



An  
Bord  
Pleanála

## Inspector's Report ABP-320533-24

<b>Development</b>	Demolition of existing structure and construction of mews dwelling, together with all associated site works.
<b>Location</b>	Montpelier Cottage, Montpelier Lane, Blackrock, Co. Dublin, A94 P7X3
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D23A/0760
<b>Applicant(s)</b>	Saskia Crowley
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Saskia Crowley
<b>Observer(s)</b>	Pat McKenna and Michele Daly
<b>Date of Site Inspection</b>	5 <sup>th</sup> November 2024
<b>Inspector</b>	Emma Gosnell

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## **1.0 Site Location and Description**

- 1.1. The appeal site has a stated area of circa 0.0076 hectares and is located on the northern side and western end of Montpelier Lane, a gated laneway which is located off Montpelier Parade and to the south of Monkstown Road (R119) in Blackrock. The mews lane has an inverse T-shape and is approximately 6-7m wide on its west side with a carriageway that is shared between pedestrians and vehicles. The laneway is not taken in charge and operates a system of private pay and display parking.
- 1.2. Montpelier Lane falls within the Monkstown Architectural Conservation Area (ACA) and features a mix of properties including several mews dwellings on its north-east side which range between 1-2 storeys in height, some with additional attic level accommodation. A terrace of 3 no. 2-3 storey mews houses were observed to be under construction to the rear of No. 8 Montpelier Parade during the site inspection. There are no mews on the north-west side of the lane.
- 1.3. The site is bordered to the north by the rear gardens of No's 4-5 Montpelier Parade, (3-storey over basement Victorian properties which form the western portion of a paired terrace of Protected Structures (PS), to the east by a vacant development site which is enclosed by a stonewall on its north and east sides, and to the west by the rear garden of No. 13 Shandon Park – which is accessed via a pedestrian gate in the wall at the west end of the lane. The property known as 'Montpelier Cottage' is located circa 20m to the south-east of the site, with the rear garden of No. 12 Shandon Park being located 8m to the south – both properties being located on the opposite side of the laneway.
- 1.4. The appeal site is rectangular in shape and comprises of a single-storey structure (30sq.m) with 3 no. front rooflights which is stated to be in use as an ensuite home office. The structure fronts directly onto the mews laneway and is bordered by tall period stone walls to the west and north. A dog-leg shaped access pathway slopes upward along the structure's (east) side and rear and provides pedestrian access to No's 1-4 Montpelier Parade.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the demolition of an existing single-storey structure, which is in use as a home office, and the construction of a 3-storey mews dwelling (with a stated area of 87.9 sq.m) comprising of a dormer attic level and balconies at 1<sup>st</sup> and 2<sup>nd</sup> floor levels together with an integrated garage, and all associated site works.
- 2.2. Significant further information (FI) was submitted on the 1<sup>st</sup> July 2024 in response to the planning authority's (PA) request that the height of the mews be revised to 2-storeys in compliance with the policy guidance set out under Section 12.3.7.9 (Mews Lane Development). The revised FI plans proposed changes to the 2<sup>nd</sup> floor level including the removal of a 7.1 sq.m balcony and the provision of a mansard roof with rooflights to the kitchen-living-dining room; a 2.1sq.m increase in the size of the terrace at 1<sup>st</sup> floor level; and, the replacement of the integrated garage at ground level with an ensuite home office – with related changes to the property's bike and bin storage arrangements.
- 2.3. The applicant is not the legal owner of the appeal site and it is noted that a letter of consent from a Mr. David Crowley (who is identified as the applicant's father) dated 17<sup>th</sup> November 2023 was submitted with the planning application.
- 2.4. The application documentation also clarifies that the existing home office is a standalone use and not functionally connected to the family home at 'Montpelier Cottage'.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission refused for 2 no. reasons:

*'1. The subject site is located along Montpelier Lane, which is within the Monkstown Architectural Conservation Area, which provides for mews dwellings generally of single or two-storey in character. The subject application seeks permission for a three-storey character dwelling on a restricted site. It is considered that the proposed development by reason of the scale, bulk and design of the proposed mews dwelling*

would seriously detract from the established character of Montpelier Lane, and would, therefore, be out of keeping with the established character of the Architectural Conservation Area and would adversely impact on the amenity and appreciation of the nearby Protected Structures and existing mews dwellings along the lane. Furthermore, it is considered that the proposed development fails to accord with the requirements of Section 12.3.7.10[\*] Mews Lane Development, of the Dun Laoghaire Rathdown County Development Plan 2022-2028, which states that 'Development will be confined to single units in one or two storeys of modest size...'. Therefore, to permit the mews dwelling as proposed, would be contrary to the provisions of the aforementioned plan. Accordingly, to permit the proposed development would seriously injure the existing residential and visual amenities and depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development would only enjoy by way of private open space a 6.5 sqm inset terrace behind a privacy wall, which is not considered to comply with the necessary requirements to be considered 'open' space and is also below the minimum thresholds established by SPPR2. Accordingly, the Planning Authority considers that the subject proposal would provide a substandard level of amenity contrary to the requirements of the 2022-2028 Dún Laoghaire-Rathdown County Development Plan and National Planning Policy in the form of current s.28 Ministerial Guidelines. The proposed development would set an undesired precedent and would be contrary to the proper planning and sustainable development of the area.'

\*I draw the Board's attention to a misnumbering in the refusal reason (and in the Case Planner's reports and FI request) in respect to the policy on Mews Lane Development which is incorrectly cited as Section 12.3.7.10 (which relates to institutional lands) when the correct reference is Section 12.3.7.9 of the Development Plan.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

2 no. reports formed the basis of the Case Planner's assessment of the proposal.

Planner's Report (31/01/2024) – Initial Application Stage

The report sets out the planning history, policy context, summary of issues raised in the submissions, internal departmental reports and by prescribed bodies, EIA Screening, AA Screening and the planning assessment.

Points of note raised include:

- Principle of Demolition/ Development – was deemed acceptable.
- Visual impact on Protected Structures and Monkstown ACA – concerns re: scale and height and related non-compliance with Section 12.3.7.10\*.
- Residential Amenity Issues – concerns re: overlooking of No's 12 & 13 Shandon Park and compliance with Compact Settlement Guidelines' SPPR1 (separation distances) and SPPR2 (private amenity space) standards.
- Access, Parking and Transport – use of ground floor garage potentially unsuitable/ car free development encouraged.
- Drainage – additional detail needed on surface water management compliance.
- Other Matters – impact of proposal on adjoining passageway/laneway.

A request for FI comprising 3 no. items was recommended on 30/01/2024.

Item 1 – Revise height/ design in compliance with Section 12.3.7.10\* and illustrate compliance with density policy and adequate separation from neighbours.

Item 2 – Compliance with sustainable drainage policy.

Item 3 – Compliance with car parking standards/ policy.

The applicant requested a 3-month extension of time on their response to the FI request on 24<sup>th</sup> June 2024 via email and this request was accompanied by an unsolicited Services Report.

Notwithstanding the above request, the applicant's response to the FI request was officially submitted on 1<sup>st</sup> July 2024 and included a revised set of drawings, a report on services, and a response to the submissions made. The FI response included proposed changes to the 2<sup>nd</sup> floor level including the removal of the original 7.1 sq.m bow-fronted balcony and the provision of a new mansard roof (i.e. part pitched and part flat) with new front skylights/ rooflights to the living-kitchen-dining room at attic

level; an increase in the area of the screened terrace at 1<sup>st</sup> floor level (from 4.4sq.m to 6.5sq.m) to be fully inset and screened; and, the replacement of the integrated garage/bin and bike store at ground floor level with an ensuite 14.8sq.m home office with bike storage to the rear together with a screened-off 3.6sq.m bin storage area which would be accessed from the laneway to the front.

The FI response was deemed significant and the applicant was instructed to re-advertise the proposal.

#### Planner's Report (17/07/2024) – Post-Receipt of Further Information Stage

The planner's report includes an assessment of FI received, a summary of submissions and technical reports received. Points of notes include:

##### Item 1 –

- a. Item not adequately responded to as there were no significant changes to the mews' height or character and the 8.3m height proposed was considered excessive, would detract from the ACA/ PS/ built context, and is not in compliance with Section 10.3.7.10\*. Refusal recommended on this basis.
- b. Proposal to provide 6.5 sq.m private open space (POS) on inset terrace behind privacy screen is quantitatively non-compliant with SPPR2 of Compact Settlement Guidelines and would provide a substandard level of amenity contrary to requirements of Development Plan and national planning policy guidance. Refusal recommended on this basis.
- c. Separation distances to adjacent dwellings satisfactorily illustrated.

Item 2 – Proposal to attenuate rainwater in paved infiltration area was acceptable.

Item 3 – Proposal to replace car parking with home office/ WC/ storage acceptable.

The report concluded by recommending that permission be refused for 2 no. reasons (as set out under Section 3.1 of this report).

### 3.2.2. Other Technical Reports

#### Initial Application Stage

- Conservation Officer (18/01/2024) – recommends the omission of the 3<sup>rd</sup> floor to be addressed by way of FI.
- Environmental Enforcement (13/12/2023) – no objection subject to standard construction and and operational waste management conditions.
- Drainage Planning (10/01/2024) – recommends information on surface water management policy compliance is sought by way of FI.
- Transportation Planning (25/01/2024) – no objection subject to standard conditions re: traffic management and pedestrian safety during construction phase [Note – this internal report was issued after writing of planner’s report].

#### Post-Receipt of Further Information Stage

- Conservation Officer (12/07/2024) – not satisfied with FI response or with how conservation concerns had been addressed. Maintain view that the scale and height of the mews structure would detract from the character of the ACA and from the amenity and appreciation of nearby PS.
- Drainage Planning (08/07/2024) – satisfied with FI response and recommends the attachment of a surface water drainage condition.

### **3.3. Prescribed Bodies**

#### Initial Application Stage

Irish Water (10/01/2024) – raised no objections. Sought the attachment of 3 no. conditions in the event of a grant of planning permission.

#### Post-Receipt of Further Information Stage

None.

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

#### **3.4.1 Initial Application Stage**

7 no. third party submissions were received on behalf of the following observers (neighbouring property owners):

- Justin and Jacqueline McCabe of No. 5 Montpelier Parade.



- Justine and Ian Duffy of No. 2 Montpelier Parade.
- Janette O Byrne of No. 3 Montpelier Parade.
- Susan and John Haverty of No. 4 Montpelier Parade.
- Clare and Andrew Byrnes of No. 6 Montpelier Parade.
- Mary McLaughlin Beck of No. 12 Shandon Park.
- Pat McKenna and Michele Daly of No. 13 Shandon Park (also made an observation on the appeal, details in Section 6.4.1 of this report).

The submissions raise several concerns in respect to the proposal's impact on neighbouring residential amenity:

- Proposal is overdeveloped and would severely intrude upon and overlook the house and gardens at No. 12 Shandon Park and No's 2, 3, 4 and 6 Montpelier Parade, diminishing existing residential amenity/ setting undesirable precedent.
- Proposed mews foundations would interfere with the property rights of No 5 Montpelier Parade to use the dog-leg passageway to the side/ rear of the proposal, amounts to trespass, and renders the application legally invalid.
- Proposal would interfere with existing laneway right of way/ easement benefiting No. 13 Shandon Park used for pedestrian access and vehicular loading/ unloading.
- Applicant doesn't have legal consent from owners of No. 13 Shandon Park.
- Proposal within 15km of Natura Site but no AA screening provided with application.
- Proposal is for a 3-storey and not a 2-storey dwelling as claimed by applicant.
- Proposed integrated garage is not workable, vehicular access and egress would be difficult and applicant has no right to park on the laneway.

#### 3.4.2 Post-Receipt of Further Information Stage

1 no. third party submission (dated 08/07/2024) on the significant FI was received from a Mr. Liam Madden on behalf of 7 no. observers (neighbouring property owners):

- Juston and Jacqueline McCabe
- Justine and Ian Duffy
- Janette O Byrne

- Susan and John Haverty
- Clare and Andrew Byrnes
- Mary McLoughlin Beck
- Pat McKenna and Michele Daly.

The submission raised the following issues in respect of the SFI proposal:

- Lack of detail on alternative laneway parking proposed in place of garage.
- Potential overlooking from 1<sup>st</sup> floor balcony and 2<sup>nd</sup> floor velux windows.
- Applicant's legal entitlement to build on/ use laneway.
- Substandard provision of private open space.
- Adverse impact on residential amenities of No's 12 & 13 Shandon Park.
- Description of development not an accurate reflection of proposed height.

## 4.0 Planning History

### 4.1. Site

P.A. Ref. D15A/0019/ PL06D.244935 – Permission granted on 9<sup>th</sup> September 2015 for demolition of existing detached flat roof single storey garage to Montpelier Cottage and replacement with new detached single storey pitched roof home office with bay window fenestration and roof lights to laneway, including associated services, landscaping and drainage, subject to standard conditions.

P.A. Ref. D15A/0019/E – Permission granted on 26<sup>th</sup> June 2020 for an Extension of Duration for the abovementioned development until 8<sup>th</sup> September 2025. The permitted development has since been built out.

### 4.2 Neighbouring Sites

#### 4.2.1 *Laneway*

P.A. Ref. D21A/0133/ ABP-310189-21 – Permission refused on 30<sup>th</sup> March 2022 for 8 no. bicycle storage units for 1 no. reason: vehicular movement and traffic hazard.

P.A. Ref. D20A/0865/ ABP-309427-21 – Permission refused on 31<sup>st</sup> May 2021 for 2 no. bin storage units for 1 no. reason: vehicular movement and traffic hazard.

#### 4.2.2 *Montpelier Cottage*

P.A. Ref. D10B/0139 - Permission granted on 27<sup>th</sup> May 2010 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.

#### 4.2.3 *No. 4 Montpelier Parade*

P.A. Ref. D10A/0669 - Permission granted on 7<sup>th</sup> February 2011 for two storey extension to the rear and associated works subject to standard conditions.

#### 4.2.4 *Site to Rear of No. 8 Montpelier Parade*

P.A. Ref. D20A/0551/ ABP-309256-21 – Permission granted on 5<sup>th</sup> July 2021 for construction of 2 no. part two-storey part three-storey, three-bedroom houses and 1 no. two storey, three-bedroom house with attic accommodation, all with associated balconies and garages, demolition of existing shed and associated siteworks to the rear, subject to conditions [currently under construction].

P.A. Ref. D20A/0306 / ABP-307871-20 – Permission granted on 23<sup>rd</sup> April 2021 for the demolition of an existing shed and the construction of three no. three-bedroom, two-storey with attic accommodation mews houses, subject to standard conditions.

P.A. Ref. D18A/0558 / ABP-302433-18 – Permission refused on 13<sup>th</sup> March 2019 for the construction of two three-bedroom, two-storey with attic accommodation mews houses, for 1 no. reason relation to design, bulk, scale and height and overlooking from first floor balconies.

#### 4.2.5 *Site to Rear of No. 33 Montpelier Parade*

P.A. Ref. D19A/0595 / ABP-306454-20 – Permission granted on 26<sup>th</sup> June 2020 for development, in lieu of existing granted mews house (D17A/0459) comprising 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, subject to standard conditions.

P.A. Ref. D19A/0094 – Permission refused on 8<sup>th</sup> April 2019 for development in lieu of existing granted mews house (D17A/0459) comprising 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, for 1 no. reason relating to scale and design, impact on residential amenities and on amenities of Monkstown Architectural Conservation Area.

P.A. Ref. D17A/0459 / PL06D.249228 – Permission granted on 25<sup>th</sup> January 2018 for the demolition of an existing builder's workshop and store and construct a three-bedroom, two-storey mews dwelling, incorporating integral car parking space, private open space to rear and all associated works, subject to standard conditions.

P.A. Ref. D16A/0451 – Permission refused on 16<sup>th</sup> August 2016 for demolition of existing single storey garage/store and construction of new 2 storey end of terrace mews house with attic level accommodation and car parking bay on private mews laneway, for 2 no. reasons relating to parking & traffic hazard and, non-compliance with Development Plan mews policy in respect to scale and height and related adverse impacts on visual and neighbouring amenities.

## **5.0 Policy Context**

### **5.1. National Policy Guidance**

5.1.1 Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).

- SPPR 1 – Separation Distances
- SPPR 2 – Minimum Private Open Space Standards for Houses
- SPPR 3 – Car Parking

5.1.2 Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes and Sustaining Communities (2007).

5.1.3 Architectural Heritage Protection: Guidelines for Planning Authorities (2011).

### **5.2. Development Plan**

The Dun Laoghaire Rathdown County Development Plan (DLRCDP) 2022-2028 applies.

### 5.2.1 Zoning

Table 13.1.2 (Zoning Objective 'A')

The site is zoned 'Objective A' with the Objective '*To provide residential development and improve residential amenity while protecting the existing residential amenities*'.

### 5.2.2 Protection of Residential Amenity

Section 4.3.1.3 (Policy Objective PHP20: Protection of Existing Residential Amenity)

### 5.2.3 Housing Development/ Mews Houses

Section 4.3.1.5 (Policy Objective PHP22: Mews Lane Housing)

Section 12.3.3 (Quantitative Standards for All Residential Development)

Section 12.3.4 (Residential Development – General Requirements)

Section 12.3.7.9 (Mews Lane Development)

Section 12.3.7.10 (Institutional Lands)\*

Section 12.8.3.3 (Private Open Space, (i) Private Open Space for Houses)

Section 12.8.7 (Private Amenity Space – Quality Standards)

### 5.2.4 Architectural Conservation Areas/ Protected Structures

Section 11.4.2 Architectural Conservation Areas

Section 11.4.2.1 (Policy Objective HER13: Architectural Conservation Areas, specifically subsections (iii and iv))

Section 11.4.2.2 (Policy Objective HER14: Demolition within an ACA)

Section 12.4.8.4 (ACAs/Protected Structures)

Section 12.11.2 (Architectural Heritage - Protected Structures)

Section 12.11.3 (Architectural Conservation Areas (ACAs))

## 5.3. **Natural Heritage Designations**

The appeal site is not located within any designated site.

The nearest European Sites and Natural Heritage Areas in close proximity to the appeal site are as follows:

- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) – approx. 500m to north.
- South Dublin Bay SAC (Site Code 000210) – approx. 500m to the north.

- South Dublin Bay pNHA (Site Code 000210) – approx. 500m to the north.

#### 5.4. EIA Screening

See completed Form 2 (Preliminary Examination) in Appendix 2 which concludes that there is no real likelihood of significant effects on the environment based on the nature, size and location of the proposed development. EIA, therefore, is not required.

### 6.0 The Appeal

#### 6.1. Grounds of Appeal

6.1.1 A first party appeal was received. The grounds of appeal can be summarised as follows:

##### Design

- Proposal is visually unobtrusive and suits its context.
- Privacy screening/ boundaries will safeguard neighbouring amenities.
- Height/ fenestration arrangements in-keeping with other mews on lane.

##### Open Space

- Laneway will function as POS for mews dwelling.
- Multiple public open spaces (parks and beaches) located in vicinity of site.

##### Neighbouring Amenity

- Proposal will not overlook or impact lighting to No. 12 Shandon Park.
- Privacy screening/ balcony removal prevent overlooking of No. 13 Shandon Park.
- Mews structure/ foundations will not impinge upon right of way/ dog-leg pathway.
- Proposal will not affect amenities of No's 2-4 & 6 Montpelier Parade due to offset and blank rear elevation.

The appellant also submits various documentation in support of their appeal including:

- An email (dated September 2020) from DLR's Architectural Conservation Officer.
- Copies of documentation submitted at initial planning and FI stage and the PA's reports on same.

- Drawings of mews dwellings permitted on laneway as per Section 4.2 of this report.
- Various recent photos taken in and around the laneway incl. a couple illustrating the visual impact of development permitted under D20A/0551 (being constructed).

## **6.2. Planning Authority Response**

The PA refer the Board to their Planner's Report and state that, as the grounds of appeal do not raise any new matters, no change of attitude is warranted.

## **6.3. Observations**

6.3.1 1 no. observation was received from Pat McKenna and Michele Daly of No. 13 Shandon Park, Blackrock on 30<sup>th</sup> August 2024. The issues raised by the observers relate primarily to legal issues and impact on neighbouring residential amenity:

- Status of existing easement and related court cases.
- Property rights of applicant to develop on dog-leg path and into shared laneway.
- Overshadowing and overlooking of rear garden and living spaces.
- Negative impacts on No. 13's residential amenities due to height/ design/ siting.
- Insufficient private amenity space.
- Insufficient detail on car parking arrangements.
- Ambiguity in description of development re: demolition versus alterations.

## **6.4. Further Responses**

None received.

## **7.0 Assessment**

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report(s) of the local authority, and having inspected the site, and having regard to the relevant local/ regional/ national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Impact on Residential Amenity

- Height, Scale and Design
- Private Open Space
- Other Issues

## **7.1 Principle of Development**

7.1.1 The proposed development is located in an area zoned for residential development. The principle of development is therefore acceptable, subject to the detailed considerations below.

## **7.2 Impact on Residential Amenity**

7.2.1 The PA's first reason for refusal cites concerns in respect to the scale, bulk and design of the proposed mews dwelling and its potential to adversely impact on the amenities of neighbouring properties.

7.2.2 The observer raises significant concerns in respect to the siting, design and scale of development and the likely impact of the proposal on their residential amenities in terms of overlooking, overbearance and overshadowing of their home and private garden. Much the same concerns were also raised by the other neighbouring property owners at the initial application and FI stages (as detailed in Sections 3.4.1 and 3.4.2 of this report) and centred on the constrained siting, scale and design of the proposal, overdevelopment and related impacts, and the potential for the proposal to give rise to overlooking of neighbouring properties.

7.2.3 The appellant submits that the bulk and scale of the building as redesigned in response to the FI has addressed the potential for adverse impacts on neighbouring residential and visual amenities and questions the weight given to the potential impact on nearby mews, surrounding dwellings and PS given their distance and relationship to the proposal. In this regard, I note that the PA in their FI report determined that adequate separation distances to neighbouring properties at Montpellier Parade and Shandon Park were provided for.

7.2.4 Given the large size and configuration of No.13's rear amenity space, together with the offset angle and c.12m separation between its rear living spaces and the proposal, I do not consider that the mews has the potential to give rise to a material impact on its daylight/ sunlight.



7.2.5 Having reviewed the FI plans, I consider that the design changes made have rendered the mews dwelling unacceptably **overbearing on No. 13**, on account of its massing and siting directly abutting the western boundary, with this relationship giving rise to an adverse impact on the **visual amenity** of this neighbouring property. Furthermore, whilst I consider that the proposed design changes made at FI stage did address some of the 3<sup>rd</sup> parties' privacy concerns arising from the bedroom accommodation at 1<sup>st</sup> floor level, I am of the view that they did not fully address the potential for **overlooking of neighbouring properties**. Having reviewed the section drawings and 2<sup>nd</sup> floor plan submitted as part of the FI response, I am concerned about the potential for overlooking of neighbouring properties to the south and south-west from the attic rooflights serving the main habitable space at the 2<sup>nd</sup> floor level – particularly having regard to the rooflights almost full height nature and siting at what appears to be just 1.1m above FFL (finished floor level). Whilst the design of the rooflights could potentially be amended by way of condition in order to increase their height above the FFL, the privacy issues arising from the placement of the rooflights is only one of many concerns that I have about the potential of the dwelling's design to negatively impact on neighbouring properties. This matter is discussed further in Section 7.3 below in the context of a wider consideration of the proposal's scale and design.

### 7.3 Height, Scale and Design

#### Height

7.3.1 In assessing the proposal against Section 12.3.7.9\* (Mews Lane Development) of the DLRCDP, the PA concluded that the 3-storey dwelling did not accord with this policy on account of its height and scale. The PA also raised concerns that the scale, bulk and design of the proposed dwelling was inconsistent with the established character on Montpelier Lane and in the Monkstown ACA and would impact on the amenity/appreciation of nearby mews dwellings and PSs. Together, these issues formed the basis of the PA's refusal reason No.1.

7.3.2 The appellant submits that the proposal was assessed unfairly by the PA having regard to the height and scale of recent dwellings permitted on Montpelier Lane that were deemed compliant with the same mews policy. The grounds of appeal put forward a number of recent planning precedents for the development of 2-storey with

attic accommodation/ 3-storey mews houses on Montpelier Lane and specifically cites the grants of permission under P.A. Ref. D20A/0551/ ABP-309256-21 (site to rear of No. 8 Montpelier Parade) and P.A. Ref. D05A/0824 (No. 35 Montpelier Mews).

7.3.3 Having regard to the extensive list of planning precedents cited in the grounds of appeal, I would note that every application is considered on its own merits having regard to the sensitivity of the receiving environment and the specifics of the proposal. In the case of this appeal, the crux of the matter is whether the proposed height/ scale and design are compliant with the DLRCDP's mews policy and, with the prevailing character of the area as per the PA's first refusal reason.

7.3.4 Section 12.3.7.9 of the current plan states that mews lane developments are to be 1-2 storeys in height - a requirement which is unchanged from the earlier 2016 Plan (under which the above mentioned precedents were assessed and permitted). However, having visited the site, and considered the proposed development in the context of the recent planning history and development on the lane, I am of the view that the recently permitted developments on the north-east side of the laneway (i.e. to rear of No's 8 and 33 Montpelier Parade) have altered its prevailing height, with dwellings of 2-3 storeys in various configurations now being evident. I therefore consider the proposal for 2 no. full storeys with further residential accommodation at attic level (within the roof profile) to be acceptable in principle. On the basis of foregoing considerations, I consider that the proposal is compliant with Section 12.3.7.9 (Mews Lane Development) of the DLRCDP in terms of its height.

#### Design/ Scale

7.3.5 The PA cite concerns in respect to scale, bulk and design of the proposed mews dwelling and its potential to adversely impact on the established character of the area in their first reason for refusal.

7.3.6 In terms of the proposal's design and scale, I consider that the FI design changes did succeed in simplifying the presentation and materiality of the front façade and in reducing the shoulder height of the mews dwelling and the massing of its 1<sup>st</sup> and 2<sup>nd</sup> storeys when viewed from the front, directly off Montpelier Lane (south). However, I also note that the changes made to the 3<sup>rd</sup> storey and to the roof profile have given rise to an unacceptable increase in the structure's overall bulk and massing when viewed from the west (from the rear garden of No. 13 Shandon Park), from the south

and south-east (off Montpelier Lane) and, to a lesser extent from the PSs to the north (No's 2, 3, 4 and 6 Montpelier Parade), notwithstanding the dwelling's siting at a lower ground level relative to these latter neighbouring properties. I also consider that the FI changes to the 3<sup>rd</sup> storey have rendered the dwelling unacceptably overbearing (particularly on No. 13 on account of its siting directly abutting the western boundary), out of proportion and, out of character with other existing and permitted mews properties on the laneway, with significant potential to give rise to negative visual impacts on the adjoining streetscape. It is my view that these factors render the proposal non-compliant with Section 4.3.1.5 Policy Objective PHP22 (Mews Lane Housing) - which was not cited by the PA in their FI or in their reasons for refusal. In this regard, I would note that while the part 2-storey part 3-storey houses to the rear of No. 8 Montpelier Parade permitted by the Board under P.A. Ref. ABP 309256-21 also had a third storey of residential accommodation, the visibility of this additional level of roof-level accommodation was mitigated through the provision of shallow profile monopitched roofs which significantly reduced the bulk and massing of the 3<sup>rd</sup> storey onto the relatively narrow laneway and also when viewed from the row of PSs to the rear.

7.3.7 Therefore, having regard to the prevailing built character of the laneway, I consider the design, bulk and full-width, deep massing of the revised top floor and mansard roof to be an unacceptable deviation from same which would give rise to a negative visual impact on the Montpelier Lane streetscape. I am also of the view that the proposal is unacceptably overbearing on adjacent properties to the south and south-west and, to a lesser extent, I am concerned that its bulk/ mass may negatively impact on the integrity and visual amenity of the adjacent PSs at Montpelier Parade.

7.3.8 Overall, I consider the proposed mews dwelling's scale and form to be inconsistent with the pattern of existing and recently permitted mews development on Montpelier Lane and I would share the PA's concerns with the proposal's scale, bulk and design and potential to adversely impact on the residential and visual amenities of neighbouring properties. Therefore, whilst I consider that the proposal does not materially contravene Section 12.3.7.9 (Mews Lane Development) of the DLRCDP which states that dwellings may be required to reflect the scale, height, materials and finish of existing buildings, it is my view that the proposal is not compliant with Section 4.3.1.5 Policy Objective PHP22 (Mews Lane Housing) which requires that mews lane

housing be measured and proportionate and respect/ do not injure the existing built form, scale, character and heritage of the area, and I recommend that permission be refused on this basis.

#### **7.4 Private Open Space**

7.4.1 The substandard provision of POS is raised as an issue in the 3<sup>rd</sup> party observations received at FI stage and in the observation on the 1<sup>st</sup> party appeal.

7.4.2 Section 12.3.7.9 of the DLRCDP states that each dwelling shall generally have a private open space area of not less than circa 48 sq.m. exclusive of car parking area and that a financial contribution in lieu of public open space provision may be required.

7.4.3 The PA's 2<sup>nd</sup> refusal reason relates to the proposal's non-compliance with SPPR 2 (Minimum Private Open Space Standards for Houses) of the 2024 Compact Settlement Guidelines which mandates the provision of a minimum quantity of 20sq.m of private amenity space for a 1-bedroom house. It also cites concerns with the quality of the 6.5 sq.m POS that was to be provided as an inset terrace to the rear of a privacy wall.

7.4.4 I note that a larger quantum of POS was proposed at initial application stage in the form of 2 no. projecting balconies/ terraces at 1<sup>st</sup> and 2<sup>nd</sup> floor levels with more open screening treatments, but that the quantum of POS provided was reduced and the scale of screening increased in response to the PA's concerns in respect to visual impact on the Monkstown ACA/ PS and overlooking of neighbouring properties.

7.4.5 The grounds of appeal refute the PA's reasoning and note that, as their family owns Montpelier Lane, the c. 40sq.m laneway serves as private amenity space which is augmented by the multiple POSs in the vicinity of the appeal site which together meet their open space needs.

7.4.6 It is my view that a hardscaped private laneway, which serves as an access road for multiple residential properties, does not constitute private amenity space. However, I also note that SPPR2 provides for a relaxation of the applicable quantitative standards for urban infill schemes on sites below 0.25ha on a case-by-case basis, subject to overall design quality and proximity to public open space, with a similar provision being made under Section 12.8.3.3 (i) of the DLRCDP. I am generally satisfied that the site is proximate to the coast in addition to several parks and that the proposed 1-bed

dwelling would provide for a good standard of future residential amenity, particularly having regard to its size, aspect, the provision of a home office and ensuite bedroom with direct access to an amenity terrace. Furthermore, whilst I note the PA's concerns in respect to the quality/ functionality of the south-facing terrace on account of its in-line positioning and screening treatment, on balance I feel that the quantum, form and siting of the POS as proposed is practical and reasonable, having regard to the site's limited size and constrained nature. Overall, I am satisfied that a relaxation on compliance with the applicable POS standard under SPPR2 and minimum POS requirement under Section 12.3.7.9 would be acceptable in this instance and would not warrant a refusal of permission.

## **7.5 Other**

### Legal issues

- 7.5.1 The grounds of appeal refer to various legal issues. Such matters are civil matters to be resolved between the parties, having regard to the provisions of Section 34(13) of the Planning and Development (2000) as amended.

### Parking

- 7.5.2 The observer contends that the appellant has failed to show the location of their intended car parking space. I note that parking arrangements have already been addressed at FI stage where the applicant stated that they would be pursuing a car-free development given the site's well serviced location.

### 7.5.3 Inaccuracies in Description of Development

The observer notes that there is some reference in the planning application to the alteration of an existing building rather than to its demolition. Whilst I note that the description of development on the statutory notices refers to 'the redevelopment of an existing home office' it goes on to state that permission is being sought for its demolition. On this basis, I am satisfied that no issue arises as to compliance with the requirements of the Planning and Development Regulations (2001) as amended and I am also satisfied that the information before me is sufficiently clear to allow me to continue to assess the application.

## 8.0 AA Screening

- 8.1. I have considered the proposed development at Montpelier Cottage, Montpelier Lane, Blackrock, in light of the requirements of S177U of the Planning and Development Act 2000 (as amended).
- 8.2. The subject site is located in a mature residential area on zoned and serviced lands. It is located approx. 500m south of 2 no. European Sites:
- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) where the qualifying interests are Light-bellied Brent Goose (*Branta bernicla hrota*) [A046], Oystercatcher (*Haematopus ostralegus*) [A130], Ringed Plover (*Charadrius hiaticula*) [A137], Grey Plover (*Pluvialis squatarola*) [A141], (*Calidris canutus*) [A143], Sanderling (*Calidris alba*) [A144], Dunlin (*Calidris alpina*) [A149], Bar-tailed Godwit (*Limosa lapponica*) [A157], Redshank (*Tringa totanus*) [A162], Black-headed Gull (*Chroicocephalus ridibundus*) [A179], Roseate Tern (*Sterna dougallii*) [A192], Common Tern (*Sterna hirundo*) [A193], Arctic Tern (*Sterna paradisaea*) [A194], Wetland and Waterbirds [A999].
  - South Dublin Bay SAC (Site Code 000210) – where the qualifying interests are Mudflats and sandflats not covered by seawater at low tide [1140], Annual vegetation of drift lines [1210], *Salicornia* and other annuals colonising mud and sand [1310], Embryonic shifting dunes [2110].
- 8.3. The proposed development comprises of the demolition of existing home office structure and the construction of mews dwelling, together with all associated site works
- 8.4. Whilst nature conservation concerns were raised in the observations made at initial planning stage, they were not subsequently raised in the context of the appeal.
- 8.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- The minor nature of the development.
  - The location-distance from the nearest European Site and lack of connections.
  - Taking into account the screening report/ determination by the PA.

- 8.6. I conclude that, on the basis of objective information, the proposed development would not have a likely significant effect on any European Site, either alone or in combination with other plans or projects.
- 8.7. Likely significant effects are excluded and therefore Appropriate Assessment (Stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **9.0 Recommendation**

I recommend that permission be refused for the reasons and considerations set out below.

## **10.0 Reasons and Considerations**

1. Having regard to the pattern of existing and permitted development in the area, the nature, scale and design of the development proposed, together with Section 4.3.1.5 Policy Objective PHP22 (Mews Lane Housing) of the Dun Laoghaire Rathdown County Development Plan 2022-2028, it is considered that the proposed development would be out of scale, proportion and character with the existing built form on Montpelier Lane and would seriously injure the visual amenities of the area and, to a lesser extent, the built heritage of the area. The proposed development would also give rise to significant overbearance on, and overlooking of, neighbouring properties thereby seriously injuring their residential amenity. The proposed development would, therefore, be contrary to the provisions of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Emma Gosnell  
Planning Inspector

10<sup>th</sup> December 2024



# Appendix 1

## Form 1

### EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>	<b>ABP- 320533-24</b>		
<b>Proposed Development Summary</b>	Demolition of existing structure and construction of mews dwelling, together with all associated site works		
<b>Development Address</b>	Montpelier Cottage, Montpelier Lane, Blackrock, Co. Dublin, A94 P7X3.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	✓	Class 10(b)(i) (infrastructure – Dwelling Units)	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	✓		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	✓	500 units – proposal is for 1 no. unit	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	✓	Screening determination remains as above (Q1 to Q4)	
Yes		Screening Determination required	

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix 2

### Form 2

#### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference Number</b>	<b>ABP- 320533-24</b>
<b>Proposed Development Summary</b>	Demolition of existing structure and construction of mews dwelling, together with all associated site works.
<b>Development Address</b>	Montpelier Cottage, Montpelier Lane, Blackrock, Co. Dublin, A94 P7X3.
<p><b>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<b>Characteristics of proposed development</b>	<p>The proposed development requires the demolition of an existing single storey home office to facilitate the construction of 1 no. 3-storey mews dwelling.</p> <p>The standalone development has a modest footprint and does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance.</p> <p>The development, by virtue of its type and scale, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<b>Location of development</b>	<p>The development is situated in a densely populated urban area on brownfield land and is located at a remove from sensitive natural habitats, designated sites and landscapes of significance identified in the DLRCDP.</p> <p>The development is located in an ACA and adjoins a number of Protected Structures.</p>
<b>Types and characteristics of potential impacts</b>	<p>Having regard to the modest nature of the proposed development, its location relative to sensitive habitats/ features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>

Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	✓
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	
There is a real likelihood of significant effects on the environment.	EIAR required.	

Inspector:

Date: \_\_\_\_\_

DP/ADP: \_\_\_\_\_

(only where Schedule 7A information or EIAR required)

Date: \_\_\_\_\_