



An
Bord
Pleanála

Inspector's Report PL06D.249228

Development	Demolish existing builder's workshop and store and construct a two storey, 3-bed, mews dwelling incorporating an integral car parking space and private open space to the rear and all associated works.
Location	33A Montpelier Lane, Rear of 33 Montpelier Parade, Monkstown, Co. Dublin.
Planning Authority	Dun Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D17A/0459
Applicant(s)	Michael Collins
Type of Application	Permission
Planning Authority Decision	Grant, subject to 10 conditions
Type of Appeal	Third party -v- Decision
Appellant(s)	David Crawley
Observer(s)	None

Date of Site Inspection

30th November 2017

Inspector

Hugh D. Morrison

1.0 Site Location and Description

- 1.1. The site is located to the south of Monkstown Road (R119) and to the south of Montpelier Parade, which is composed of two terraces of three storey over basement dwelling houses, the principal elevations of which face towards Monkstown Road. These two terraces are separated by a semi-circular gated entrance way to the lane that runs on a north/south axis to connect with the rear lane, known as Montpelier Lane, that serves these terraces or mews dwellings/outbuildings. The site itself lies off the eastern portion of this rear lane in a position to the rear of the mid-terrace dwelling house at No. 33 Montpelier Parade.
- 1.2. The site is of rectangular shape and it extends over an area of 0.0151 hectares. This site presently accommodates a garage, which fronts onto the rear lane, and an accompanying yard to the rear. The garage and the yard are presently in use as a builder's workshop and an open storage area. The site is sub-divided from the rear garden to the dwelling house at No. 33 Montpelier Parade by means of a stone wall with ivy growing over it. The garage adjoins, to the east, a two storey mews dwelling of contemporary design, which in turn adjoins a two storey mews dwelling of conventional design, and, to the west, by another garage. Elsewhere on the lane there are other examples of two storey mews dwellings and garages. On the south side of the lane there is a cottage, which fronts onto the lane. Montpelier Lane itself is c. 8m wide and it has a gravel surface.

2.0 Proposed Development

- 2.1. The proposal would entail the demolition of the 54 sqm garage on the site and the construction of a 115 sqm mews dwelling. This mews dwelling would be of two storey form under a double pitched roof and it would be finished in Monocouche render, which would be ivy in colour with granite grey bands, and natural quarry grey slates. It would provide three-bed accommodation and an integral garage would be provided.
- 2.2. The front elevation of the mews dwelling would abut the northern edge of the rear lane and align with the front elevations of the mews dwellings and the garage on either side. The rear elevation would follow an alignment that would be slightly to the north of the rear elevations to these mews dwellings and significantly further north

than that of the garage. The profile of the roof would be contained within that of the adjoining mews dwelling. The mews dwelling would be served by a 78 sqm rear garden.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was granted subject to 10 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

See decision.

3.2.2. Other Technical Reports:

- Conservation Officer: No objection.
- Transportation Planning: Following receipt of further information, no objection, subject to two conditions.
- Surface Water Drainage: No objection.

4.0 Planning History

- D96A/0301: Erection of two storey mews dwelling: Refused at appeal PL06D.106529 on the grounds that the applicant had failed to demonstrate sufficient legal interest in lane to undertake improvements and, in the absence of the same, access arrangements would be unsatisfactory.
- V/059/16: Part V Certificate to shadow D16A/0451 issued 8th July 2016.
- D16A/0451: Demolition of garage/store and construction of two storey, end-of-terrace mews house with attic level accommodation and with car parking to be by means of a bay on private mews lane: Refused on the grounds of unsatisfactory car parking arrangements and adverse impact upon the visual and residential amenities of the ACA.

- V/070/17: Part V Certificate to shadow current proposal issued 16th May 2017.

5.0 Policy Context

5.1. Development Plan

Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the site is shown as lying within an area that is the subject of Zoning Objective “A”, “To protect and/or improve residential amenity”, and an ACA. The site lies to the rear of the dwelling house at No. 33 Montpelier Parade, which is a protected structure (RPS ref. no. 592). Map 2 denotes that mews development is acceptable in principle on Montpelier Lane and Section 8.2.3.4(x) addresses mews lane development.

5.2. Natural Heritage Designations

South Dublin Bay SAC and proposed NHA (site code 000210)

South Dublin and River Tolka SPA (site code 004024)

6.0 The Appeal

6.1. Grounds of Appeal

The appellant is David Crawley of Montpelier Cottage, Montpelier Lane, Monkstown, Co. Dublin. He states that he is the owner as tenant-in-common of the fee simple interest in the entirety of Montpelier Lane, a private gated lane.

- The applicant does not have a sufficient interest in Montpelier Lane:
 - The properties along Montpelier Parade have a right of rear access only from Montpelier Lane, except where express additional easements have been granted. No. 33, which has been sub-divided into front and rear portions, has this right but no additional easements have been granted to it, e.g. to park either a vehicle or skip on the Lane or to site a builder’s compound or any other item on the Lane.
 - Attention is drawn to the smallness of the site, 6.5m x 23m, and scepticism is expressed over the practicality of building without recourse

to the Lane. No additional easement has been sought or granted in this respect.

- The proposal would result in an intensification in the use of the existing access easement, as it would be the only means of access to the rear portion of No. 33.
- Attention is drawn to the licences to park on the Lane that have been granted to other property owners. Some of the resulting spaces are opposite the current site and so the use of the Lane, during any construction period, could affect the use of these spaces.
- Attention is drawn to D96A/0301 and PL06D.106529. Permission was previously refused on the current site as the applicant had insufficient interest in the Lane. What has changed in the interim?
- Vehicle turning
 - If the vehicular entry and exit tracks submitted as further information are superimposed on a plan of the Lane with the licenced parking spaces marked on it, then the overlap with the said tracks is illustrated. Thus, the occupied spaces would block such entry and exit.
- Access to services
 - No. 33 enjoys no right of connection to the water main or other pipes that are in Montpelier Lane and the applicant has neither sought nor been granted any such right.
 - Attention is drawn to the applicant's proposed foul water drainage arrangements. These are challenged on the basis that the proposed new manhole would not be designed to be isolated from the main drain gases and the majority of other comparable developments along the Lane have been required to connect into services within this Lane rather than ones that pass through multiple rear gardens. (Previous applications did not show any connection to the sewer that passes beneath these gardens).
 - The submitted plans omit to show any proposed mains water connection.
 - The submitted plans omit to show how the rainwater from the front of the proposed mews dwelling would be handled, i.e. how it would be drained to

the soakaway in the rear garden, as no right exists to drain such water onto the Lane.

- ACA
 - In view of the site's location within an ACA and within the former curtilage of a protected structure, a conservation impact study should have been prepared.
- Quality design
 - Given the site's location, a more 21st century design would be appropriate to contrast with the existing terraced dwelling house at No. 33.
 - Coloured plans would aid interpretation of the proposal.

6.2. Applicant Response

- Property issues
 - Montpelier Lane is described as a mews stable lane, which dates from c. 1800. Its dimensions would have facilitated access by means of horse and carriage and stable staff may well have resided over horse and carriage stabling.
 - The right of way to the rear of the properties on Montpelier Parade has existed since Montpelier Lane was developed, including that to the rear of No. 33. This RoW extends over the full width of the Lane (cf. submitted Land Registry plan).
 - The applicant's solicitor describes the pattern of usage of the Lane that has been generated by the applicant and the builder, who uses the site, over recent years. Such usage has been undertaken without hindrance from other parties.
 - The appellant allegedly required an interest in Montpelier Lane that entitles him to issue licences for the purpose of parking along this Lane. Twenty-one such spaces are identified: might this amount to a commercial car park that needs planning permission in its own right?

- Attention is drawn to the absence of legal documentation to support the appellant's claims and the Board is reminded that it has no role as a property arbitrator. Instead this ground of appeal should be dismissed and the provisions of Section 34(13) of the Planning and Development Act, 2000 – 2017, should be relied upon.
- With respect to services, the proposal would not be dependent upon services within Montpelier Lane.
- ACA design context
 - Attention is drawn to the CDP and the Monkstown ACA both of which accept the principle of mews dwellings.
 - The submitted impact statement takes into account the Planning Authority's critique of the previous mews dwelling proposal for the site. The case planner's report acknowledges that the current proposal would be appropriate as it would be relatively modest in size and style and similar to two other mews dwellings on Montpelier Lane in its height and bulk.
 - The appellant's insistence that a conservation impact study is outstanding is thus misplaced.
- Grounds for dismissal
 - Section 138 of the aforementioned Act is cited as being relevant, as the appeal is considered to have been lodged with "vexatious intent".

6.3. **Planning Authority Response**

No new matters raised that would prompt a change of view on the proposal.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 Assessment

7.1. I have reviewed the proposal in the light of the CDP, relevant planning history, the submissions of the parties, and my own site inspection. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Legalities,
- (ii) Land use and conservation,
- (iii) Design and amenity,
- (iv) Traffic, access, and parking,
- (v) Water, and
- (vi) AA.

(i) Legalities

7.2. While the appellant acknowledges that the applicant has a right of access to the site over Montpelier Lane, he states that he is the owner as tenant-in-common of the fee simple interest to this Lane and so he expresses concern that the applicant has not applied for or been granted an easement to allow construction phase vehicles or skips to be parked on it. He also expresses concern that, in the presence of licenced parking places on the southern side of Montpelier Lane, envisaged manoeuvres into and out of the proposed integral garage would not be possible (cf. submitted plans entitled Analysis 1 & 2 ref. CC289-F).

7.3. The applicant has responded to the appellant's concerns by stating that No. 33 Montpelier Parade has always enjoyed a right of access over that portion of Montpelier Lane that runs from the Parade to the rear of this property. In more recent years, he has used the subject site in connection with his building business without hindrance. He draws attention to the absence of legal documentation to support the applicant's claims with respect to the granting of licenced parking spaces on the Lane. He also draws attention to the provisions of Sections 34(13) and 138 of the Planning and Development Act, 2000 – 2017. The former makes clear that the granting of planning permission *per se* does not entitle someone to undertake development and the latter empowers the Board to dismiss appeals that are made with vexatious intent.

- 7.4. I note that both the appellant and the applicant accept that there is a right of access to the site from Montpelier Lane and that the applicant has submitted a statutory declaration to this effect. I note, too, that the practicalities and attendant legalities of any construction phase may need to be addressed to by these parties. However, these matters are not ones that the Board is in a position to arbitrate upon and so the provisions of Section 34(13) are, indeed, of relevance. With respect to the further provisions of Section 138, I consider that the appellant has cited planning grounds for his appeal and so I am not minded to recommend to the Board that this appeal be dismissed.
- 7.5. I conclude that there are no legalities that would prevent the Board from proceeding to assess and determine the current application/appeal in the normal way.

(ii) Land use and conservation

- 7.6. The site lies within an area that is the subject of Zoning Objective "A" in the CDP. Under this Zoning Objective, residential uses are permissible in principle. Under Map 2 of the CDP, notation further indicates that mews development is acceptable in principle.
- 7.7. The site also lies within the Monkstown ACA and No. 33, along with the other terraced dwelling houses on Montpelier Parade, is a protected structure. The appellant draws attention to the site's former position within the curtilage to No. 33 and he expresses concern that a conservation impact study should therefore have accompanied the application. The applicant has responded by stating that the current proposal is one that is informed by its predecessor, which was refused partly on the grounds of visual and residential amenity. Thus, the design of this proposal takes greater cognisance of its context and so the need for the suggested study does not arise.
- 7.8. I note from the applicant's statutory declaration that he purchased the subject site on 7th November 1989 and that he sold No. 33 on 25th March 1997. Given this chronology, it appears that the sub-division of No. 33 between this site and the dwelling house with its residual rear garden is of longstanding. In these circumstances, I do not consider that it can reasonably be considered to be part of the curtilage of this protected structure now and so insistence upon the submission of a conservation impact study would not be warranted. The applicant has, however,

submitted an impact assessment of the proposal, which briefly refers to conservation matters.

7.9. I conclude that there is no in principle land use or conservation objection to the proposal.

(iii) Design and amenity

7.10. The appellant states that the design of the proposal should be in a contemporary idiom to achieve a greater contrast with the dwelling house at No. 33. I consider that this statement should be weighed in the light of the discussion of this proposal under the second heading of my assessment and in the light of the variety of designs exhibited by existing mews dwellings on Montpelier Lane. Insofar as its form would be a conventional one and its openings and finishes would have a contemporary feel, I consider that the proposed design would be appropriate to this Lane.

7.11. Section 8.2.3.4(x) of the CDP sets out a series of standards that need to be attended to in the design of mews dwellings on lanes wherein such dwellings have been accepted in principle. The proposal would generally meet these standards and so it would afford a satisfactory standard of amenity to future occupiers. I am, however, concerned that, whereas a bin store is shown as being sited in the rear garden, the means of transporting bins to and from collection points in Montpelier Lane would appear to be through the mews dwelling itself. In these circumstances, I consider that the layout of the ground floor should be adapted to either secure storage at the front of the mews dwelling or within the integral garage. This matter could be addressed by means of a condition precedent.

7.12. I conclude that the proposal would be compatible with the visual and residential amenities of the area.

(iv) Traffic, access, and parking

7.13. The existing use of the site generates traffic movements and the proposed one would do so, too. Access to this site is via Montpelier Lane and the proposal for it would entail the provision of one off-street car parking space within an integral garage.

7.14. Under further information, the applicant submitted plans that illustrate turning manoeuvres into and out of the proposed garage. The appellant has superimposed

the swept paths on these plans onto his own plans, which show the presence of on-street car parking spaces on the opposite side of Montpelier Lane from the south. These latter plans indicate that the envisaged manoeuvres would be frustrated by these spaces.

- 7.15. I note that the width of Montpelier Lane is c. 8m. I note, too, that under Section 8.2.3.4(x) of the CDP, minimum lane widths of 3.7m and 4.8m are cited for scenarios wherein up to 6 or up to 20 mews dwellings are proposed. Montpelier Lane has 4 mews dwellings and 2 cottages on it at present and so the proposal would place this Lane in the second of the two aforementioned categories. Even so, given its width, compliance with this standard would be possible in the presence of parked cars. Thus, while manoeuvres would be more involved, they would still be potentially possible. A condition would allow confirmation of this contention, along with any adjustment to the design and layout of the proposed garage that may be needed to facilitate such manoeuvres.
- 7.16. I conclude that traffic and access arrangements would be satisfactory and that parking and associated manoeuvres would be capable of being satisfactory.

(v) Water

- 7.17. The proposal would be served by the public water mains and a combined sewer that runs underneath the rear gardens to the adjacent terrace on Montpelier Parade. Surface water would be handled by means of a soakaway in the proposed rear garden.
- 7.18. The appellant has drawn attention to the absence of any legal right currently available to the applicant whereby he could connect to services within Montpelier Lane. He also queries the suitability of the proposed manhole that would service the new connection to the existing sewer and the practicality of channelling rainwater from the front roof plane away from the Lane.
- 7.19. The applicant has responded by stating that the proposal would be capable of being serviced without recourse to the services in Montpelier Lane.
- 7.20. I note that Irish Water has not commented on this application. I note, too, that the proposal would be capable of being serviced either by means of services within Montpelier Lane or by means of services that do not impinge upon this lane.

Additionally, the potential technical problems cited by the appellant would be susceptible to solutions under other codes beyond that of the planning system.

7.21. I conclude that the proposal would be capable of being satisfactorily serviced.

(vi) AA

7.22. The site is neither in nor adjacent to a Natura 2000 site. It is in an urban area, wherein existing infrastructural services pertain. The nearest Natura 2000 sites are to the north in Dublin Bay, i.e. South Dublin Bay SAC (site code 000210) and South Dublin and River Tolka SPA (site code 004024).

7.23. Having regard to the nature and scale of the proposal and the nature of the receiving environment, no Appropriate Assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

That this proposal be permitted.

9.0 Reasons and Considerations

Having regard to the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, it is considered that the proposed redevelopment of the site to provide a mews dwelling would, subject to conditions, accord with both Zoning Objective “A” and the status of Montpelier Lane as one within which mews dwellings are acceptable in principle. The size and design of this mews dwelling would be appropriate to the site’s position both within the vicinity of the protected structure at No. 33 Montpelier Parade and within the context of the Monkstown ACA. It would meet the standards set out for mews dwellings in Section 8.2.3.4(x) of the Development Plan and so it would provide a satisfactory standard of amenity to future occupiers. Access and servicing arrangements would be satisfactory, too. No Appropriate Assessment issues would arise. The proposed mews dwelling would thus be compatible with the visual and residential amenities of the area and it would accord with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 20th day of July 2017 and by the further plans and particulars received by An Bord Pleanála on the 10th day of October 2017, 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.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) The bin store shall be sited either in the garage or incorporated within the front elevation of the mews dwelling.
 - (b) The garage shall be redesigned, as appropriate, to facilitate access and egress in the presence of a parked car on the opposite side of Montpelier Parade.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of the amenities of the future occupiers of the mews dwelling and in order to ensure ease of vehicular manoeuvre.

3. Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the [residential] amenities of property in the vicinity.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

6. The mews dwelling shall be used as a single dwelling unit and it shall not be sub-divided in any manner or used as two separate habitable units

Reason: In the interest of clarity.

7. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwelling houses without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings.

8. The developer shall pay to the planning authority a financial contribution of €8580 (eight thousand, five hundred, and eighty euro) 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, as amended. The contribution shall be paid prior to 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Notes

- (i) Water supply and foul drainage arrangements shall be undertaken in accordance with the requirements of Irish Water.
- (ii) The developer's attention is drawn to Section 34(13) of the Planning and Development Act, 2000 – 2017, which states that "A person shall not be entitled solely by reason of a permission under this section to carry out any development."

Hugh D. Morrison
Planning Inspector

5th December 2017