



An  
Bord  
Pleanála

## Inspector's Report ABP – 303375 – 19

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<b>Development</b>	Retention permission of existing detached agricultural shed, existing detached compost toilet, standalone mono-pitched multi-purpose shed along with retention of associated ancillary works.
<b>Location</b>	'Maperath Farm', Maperath, Kells, County Meath.
<b>Planning Authority</b>	Meath County Council.
<b>Planning Authority Reg. Ref.</b>	KA18/1213.
<b>Applicant</b>	Eoin & Olivia Sharkey.
<b>Type of Application</b>	Retention Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Maperath Herbal Limited.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	29 <sup>th</sup> April 2019.
<b>Inspector</b>	Patricia-Marie Young.

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## 1.0 Site Location and Description

- 1.1. The irregular shaped appeal site has a stated 1.614ha area. It is located on part of the site that contained 'Maperath House', which dated back to c.1798, and for which all that remains is an exposed basement structure, sections of a decorative tiled pathway that potentially linked to the front door and some associated worked stone that are scattered around the site remains.
- 1.2. The site itself is located within the historical demesne of 'Maperath', c250m to the north east of the L-6823-5, Kells to Mullagh county road, and c4.5km to the north west of Kells town, in County Meath. The subject site is accessed via solid timber gates flanked by cut stone splayed walls that open onto the L-6823-5 at a point where the road is straight with a gentle undulating surface and where the maximum speed limit applies and the sightlines in both directions appear to be satisfactory. The main area of the site is reached via a long-gravelled driveway that contains a right-of-way to the adjoining property to the west. There are limited views of the subject site from this public road. This is largely due to a historic stone wall, mature trees and hedging.
- 1.3. The site itself could be described as a farmstead with an attached plot of grazing land. There are several number of buildings present including a large standalone shed structure which is used for the housing of a variety of animals. This is located in close proximity to the western boundary of the site and it is the most sizeable building on the site. In addition to this there is a detached dwelling house, a standalone single storey shed structure located along the northern end of the eastern boundary, a single storey shed structure and a raised-on stilts single storey mainly timber clad compost toilet which is located in the north western corner of the site.
- 1.4. The south portion of the site connects to another plot of agricultural land which is fenced into various compartments and at the time of inspection it was in use for grazing pigs and horses. This land falls out of the defined site area and together with the appeal site it would appear to comprise the applicant's entire agricultural landholding.
- 1.5. Bounding the site to the west is the surviving courtyard complex of Maperath House and to the north, east and west the land is predominantly agricultural farmland and grassland. The site benefits from panoramic views in a northerly and easterly direction and the surrounding landscape has a rolling topographical nature as well as is characterised by farmland and one-off dwellings.

## 2.0 Proposed Development

### 2.1. Retention permission is sought for -

- An extension to an existing detached agricultural shed with a stated gross floor area of 151.7m<sup>2</sup> and a stated maximum ridge height of 6m. This extension has a stated 12.173m depth and 13.075m width. On its western side it includes a single storey lean-to in appearance structure which has a stated 1.55m width, 12.398m length and 2.4m height. The extension is finished in a plastered rendered base wall at the lower level with the remainder clad in metal sheeting and the gable shaped roof structure over containing several translucent roof lights;
- A detached single storey gable shaped standalone compost toilet with a stated gross floor area of 12.2m<sup>2</sup>. This structure is built on stilts and has an overall stated height of 4.2m; 3.7m width and 3.68m depth. The submitted drawings indicate that internally it consists of a store, a WC and an open deck which contains a basin. This structure is finished in timber shiplap clad walls with corrugated sheet roofing over;
- A standalone mono-pitched multi-purpose open shed used for occasional agri-tourism based site visits with a stated gross floor area of 70m<sup>2</sup>. This structure has a stated 3.775m height at its highest point; a 6.07m depth and a 11.195m width. On its western elevation there are two removable canvas awnings over. These extend out 5.51m from this elevation and have a matching width. Associated with the two canvas awnings are 3 external posts. The submitted drawings indicate that this structure has a chimney and internally the space is labelled as being an “*open covered multi-purpose shed*”. This building is finished in a variety of materials and finishes. In addition, this application seeks the retention of the use of this structure for occasional agri-tourism based site visits;
- All associated ancillary works, services, service connections, landscape and site development works associated with the above stated structures.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The Planning Authority decided to **grant retention permission** subject to conditions including –

**Condition 2** Restricts the use of the extension to agricultural purposes only. It also allows for the multi-purpose standalone shed to be used for occasional agri-tourism based site visits.

**Condition 3** Restricts the disposal of waste from the composted toilet within the confines of the site.

**Condition 4** Requires that all soiled water and effluent arising from the development to be collected and held in a manner that prevents run-off or seepage, directly or indirectly, into groundwaters or surface waters.

**Condition 5** Requires the development to be operated so that no pollution of any watercourse will take place and that there will be no reasonable cause for annoyance by reasons of smell to persons or premises in its vicinity.

**Condition 6** Requires uncontaminated surface water to be separately collected and discharged to soakpits and it states that it: *“shall not in any circumstances be allowed to discharge to the public road or adjoining property”*.

### 3.2. Planning Authority Reports

3.2.1. **Planning Reports:** The Planner’s Report is the basis for the Planning Authority’s decision.

#### 3.2.2. Other Technical Reports

- **Environment:** No objection.

### 3.3. Prescribed Bodies

3.3.1. None.

### 3.4. Third Party Submission

3.4.1. The Planning Authority received a submission from the appellant in relation to this application. The substantive issues raised in this submission correlate with those raised in the appellants appeal submission to the Board.

## 4.0 Planning History

### 4.1. Site:

- **P.A. Reg. Ref. No. KA/181212:** Concurrent application with the Planning Authority for a development described as the retention of two single storey extensions, one on either side of the existing single storey detached dwelling house together with the retention of all associated site works, services, landscaping and site development works.

At the time of finalising this report that the status of this application was that the Planning Authority has requested the following further information:

*“1. The applicant is requested to demonstrate that the existing wastewater treatment system has the hydraulic capacity to cater for the additional effluent from the new bedroom and the additional loading from the staff facilities/prefab structure including the existing loading from the residence.*

*2. The applicant is requested to demonstrate that the percolation area is appropriately sized based on soil conditions and the potential effluent loading from both the existing dwelling and staff accommodation/prefab structure. In the event of a proposed upgrade to the existing wastewater treatment system and percolation area, it will be necessary to accompany such a proposal with a full site characterisation report, carried out in accordance with the EPA (2009) Code of Practice.”*

- **P.A. Reg. Ref. No. KA/160405:** Planning permission was **granted** for the provision of a tourist attraction based around Ireland’s 5,000years of food history

in connection with Ireland's Ancient East. This development consisted of the construction of a single storey entrance building containing visitor sanitary facilities and the construction of a domed grass roof structure above an existing basement. The development also included the provision of a visitor car parking area, landscaping works and all associated site works.

- **P.A. Reg. Ref. No. KA/901240 (PL17.235105):** On appeal to the Board planning permission was **granted** for the construction of a 2-storey detached replacement house on the site of the original Maperath House and all associated site works.
- **P.A. Reg. Ref. No. KA/150327:** Planning permission was **granted** for an extension of planning permission for P.A. Reg. Ref. No. KA901240 for a further period of 5-years. The new expiry date is the 21<sup>st</sup> February 2020.

## 5.0 Policy & Context

### 5.1. Local Planning Context

5.1.1. Meath County Development Plan, 2013 to 2019, is applicable to the appeal site and the surrounding area. The site is un-zoned and is situated in open countryside in Area 3, an area is identified as being under "*Low Development Pressure*".

5.1.2. Chapter 10 of the Development Plan relates to Agricultural Development.

5.1.3. Section 10.9.1 of the Development Plan states that "*the provision of well-located structures and facilities necessary for good and environmentally sound agricultural practice shall be supported by the Planning Authority. The suitability of a given proposal will be determined by the following factors:*

- *The provision of buildings to a design, materials specification and appearance and at locations which would be compatible with the protection of rural amenities. Particular attention should be paid to developments therefore in sensitive landscapes as identified in the Landscape Character Assessment (Refer to Appendix 7);*
- *The availability of an effective means of farm waste management to ensure nutrient balancing between application of farm wastes to land and its balanced uptake by agricultural use of land;*

- *Whilst the Planning Authority recognises the primacy in land use terms of agriculture in rural areas and that the presence of individual housing should not impinge unduly on legitimate and necessary rural activity, regard should also be had to the unnecessary location of major new farm complexes proximate to existing residential development.”*

- 5.1.4. Section 10.9.2 of the Development Plan relates to Intensive Agriculture and it states that *“it is vital that the environmental qualities of the county are recognised in such proposals and protected accordingly. The scale and intensity of such activities within a limited area and the appropriateness of the activity in relation to the quantum of waste generated and its effect on the area is an important consideration in assessing development proposals for intensive agriculture”*.
- 5.1.5. Section 10.9.3 of the Development Plan relates to Alternative Agri-Enterprise and it indicates that the Planning Authority shall support proposals for agri-tourism developments where normal development criteria in relation to satisfactory access, appropriate location and design and waste management are observed.
- 5.1.6. Section 11.1 of the Development Plan sets out the general site development standards for new developments.
- 5.1.7. Section 11.13.1 Agricultural Buildings & Structures states that: *“the design, scale, siting and layout of agricultural buildings should respect, and where possible, enhance the rural environment. In visually sensitive areas, the Council will seek to group together and site buildings in an appropriate manner, and require the use of harmonious external materials to minimise obtrusion on the landscape. The use of dark coloured cladding, notably dark browns, greys, greens and reds are most suitable for farm buildings, and roof areas should be darker than walls. Developments shall comply with the Good Agricultural Practices Regulations.”*
- 5.1.8. CS OBJ 8 of the Development Plan states that the Planning Authority will seek: *“to promote the development of sustainable tourism as a key driver of the Meath economy”*.
- 5.1.9. Section 4.4.1 of the Development Plan states that the Planning Authority will seek *“to encourage the development of Kells and Trim as a tourism cluster.”*
- 5.1.10. The Development Plan policies which seek to encourage tourism include:



**ED POL 30** – *“To promote the development of sustainable tourism and encourage the provision of a comprehensive range of tourism facilities, subject to satisfactory location, siting and design criteria, the protection of environmentally sensitive areas and areas identified as sensitive landscapes in the Landscape Character Assessment for the county”.*

**ED POL 31** – *“To encourage new and high-quality investment in the tourism industry in Meath”.*

**ED POL 32** – *“To protect and conserve those natural, built and cultural heritage features that form the basis of the county’s tourism attraction and to seek to restrict development which would be detrimental to scenic and identified natural and cultural heritage assets”.*

**ED POL 34** – *“To enable, facilitate and encourage the growth and sustainability of the tourism sector through the provision of tourism enterprise developments in rural areas including open farm and integrated rural developments subject to the provision of adequate infrastructure and compliance with normal planning considerations”.*

5.1.11. Under RD POL 44 it is a policy of the Planning Authority to ensure that *“new development meets the highest standards in terms of environmental protection”* and under RD POL 45 To utilise a *“Groundwater Protection Response Matrix”* to assist in *deciding the appropriateness of various categories of development to areas that have different levels of vulnerability in terms of groundwater contamination. This approach will support the proper input of information into planning decision-making processes”.*

## **5.2. Natural Heritage Designations**

5.2.1. None relevant.

## **5.3. Environmental Impact Assessment**

5.3.1. Having regard to the nature and scale of the development for which retention is sought, the significant separation distance between the site and designated Natura 2000 sites there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The grounds of Appeal can be summarised as follows –

- The Planning Authority by way of granting retention permission have largely disregarded the appellants concerns.
- This retention application is an example of a long line of unauthorised development on the subject site.
- The waste water and effluent treatment on the site is inadequate.
- It is argued that KA181212 and KA181213 should have been considered together in order to gain a full understanding of the overall and cumulative impacts on neighbouring properties and the surrounding area.
- In the absence of the Board having a full picture of the development at this site and in the absence of the further information request being received on the concurrent application retention permission should be refused.
- There are waste water diversions from the subject site onto the appellants land, including pumped waste water from a septic tank.
- The Board is asked to refuse retention permission should they have any concerns in relation to on-site wastewater treatment and disposal in the context of the preservation of public health.
- There is no evidence of an appropriate soakage pit or percolation area constructed or being maintained on site by the applicants. This is a concern for neighbouring properties.
- The shed structure for which retention is sought has compounded the problem of run-off onto the appellants property.
- The shed for which retention is sought gives rise to adverse visual impacts when viewed from the appellants property.
- The appellants amenities are being adversely impacted upon by noxious odours.

- The shed for which retention is being sought is located too close to a common boundary and it is requested that it is removed.
- The site is used as a venue for events of 20 persons plus and for the sale of alcohol. Further, the site generates significant numbers of people which would cause nuisance.
- The Board is asked to satisfy themselves that all the uses and structures on the subject site are operating within their relevant permissions and it is further requested that all unauthorised uses are ceased.
- Various health and safety concerns are raised.
- This application is invalid.
- This development is substandard and would give rise to an undesirable precedent begin set for rural development.
- The appellant welcomes development in the area but this must be approached on a sustainable and well-planned basis.
- The Board is requested to have regard to the amenity impacts of this development on the appellants property and ensure that these are mitigated against and/or avoided.

## 6.2. Planning Authority

6.2.1. The Planning Authority response can be summarised as follows –

- All matters outlined in the appeal submission have been considered during their assessment of this application.
- The waste water disposal was considered acceptable subject to condition.
- The design and siting of the buildings are in keeping with Section 11.13 of the Development Plan.
- This development is not highly visible in its setting.
- No part of the buildings overhang onto adjoining properties.
- There is no evidence to support that the site is being used for hen and stag parties nor for the sale of alcohol.

- No Appropriate Assessment concerns arise.
- This development is consistent with the current Development Plan provisions.
- The Board is requested to uphold their decision.

### 6.3. Applicant

6.3.1. The Applicant's response can be summarised as follows –

- This appeal is vexatious, frivolous and defamatory.
- There is an on-going dispute between the applicant and the appellant.
- This application and planning application P.A. Reg. Ref. No. KA181213 seeks to regularise unauthorised development on the site.
- The external finishes, form and sitting are in keeping with the Development Plan standards.
- Waste water concerns were dealt with by way of condition.
- The Planning Authority deemed that this development would not impact on any Natura 2000 sites thus removing the need to carry out an appropriate assessment.
- Drawing titled "Site Plan No. 2018 10 P201" clearly shows the relevant right of way shaded in yellow.
- The Planning Authority's decision should be upheld.
- A letter from the Managing Director of Irish Spirit Tours and two letters from the applicant's solicitor accompanies this submission.

## 7.0 Assessment

### 7.1. Preliminary Comments

- 7.1.1. Having read the appeal submission and the First Party's response to the same consider it first necessary to make the following points before I commence my assessment of this appeal case.
- 7.1.2. Firstly, this appeal case seeks permission for structures that are *in situ* and an ancillary land use that the applicant acknowledges is already on-going in a limited capacity alongside their primary use of their farmstead and associated agricultural landholding.

I am cognisant that the Development Management Guidelines for Planning Authority's make it clear that, in dealing with applications for retention like this, a Planning Authority, and by extension the Board on appeal must consider them 'as with any other application'. This is in accordance with the law and with proper planning practice, in that all applications for retention should be assessed on the same basis as would apply if the development in question were proposed. Therefore, no account can, or should be taken of the fact that the development has already taken place.

- 7.1.3. Secondly, the appellant raises concerns that the development for which retention is sought compounds a history of noncompliance with planning laws and including breaches of conditions attached to previous grants of permission at this site. Under planning legislation any development which requires permission and does not have that permission in place is unauthorised development, as is development which is proceeding in breach of conditions laid down in the grant of planning permission for a development. From my inspection of the site I did not observe any new structures or unauthorised uses taking place. In any case, it is not the role of the Board to investigate any unauthorised works or land uses or to initiate any enforcement action regarding the same as enforcement of planning control is the responsibility of the Planning Authority to deal with as they see fit and the Board does not have an ombudsman role to consider such matters.
- 7.1.4. Thirdly, the appellant raises concerns that this application should not be assessed in isolation of a concurrent application P.A. Reg. Ref. No. KA/181212 which is before the Planning Authority for their consideration. Under this application permission is sought for the retention of two single storey extensions, one on either side of the existing single storey detached dwelling house together with the retention of all associated site works, services, landscaping and site development works. While I agree with the appellant that the provision of two separate concurrent applications is a fragmented and piecemeal approach in assessing development on single landholding like this it is not a matter that the Board can remedy outside of having cognisant to this application which is yet to be determined and the planning history of the site in their *de novo* assessment of the development sought.
- 7.1.5. Fourthly, the appellant raises validity concerns in relation to this application. On this matter they contend that the application is invalid as it fails to satisfy the requirements of Section 22(b)(iii) of the Planning and Development Regulations, 2001, as amended.

In this regard, they contend that the submitted drawings fail to include a right of way at the entrance to the site that is shared by the appellants with the applicant. Having examined the documentation I note that the drawing labelled "Drawing No. REV. 2018 10 P 201 01 OF 03" does indicate the presence and extend of the right-of-way to which the appellant raises concern. I am cognisant that validation of a planning application is the responsibility of the Planning Authority and I do not consider that the information on file is deficient in this regard. In these circumstances, I consider that it is not the case that the Board is precluded from giving consideration for the development sought under this application.

7.1.6. Fifthly, the appellant and the First Party appear to be involved in an on-going civil dispute. The First Party in their response to the grounds of appeal argue that the appeal itself is vexatious, frivolous and defamatory. I do not agree that this is the case as the appellant clearly puts forward several legitimate and quite separate planning concerns in relation to the development sought including but not limited to the amenity impact of this development through to waste water concerns. In saying this I also acknowledge that there are several points made by the appellant that stray outside of the Boards remit and into civil matters. I consider that such civil matters should be addressed and remedied through the courts as the appellant deems appropriate.

7.1.7. I consider that this application should be considered on the planning merits of the development sought.

## 7.2. **Overview of Assessment**

7.2.1. I consider that the main issues in this appeal are those raised in the grounds of appeal and by the First Party in their response to the same. I am satisfied that there are no other substantive issues arising. The issues can be dealt with under the following headings:

- Principle of Development
- Impact on Adjacent Property
- Visual Amenity Impact on the Surrounding Area
- Foul and Surface Water Drainage
- Traffic

- Other Issues Arising

7.2.2. The issue of appropriate assessment also requires assessment.

### 7.3. Principle of Development

- 7.3.1. On the basis that the development in question is intended for primarily agricultural purposes and land uses ancillary to the applicants agricultural landholding at Maperath, County Meath, and having regard to the appeal site being located within a rural area where the predominant land use is agriculture, I am of the opinion that agriculturally-related developments such as that proposed for retention under this application are an inherent part of rural life and should generally be accommodated within such areas. Indeed, Section 10.9.1 and Section 10.9.3 of the Meath County Development Plan, 2013 to 2019, indicate respectively that *“the provision of well-located structures and facilities necessary for good and environmentally sound agricultural practice shall be supported by the Planning Authority. The suitability of a given proposal will be determined by the following factors”* and that the Planning Authority shall generally support proposals for agri-tourism developments where normal development criteria in relation to satisfactory access, appropriate location and design and waste management are observed.
- 7.3.2. I am further of the opinion that the occasional use of the detached standalone mono-pitch open shed structure for occasional agri-tourism based site visits is consistent with the Meath County’s Development Plans core strategy CS OBJ 8 which states that the Planning Authority will seek: *“to promote the development of sustainable tourism as a key driver of the Meath economy”*.
- 7.3.3. It is further consistent with policy ED POL 34 of the said Development Plan, which seeks to *“to enable, facilitate and encourage the growth and sustainability of the tourism sector through the provision of tourism enterprise developments in rural areas including open farm and integrated rural developments subject to the provision of adequate infrastructure and compliance with normal planning considerations”*; as well as policies ED POL 30 which seeks *“to promote the development of sustainable tourism and encourage the provision of a comprehensive range of tourism facilities, subject to satisfactory location, siting and design criteria, the protection of environmentally sensitive areas and areas identified as sensitive landscapes in the*

*Landscape Character Assessment for the county*"; and, ED POL 31 which seeks "to encourage new and high quality investment in the tourism industry in Meath".

- 7.3.4. Based on the foregoing, I am of the opinion that the development sought is generally acceptable in principle at this location, subject to appropriate safeguards.

#### **7.4. Impact on Adjoining Property**

- 7.4.1. Having inspected the site, I acknowledge the appellants concerns in relation to impact on their adjacent property in terms of visual impact. Particularly in relation to the extension of the shed structure having regard to its cumulative impact on the built form of the original shed structure on the western boundary; its placement with limited separation distance from this shared boundary; and, the lack of any robust screening along the western and southern boundaries.

- 7.4.2. The original shed structure has stated 15.502m length; 11.91m width and ridge height of 6m dimensions. Its western elevation has a lateral separation distance of 1.432m from the western boundary. The extension to this shed almost doubles the size of this shed and has stated 12.398m length; 13.065m width and maintains the 6m ridge height in its matching gable shaped roof structure over. Along its western side there is a single storey element that has a stated 0.41m lateral separation distance from the shared western boundary. This element has an overhanging roof that arguably gives the perception from the appellants property of the structure being much closer than this. At the time of my site inspection, it appeared that there were works on-going to this extension to deal with surface water runoff. These are not detailed in the submitted drawings or documentation. There is no apparent soakaway or any other ancillary infrastructure evident.

- 7.4.3. It is my opinion that this extension has added to the monolithic and overbearing appearance of what is now a sizeable shed structure located in close proximity to a shared boundary where there is no visual buffering. Further its visual legibility, monolithic and overbearing appearance is heightened by the lack of any robust screening along the entirety of the western boundary from the location of the subject shed to where this boundary meets the access road shared by the appellants. Indeed, during my site inspection it would appear that the finish to the western elevation are poor and its appearance as perceived from the adjoining property is further diminished by the use of the lateral separation distance that remains along the entirety of the shed



for which retention of an extension is sought for the storage of an array of materials in an *ad hoc* fashion.

- 7.4.4. I consider that this extension has resulted in diminished visual amenities of the appellants property.
- 7.4.5. Should the Board be minded to grant retention permission I recommend that the single storey lean-to western elevation of the extension be omitted by way of condition so that the lateral separation distance of the original shed structure from the western boundary is maintained along the length of the shed in its entirety.
- 7.4.6. I further recommend that a landscaping scheme is requested along the shared western boundary within the confines of the applicants site to mitigate the visual impact of this shed structure and that this landscaping scheme include semi-mature trees alongside makes provision for landscaping forward of the southern elevation to further minimise the visual impact of this structure. In my view this in time will lessen the visual amenity impact to an acceptable level.
- 7.4.7. Moreover, these measures in my view would ensure that the development is consistent with Section 11.13.1 Agricultural Buildings & Structures which states that: *“the design, scale, siting and layout of agricultural buildings should respect, and where possible, enhance the rural environment”*. It is also reasonable to have regard to adverse impact on adjoining properties from a development and not just whether or not the development can be seen from the public domain of the local road. Such an approach is consistent with Section 10.9.1 of the Development Plan which seeks that such works be compatible with the protection of rural amenities.
- 7.4.8. I also raise a concern in terms of the impact of the composting toilet having regard to the proximity of this structure to the appellants property alongside its potential to result in nuisance such as noise, smells and odours. I also consider that the open covered deck to its front and the small window to the rear have the potential to result in overlooking in the absence of any robust screening along the nearby shared western boundary. Should lighting be provided this could potentially result in further nuisance for the adjoining property owner. I consider the location of this structure to be inappropriate and that there are more appropriate locations within the confines of the site to provide a toilet block. Should the Board be minded to grant retention permission for the development sought under this application I recommend that this structure be

omitted. I also consider its omission would be prudent in terms of the treatment of waste water within the confines of site.

- 7.4.9. In relation to the multi-purpose shed structure, this structure is not as robust in terms of structural components and permanency as is suggested in the drawings submitted with this application. In terms of insertions in the landscape would benefit from a more coherent finish than that is present. Notwithstanding, it is situated along the eastern boundary which contains along part a leylandii hedge and there are several trees present between it and the appellants property. The western boundary of the site which is shared with the appellants has a lateral separation distance of c40m from this structure. There are views of the appellants property from the front of this structure which would be lessened by the provision of appropriate landscape/hedge screening. Such measure would in time reduce the visual impact of this structure as perceived from the appellants property and it would be consistent with the previously mentioned Development Plan provisions which seek to protect amenity.

#### **7.5. Visual Amenity Impact on the Surrounding Area**

- 7.5.1. In relation the visual impact of the development sought under this application on the wider rural character of the surrounding area, I note that there are no designated Scenic Views or Viewing Points in the vicinity of the site. The site is relatively secluded within its landscape setting and there are only limited views towards the main site area from the public road. This is due to the mature trees, hedgerows between it and the roadside together with the c250m setback. The views that are available are more significant in separation distance than this. Subject to the recommendations made in the previous sections of this assessment I consider that the development would not appear incongruous in its setting and the visual impact would be further lessen by the landscaping measures should the Board be minded to grant permission.

#### **7.6. Foul, Surface Water Drainage and Water**

- 7.6.1. I am not satisfied that the information provided in this submission clearly sets out the way foul, surface water and potable water are provided on site for the various uses the site contains, i.e. the domestic dwelling, the agricultural buildings and the agri-tourism related buildings. Moreover, I am also not satisfied that the documentation on site clarifies whether these measures are adequate to absorb the development for which retention is now sought.

- 7.6.2. While I generally concur with the findings of the Planning Authority's Environment and Water Services Department that the composted waste from the compost toilet subject to good practice is unlikely to have any bearing on groundwaters I am not satisfied that the applicant has sufficiently demonstrated that this would be the case nor have they demonstrated that it would not result in any undue noxious odours for the adjoining property. The latter is a concern considering that it is located within c3.6m of a shared boundary and having regard to the proximity to the adjoining property. I am also not convinced that the applicant has provided sufficient justification for the compost toilet and having regard to the planning history of the site it is unclear whether this is in addition to the toilet facilities permitted under P.A. Reg. Ref. No. KA/160405.
- 7.6.3. Should this facility be required in relation to the occasional farm visits its location subject to reasonable separation distance would be more appropriate nearer to the proposed multi-purpose shed for which retention and such a facility should be ideally connected to waste water treatment system on site as well as to a water supply.
- 7.6.4. I also raise a concern that the submitted documentation provides no clarity on surface water drainage in relation to any of the structures for which retention is sought. This I consider is a concern in relation to the extension of the agricultural shed along the western boundary, a structure which is used for housing animals. During my site inspection I observed that the inside of this structure appeared to be used for housing animals and for storage. There are no substantive details provided by the applicant to ensure that the washing down of the concrete floor of this shed would not add to an existing problem that arises from the shed it which is attached too in terms of public health through to noxious odours/smells.
- 7.6.5. In the absence of such clarity I am not satisfied based on the information provided with this application that the retention of the development sought would not be prejudicial to public health nor am I satisfied that the development would not give rise to noxious odours for adjoining properties. Further in the absence of clarity I am not satisfied based on the information provided that the extension to the shed structure would cumulatively add to any existing issues on site in relation to the treatment of foul water on site should they exist. I am therefore not satisfied that conditions are suitable in this instance to resolve these concerns and that the Board should take a precautionary approach to ensure no public health issues arise or are compounded.

## 7.7. Traffic

- 7.7.1. While I raise a concern that there is a lack of detail providing an overview of the development on site and whether or not previous grants of permission are to be implemented I am unconvinced that the development sought under this application itself would give rise to any significant impact on traffic safety on the public road network in the vicinity of the subject lands having regard to the nature and scale of the development sought including the occasional agri-tourism based site visits. I also consider that there are adequate sight lines at the entrance from the private road onto the local road (L-6823-5).

## 7.8. Other Matters Arising

- 7.8.1. **Premature in the Absence of Clarity:** While I consider that the generally principle of the development sought under this application including the occasional agricultural tourism related use of the site is acceptable. Notwithstanding, there is a lack of any evident coherent vision for the site and in my view, it is unclear how this development would operate as part of the overall quantum of buildings, spaces and uses at this location.

For example, at the time of my site inspection it was apparent that a previous grant of permission, i.e. P.A. Reg. Ref. No. KA/160405, had yet to be implemented. At present there is no dedicated parking for the agri-tourism and it is unclear whether or not the car parking area permitted under this previous grant of permission is or is not to be provided or whether it is adequate to meet the needs even of occasional agri-tourism use for which retention is sought. I further note to the Board this application does not propose any dedicated car parking for this use.

I therefore raise a concern that in the absence of clarity on the overall buildings, uses and services on this site to permit the development sought under this application would be premature and it would give rise to piecemeal as well as uncoordinated development.

- 7.8.2. **Land Use:** Should the Board be minded to grant retention permission for the development sought under this application I recommend that they include a condition restricting the use and the hours of operation to ensure that such use does not give rise to undue nuisance to properties in its vicinity.

## 7.9. Appropriate Assessment

- 7.9.1. Having regard to the nature and scale of the development in question, the nature of the receiving environment, and the significant distance between the lands in question to the nearest European site together with the lack of any hydrological link, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site. A Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 8.0 Recommendation

- 8.1. I recommend that retention permission is **refused** for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

1. The Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated and/or disposed of onsite in a co-ordinated and cohesive manner taken in conjunction with the existing quantum of development on site. The proposed development would, therefore, be prejudicial to public health.

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Patricia-Marie Young  
Planning Inspector

30th April 2019