



An
Bord
Pleanála

Inspector's Report

ABP-310189

Development	Installation of 8 no. bicycle storage units in an access lane + associated works,
Location	The side of a Protected Structure, Montpelier Cottage, Monkstown, Dublin.
Planning Authority	Dun Laoghaire Rathdown Co. Council
Planning Authority Reg. Ref.	D21A/0133
Applicant(s)	David Crowley
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First-Party
Appellant(s)	David Crowley
Observer(s)	None
Date of Site Inspection	13 th February 2022
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The appeal site comprises Montpelier Cottage, its curtilage and the laneway to the rear of Montpelier Parade which is a T- shaped cul-de-sac. Montpelier Cottage faces the junction/gateway of the access lane with Montpelier Parade at a distance of c. 50m. The lane is accessed via a gated bell-mouthed entrance about midway along Montpelier Parade and between two terraces of Protected Structures. The lane as measured wall to wall during my inspection is c. 6.6m wide in the vicinity of the proposed development and is flanked by the side boundary walls of nos. 7 and 8 - each with accesses onto the lane. The lane then turns at right angles east and east where it extends along the rear of Montpelier Parade to the north. There are multiple vehicular and pedestrian accesses onto the lane and there are also a number of mews houses.
- 1.2. Montpelier Cottage directly fronts onto the lane and there are no footpaths.
- 1.3. Signs at the entrance to the lane indicates that it is private and that a private parking and clamping system is in place.
- 1.4. No. 8 is a protected Structure and the boundary along the lane is defined by a granite wall.

2.0 Proposed Development

- 2.1. It is proposed to install a row of metal sheds described as bicycle stores. The development consists of:
 - A structure with stated dimensions of 1825mm high, 1150mm deep and 5.72m wide (incorporating 8 x 715mm wide units) . This provides 8 bicycle storage units - each with a door opening onto the laneway.
 - In the application cover letter from the architects it is stated that there will be no impact on the wall from which it is an independent freestanding structure. This is not supported by detailed drawings with specified dimensions of distance.
 - It is also pointed out that alterations to the same wall have been permitted.
 - In the appeal documentation it is explained the bicycle stores are for the use of the residents of the Laneway and/or Montpelier Parade.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to refuse permission for the following reasons:

1) It is considered that the proposed development would endanger public safety by reason of a traffic hazard and would be contrary to proper planning and sustainable development because:

(a) the proposed development would obstruct vehicle manoeuvres on Montpelier Lane,

(b) the position of the proposed development would result in sections of Montpelier Lane being reduced in width.

2) It is considered that the proposed development, having regard to its design and nature and prominent position on Montpelier Lane would together negatively impact on the character and appearance of Montpelier Lane which is flanked by a granite stone wall, would detract from the visual amenity and harmony of the area and the Monkstown Architectural Conservation Area and would be overly prominent as viewed from the surroundings,

It is considered that the proposed development would materially detract from and would contravene policy AR12 and section 8.2.11.3 for Architectural Conservation Areas of the DLR CDP 2016-2022. The proposed development would therefore seriously injure the amenities and depreciate the value of property in the vicinity and be contrary to the proper planning and sustainable development of the area .

3.2. Planning Authority Reports

3.2.1. Planning Report:

- The proposed development is assessed as residential type development serving the applicant's house and in this way is considered generally acceptable in principle with the residential zoning/objective for the area.

- It is noted that the applicant has not provided any rationale for the scale and locations of the development and that the location would be more appropriate within the immediate curtilage of the applicant's dwelling.
- It is also noted that no documentary evidence of entry on the Land Registry in respect of applicant's stated interest has been lodged.
- Satisfied that there is no direct conflict with the extant permissions relating to no.8 Montpelier Pde.
- It is noted that the application is not accompanied by any conservation statement notwithstanding its location in an ACA. The Conservation Officer report is however helpful in this regard.
- The report reiterates and concurs with the concerns of the Conservation Officer and Transportation Planning Division as reflected in the reasons for refusal.
- No AA or EIA issues.

3.2.2. Other Technical Reports

- Conservation officer report: Refusal recommended. The design will visually detract from the character and appearance of the access laneway which is flanked by a granite stone wall.
- Drainage Division - Engineering Department - no objection.
- Transportation Planning Division – obstruction not recommended.

3.3. Prescribed Bodies

- No reports in response to planning authority's correspondence from An Chomhairle Ealaion. An Taisce, DAU Department of Culture, Heritage and the Gaeltacht, Failte Eireann or The Heritage Council,

3.4. Third-Party Observations

- None.

4.0 Planning History

4.1. Montpelier Lane

- An Bord Pleanála Ref 309427/ PA Ref. No. D20A/0506 refers to a refusal of permission (31/5/ 2021) for 2 storage bins along the lane to provide secure storage for the resident in Montpelier Cottage. The proposed development consisted of the construction of 2 No. free-standing, enclosed & covered bin stores (with a combined floor area of 6.48m²) along Montpelier Lane to the rear of Nos. 8 & 33 Montpelier Parade.
- ABP Ref. No.309256/ PA Ref. No. D20A/0551 / refers to a grant of permission (6/7/2021) on appeal to Austin Kenny and Joan Quealy to construct 2 No. part two-storey / part three-storey, 3-bedroom houses and 1 No. two-storey, 3-bedroom house with attic accommodation, all with associated balconies and garages, demolition of existing shed and associated siteworks to the rear of No. 8 Montpelier Parade (a protected structure), Monkstown, Co. Dublin.
- ABP Ref. 307871/ PA Ref. No. D20A/0306 refers to a grant of permission on appeal on 23/4/2021 to Austin Kenny and Joan Quealy permission for demolition of an existing shed and construction of 3 No. three-bedroom, mews houses, including integrated garages and associated site works at the rear of No. 8 Montpelier Parade (a protected structure), Monkstown, Co Dublin
- ABP Ref. 302433/PA Ref. No. D18A/0558 refers to refusal for permission on appeal for the construction of two three-bedroom, two-storey with attic accommodation mews houses, including garages, balconies and associated site works at the rear of No. 8 Montpelier Parade (a protected structure), Monkstown, Co. Dublin.

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.

- ABP Ref.306454/ PA Ref. No. D19A/0595 refers to a grant of permission on appeal on 26th June, 2020 for 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 (in lieu of mews house previously permitted under PA Ref. No. D17A/0459) at 33A Montpelier Lane, rear of 33 Montpelier Parade, Monkstown, Co. Dublin.

4.2. **Montpelier Cottage**

- PA Ref. D10B/0139. Permission granted on 27th May, 2010 to David and Olive Crowley for the demolition of front, sides and rear flat and pitched roof single storey extensions to existing house and proposed replacement with single storey pitched roof extensions to the sides, rear and front of existing house including two single storey lean-to bay windows to front and replacement of two lean-to single storey extensions to the west side, the extension to the rear and side have three pitched roofs to follow existing roof lines with incorporated roof lights, works to include internal and external alterations and all associated site works.

5.0 **Policy & Context**

5.1. **National Policy**

- 5.1.1. The 'Architectural Heritage Protection, Guidelines for Planning Authorities, 2004' provide detailed guidance in respect of the provisions and operation of Part IV of the Planning and Development Act, 2000, as amended, regarding architectural heritage, including protected structures and Architectural Conservation Areas. They detail the principles of conservation and advise on issues to be considered when assessing

applications for development which may affect architectural conservation areas and protected structures.

5.2. Development Plan

5.2.1. The objective for the site is 'To protect and/or improve residential amenities.'
(Zone A)

5.2.2. Chapter 2 refers to residential development . The subject site is located in an area with the Specific Local Objective: 'Mews Development Acceptable in Principle': It is Council policy to facilitate measured and proportionate mews lane housing development in suitable locations. (Policy RES6)

5.2.3. Chapter 6 refers to Built Heritage Strategy. The proposed development is alongside a protected Structure (No.8 Montpelier Parade) and is also within the Monkstown Architectural Conservation Area.

- **Policy AR1 refers to Protected Structures.** It is Council policy to:
 - (ii) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
 - (iii) Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the Department of the Arts, Heritage and the Gaeltacht 'Architectural Heritage Protection Guidelines for Planning Authorities' (2011).

- **Policy AR12 refers to Architectural Conservation Areas:** It is Council policy to:
 - (i) Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA).
 - (ii) Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area.
 - (iii) Seek a high quality, sensitive design for any new development(s) that are complimentary and/or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design.

(iv) Ensure street furniture is kept to a minimum, is of good design and any redundant street furniture removed.

(v) Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.

- **Policy AR17.** 'It is Council policy that development proposals within a candidate Architectural Conservation Area will be assessed having regard to the impact on the character of the area in which it is to be placed. All proposals for new development should preserve or enhance the established character of the buildings and streetscape.'

5.2.4. Chapter 8 sets out housing standards. Sections 8.2.3.4 (i) and (x) refer to extensions and to mews lane development respectively. Section 8.2.11.3 refers to Architectural Conservation Areas. It is policy to seek a sensitive design approach in order to protect the character of the area as defined by the external expression of its buildings and features including boundary treatment such as stone walls.

5.3. **Environmental Impact Assessment - Preliminary Examination**

5.3.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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**

A first-party appeal has been lodged and the grounds of objection are based on the following:

- The proposed development is response to the Transportation Division calling for bicycle storage and bin storage in the Laneway. All concerns addressed in this application. (Report for D20A/0551 attached)
- The laneway is wide enough and caters for car parking.

- The planning authority report has errors regarding title and so cannot be relied upon in its conclusions.
- The protection of the granite wall as a grounds for refusal is at odds with grants of permission to demolish same wall.
- It is submitted that the storage sheds would not have a detrimental impact on adjacent properties.
- Insufficient regard to legal interest of an applicant in other planning applications relating to Montpelier Lane.
- It is submitted that alleged lack of evidence of sufficient legal interest by the applicant/appellant in the laneway is the reason for refusing permission. This is despite awareness by the planning authority of ownership of the lane (Report attached with highlighted Transportation Division comments 'note the Applicant owns the Freehold interest to Montpellier Laneway...') yet not addressing ownership by other applicant's in other cases along the lane. An overview of this matter is requested given the conflict of interest.
- Letter from Solicitors stating ownership is attached.
- That the development would obstruct vehicle manoeuvres is disputed having regard to the width of the lane The Board is requested to seek further information from the planning authority about its site inspection.
- There are no objections to the proposal, for example, from the residents who use the laneway.
- The Bicycle storage is submitted to not be a permanent structure.
- The planning authority incorrectly assumed that the proposed development is for Montpelier Cottage whereas it is clarified that it is for 'the residents of the laneway and/or Montpelier Parade.'
- The grounds for refusal in relation to traffic hazard are not consistent with the grant of permission for what is described as a commercial high rise development in the same laneway.
- The proposed development will not block any vehicular manoeuvrability to the Laneway whatsoever.
- The Board is requested to independently review the merits of the case, misunderstandings arising and the 'true living arrangements' currently prevailing for bicycle storage.

6.2. **Planning Authority Response**

- 6.2.1. The planning authority considers that the grounds of appeal do not warrant a change of attitude and the Board is referred to the report previously submitted.

6.3. **Observations**

None

7.0 **Assessment**

7.1. **Issues**

- 7.1.1. This appeal relates to a proposal for multiple bicycle storage units in a laneway over which there is right of way and in an area that is of architectural conservation interest. From my inspection and review of the file, the key planning issues centre on:

- Traffic Hazard
- Visual amenity in a Conservation Area
- Appropriate Assessment

- 7.1.2. There are also procedural issues in relation to legal interest and nature of application which I consider to be secondary issues but I will address these in the first instance.

7.2. **Legal interest**

- 7.2.1. The appellant raises the issue of ownership in the understanding that the decision in this case is based on a possible misunderstanding and refers to the Transportation Division's acknowledgement of Freehold and also the somewhat conflicting assumptions in the reference to absence of Land Registry details (as highlighted in the appended reports to the appeal). The Board is requested to review the matter in the context of planning history wherein the issue of legal interest was in dispute. In further support of the appellant's entitlement to lodge a planning application, a letter from the applicant's solicitors dated 8th February 2021 has also been attached to the grounds of appeal . This states:

On behalf of our client Mr David Crowley we wish to confirm for the avoidance of doubt that Mr David Crowley is a co-owner with Mr Eamonn Furniss of the Laneway and has the full authority, title, estate, legal interest and beneficial interest in the property subject of this planning application and of this appeal.

7.2.2. The matter of legal interest was I note an issue raised in a previous case before the Board on appeal. However in this case the applicant's legal interest for the purposes of making an application is not in dispute. This may or may not be open to challenge, however the provisions of the Planning Acts do not permit the Board to determine these legal rights. It is clarified in s.34 (13) of the Planning Act 2000 as amended that planning permission alone does not entitle a person to carry out development. The main issue is that an applicant has sufficient legal interest to make the planning applicant. Having regard to the submissions, I am satisfied that the applicant has such interest.

7.3. Nature of proposed development

7.3.1. The other procedural issue relates to the precise nature of the proposed development. On the face of it, the initial application was made by a single applicant for domestic bicycle storage within a site which includes a single residence and the laneway over which there is an established right of way. The appellant however clarifies in the appeal that use is not intended solely for the occupants of Montpelier Cottage but instead is for the residents the area. It is submitted by the appellant that the planning authority jumped to conclusions in this regard and the decision was therefore misinformed in this regard.

7.3.2. This clarification raises issues about the nature of the development in so far as it is not strictly domestic and ancillary to a single dwelling. I note that the application fee was €34 which is for domestic type developments within a house and its curtilage. If it is not such a development, then the validity of the application is possibly open to question. While, the applicant states that the storage units are for the other residents, they are not party to the application. An absence of objection does not imply support. If they are to be rented then there is a matter of commercialisation of the site. If the Board is of mind to consider granting permission, I would consider it appropriate to restrict the development to ancillary domestic use and not to be used for any letting or sale independent of the dwelling withing the site.

7.4. Traffic Hazard

- 7.4.1. The principal argument against the proposal is that the placing of a structure in the lane would constitute an obstruction. The appellant makes the case that the laneway is sufficiently wide and that the provision of bike storage is in accordance with the requirement of the Transportation Division by reference to its report in D020A/0551 (as appended to appeal) for residential development to the rear of 8 no. Montpelier Parade in a separate case.
- 7.4.2. I consider this reference to be misleading. Firstly in that case the report refers to recessed parking within the curtilage of the proposed dwellings (which I note is provided in integrated ground level off street garages/storage areas) , and secondly the nature of the proposal for residential development is not comparable. Moreover, in this subject case, I consider the Transportation Division has been clear in its assessment.
- 7.4.3. The report of 12/4/2021 notes that notwithstanding the claim of freehold over the lane by the applicant, there are a other properties along the lane over which they have a Right of Way. The engineer for the division further states that the proposed units would partly obstruct this right of way and recommends that the mews lane which is used for access should be kept clear of obstructions to allow for vehicular movements. It is accordingly stated that permanent structures on the laneway are not recommended due to the potential to create a hazard and reduction of laneway width.
- 7.4.4. I consider the assessment by the Transportation Division in this case is reasonable. I say this having regard to the width of the lane which varies but which I measured to be around 6.6-6.7m (in the vicinity of the proposed development) and the nature and siting of the units. The storage units would encroach on this space reducing it by at least 1.2m when not in use and by additional amounts when any one of the 7 doors is open and in use. The obstruction is also near a pinch point at the laneway entrance gate as extended by the bollards. While latitude may be applied in permitting encroachment in certain circumstances, I consider in this case that there is insufficient basis to warrant this. I refer to the apparent speculative nature of the proposal in that it is intended to serve all or some of the residents in absence of confirmation of the need for such use. I also note that the laneway is wider where it

is parallel to Montpelier Parade and more convenient to Montpellier Cottage. There is no demonstrable reason why such facilities cannot be provided within the curtilage of the respective dwellings and why they need to be grouped at this location.

- 7.4.5. The argument that the structure is not permanent is somewhat contrary to the purpose of the planning application. Full Permission is sought for a structure – not temporary permission.
- 7.4.6. I further note that the Board refused permission for a permanent bin store in the laneway for reasons relating to obstruction of the laneway and the emerging pattern of development of this mews laneway and I consider this to be comparable. In view of the forgoing, I consider the reason for refusal in this regard should be upheld in a manner that is consistent with the Board's previous approach.

7.5. Visual Amenity in an ACA

- 7.5.1. The second reason for refusal is based on the impact the proposed development would have on Architectural Conservation Area.
- 7.5.2. The appellant argues that as the proposed structure is free standing and not attached to the wall it will not have any impact – although this is not supported with any detailed drawings. I accept however that the proposed development does not involve physical intervention with the granite wall and that it is a reversible development whereby the original character of the wall is preserved. The issue relates to visual impact on the both the setting of a Protected Structure and character of the Monkstown Architectural Conservation Area.
- 7.5.3. The proposed metal structure is a utilitarian structure and perfunctory in design. In this case the siting is in a prominent position highly visible from Montpelier Parade between a pair of terraces that comprise of individually protected structures while also collectively part of an ACA. It is sensitive setting. Such a structure, where there is a demonstrable need should in the first instance be discreetly positioned and secondly should follow principles of good architectural design and assimilation with its setting. This approach would be consistent with Development Plan policy and guidance in section 8.2.11.3 which aims to protect the external expression of buildings . I do not consider the placing of the structure in such a prominent location and blocking a boundary feature to be in this instance in accordance with good

practice. It would alter the character in a manner that would be visually incongruous as viewed from the road. There is also the issue that the proposal constitutes a form of ad hoc piecemeal development that would set an undesirable precedent which would contribute to the erosion of the architectural character of the Monkstown Architectural Conservation Area. The reference to the permission for a partially altered wall to accommodate mews development is not comparable as it relates to a comprehensive residential scheme assessed on its overall merits and which incorporates a stone finished reinstated section of wall.

- 7.5.4. On balance, I consider the proposed development would be contrary to the provisions of the development plan regarding the built heritage and would not accord with the proper planning and sustainable development of the area. Accordingly I concur generally with the recommendation of the Conservation Division and planning authority's reason for refusal in this regard.

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the proposed development, nature of the receiving environment and proximity to the nearest European site, I am satisfied that 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 planning permission for the proposed development be refused based on the following reasons and considerations, as set out below.

9.0 Reasons and Considerations

- 1) Having regard to the existing and emerging pattern of development in the area, it is considered that the proposed development if permitted would unacceptably obstruct the ease of movement and manoeuvring of vehicles on Montpelier Lane through a reduction in the available carriageway. Accordingly the proposed development would endanger public safety by reason of traffic hazard and the obstruction of road users and would therefore be contrary to the proper planning and sustainable development of the area.

- 2) It is considered that the proposed development, having regard to its design and nature and prominent position would be visually obtrusive and would detract from both the visual amenities of Montpelier Lane and the character and appearance of the Monkstown Architectural Conservation Area. The proposed development would accordingly be contrary to policy AR12 and section 8.2.3.11 for Architectural Conservation Areas of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The proposed development would therefore seriously injure the amenities and depreciate the value of property in the vicinity and be contrary to the proper planning and sustainable development of the area.

Suzanne Kehely

Senior Planning Inspector

21st February 2022