



An
Bord
Pleanála

Inspector's Report

ABP-306454-20

Development	Construction of a two storey mews house
Location	33A Montpelier Lane, rear of 33 Montpelier Parade, Monkstown, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D19A/0595
Applicant(s)	Glen Cunningham and Caoimhe Kenny
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	First and Third Party
Appellant(s)	1. Glen Cunningham and Caoimhe Kenny 2. David and Pamela Regan 3. David Crowley
Observer(s)	None

Date of Site Inspection

9th March 2020

Inspector

Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site is located to the south of Monkstown Road and to the south of Montpelier Parade, which is composed of two terraces of three storey over basement dwellings. The two terraces are separated by a gateway to the rear lane known as Montpelier Lane. The site itself lies off the eastern portion of this rear lane to the rear of 33 Montpelier Parade. No. 33 is a protected structure and the site is located within the Monkstown Architectural Conservation Area.
- 1.2. The site is of rectangular shape and has a stated area of 0.014 hectares. The site currently accommodates a garage, which fronts onto the rear lane and an accompanying yard to the rear.
- 1.3. The site 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. On the 15th of August 2020, planning permission was sought for the demolition of the existing shed and the construction of a two storey mews house with attic accommodation and integral garage on a site of 543 square metres in lieu of existing granted mews dwelling (D17A/0459).
- 2.2. Revised drawings and details were submitted to the Planning Authority on the 22nd of November 2019 in response to the Further Information Request as follows:
 - Door relocated at first floor elevation of rear elevation so that it has direct access to external stairs only together with 1.8m high timber screens on both sides of the stairs and on the boundary adjacent to No. 35 Montpelier Lane. It is stated that the flat roof at first floor level has 2 rooflights and no balustrade and cannot be trafficable.

- Introduction of vertical louvres together with planting on the first floor elevation facing Montpelier Lane. The window has been adjusted to ground level to compensate for the resulting light loss.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 10 No. Conditions.

- Condition 2 required the applicant to provide upward angled louvres to the first floor living room window (to a height of 1.8m above finished floor level) which preclude downward views of properties to the south. Revised plans and elevations of the proposed screening detail were required to be submitted to the Planning Authority for written agreement prior to commencement of development.

All other conditions are of a standard nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The first planning report dated 4/10/19 considered that the proposal successfully overcame the previous grounds for refusal. Concern was expressed in relation to overlooking of the kitchen at ground floor level of the dwelling on the opposite side of the lane 'Knocknagow House'. The second planning report dated the 16th of December 2019 did not agree with the applicant that angling the louvres would render the window useless and required the louvres to be altered as per condition 2 above.

3.2.2. Other Technical Reports

Drainage: No objection subject to condition.

Transportation: No objection subject to condition.

Conservation: No objection.

3.3. **Prescribed Bodies**

3.3.1. No reports.

3.4. **Third Party Observations**

Two submissions were made to the Planning Authority. The issues raised in the submissions are similar to those made in the third party appeals.

4.0 **Planning History**

PA D19A/0094

Permission refused for development in lieu of existing granted mews house (D17A/0459) for one reason relating to scale and design, impact on residential amenities and on amenities of Monkstown Architectural Conservation Area.

PA D17A/0459/ ABP PL06D.249228

Permission granted by PA and by the Board on appeal to demolish a builder's workshop and store and to construct a three bedroom two storey mews dwelling.

PA D16A/0451

Permission refused by PA for a two storey mews dwelling for reasons relating to the poor condition of the rear laneway and the absence of the required legal interest to carry out the necessary improvement works.

On adjacent site:

PA D18A/0558/ ABP 302433-18

Permission refused by PA and by the Board on appeal for the construction of two three bedroom, two storey with attic accommodation mews houses. The reason for refusal by the Board related to design, bulk, scale and height and overlooking from first floor balconies.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown County Development Plan 2016-2022

The site is zoned 'Objective A' – 'To protect and/or improve residential amenity.'

The site is located within the Monkstown Architectural Conservation Area and No. 33 Montpelier Parade is a protected structure.

Section 6.1.4 Policy AR12 Architectural Conservation Areas.

Section 8.2.3.4 Additional Accommodation in Existing Built-up Areas:

(x) Mews Lane Development

Map 2 denotes that mews development is acceptable in principle on Montpelier Lane.

5.2. Natural Heritage Designations

5.2.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The South Dublin Bay Special Area of Conservation (Site Code 000210)
- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code 004024)

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

One first party appeal and two third party appeals have been submitted. The first party appeal can be summarised as follows:

- Appeal against Condition No. 2 only.
- The section of the rear of Knocknagow with opposing windows is across a laneway some 15.5m away. One would have to literally stand against the window for the sightline to rear the rear of Knocknagow.
- If it is the Bord's opinion that overlooking is relevant, we would ask that rather than 'preclude' it as the Local Authority has requested, in this case, given the site conditions, mitigation measures would suffice.
- Overlooking could be mitigated against by vertical louvres similar to those proposed in an appeal upheld by the Board at Glensavage, Avoca Road, Blackrock, Co. Dublin.

The two third party appeals can be summarised as follows:

- Condition No. 2 does nothing to protect the privacy in the living/kitchen/dining room of Knocknagow House which is located at ground floor level.
- Extensive overlooking has already been caused at this location by the mews dwelling at No. 35.
- In the event that the Board decides to grant permission it is requested to include conditions that either (a) angle the proposed first floor louvres so as to prevent overlooking or (b) obscure the first floor glazing to 1.8m above finished floor level or a combination of both these options.
- Concerns regarding height and bulk of proposal, impact on heritage and congestion and traffic hazard on laneway.

6.2. Applicant Response

The response can be summarised as follows:

- The proposed mews replicates the profile and height of the adjoining mews at No. 35 (PL06D.214957) as well as the fenestration on the top floor.
- The Board has ruled that the scale of No. 35 is appropriate and previous applications for larger mews houses were deemed not appropriate.
- The lane is 8m wide and parking will be in an off-street integrated garage.
- The proposals in the appeal ABP- 302433 were very different and larger mews houses.

6.3. Planning Authority Response

- It is considered that the grounds of appeal do not raise any new matter which in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.4. Observations

- None submitted.

6.5. Further Responses

- One further response was submitted which can be summarised as follows:

This submission generally repeats the points made in the third party appeal and requests that the Board refuse permission for 3 No. reasons.

7.0 Assessment

- 7.1. The main issues that arise for consideration in relation to this appeal can be summarised as follows:

- Design and Scale
- Impact on Residential Amenity
- Traffic Safety
- Appropriate Assessment

7.2. Design and Scale

- 7.2.1. Concern is raised by one of the third party appeals that the proposed development does not comply with Section 8.2.3.4(x) of the Development Plan. Furthermore, it is considered that the reason for refusal under PA D19A/0094 has not been addressed.
- 7.2.2. Permission was refused by the Planning Authority under PA D19A/0094 for one reason which referred in particular to the roof style of the proposed development. The design has been revised so that the roof style is similar to that granted on the adjacent site at No. 35 Montpelier Lane. I consider that the height is also similar to both 35 Montpelier Lane and the adjoining dwelling. I note that the planner's report stated that the revised design was similar in its form, design, and massing to the existing mews dwelling to the east at No. 35. It noted that the Conservation Officer had no objection and considered that the previous reason for refusal had been addressed.
- 7.2.3. Whilst I note that Section 8.2.3.4 (x) of the Development Plan generally requires that mews lane developments are of one or two storey's in height and of modest size, I consider that having regard to the existing development at this location and the design of the second floor level within the roof profile, the proposed design is acceptable. I note that the stated finished floor area is 144 square meters, which is considered to be modest in size and compatible with the scale and size of existing development in the area.
- 7.2.4. As such, I concur with the planner's report and consider that the scale and height are acceptable and that the developer has addressed the previous reason for refusal.

7.3. Impact on Residential Amenity

- 7.3.1. The main issue in relation to the impact on residential amenity relates to overlooking. I am satisfied that the issue in relation to overlooking of adjoining premises from the flat roof to the rear has been successfully addressed by the revised drawings and detailed submitted on the 22nd of November 2019. These drawings provide for the relocation of the doorway to the rear and the provision of 1.8m high timber screens. The response to the Further Information Request also states that the flat roof at first floor level has 2 rooflights and no balustrade and cannot be trafficable.
- 7.3.2. The second issue in relation to overlooking relates overlooking of 'Knocknagow House' on the opposite side of the laneway.
- 7.3.3. Condition 2 of the Planning Authority requires the following:
'The Applicant shall provide upward angled louvres to the first floor living room window (to a height of 1.8m above finished floor level) which preclude downward views of the properties to the south. Revised plans and elevations of the proposed screening detail shall be submitted for the written agreement prior to commencement of development.'
- 7.3.4. The third party appeal submitted on behalf of the owners of 'Knocknagow House' expresses concern in relation to overlooking and considers that this condition is not specific enough to ensure their privacy is safeguarded.
- 7.3.5. The first party appeal takes a different view on the matter and considers that this condition would seriously diminish the quality of the living space and is contrary to other developments on the lane as well as other precedents set by An Bord Pleanála.
- 7.3.6. The first party proposes an alternative of vertical louvres with planting as submitted to the Planning Authority in the Further Information Response. This alternative, it is stated will prevent overlooking and was previously accepted by the Board at a site in Glensavage, Avoca Road, Blackrock, Co. Dublin.
- 7.3.7. The main habitable space (kitchen/ living/dining area) of the proposed development is located at first floor level whilst the main habitable space of 'Knocknagow House' is located at ground floor level on the opposite side of the lane. The lane in this instance is c. 8m wide and there is a total distance of c. 15.5m between opposing

windows. The boundary wall of Knocknagow House is c. 3m in height and some sparse trees have already been planted adjacent to the boundary of Knocknagow House.

- 7.3.8. The third party consider they have already experienced the intrusive impact on their privacy with the neighbouring mews (No. 35). I would concur with this however, I note that No. 35 has a balcony adjacent to the lane at first floor level at this location which in my view contributes to a significant degree to the issue of both overlooking and perceived overlooking. I note that no balcony is proposed in the current application.
- 7.3.9. I am of the view that having regard to the omission of a balcony at first floor level, the provision of vertical louvres and planting in accordance with the drawings submitted to the Planning Authority in the Further Information Response dated the 22nd day of November 2019, and the distance between the elevation of Knocknagow House and the site across a laneway, the proposed development would not unduly impact on the residential amenities of Knocknagow House by reason of overlooking. As such, I am satisfied that the mitigation measures proposed in the Further Information Response are satisfactory to address the concerns raised. Furthermore, I consider that Condition 2 by the Planning Authority to provide upward angled louvres to the first floor living room to a height of 1.8m would detract from the residential amenities of the proposed dwelling and is unnecessary in this instance.

7.4. Traffic Safety

- 7.4.1. Concerns are raised in the third party appeal submitted on behalf of Mr. David Crowley that the proposed development would cause congestion and traffic hazard on the laneway.
- 7.4.2. I note that the site has a current planning permission and the principle of development has already been established. The lane is c. 8m wide and is wider than typical mews laneways in the vicinity. I note that an integrated garage is provided at ground floor level and the site is located c. 500m from Seapoint Dart Station.
- 7.4.3. No concerns have been raised in the report by the Transportation Section of the Planning Authority. As such, I am satisfied that the proposed development is

acceptable and that it will not unduly impact on existing traffic movements or parking practices along the laneway.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that the proposed development would not 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. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the zoning objective of the area, the planning history of the site, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission is sought would, therefore, be in accordance 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 to the planning authority on the 22nd day of November, 2019, 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. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

3. Site development and building works shall be carried out only between the hours of 0700 to 1800 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 amenities of property in the vicinity.

4. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

5. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the

adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.

6. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Classes 1, 3 and 5 of Schedule 2, Part 1 to those Regulations shall take place within the curtilages of the houses without a prior grant of planning permission.

Reason: In the interest of orderly development, and to allow the planning authority to assess the impact of any such development on the amenities of the area through the statutory planning process.

7. 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, 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. 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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.

Emer Doyle
Planning Inspector

11th June 2020