



An
Bord
Pleanála

Inspector's Report ABP-307871-20

Development	Demolition of existing shed and construction of 3 two-storey mews houses.
Location	8, Montpelier Parade, Monkstown, County Dublin, a protected structure
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D20A/0306
Applicant(s)	Austin Kenny and Joan Quealy
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v. Decision
Appellant(s)	1. David Crowley 2. David and Pamela Regan
Observer(s)	None
Date of Site Inspection	31 st March 2021
Inspector	Susan McHugh

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1.0 Site Location and Description

- 1.1. The appeal site is located to the south of Monkstown Road, and to the south of Montpelier Parade, which includes 2 paired terraces of Victorian houses. The houses comprise three storey over basement dwellings. A bell-mouth gateway to the rear lane known as Montpelier Lane is located between the two terraces.
- 1.2. The appeal site is located to the rear of no. 8 Montpelier Parade, a protected structure, and is also within the Monkstown Architectural Conservation Area (ACA).
- 1.3. The site directly adjoins the access laneway from Montpelier Parade to the mews lane along its western boundary and addresses the laneway to the south. The site currently accommodates a garage in the south eastern corner of the site, which fronts onto the rear lane. Montpelier Lane is approx. 7.8m wide and is finished with a gravel surface.
- 1.4. The site adjoins to the east, the rear garden of No. 33 Montpelier Parade, which in turn adjoins a two storey mews dwelling of contemporary design located to the rear of No.35 Montpelier Parade. To the west the site is defined by a 3m high granite wall.
- 1.5. On the south side of the lane, there are two properties, known as Montpelier Cottage and Knocknagow House, both of which are home to the third party appellants.
- 1.6. The appeal site has a stated area of 0.728ha.

2.0 Proposed Development

- 2.1. Permission is sought for demolition of an existing shed and the construction of three no. three-bedroom, two storey with attic accommodation mews houses, including integrated garages and associated site works at the rear.
- 2.2. The area of the existing flat roofed shed to be demolished is 15sqm, while the stated floor area of the proposed works is 399sqm.

It is proposed to provide a connection to the existing public mains and public sewer.

- 2.3. The application for the proposed development was accompanied by the following;
 - Architects Report, with map of existing water and drainage infrastructure.

- Conservation Report

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decision to **grant** planning permission is subject to 13 no. generally standard conditions. Conditions of note are as follows:

Condition No. 2

Each mews house shall provide upward angled louvres to the first floor kitchen/dining room window (to a height of 1.8m above finished floor level) which preclude downward views of the properties to the south/southwest. Revised plans and elevations of the proposed screening detail shall be submitted for written agreement prior to the commencement of development.

Reason: In the interest of residential amenity.

Condition No. 6 Construction Management Plan requirements

Condition No. 8 Only structures indicated for demolition on the plans lodged with the application shall be removed.

3.2. Planning Authority Reports

3.2.1. Planning Report dated 16th July 2020

Basis for planning authority decision includes;

- Design is similar to that permitted by ABP under Ref.306454 and the common design is suitable for this mews lane and in accordance with the DLR CDP and Monkstown ACA.
- Notes that while part of the side wall to the lane will be demolished and reconstructed, this part of the wall has previously been reconstructed in relatively recent times and is in the ownership of the applicant.
- Considers the type of louvre, vertical or horizontal, to mitigate overlooking of Knocknagow House, and recommends a condition requiring upward angled louvres.

3.2.2. Other Technical Reports

- **Drainage:** Report dated 16/06/2020 recommends no objection subject to conditions.
- **Transportation:** Report dated 08/07/2020 recommends no objection subject to conditions.
- **Conservation:** Report dated 01/07/2020 recommends no objection. Notes no built heritage concerns with the proposed development under D19A/0595 'which is similar in terms of height and materiality to that being proposed to the rear of No.8. The contemporary design of the mews will allow the development to be clearly legible as a later addition and arguably will enhance the character of the laneway.' Consider that the proposed development complies with 'Policy AR1(ii, iii); AR12(iii), Section 8.2.11.2(iii) and Section 8.2.11.3(i) of the CDP 2016-2022.' Satisfied that the proposed development will not result in any adverse impact on the character of the laneway and setting of the Protected Structure.

3.3. Prescribed Bodies

Irish Water: Report dated 28/06/2020 recommends no objection.

The planning application was circulated to DAU, Dept of Culture, Heritage and the Gaeltacht, The Heritage Council, Failte Ireland, An Taisce, and An Chomhairle Ealaíon, with no responses received.

3.4. Third Party Observations

There were 7 no. submission received from the following parties;

- David and Pamela Regan Knockngow House, 17, Greenville Road
- David Crowley Montpelier Cottage, Montpelier Parade
- Eoin Christiansen and Aisling Kinsella 35, Montpelier Parade
- Tonya O Heocha and David Liston Mews rear of 35, Montpelier Parade
- Eamonn Furniss Montpelier Cottage, Montpelier Lane
- Ruth Kenny Stonehaven, Montpelier Parade Mews

Objections to the proposed development received by the planning authority have been forwarded to the Board and are on file for its information. The issues raised are comparable to those raised in the third party observations to the appeal summarised in section 6 below.

4.0 Planning History

Appeal Site – Rear of 8 Montpelier Parade

PA Reg.Ref.D20A/0551 ABP-309256-21: Concurrent Third Party appeal against grant of permission for construction of 2 no. part two-storey part three-storey, houses and 1 two storey, three bedroom house with attic accommodation, for Austin Kenny and Joan Quealy. Decision pending.

PA Reg.Ref.D18A/0558 ABP-302433-18: Permission **refused** 13/03/2019 for construction of two three-bedroom, two-storey with attic accommodation mews houses, including garages, balconies and associated site works at the rear of 8 Montpelier Parade, Monkstown, County Dublin (a Protected Structure). (File attached). Reason for refusal:

‘Having regard to the site location, its positioning along a mews laneway to the rear of a terrace of Protected Structures, the established built form and character of the surrounding area, and the provisions of Section 8.2.3.4 (x): ‘Mews Lane Development’ of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, it is considered that the proposed development, by reason of its design, scale, bulk and height would constitute an overbearing form of development when viewed from adjacent lands which would seriously injure the residential and visual amenities of the area. Furthermore, the proposed balconies at the first-floor level of the southern elevation of the proposed dwelling houses would seriously injure the residential amenities of the adjacent property to the south. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.’

Adjoining Site - 33A Montpelier Lane - Rear of 33 Montpelier Parade

PA Reg.Ref.D19A/0595 ABP-306454-20: Permission **granted** 26/06/2020 for development, in lieu of existing granted mews house (planning register reference number D17A/0459). The development will consist of demolition of the existing shed and construction of a two-storey mews house with attic accommodation, integral garage and all associated site works and services at 33A Montpelier Lane, rear of 33 Montpelier Parade, Monkstown, County Dublin. The proposed development was revised by further public notices received by the planning authority on the 22nd day of November, 2019 and included provision of new timber screens to the rear boundaries of the adjacent properties, an additional timber screen between the flat roof and landing of external stairs to garden, and installation of timber louvres to the window of the first floor kitchen/dining area. (File attached)

PA Reg.Ref.D19A/0094: Permission **refused** 08/04/2019 for development in lieu of existing granted mews house (D17A/0459). The development will consist of the demolition of the existing shed and construction of a two-storey mews house with attic accommodation, integral garage and all associated site works and services. Reason for refusal related to the scale and design, impact on residential amenities and on amenities of Monkstown Architectural Conservation Area.

PA Reg.Ref.D17A/0459 ABP PL06D.249228: Permission **granted** 25/01/2018 to demolish the existing builders workshop and store and construct a three bedroom, two storey mews dwelling incorporating car parking space and private open space to the rear and all associated works.

PA Reg.Ref.D16A/0451 ABP PL06D.106529: Permission **refused** 16/08/2016 for demolition of existing single storey garage/store and construction of new 2 storey end of terrace mews house with attic level accommodation. Car parking provision will be a parking bay on private mews lane. A protected structure.

PA Reg.Ref.D96A/0301: Permission **refused** 09/04/1998 for 2 storey mews dwelling.

Certificate of Exemption – Part V

PA Ref. V/020/19: Determination **refused** 22/05/2019 for development consisting the demolition of the existing shed and construction of a two-storey mews house with

attic accommodation, integral garage and all associated site works and services.
(D19A/0094).

Montpellier Laneway

PA D21A/0133: Application for permission for installation of 8 no. bicycle storage units, located in access lane and all associated site works, for David Crowley.
Decision pending.

PA D20A/0506: Permission **refused** September 2020 for 2 No. Storage for Bins, located in access lane all associated site works for David Crowley. Reason for refusal related to the proposed development as a traffic hazard.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative plan for the area is the Dun Laoghaire-Rathdown County Development Plan 2016-2022.
- 5.1.2. The site is located on lands zoned 'Objective A' where the objective is 'to protect and/or improve residential amenity'.
- 5.1.3. Mews development on Montpellier Lane is acceptable in principle, as indicated on Map No. 2. (See attached)
- 5.1.4. The site is located within the Monkstown Architectural Conservation Area and No. 8 Montpellier Parade is a protected structure.
- 5.1.5. Relevant provisions of the County Development Plan are as follows:
Chapter 6 – Built Heritage Strategy
- 5.1.6. **Section 6.1.4** refers to Policy AR12 Architectural Conservation Areas.
Chapter 8 – Principles of Development
- 5.1.7. **Section 8.2.3.4** refers to Additional Accommodation in Existing Built-up Areas
(x) refers to Mews Lane Development
'The principle of mews development will generally be acceptable when located on a lane that:

- Is already developed to such an extent that further development would have to be regarded as infill.
- Is already adequately serviced and surfaced from the site to the public road, with a suitable underlying base to cater for the expected traffic volumes.
- Has a legally acceptable agreement between owners or interested parties who intend to bring the laneway to standards and conditions - particularly in terms of services, road surfacing and public lighting - suitable to be taken-in-charge by the Council. The onus will be on the applicant(s) to demonstrate that they have a consensus of owners or interested parties.
- Where the Council is likely to be able to provide services and where owners can be levied to allow the Council to service the sites.
- Has been identified as being suitable for such development on the County Development Plan Maps or within a Local Area Plan.

The principle of mews development on a particular laneway will NOT generally be accepted where:

- The length of all or most of the adjoining rear gardens on the side of the lane concerned is less than 25 metres² or
- Where, particularly in a commercial area, the lane is likely to be required by the frontage buildings for access or the area adjoining the lane is required for expansion.

Where the Planning Authority accepts the principle of residential development on a particular laneway, the following standards will generally apply:

- Development will be confined to single units in one or two storeys of modest size and the separation distance between the rear façade of the existing main structure (onto the front road) and the rear mews structure should normally be a minimum of 20 metres and not less than 15 metres, or not less than 22 metres where first floor windows of habitable rooms directly face each other.
- Setting back of dwellings and boundary walls may be required dependant on existing building lines, lane width, character and parking/access.

- Dwellings and boundary walls may be required to reflect the scale, height, materials and finish of existing walls and buildings, particularly where old coach houses and two storey structures are involved.
- All parking provision in mews laneways should be in off-street garages, integral garages (car ports), forecourts or courtyards, and conditions to 'de-exempt' garage conversions will normally be attached. At least one off-street parking space per dwelling will generally be required. Where two spaces can be reasonably accommodated these should be provided. Part set-backs of frontage for on-street parallel parking may be considered depending on lane width and structure types.
- Each dwelling shall generally have a private open space area of not less than circa 48 sq.m. exclusive of car parking area. A financial contribution in lieu of public open space provision may be required.
- Where dwellings are permitted on both sides of a lane, habitable room windows must be set out to minimise direct overlooking of each other where less than 9 metres apart.
- Vehicular entrance widths shall be a minimum but sufficient to provide for proper vehicular turning movements allowing for laneway width and for pedestrian visibility.

Minimum lane width requirements are:

- Up to 6 dwellings: Adequate vehicular access of a lane width of circa 3.7 metres must be provided to the proposed dwellings - 3.1m at pinch points – to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.
- Up to 20 dwellings: Width of 4.8 metres subject to a maximum length of 300 metres. Short lengths of narrow width may be acceptable where there will be no frontage access to those lengths.

All mews laneways will be considered to be shared surfaces and footpaths need not necessarily be provided. If external street/security lighting is warranted, only a minimal level and wall-mounted type(s) may need to be provided. Opportunities should be undertaken to improve permeability and connectivity to and from the development as part of the Development Management process.

Reduced standards from the above may be acceptable, particularly in cases of conversion of existing two storey structures in sound condition and of particular architectural and/or townscape value.

Applications should clearly state the requirements and method statement for bin storage and collection

5.2. Natural Heritage Designations

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

Location	Designation	Site Code	Distance
South Dublin Bay	SAC	000210	500m
South Dublin Bay and River Tolka Estuary	SPA	004024	500m

5.3. EIA Screening

Having regard to the nature and scale of the proposed development, the separation of the site from European and other designated sites, the proposed connection of the development to public water and foul drainage connections, it is considered that 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

6.1.1. There are two third party appeals from;

- (1) David Crowley, Montpelier Cottage, Montpelier Parade, Monkstown, and
- (2) David and Pamela Regan, Knocknagow House, 17 Greenville Road, Blackrock.

The grounds of appeal may be summarised as follows:

6.1.2. Appellant No. 1 David Crowley

- *Insufficient legal interest* – Assert that proposed development is in breach of Section 8.2.3.4 (x) of the CDP relating to Mews Development. The manhole is in a private laneway and applicant has no legal estate or interest to connect to it.
- *Irish Water* – Have indicated that it will not service the site/development. Applicant has misrepresented maps to Irish Water, the PA and ABP previously under PA Reg.Ref.D19A/0595. All four units are being developed by one family.
- *Planning Assessment* – Request that a new planning inspector be appointed by the Board to assess appeal. Assert that the PA lost the observation documents which included professional reports, and that the PA's assessment of the application was inadequate, given the insufficient time to consider the planning observation.
- *Bin Storage/Eircom* – Request the Board to consider bin storage along the laneway, and to seek further information with regard to removal of the Eircom Pole.
- *Access/Parking* – Concern in terms of access for emergency services in light of extra parking and footfall being generated in the laneway. Contend it is not possible to make a vehicle manoeuvre into the proposed garages.
- *Inaccurate Dimensions*– Developer has over-exaggerated measurements of the width of the laneway.

6.1.3. Appellant No.2 David and Pamela Regan

- *Public Health Risk* – Water and wastewater services located in the lane are on private property, and not under DLRCC control and management. The proposed development will significantly increase the demand on existing services.
- The lane owner does not permit access to the lane for maintenance. Submit that it is unreasonable that DLRCC would grant permission for a commercial development on the lane, without addressing how water and wastewater services will be maintained and managed. Query whether the PA intend to take the lane in charge, and whether appropriate agreements are in place to manage failure of services. Query the capacity of the wastewater services based on the history of wastewater issues on Montpelier, and proposed connection to these services, eg. location of water meters.

- PA condition No. 12 (note 1) refers to compliance with the requirements of Irish Water. Condition does not appear to fully address the reality that 4 additional houses are to be connected to wastewater services which are not 'in charge' of Irish Water nor any public body. It does not address the risk of that the building works /construction may undermine the existing water supply which is not in charge. These services lines run somewhere under an unmaintained road which will see a doubling in traffic from the proposed development. Concern that there is a risk of services being undermined by the traffic from this development over the longer term, this risk is not addressed.
- Contend that there is a public risk in granting permission for development without any means of access to water or wastewater services in the event of maintenance or mitigate failure on a private lane.
- Refer to recent experience of variability in water pressure/supply and attempts to address the issue with both Irish Water and the PA which was unsuccessful.
- *Contravention of the County Development Plan and ACA* – Notes the four no. criteria governing the principal of whether Mews Lane development will be generally acceptable (8.2.3.4(x)). Submit that the proposed development meets only one of these four no. criteria, that being that the lane is marked suitable for mews development on the CDP. The other three criteria are not met.
- Assert that the proposal contravenes the Monkstown ACA guidance. This commercial development imitates an earlier house build, and the uniform development shows no sympathy for these guidelines and detracts from the character of the area.
- *Overlooking* – Submit that the proposed development will result in overlooking of kitchen/dining room, and living room will be directly overlooked, at 7.65m distance directly across the lane by the first house of development. PA has suggested upward angled louvres to reduce overlooking of the kitchen. Concern that appeal process will further impact on amenity based on ABP decision to remove PA condition to address overlooking on the related development ABP-306454-20 in July 2020. The same louvre condition is now specified for this application as was specified by the planning authority for No.33A. This condition was removed and replaced by replaced by 'vertical louvres' proposed by the applicants to ABP. The

use of planting to partially cover the window as accepted for No.33A is an unenforceable approach to mitigate overlooking. The stanchions offer no mitigation against direct overlooking.

- *Loss of Amenity* – Existing loss of privacy from glass fronted kitchen in No.35. The proposed development in combination with the permitted mews at No.33A will result in floor to ceiling, full building width windows, with 8 widely spaced stanchions directly overlook the appellants patio and kitchen/dining room area.
- *Gas and Telecommunication Services* – Unclear how existing gas services are to be accessed with no agreement from the lane owners. Concern about the continuity of gas and telecommunication services as a result of proposed development. Existing telephone pole serving appellants residence will need to be moved to accommodate the proposed development, for which there is no agreement. No details provided of where it is to be relocated to, who will be responsible, and how services for residents on the lane will be maintained.
- *PA Permission* – Condition 5(b) regarding surface water drainage, unclear how this applies as there is no road drainage on the lane.

6.2. Applicant Response

A response to the third party appeals was submitted by Simon Clear and Associates on behalf of the applicants. This response can be summarised as follows:

Background to Proposal

- Notes planning history and principle of mews development and aim to achieve an acceptable design for buildings to address the lane on the north side. Considers there is capacity to accommodate an additional 3 dwellings on this side of the lane.
- Montpelier Parade was constructed about 1800 and had a stable lane running at the rear which was common at the time. These lanes commonly provided a right of access to all of the front houses and when provided, services were also commonly owned and serviced. This was a form of common tenure. The first appellant, David Crowley, claims to have bought out all common interests and to own the lane and services. However, there is a Right of Way and the appellant has not provided full information as to the nature and extent of claimed ownership supported by proof.

6.3. Response to Grounds of Appeal – Appellant No. 1 David Crowley

- Grounds of appeal are legal in nature, referring to an alleged claim of superior title by the appellant, over the rights of the applicant, in respect of use of the lane and access to services. Submit that claim of title and restrictions relate to property issues outside the remit of ABP to consider.
- Assert that the appeal is based fundamentally on a claim made by the appellant of ownership of the mews lane running behind Montpelier Parade, which has existed since 1800 at least. The appellant has not declared what type of ownership he claims to possess, which he has indicated he procured in 2000.
- Contend that the appellant may have procured a landlord's freehold, ground rent, title and wishes to use that to thwart development. Cites two legal cases, the first brought by Chambury Investment Company Limited (a company connected to Ronan Properties) under the Landlord and Tenant Acts which failed in Court, the second was a claim by Mr. O'Gara to ownership of Dartmouth Square which was resolved by joint purchase by residents and Dublin City Council.
- Submit that the appellant may not be the 'owner' of the relevant lands in the lane as defined in the Planning and Development Act and Planning and Development Regulations. There is a Right of Way (ROW) across the entire width of the laneway as shown in mapping contained in previous and current applications. Appellant is not entitled to charge 'rack rent' over the laneway affected by the ROW.
- Dispute that the appellant can exert some control by a Ronan/O'Gara type claim and then use the lane as he wishes to block planning permission.
- Erroneous claim by appellant that he has approached Irish Water, DLRCC and ABP has spread confusion and caused interference in relation to a relatively simple and straight forward planning proposal.
- Request the Board to dismiss all elements of the grounds of appeal that have no relevance to the designated functions of the Board, or the performance of duties within DLRCC, or ABP itself.
- Assert that the appellant has used the ROW as a commercial car park, recently managed by APCOA, and in so doing has obstructed the ROW.

- Estimates of restriction of access that refer to parked cars and bin storage on the lane must be set aside as the ROW extends from wall to wall across the full width of the rear access lane and should not be otherwise obstructed.
- Appellant has a current application under consideration by DLRCC for large bin stores (to accommodate 24 bins) to be located along the ROW and placed so as to restrict access to the mews sites to the rear of this part of Montpelier Parade.
- Appellant does not own the drains below the lane as these are the original public drains that serve the original houses on Montpelier Parade and they run in what was the original stable lane running at the rear of the 18th Century houses.
- Submit that irrelevant matters are raised and obstructions placed to restrict the lane by the appellant. Similar claims were made and were addressed in respect of Appeal Ref. 249228 and permission was granted by ABP.
- Boundary walls along the lane were built with the property and are owned with the property. The wall along the laneway was entirely reconstructed, as referred to in the RMA Conservation Report.
- Matters of a legal property nature are not ones that ABP is in a position to arbitrate upon and in such circumstances, the provisions of Section 34(13) are invoked.

6.4. Response to Grounds of Appeal – Appellant No. 2 David and Pamela Regan

- Appellant appears to claim to own public drains, where they pass under a lane that he also appears to claim ownership over, despite it serving houses that have existed since 1800.
- There is no proposal to interfere with drains located in the laneway.
- Irish Water have a letter of agreement in place in respect of services to the house granted permission under Ref.306045.
- In terms of 'Taking in Charge' (TIC), the DLR CDP requires certain provisions. The appellant Crowley claims ownership over the lane and there is no evident intention to request it be TIC. The proposed development is not in contravention of the DLR CDP in this regard.

- As light is not the issue of concern to the appellants, it is queried why louvres should be used to mitigate overlooking, when vertical slats will serve that purpose. Notes that ABP has previously considered vertical louvres to be the most suitable mitigation against potential overlooking. Submit that in the interest of consistency the same assessment should be applied by ABP to the subject proposal which can be resolved by way of a condition.
- In relation to removing a telecoms pole, it is standard practice to remove connections from the pole and make reconnections to the replacement support. This is not a planning issue, as it is done by a statutory service provider.

Service Proposals

- Albert Holmes, Consulting Engineer, confirmed that it is not proposed to make a new connection to the public sewer in the laneway. It is proposed to provide a new manhole in the rear garden of No. 8 Montpelier to an existing 300dia private sewer (a branch line) which runs to the rear of Montpelier Parade. Access to the manhole on the laneway is not required nor any work by Irish Water on the laneway.
- The proposed new connection will be located entirely within the proposed site/land ownership and will not encroach into the laneway or onto lands outside the applicant's ownership. It will not change or connect directly to the existing public system, which is located under the laneway within the area defined as a ROW.
- Water will be supplied through the side passage of no 8 Montpelier directly from Montpelier Parade to the proposed mews houses and the granted mews house at no 33A. Access to the laneway is not required. The owners of the adjacent site at 33A Montpelier Lane have a letter of Offer from Irish Water, CDS1900556501 which approved this proposed connection in principle.

6.5. Planning Authority Response

None received.

6.6. Observations

None received.

6.7. Further Responses

- 6.7.1. A number of further elaborations to the third party appeal were submitted by the appellant No. 1 David Crowley, which can be summarised as follows;

Submission dated 7th September 2020

Includes correspondence from Irish Water dated 4th September 2020.

Submission dated 28th October 2020

Includes correspondence from DLR Enforcement Section dated 15th and 16th October 2020.

PA Ref. ENF 38020: Warning letter issued relating to works being carried out within the curtilage of a protected structure including laying of drain pipes and insertion of man holes without the benefit of a valid planning permission and which may constitute exempt development.

Submission dated 10th November 2020

Includes correspondence from DLR Enforcement Section.

6.8. Prescribed Bodies

- 6.8.1. Appeal circulated to DAU Department of Culture, Heritage and the Gaeltacht, An Taisce, Fáilte Ireland, An Chomhairle Ealaíon, and Heritage Council with no responses received.

6.9. Oral Hearing Request

- 6.9.1. Following the submission of the third party appeals, both submitted a request that an Oral Hearing be held. By order dated 20/10/2020 the Board decided that the appeal could be adequately addressed by written submissions.

7.0 Assessment

- 7.1.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Impact on Residential Amenity

- Access and Parking
- Other Matters
- Appropriate Assessment

I draw the Boards attention to the previous refusal of permission by the Board under ABP-302433-18 in March 2019 for a similar mews lane development. The current application seeks to address the previous reason for refusal as outlined in section 4 above.

I also draw the Boards attention to a concurrent application for a mews lane development on appeal to the Board under ABP-309256-21, decision pending.

Permission was granted on appeal to the Board for a mews house on the adjoining site to the east No.33A under ABP-306454-20 in June 2020. The current proposed development for 3 mews houses is similar in design to that permitted and has been designed by the same architect. In the interests of clarity, the appellant makes reference to this permitted development and the current proposal by the same family as a development of 4 units.

7.2. Impact of Residential Amenity

- 7.2.1. The main issue in relation to the impact on residential amenity relates to overlooking, particularly that of the existing property 'Knocknagow House' located opposite and of Montpelier Cottage located to the south west.
- 7.2.2. The third party appeal submitted by appellant No. 2 the owners of 'Knocknagow House' assert that the ground floor kitchen/dining room and living room of the property will be directly overlooked by the first house of development.
- 7.2.3. Condition 2 of the Planning Authority notification of grant of permission requires each mews house provide 'upward angled louvres' to the first floor kitchen/dining room window (to a height of 1.8m above finished floor level) to preclude downward views of the properties to the south/southwest.
- 7.2.4. The appellant notes that although a similar condition to provide 'upward angled louvres' at first floor was specified by the PA on the adjoining mews No. 33A, this condition was omitted by the Board, in lieu of "vertical louvres' under ABP-306454-20. The third party appellant submits that the use of planting to partially cover first

floor windows as accepted for 33A is an unenforceable approach to mitigate overlooking, and that the proposed 'stanchions' offer no mitigation against direct overlooking. The appellant argues that that this condition is not specific enough to ensure their privacy is safeguarded.

- 7.2.5. The main habitable space (kitchen/ living/dining area) of the proposed news houses 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 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 trees have already been planted adjacent to the boundary of Knocknagow House.
- 7.2.6. The third party notes a loss of privacy from the glass fronted kitchen in the neighbouring mews (No. 35). I note however that No. 35 has a balcony adjacent to the lane at first floor level, and that no balconies are proposed in the current application.
- 7.2.7. I am of the view that the provision of 'vertical louvres' and planting in accordance with the drawings submitted to the Planning Authority, and the distance between the elevation of Knocknagow House and the appeal 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 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 rooms to a height of 1.8m would detract from the residential amenities of the proposed dwellings and should be omitted.
- 7.2.8. I am satisfied, therefore, that the proposed development which will integrate with the design of the adjoining mews permitted at No. 33A will not seriously detract from the residential amenity of adjoining properties, or from the character of the area.

7.3. Access and Parking

- 7.3.1. Concerns are raised in the third party appeal submitted by Mr. David Crowley that that additional parking along the lane would make it difficult for cars to manoeuvre into the proposed car ports and would also compromise access for emergency vehicles.

- 7.3.2. I note that the principle of mews lane development has already been established and is acceptable in principle along the laneway. 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 to serve each unit, similar to the permitted mews at No. 33A, and that the appeal site is located c. 500m from Seapoint Dart Station.
- 7.3.3. No concerns have been raised in the report by the Transportation Section of the Planning Authority. It notes that each unit has an integral garage, which is in accordance with the requirements of the CDP for Mews Lane Development. I note the recent decision of the PA under Reg.Ref.D20A/0506 to refuse permission for bin storage along the laneway on the grounds of traffic safety.
- 7.3.4. I am satisfied, therefore, that the proposed development will not unduly impact on existing traffic movements or parking along the laneway.

7.4. Other Matters

- 7.4.1. *Services* – Concern is raised by the appellant in relation to access to and relocation of services including water, gas and electricity. I note the reports from the Drainage section of the PA and from Irish Water which both recommend no objection to the proposed development. Requirements in respect of other services can be the subject of a standard condition.
- 7.4.2. *Sufficient Legal Interest* - In terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal interest for the purposes of the planning application and decision. Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.
- 7.4.3. *Inaccurate Drawings/Measurements* – I have had regard to dimensions indicated on drawings submitted particularly in respect to the width of the laneway and am satisfied that the details submitted are accurate.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development and to the nature of the receiving environment, namely an urban and fully serviced location 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**

- 8.1.1. I recommend that permission be **granted** subject to conditions for the following reasons and considerations.

9.0 **Reasons and Considerations**

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 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.

Susan McHugh
Senior Planning Inspector

15th April 2021