



An  
Bord  
Pleanála

## Inspector's Report ABP 309256-21.

---

<b>Development</b>	Construction of 2 no. part two-storey part three-storey, houses and 1 two storey, three bedroom house with attic accommodation.
<b>Location</b>	8 Montpelier Parade, Monkstown, Co Dublin.
<b>Planning Authority</b>	Dún Laoghaire-Rathdown Co. Council
<b>Planning Authority Reg. Ref.</b>	D20A/0551
<b>Applicants</b>	Austin Kenny & Joan Quealy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	First and Third Party
<b>Appellants</b>	(1) Austin Kenny & Joan Quealy (2) David Crowley (3) David and Pamela Regan
<b>Date of Site Inspection</b>	29/5/2021
<b>Inspector</b>	Siobhan Carroll

## Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	5
3.3. Prescribed Bodies .....	6
3.4. Third Party Observations .....	6
4.0 Planning History.....	6
5.0 Policy Context.....	8
5.1. Development Plan.....	8
5.2. Natural Heritage Designations .....	10
5.3. EIA Screening .....	11
6.0 The Appeal .....	11
6.1. Grounds of Appeal .....	11
6.2. First party appeal .....	12
6.3. Applicant Response to third party appeals.....	13
6.4. Planning Authority Response .....	15
6.5. Further Responses.....	16
6.6. Oral Hearing Request .....	16
7.0 Assessment.....	16
7.1. Design and impact on residential amenity.....	17
7.2. Servicing .....	19

7.3. Access and parking.....	20
7.4. Other Issues.....	21
7.5. Appropriate Assessment .....	22
8.0 Recommendation.....	22
9.0 Reasons and Considerations.....	22
10.0 Conditions .....	22

## **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. Montpelier Parade comprises two terraces of Georgian dwellings which are separated by a bell-mouth gateway which provides access to Montpelier Lane. The properties within Montpelier Parade comprise three-storey over basement houses. Both Montpelier Parade and Montpelier Lane form part of the Monkstown Architectural Conservation Area (ACA) and the subject site is situated within the designated ACA.
- 1.2. The site has an area of 0.728ha. It comprises the rear garden of no. 8 Montpelier Parade. It directly adjoins the access laneway from Montpelier Parade to the mews lane along its western boundary and addresses the laneway to the south. Montpelier Lane has a width of approximately 7.8m and it has a gravel surface.
- 1.3. The western site boundary is defined by a 3m high granite wall. The site contains a garage located to the south-eastern corner which fronts onto the rear lane. No. 33 Montpelier Parade adjoins the site to the east. The site adjoining this to the rear of no. 35 Montpelier Parade contains a two storey mews dwelling of contemporary design.
- 1.4. Montpelier lane contains 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.

## **2.0 Proposed Development**

- 2.1. Construction of 2 no. part two-storey part three-storey, houses and 1 two storey, three bedroom house with attic accommodation.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission was granted subject to 15 no. conditions.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

#### 3.2.2. Report dated: 30/9/20

- Further information was requested in relation to the following; (1) Submit proposals to address potential overlooking from first floor windows (2) Submit details of proposed screening of all roof terraces including details of proposed materials and finishes (3) Submit revised plans clearly showing proposed bin storage for house no. 2 (4) Submit proposals showing all surface water run-off generated by each house being infiltrated or reused within the curtilage of each property. If infiltration is not feasible an alternative SuDS measure shall be proposed (5) Submit proposals which show all proposed hardstanding areas as permeable surfaces in accordance with Section 8.2.4.9 of the Development Plan.

#### 3.2.3. Report dated: 16/12/20

- Following the submission of a response to the further information request the Planning Authority were satisfied with the revised proposals and details provided and granted permission subject to conditions including condition no. 2 which specifies upward angled louvres to the first floor kitchen/dining room windows and condition no. 3 which specifies that obscure glazing shall be fitted to the first floor side window on house no. 1.

#### 3.2.4. Other Technical Reports

3.2.5. Transportation Planning: No objection subject to the attachment of a condition requiring the submission of a construction management plan prior to the commencement of development for the written agreement of the planning authority.

3.2.6. Drainage Planning: Following the submission of a response to a further information request the surface water drainage section had no objection to the proposal subject to the attachment of conditions in respect of surface water drainage.

3.2.7. Conservation Officer: The Conservation Division are aware of the planning history associate with the site and they never had any built heritage issues with the principal development of mews in this location subject to the design, height, mass and bulk in accordance with Policy AR12, Section 8.2.11.2(iii) and 8.2.11.3(i) of the County

Development Plan 2016-2022. The current application raises no concerns in terms of impact on the integrity of the Protected Structure or Monkstown ACA. The scale and materiality of the proposed development is considered contextually acceptable.

### 3.3. **Prescribed Bodies**

- 3.3.1. Irish Water: No Objection. They provide the following observation. (1) Where the applicant proposes to connect to a public water/wastewater network operated by Irish Water, the applicant must sign a connection agreement with Irish Water prior to the commencement of the development and adhere to the standards and conditions set out in that agreement. (2) In the interest of Public Health and Environmental Sustainability, Irish Water Infrastructure capacity requirements and proposed connections to the Water and Waste Water Infrastructure will be subject to the constraints of the Irish Water Capital Investment Programme. (3) All development shall be carried out in compliance with Irish Water Standard codes and practices.

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

- 3.4.1. The Planning Authority received one observation/submission in relation to the application. The issues raised are similar to those set out in the third party appeal.

## 4.0 **Planning History**

### Site

**PA Reg Ref D20A/0306 & ABP 307871-21** – Permission was granted by the Planning Authority and granted on appeal for the demolition of existing shed and construction of 3 two-storey mews houses. The current proposal is different in respect of the design and 2 no. three-storey houses and 1 no. two-storey house is proposed.

**PA Reg Ref D18A/0558 & ABP-302433-18** – Permission was refused 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). Permission was refused for the following reason;

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 no. 33A Montpelier Lane, rear of 33 Montpelier Parade

**PA Reg. Ref. D19A/0595 & ABP 306454** – Permission was granted for construction of a two storey mews house with attic accommodation.

**PA Reg. Ref. 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 Reg. Ref. D17A/0459/ ABP PL06D.249228** – Permission was 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.

Montpellier Laneway

**PA Reg. Ref. D21A/0133 & APB 310189** – Permission sought for installation of 8 no. bicycle storage units, located in access lane and all associated site works. The application is currently on appeal.

**PA Reg. Ref. D20A/0506 & ABP 309427** – Permission sought for 2 No. Storage for Bins, located in access lane all associated site works. The Planning Authority refused permission on the basis of traffic hazard. The application is currently on appeal.

## 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 Montpelier 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 Montpelier Parade is a protected structure.
- 5.1.5. Chapter 6 – Built Heritage Strategy
- 5.1.6. Section 6.1.4 refers to Policy AR12 Architectural Conservation Areas.
- 5.1.7. Chapter 8 – Principles of Development
- 5.1.8. Section 8.2.3.4 refers to Additional Accommodation in Existing Built-up Areas
- 5.1.9. (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.

5.1.10. 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 metres<sup>2</sup> 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.

5.1.11. 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 48sq 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.

5.1.12. 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.

5.1.13. 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.

5.1.14. 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.

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

## 5.2. Natural Heritage Designations

5.2.1. Dalkey Island SAC (Site Code 004172) is 1.4km to the east of the appeal site.

5.2.2. Rockabill to Dalkey Island SAC (Site Code 003000) is 1.7km to the east of the appeal site.

### 5.3. EIA Screening

- 5.3.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. 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. Third party appeals have been submitted by (1) David Crowley (2) David & Pamela Regan.

#### (1) David Crowley

- The appeal refers to the site notices and states that the application should have been deemed invalid on the basis that a yellow site notice was erected on site.
- The appellant contends that the site cannot be serviced by Irish Water.
- It is contended that the installation of windows and doors to House no. 1 within the party wall would impact upon existing residential amenity. It is requested that it be conditioned that these windows and doors be setback from the laneway. It is considered that the proposed development would result in the loss of light to neighbouring properties.
- The appeal refers to potential overlooking from the first floor front windows and balconies of House no. 1 and House no. 2.
- The appellant contends that the development is contrary to Section 8.2.3.4 (x) of the Development Plan which refers to Mews Lane Development.
- The removal of the existing granite wall and its replace is raised.
- Concern is raised in respect of bin storage.
- Concern is raised in respect of car parking and the use of carports.

- The appellant requested that an Oral Hearing be held.

## **(2) David & Pamela Regan**

- The appellants contend that the proposed development would give rise to a public health risk on the basis that the proposal would significantly increase demand on waste water services on the lane. Concern is expressed that the lane owner may not provide access to services within the lane should problems with foul drainage arise.
- The appellants raise similar concerns in relation to water supply to service the development. They state that Irish Water does not permit the running of water supply for a dwelling through the rear garden of another dwelling.
- It is submitted that the proposed development is contrary to Section 8.2.3.4 (x) of the Development Plan in respect of the condition of the roadway and that the laneway is not of a condition to be taken in charge by the Council.
- The appeal refers to impacts to residential amenity arising from potential overlooking of the appellant's kitchen/dining room, living room and patio.
- The appellants requested that an Oral Hearing be held.

## **6.2. First party appeal**

6.2.1. A first party appeal has been submitted by Robin Mandal Architects on behalf of the applicants Austin Kenny & Joan Quealy.

- The first party appeal has been made against conditions no. 2 and no. 3 of the permission granted by the Planning Authority.
- Condition no. 2 states, 'Each mews house shall provide upward angled louvres to the first floor kitchen/dining room window living room window (to a height of 1.8m above the 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.'
- It is noted that the Board addressed the matter of overlooking in the appeal on the adjacent site no. 33A Montpelier Lane under (D19A/0595 & ABP 306454).

The Council attached the same condition referring to upward angled louvres, the decision of the Board accepted vertical louvres to mitigate overlooking as proposed in the further information submission. Vertical louvres are proposed to House no. 3 to mitigate overlooking. It is considered that upward angled louvres which would preclude downward view would seriously diminish the quality of the living area in the mews houses.

- It is noted that the proposed mews houses are further from Knocknagow House and only House no. 3 has a partial direct line of sight to the rear. It is submitted that there is no potential for overlooking of Knocknagow House from Houses no. 1 and no. 2 and that the conditioned louvres are excessive.
- Condition no. 3 states, 'The first floor side window to House no. 1, which is shown as clear glass shall be omitted and replaced with obscure glass.'
- The first floor windows to the west elevation of House no. 1 are opaque apart from one window which has clear glazing which faces the opposite lane wall and the gable of the structure within the curtilage of no. 7 Montpelier Parade. It is submitted that there is no potential for overlooking from this window.
- The appellants request that their appeal be given due consideration.

### **6.3. Applicant Response to third party appeals**

A response to the 2 no. third party appeals has been submitted by Simon Clear & Associates on behalf of the applicants Austin Kenny & Joan Quealy.

- In relation to the appeal submitted by David Crowley the following comments are made.
- The appeal refers to the stone wall bounding no. 8 Montpelier Parade being a party wall. It is not a party wall, it was constructed with the house. It is proposed to demolish part of the side wall to the lane and reconstruct it. It is noted that this part of the wall has been previously reconstructed recently and that it is in the ownership of the applicant.
- Matters raised in the appeal refer to an alleged claim of superior title by the appellant David Crowley, over the rights of the applicants relating to the use of the lane and access to services. It is submitted that these claims of title and

restrictions refer to property issues which are outside the remit of the Board to consider.

- The appeal is based on a claim made by the appellant of ownership of the mew lane to the rear of Montpelier Parade and of the services within it. The appellant does not state what type of ownership he claims to possess.
- There is a Right of Way across the entire width of the laneway as indicated on the maps submitted with the application. The appeal refers to a letter from Irish Water which the appellant received. It is highlighted that the Council received a report from Irish Water in relation to the proposed development which stated that there are no objections and recommended the attachment of conditions. It is submitted that all matters of legal/property nature including services are not matters which the Board can arbitrate on and that in such circumstances the provisions of Section 34(13) of the Planning and Development Act 2000 (as amended) are noted.
- In relation to the appeal submitted by David & Pamela Regan the following comments are made.
- The appeal refers to the common services which have served the area for a considerable period. It is common practice that dwellings are served by common drains before entering the public system managed by Irish Water. Irish Water has no responsibility for private drains.
- It is noted that there is no proposal to interfere with drains located in the laneway. Irish Water is involved when the drains intersect with the public drains. Irish Water has issued a letter of agreement in respect of services to the house granted under ABP 306045.
- Regarding Taking in Charge the Council requires certain provisions where this is the intention of the occupants on the lane. It is noted that there is no evident intention that it is requested that the lane be taken in charge. Therefore, the proposal is not in contravention of the policy of the Development Plan which refers to taking in charge.

- The proposal has been assessed by the Council in terms of compliance with the Development Plan and also the Monkstown ACA in relation to the common design response proposed.
- The appeal noted that louvres with parallel horizontal slats to regulate light are required by condition by the Planning Authority as was the case with ABP 306045. The appellants were concerned that the Board may not agree with the attachment of this condition. The Board previously considered that vertical louvres were the most suitable mitigation against potential overlooking on the laneway. It is submitted that in the interest of consistency the same should be applied by the Board to the proposal.
- In relation to servicing, the Albert Holmes, Consulting Engineer confirmed that it is not proposed to make a new connection to the public sewer in the laneway. As indicated on the submitted plans, a new manhole is proposed to the rear garden of no. 8 Montpelier Parade to an existing 300dia private sewer which runs to the rear of Montpelier Parade. It is confirmed that access to the manhole in the laneway is not required. The proposed new connection will be located within the proposed site and will not encroach into the laneway or lands outside the applicant's ownership.
- Regarding water it will be supplied via the side passage of no. 8 Montpelier Parade directly from Montpelier Parade to the proposed mews house and the granted mews house at no. 33A. It is noted that access to the laneway will not be required.
- It is requested that permission be granted with the attachment of appropriate conditions.

#### **6.4. Planning Authority Response**

- The Board is referred to the report of the Planning Officer.
- It is considered that the grounds of the appeal do not raise any new matters which would in the opinion of the Planning Authority justify a change of attitude to the proposed development.

## 6.5. Further Responses

A further submission was received from David Crowley. The planning issues raised are as follows;

- It is submitted that planting proposed to partially cover windows which directly face neighbouring properties will not address amenities concerns.
- The appellant reiterates that the proposed development would give rise to overlooking of his property Montpelier Cottage.
- In relation to the first party appeal, it is submitted that the provision of opaque glazing to the first floor window of House no. 1 as conditioned by the Planning Authority is appropriate.
- In relation to the first party appeal, it is submitted that the upward angled louvres are appropriate to the first floor windows to mitigate direct overlooking.
- The appellant has reiterated his concerns in relation to the proposed foul sewerage connection.
- The issue of water pressure on the laneway is raised.

## 6.6. Oral Hearing Request

- 6.6.1. The third party appellants requested that an Oral Hearing be held. By order dated 11/03/2021 the Board decided that the appeal could be adequately addressed by written submissions.

## 7.0 Assessment

The main issues in this appeal are those raised in the grounds of the appeals. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Design and impact on residential amenity
- Servicing
- Access and parking



- Other Issues
- Appropriate Assessment

## 7.1. Design and impact on residential amenity

- 7.1.1. This current application is the development of 3 no. mews dwellings to the rear of no. 8 Montpelier Parade. I note that the principle of this level of residential development on this site has previously been approved under ABP 307871-21.
- 7.1.2. In relation to the proposed design, House no. 3 in the current scheme is the same as that permitted under ABP 307871-21. That house design also matches that of the permitted dwelling at the neighbouring site no. 33A. The permitted dwelling granted under ABP 306454-20 included vertical louvres to the windows at first floor level. This treatment of the first floor windows is also proposed to House no. 3 under this application.
- 7.1.3. House no. 1 and no. 2 as proposed under the current scheme are part two-storey, part three storey dwellings. The differences in elevational treatment of the front of the dwellings permitted under ABP 307871-21 and the current proposal mainly relate to the window design and placement and roof treatment. Overall, I am satisfied that the proposed design will integrate with the existing and permitted development along this section of the laneway.
- 7.1.4. The third party appeals express concern at potential overlooking from upper floor windows to the front of the proposed dwellings towards their properties at Knocknagow House located opposite the site and of Montpelier Cottage located to the south west. In response to this, I note the principle of no. 3 three-storey dwellings fronting onto Montpelier Lane at this location has already been approved by the Board under ABP 307871-21.
- 7.1.5. In relation to the matter of potential overlooking from first floor windows to the front of the dwellings, the Planning Authority attached condition no. 2 which specified that, 'Each mews house shall provide upward angled louvres to the first floor kitchen/dining room window living room window (to a height of 1.8m above the 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.'

- 7.1.6. The first party has appealed this condition on the basis that they consider that upward angled louvres which would preclude downward view would seriously diminish the quality of the living area in the mews houses. They also argue in their appeal that vertical louvres are proposed to House no. 3 to mitigate potential overlooking and that there is no potential for overlooking of Knocknagow House from Houses no. 1 and no. 2 and that the conditioned louvres are excessive. It is also highlighted in the first party appeal that the issue of overlooking was addressed by the Board in the appeal on the adjoining site no. 33A Montpelier Lane ABP 306454 where the Board accepted vertical louvres to mitigate overlooking.
- 7.1.7. I note that under ABP 307871-21 the Board granted permission for 3 no. three-storey mews dwellings on the site and that the condition attached by the Planning Authority in respect of the installation of upward angled louvres to the first floor windows of the dwellings was omitted. The dwellings permitted under that permission included first floor windows to the front with vertical louvres. Therefore, having regard to the fact that the proposed dwellings are to be sited in the same location I would consider it appropriate that it be conditioned that the first floor front windows be fitted with vertical louvres to mitigate potential overlooking of the appellants properties, however I do not consider it appropriate that upward angled louvres be fitted because they would unduly impact upon the residential amenities of the proposed dwellings.
- 7.1.8. The first party appealed condition no. 3 attached by the planning authority which required that 'The first floor side window to House no. 1, which is shown as clear glass shall be omitted and replaced with obscure glass.' They have appealed it on the basis that the window faces the wall on the opposite side of the lane and also towards the gable of the structure within the curtilage of no. 7 Montpelier Parade and they submit that there is no potential for overlooking from this window. I note that window faces west and that there is no potential for direct overlooking of any dwellings from this window, therefore, I consider it would be appropriate to omit this condition.

- 7.1.9. The third party appeals have raised concerns that the proposed development is contrary to Section 8.2.3.4 (x) of the Development Plan which refers to Mews Lane Development. Particular reference is made to the condition of the roadway and that the laneway is not of a condition to be taken in charge by the Council.
- 7.1.10. In response to the matter the first party stated that in relation to 'Taking in Charge' the Council requires certain provisions where this is the intention of the occupants on the lane. The first party noted that there is no evident intention that it is requested that the lane be taken in charge. Having regard to the provisions of Section 8.2.3.4 (x) of the development plan in relation to Mews Lane Development, I note that having regard to the extensive planning history referring to Montpelier Lane that the principle of mew dwellings at this location has been established and that the planning authority are satisfied with the access and servicing arrangements.

## **7.2. Servicing**

- 7.2.1. The grounds of appeal in the third party appeals raised the matter of foul and surface water drainage. In relation to foul drainage, it is proposed to connect to the public foul sewer.
- 7.2.2. Drawing No. 2010-100 – Site Layout, indicates the proposed foul drainage layout. It is proposed to connect the three properties to the existing 300mm foul sewer which is located in the rear garden of no. 8 Montpelier Parade. This section of foul sewer connects to an existing manhole within Montpelier Lane and the 225mm foul sewer. I note that this is the same as the foul drainage layout for the scheme of three mews dwellings on the site which was permitted under ABP 307871-21 and also the permitted foul sewerage layout for the mews dwelling at the no. 33A Montpelier Lane the adjoining site to the east.
- 7.2.3. I note the report from Irish Water in relation to the proposal dated 10/09/2020 which states that there is no objection to the proposed development. They provided an observation which stated that, where the applicant proposes to connect to a public water/wastewater network operated by Irish Water, the applicant must sign a connection agreement with Irish Water prior to the commencement of the development and adhere to the standards and conditions set out in that agreement. Accordingly, I am satisfied that the matter can be satisfactorily addressed by the

attachment of a condition requiring that the developer enter into waste water connection agreement with Irish Water prior to the commencement of development.

- 7.2.4. Regarding surface water drainage, the Drainage Planning Section of the Council required further information in relation to the submission of proposals indicating all surface water run-off generated by each house being infiltrated or reused within the curtilage of each property. If infiltration was not feasible, the Drainage Planning Section required that an alternative SuDS measure be proposed. They also required that proposals indicating all proposed hardstanding areas as permeable surfaces in accordance with Section 8.2.4.9 of the Development Plan be provided. In response to these items the applicants proposed to provide deep cast ring soakaways to be located to the rear of each property. It is also proposed that all paving areas to the rear of the dwellings will be permeable-open jointed to a free drainage base. I note that details of the revised surface water drainage layout is indicated on Drawing No: 2010-205A. I note that the report of the Drainage Planning Section dated 30/11/20 on foot of the submission of further information had no objections to the proposals subject to conditions. Accordingly, I am satisfied with the surface water drainage proposals.
- 7.2.5. In relation to the proposed connection to the water supply, it is proposed via the side passage of no. 8 Montpelier Parade directly from Montpelier Parade. The first party confirmed that access to the laneway in respect of water supply will not be required. I note the report from Irish Water dated 10/09/2020 which states that there is no objection to the proposed development.

### **7.3. Access and parking**

- 7.3.1. The proposal entails the provision of a total of 3 no. new dwellings. The design includes the provision of car ports to serve each dwelling with access onto the laneway. The car ports are located at ground floor level within the dwellings and provide one undercroft car parking space per dwelling.
- 7.3.2. Section 8.2.3.4 (x) of the Dun Laoghaire-Rathdown Development Plan 2016-2022 refers to 'Mews Lane Development'. In relation to car parking, it specifies that 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. Accordingly, the proposed development complies with this.

- 7.3.3. A matter raised in a third party is that parking along the lane would make it difficult for cars to manoeuvre into the proposed car ports. I note that this matter was previously addressed in the recent appeal case ABP 307871-21 where the Inspector noted that the principle of mews lane development has already been established and is acceptable in principle along the laneway. The report of the Inspector also noted that the integrated garages provided at ground floor level to serve each unit is similar to the permitted mews at No. 33A and that the appeal site is located circa 500m from Seapoint Dart Station.
- 7.3.4. Regarding the manoeuvres of vehicles into and out of the proposed car ports, I note Drawing No: 2010-204 – Swept Path Analysis 1, submitted with the application which illustrates both the forward and reverse manoeuvres of a vehicle accessing and exiting the car port with vehicles parked along the southern side of the laneway. I consider this drawing satisfactorily indicates that access to the car ports is provided.
- 7.3.5. Furthermore, I note that the report of the Transportation Planning Section dated the 21/09/2020 has no objections to the proposed development. Accordingly, I consider the proposed development is acceptable in terms of access and parking considerations.

#### **7.4. Other Issues**

- 7.4.1. The grounds of appeal refer to matters concerning claims of title on the laneway and access to services and use of the laneway. In response to these matters the first party state that these claims of title and restrictions refer to property issues which are outside the remit of the Board to consider. I note that the applicants confirm they are the owners of the site and that there is a Right of Way across the entire width of the laneway as indicated on the maps submitted with the application.
- 7.4.2. I note that this matter also arose in the recent appeal case ABP 307871-21. The Inspector in their report advised the Board that regarding legal interest, they were satisfied that the applicants have provided sufficient evidence of their legal interest

for the purposes of the planning application and decision and that any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal. The Inspector also cited the provisions of Section 34(13) of the Planning and Development Act 2000 (as amended). I would concur fully with this assessment.

- 7.4.3. Accordingly, I would conclude that it is outside the remit of the Board to determine legal interests and/or obligations held by the applicant, in relation to such lands.

## 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. I recommend that permission be granted subject to the following conditions and reasons.

## 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 as amended by the further

plans and particulars submitted to the planning authority on the 20<sup>th</sup> day of November, 2020, 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. Each mews house shall provide vertical louvres to the first floor kitchen/dining room window living room window (to a height of 1.8m above the finished floor level) which preclude 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 interest of residential amenity.

3. 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. Details of the surface water drainage system in compliance with Sustainable Urban Drainage measures (SUDS) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

4. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

5. 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.

6. 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.

7. 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.



8. 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.

9. 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.

10. 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.

---

Siobhan Carroll  
Planning Inspector

3<sup>rd</sup> of June 2021