor bedroom with terrace, over existing ground floor extension, for the following reason:

The site is zoned 'z1' in the Dublin City Development Plan 2016-2022 which seeks 'to protect, provide and improve residential amenities'. It is considered that the proposed extension and 7 metre deep terrace at first floor level would be an overbearing and dominant form of development when viewed from adjacent properties by reasons of the excessive length and significant impact on residential amenities of neighbouring properties. As such, the proposed development would not be acceptable, and does not accord with Appendix 17 of the Dublin City Development Plan 2016-2022. The proposed development would, therefore, seriously injure the amenities of properties in the area, would be contrary to the Z1 zoning objective for the site and would be contrary to the proper planning and sustainable development of the area.

Note: The applicant is advised that the existing ground floor extension does not have the benefit of planning permission and does not appear to be in accordance with Class 1 (1) (a) of the Planning and Development Regulations, (2001 as amended). The applicant is advised to regularise this extension.

5.0 Policy and Context

5.1. Development Plan

The following policy objectives of the Dublin City Development Plan 2022-2028 are relevant:

The zoning objective is 'Z1'(Map D): 'to protect, provide and improve residential amenities'.

Residential is a permissible use.

Residential Extensions

- Chapter 15 (Development Standards), Section 15.11 is relevant and states for guidance and standards *inter alia* for residential extensions see Appendix 18.
- Appendix 18, (Ancillary Residential Accommodation) Section 1 (Residential Extensions) is relevant. Section 1.1 (General Design Principles) *inter alia* states:

The design of residential extensions should have regard to the amenities of adjoining properties and in particular, the need for light and privacy. In addition, the form of the existing building should be respected, and the development should integrate with the existing building through the use of similar or contrasting materials and finishes.

- Appendix 18, Section 1.1 (General Design Principles) provides the following assessment criteria for applications for extensions to existing residential units, which should:
 - *Not have an adverse impact on the scale and character of the existing dwelling;*
 - *Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, outlook and access to daylight and sunlight;*
 - *Achieve a high quality of design;*
 - *Make a positive contribution to the streetscape (front extensions).*

5.2. EIA Screening

5.3. The proposed development is not within a class where EIA applies.

6.0 The Appeal

6.1. Grounds of Appeal

The appellant is resident in the neighbouring house at no. 55 Kylemore Avenue to the immediate west of the applicant site. The grounds of appeal are summarised below:

- The existing building may be unsafe to extend, as the existing extension was not built correctly;
- The existing extension has not been assessed by the planning authority, which is subject to enforcement action. The applicant has not complied with the requirements of the planning authority, as the 11m extension roof is being used as a terrace with access from the first floor bedroom;
- The works to date have impacted negatively on the appellant's residential amenity including the enjoyment of their garden;
- The submitted drawings are misleading as the render finish shown to the existing ground floor extension is in fact block work and corrugated sheeting and is a visual dis-amenity (eye-sore) – an image of the material finish of the existing extension is attached to the appeal statement;
- The fumes from the extractor in the neighbouring property have an adverse impact on the appellant's residential amenity and amelioration works by the applicant have been unsuccessful;
- The proposed works will not be completed to a professional standard based on the evidence of building operations to date.

6.2. Applicant Response

The applicant response is summarised below:

- The grounds of appeal relate to the existing ground floor extension rather than the proposed first-floor utility room extension.

- The existing ground floor extension has been constructed in accordance with legal and technical requirements employing a building company with 30-plus-years of experience in construction. The extension is built on a floating foundation recommended by built environment professionals;
- The existing extension has been inspected and assessed by planning authority officials who have made recommendations, which in the majority have been adhered to by the applicant (3 out of 4 requirements have been discharged demonstrating the applicant's willingness to collaborate with the planning authority);
- The Enforcement due date of the 9th June, 2023 will be extended until the applicant is notified of the outcome of this appeal, as the removal of access to the roof top of the existing extension, as required by the planning authority, is pending awaiting the authorisation of the first-floor utility room;
- The neighbours did not express concern at the time of the construction of the ground floor extension. The applicant would have been willing to listen to their concerns if they had been timely. However, the observations of the neighbours were too late to be incorporated into the design and construction of the extension as the builders had left by the time observations were received;
- The omission of the render finish to the extension / boundary wall was a request of the appellant who required action in the matter of trickling water entering their garden from the extension wall. The employed solution was to use a corrugated (corrugated sheets) finish to the wall, agreed with the appellant, to allow for water collection at the base of the corrugated sheets;
- In the matter of the extractor fan the appellant did not inform the applicant that the works to ameliorate the negative impacts of fumes on their residential amenity had not been successful.

6.3. Planning Authority Response

The planning authority requests that An Bord Pleanála to uphold the decision of Dublin City Council and further request that a development contribution condition be attached to the permission.

7.0 Assessment

- 7.1. The following assessment covers the points made in the appeal submission and encapsulates my *de novo* consideration of the application.
- 7.2. The appellant who is resident at no. 55 Kylemore Avenue shares a property boundary with the applicant. The appellant claims *inter alia* that the existing ground floor extension is an unsafe construction to act as a foundation for the proposed first-floor utility room extension, that the existing extension has not been inspected by the planning authority and that the construction works to date have had a negative impact on the appellant's residential and visual amenity, including the enjoyment of their rear garden. It is considered that the applicant's response, dated 05 July, 2023 (and received by ABP 05 July 2023), satisfactorily addresses the substance of these matters in regard to the existing ground floor extension.
- 7.3. Appendix 18, Section 1.1 (General Design Principles) provides assessment criteria for the evaluation of residential extensions. The proposed first-floor extension would measure 2.3m (depth) x 3.65m (width) and would have an internal floor area of approximately 6.1 sqm. (2m x 3.05m). The extension would have a flat roof. The fenestration would be limited to one window facing the rear garden looking directly onto the flat roof of the existing single-storey extension. There would be no access to the flat roof of the single-storey extension. The proposed extension would have a rendered material finish.

It is considered that the proposed first floor extension is modest in scale and would be in character with the existing dwelling. The fenestration to the first floor bathroom would not be impacted by the extension, which does not extend for the full width of the rear elevation. It is noted that the rear elevation of the subject terrace incorporating no. 53 and no. 55 Kylemore Avenue is south facing. The extension would project a maximum length of 2.3m.

It is considered that there would be no discernible overshadowing of neighbouring properties. It is further considered that the proposed first-floor extension would satisfy the design principles for residential extensions as provided for in Appendix 18 of the Dublin City Development Plan 2022-2028, which have regard to the amenities of adjoining properties, in particular, the need for light and privacy and is acceptable in principle.

7.4. In conclusion, it is considered that the proposed development by reason of the modest first-floor footprint (6.1 sqm.) and flat roof profile in both scale and character be compatible with the existing dwelling house, would provide a reasonable improvement in residential amenity, would not have a negative impact on the residential amenities of neighbouring properties in terms of overlooking and overshadowing and would be in accordance with the proper planning and sustainable development of the area.

7.5. **Appropriate Assessment Screening**

The proposed development comprises an approximate 6 sqm. first-floor extension in an established urban area.

Having regard to the nature and scale of the proposed development it is possible to screen out the requirement for the submission of an NIS

8.0 **Recommendation**

8.1. I recommend a grant of planning permission subject to condition.

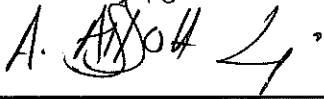
9.0 **Reasons and Considerations**

Having regard to the grounds of appeal, the response of the applicant, the residential zoning objective and the pattern of development in the area, it is considered that the proposed development would represent a reasonable improvement in residential amenity, would not have an adverse impact on the residential amenities of adjoining properties and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
3.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

"I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way".

Handwritten signature of Anthony Abbott King in black ink.

Anthony Abbott King
Planning Inspector

25 August 2023