



An
Bord
Pleanála

Inspector's Report ABP 309164-21

Development	Construction of first floor extension to courtyard building section to the north-east of the main courtyard.
Location	Maperath, Kells, Co Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	KA191351
Applicant(s)	David Cullis Hill
Type of Application	Permission
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party
Appellant(s)	Eoin and Olivia Sharkey
Observer(s)	None
Date of Site Inspection	15 th June 2021
Inspector	Brendan Coyne.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
4.0 Planning History.....	6
5.0 Policy and Context.....	9
5.1. Development Plan.....	9
5.2. Natural Heritage Designations	9
5.3. EIA Screening	9
6.0 The Appeal	9
6.1. Grounds of Appeal	9
6.2. Applicant Response	11
6.3. Planning Authority Response	11
6.4. Observations.....	11
7.0 Assessment.....	11
8.0 Recommendation.....	16
9.0 Reasons and Considerations.....	16
10.0 Conditions	16

1.0 Site Location and Description

1.1. The site (2.7 ha) is located to the north and east of the L6825 in the townland of Maperath, c. 4.5 km to the north-west of Kells in Co. Meath. The site comprises land and a courtyard structure belonging to the former Maperath House, which was demolished in the 1950's. Historical maps show Maperath House was located to the east of the courtyard, whereon basement ruins still remain. The courtyard structure is accessed via a private road (c.360m long) to the north-west and an avenue with restricted/gated access to the south. The courtyard structure is rectangular in shape and comprises a series of mostly refurbished single and two storey units with a section at its north-eastern corner currently in a ruined state. This section is the location of the proposed extension under the subject appeal. The external elevations of the courtyard structure comprise mostly stone cladding. Its roof profile is pitched incorporating roof-lights in places. The eastern side of the courtyard is mostly a stone wall with what appears to be a blocked entrance with a raised triangular pitched element over. Mature trees are planted on lands surrounding the courtyard structure, notably to the south and north. The walled garden of former Maperath House is located to the north-west of the courtyard. The site is not listed as a Protected Structure in the Meath County Development Plan. A two-storey dwelling known as Maperath Farm is located on adjoining lands to the south-east of the courtyard structure.

2.0 Proposed Development

2.1.1. Application as lodged on the 11/10/2019 – Permission sought for the construction of the following;

- First floor extension to existing single storey courtyard building section at the north-eastern corner of the courtyard to incorporate a games room at first floor level and a study area and sanitary accommodation at ground floor level (stated floor area 126.9 sq.m.).
- Entrance piers and gates at the existing driveway to the south of the site.
- Ancillary site works and associated site structures.

2.1.2. Revised Proposal as submitted by way of Significant Further Information on the 30/10/2020.

Proposed works:

- Provision of sheeted timber gates to the vehicular and pedestrian entrance,
- On the south-western rear elevation,
 - Omission of 3 no. window openings at ground floor level, previously proposed under P.A. Ref. KA/100484
 - Omission of 1 no. previously proposed rooflight to the roof.
 - Restoration of original chimney.
- On the north-east front elevation,
 - Placement of 1 no. additional rooflight to the roof,
 - Previously proposed windows altered to remain open at first floor level
 - Amendment to the entrance door at ground floor level.
- Reinstatement of original gable end roof profile to previously permitted hip-ended roof, under P.A. Ref. KA/100484.

2.1.3. Revised documentation submitted includes;

- Floor plans, elevations and section drawings.

3.0 Planning Authority Decision

3.1. Decision

Meath County Council GRANTED permission for the proposed development subject to 10 no. Conditions. Noted Conditions include:

2. The permission relates solely to the development as described in the public notices.
3. The proposed games room / study shall not be used for human habitation, commercial use, industrial or other uses, other than a purpose incidental to the enjoyment of the existing residential accommodation on site.

3.2. Planning Authority Reports

Planning Reports

3.2.1. Summary of issues raised in the initial planning report (25/11/2019) and the second planning report (08/12/2020).

- The design of the proposed first floor extension is reversible and would cause no permanent loss to the integrity of the existing vernacular building.
- The design of the proposed first floor extension, while contrasting in nature, is sympathetic to the established setting.
- The proposed elevation and roof materials are acceptable.
- The proposed use of the structure as a games room at first floor level and a study area and sanitary accommodation at ground floor level is acceptable.
- The proposed development is in accordance with Section 11.2.4 off the Meath County Development Plan, with regards extensions.
- The proposed entrance piers and gate to the existing access driveway to the south of the site is acceptable.
- The effluent treatment system permitted under P.A. Ref. KA151337 would have the capacity for an additional toilet.
- The Planning Authority consider the proposed development (entire project), by itself or in combination with other plans and development in the vicinity would not be likely to have a significant effect on any Natura 2000 European site.

3.2.2. Further information was sought regarding the following;

1. Clarify the proposed ancillary site works and associated site structures to be completed on site.

Present detailed proposals addressing unauthorised development that may have taken place on site.

2. Address the concerns of the third party submission regarding the proposed development.

3. Clarify the use of the proposed development having specific regard to compliance with Condition No. 2 of P.A. Ref. KA100484 which requires '*the proposed self catering accommodation unit shall be used as a single family residential unit only. No subdivision or commercial use shall be permitted at the site under this grant permission*'.
4. Demonstrate the proposed development will not result in overlooking of neighbouring property.

3.2.3. The Planning Authority's response to the Significant Further Information submitted is summarised as follows;

- The revised proposal submitted clarifies the omission of windows previously approved and amendments to rooflights and elevations. This addresses some of the concerns raised under the Warning Letter UD/19010 issued.
- The proposed games room would be solely for the applicant's personal use. Its side elevation does not include any windows which may otherwise result in overlooking of neighbouring property.
- The use of the proposed development will be for domestic and agricultural use only.
- The proposed window to the southern elevation at first floor of the proposed games room has been reduced by 4.175 metres. This significantly reduces any potential overlooking of neighbouring property.
- The Significant Further Information received was considered acceptable by the Planning Authority.

3.2.4. **Other Technical Reports**

None

4.0 **Planning History**

P.A. Ref. KA100484 Permission GRANTED on the 17/11/2010 to construct (1) 1 no. self-catering accommodation unit in existing courtyard building (2) to renovate and re-

refurbish the existing residual courtyard building area to incorporate domestic storage areas and agricultural storage areas (3) to install proprietary treatment unit and percolation area (4) to complete all ancillary site works.

P.A. Ref. KA151337 Extension of Duration of Permission GRANTED on the 04/02/2016 for development permitted under P.A. Ref. KA/100484 to construct (1) 1 no. self-catering accommodation unit in existing courtyard building. (2) To renovate and re-furbish existing residual courtyard building area to incorporate domestic storage areas and agricultural storage areas. (3) To install proprietary treatment unit and percolation area. (4) To complete all ancillary site works.

P.A. Ref. P.A. Ref. KA901551 Permission REFUSED on the 23/11/2009 to construct (1) 1 No. self-catering accommodation unit in existing courtyard building (2) to renovate and refurbish existing residual courtyard area to incorporate domestic storage areas and agricultural storage areas (3) to install proprietary treatment unit and percolation area (4) to complete all ancillary site works.

Adjoining site to the east

P.A. Ref. 21359 Extension of Duration of Permission GRANTED on the 21/04/2021 for development permitted under P.A. Ref. KA/160405 for the provision of a new tourism attraction including 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 will also provide for visitor parking, landscaping works and all ancillary site works.

P.A. Ref. KA/160405 Permission GRANTED on the 15/06/2016 for the provision of a new tourism attraction including 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 will also provide for visitor parking, landscaping works and all ancillary site works.

P.A. Ref. KA191016 Permission GRANTED on the 19/09/2019 for the A) the retention of the single storey extension to the south-west of the existing single storey detached dwelling house. (B) planning permission for extension and refurbishment of the existing single storey dwelling house, consisting of addition of a first floor to create a two storey dwelling, demolition of the single storey annex to the north east and construction of a new single storey extension and covered veranda, along with elevational modifications to the existing dwelling, new proprietary wastewater treatment unit and polishing filter to replace the existing septic tank, single storey covered barbeque area attached to the existing multi-purpose shed, all associated ancillary works, services, service connections, landscaping and site development works.

P.A. Ref. KA/150327 Extension of Duration of Permission GRANTED on the 20/05/2015 for development permitted under P.A. Ref. KA/901240 for the construction of a dwelling house.

P.A. Ref. KA901240 Permission GRANTED for the construction of a two storey detached replacement dwelling on the site of the original Maperath House, with a basement stair connection to the remaining basement ruin which is to be refurbished as a sunken garden, conversion and change of use of the existing single storey dwelling to a foaling building containing 3 foaling boxes, store, tac rom and observation area, new proprietary waste water treatment unit and percolation area to replace the existing septic tank, along with all associated site services, service connections, landscape and site development works.

P.A. Ref. KA181213 Retention Permission GRANTED on the 03/12/2018 for A) The retention of the extension of the existing detached agricultural shed. (B) The retention of the existing detached, single storey, stand alone, compost toilet. (C) The retention of the stand alone, mono-pitched, multi-purpose open shed, used for occasional agri-tourism based site visits. Along with retention of all associated ancillary works, services, service connections, landscape and site development works, associated with the above works.

5.0 Policy and Context

5.1. Development Plan

Meath County Development Plan 2013-2019 is the statutory plan for the area. The following provisions are considered relevant:

Zoning: The site is located on un-zoned land, outside a zoned town.

Section 10.7 Rural Residential Development: Design and Siting Considerations

Section 10.7.1 Access and Other Ancillary Works

Section 11.2.4 Residential Development – Extensions

Appendix 15 Rural Design Guide

5.2. Natural Heritage Designations

The site is located 2.5 km to the north of the River Boyne and River Blackwater SAC (Site Code 002299) and SPA (Site Code 004232).

5.3. EIA Screening

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 third-party appeal was received from Eoin and Olivia Sharkey, who resides at Maperath Farm, which is the house located on adjoining lands to the east of the appeal site. The main grounds of appeal are summarised under the headings below;

6.1.1. **Unauthorised Development**

- The applicant acknowledges that unauthorised development has taken place on site.
- As these unauthorised elements were not part of the application as described, they do not form part of the application and cannot be granted or authorised under this permission.
- Condition No. 2 of the permission should have expressed that the unauthorised items, as identified, have not been authorised or granted under the decision.
- The validity of the application is questioned, given the unauthorised items remaining outstanding and not forming a retention element as part of the application. Their inclusion and annotation on the application and further information drawings are misleading, ambiguous and confusing.

6.1.2. **Overlooking / Loss of Privacy**

- The proposed two storey development is within close proximity to the side and rear of Maperath Farmhouse and its rear garden.
- Notwithstanding the amendments made to the first floor glazing, the proposal will still overlook the rear garden of Maperath Farmhouse. Such development would impact the privacy and residential amenity of the residents of Maperath Farm.

6.1.3. **Use of Proposed Accommodation**

- Concerns regarding the hours of use of the proposed accommodation.
- Concerns with regards the use of the proposed development and its consistency with an agricultural courtyard, the Meath County Development Plan and the objectives of the National Planning Framework.

6.1.4. **Proposed Entrance Gates and Piers**

- The proposed entrance gates and piers are located within the landholding of the appellants.
- Consent has not been given for these proposed works.

6.1.5. Documentation submitted with the appeal includes;

- Survey report prepared by Johns Brook Surveys and attachments (photos, maps and land registry details).
- OS Map showing the location of the proposed entrance works, right of way and land ownership boundaries.

6.2. **Applicant Response**

The applicant did not respond to the grounds of appeal.

6.3. **Planning Authority Response**

The Planning Authority is satisfied that the matters outlined in the submission were considered in the course of its assessment of the application, as detailed in the Planning Officer's report.

6.4. **Observations**

None

7.0 **Assessment**

I have reviewed the proposed development and the correspondence on the file. I note the Planning Authority were satisfied that the proposed development accords with the policies and objectives of the Meath County Development Plan 2013-2019. Having examined the application details and all other documentation on file, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issues are addressed under the following headings:

- Unauthorised Development
- Overlooking / Loss of Privacy
- Use of Proposed Accommodation
- Proposed Entrance Gates and Piers

- Appropriate Assessment

These are addressed below.

7.1. Unauthorised Development

- 7.1.1. The appellants object to the proposed development on the grounds that there is unauthorised development on the site, as confirmed by the applicant in the further information submitted. The appellants assert that any such unauthorised development, which was not described as part of the application, should not be granted permission. The appellants question the validation of the application and put forward that Condition No. 2 of the permission should have stated that the unauthorised development is not authorised or granted under the decision of permission.
- 7.1.2. The Planning Authority in its first report identify that a Warning Letter was issued on the 4th March 2019 in relation to non-compliance with Condition No.1 of development permitted under P.A. Ref. KA100484. Furthermore, the Planning Authority express uncertainty with regards the applicants stated completion of “all ancillary site works and associated structures”. With this regard, the Planning Authority sought further information requesting a) clarity re. the proposed ancillary site works and associated site structures to be completed on site and b) present detailed proposals addressing unauthorised development that may have taken place on site.
- 7.1.3. The applicant responded by way of significant further information, with required revised newspaper and site notices, notifying and detailing revisions to the proposed development and development permitted previously under P.A. Ref. KA/100484. Revisions seeking permission are detailed in Section 2.1.2 above.
- 7.1.4. Having regard to the planning history of the site and having reviewed the drawings submitted by way of significant further information, I am satisfied that the public notices and revised drawings submitted adequately detail the proposed development and revisions to previously permitted development. Furthermore, it is my view that Condition No. 2 imposed by the Planning Authority solely relates to the development as described in the public notices and information submitted thereunder. With regard any other unauthorised development at the site, I consider that any such unauthorised

development should be dealt with by enforcement proceedings, which is a function of the Council. I recommend, therefore, that this ground of appeal should not be upheld.

7.2. Overlooking / Loss of Privacy

- 7.2.1. The appellants object to the proposed development on the grounds that the proposed two storey development at the north-eastern corner of the courtyard would result in overlooking of the appellants dwelling, Maperath Farmhouse. Notwithstanding the amendments made to the first floor windows, the appellants consider the proposal would still overlook the rear garden of Maperath Farmhouse. The appellants put forward that such development would adversely impact their privacy and residential amenity.
- 7.2.2. The Planning Authority in its assessment considered that the revised proposal submitted by way of significant further information, which reduces the proposed window ope on the southern elevation at first floor level by 4.1m 'significantly reduces any potential overlooking of the adjacent property'.
- 7.2.3. The proposed first floor extension at the north-eastern corner of the courtyard does not include any window opes on its eastern side elevation at either ground or first floor level. As such direct overlooking of neighbouring lands to the east would not occur. At first floor level, the revised proposal submitted by way of further information incorporates a corner window ope on its southern elevation at first floor level. The revised window ope has a width of c. 2m at its south-western corner. Maperath Farmhouse is located c. 64m to the south-east of the proposed first floor extension and said window open at first floor level. The rear elevation of Maperath Farmhouse faces in a westerly direction with its rear garden to the west of the house. I noted during site inspection that the rear western boundary of Maperath Farm is defined with tall mature trees, hedging and vegetation. Having regard to a) the separation distance between the proposed first floor extension and Maperath Farmhouse, b) the dense mature vegetation along the western boundary to the rear of Maperath farmhouse, c) the angle of vision from the first floor south-facing window ope of the proposal, d) the pitched gable stonework feature along the western wall of the courtyard, it is my view that the proposed development would not result in overlooking of the rear elevations of Maperath farmhouse and its garden / private amenity space to its rear. I recommend, therefore, that this ground of appeal should not be upheld.

7.3. Use of Proposed Accommodation

- 7.3.1. The appellants express concerns with regards the hours of use of the proposed accommodation and how its use is consistent with that of an agricultural courtyard, the Meath County Development Plan and the objectives of the National Planning Framework.
- 7.3.2. In response to the further information requested by the Planning Authority, the applicant states that the proposed development is an extension of the use of the existing self-catering apartment unit to the opposite side of the courtyard and will be used by the applicant on occasions while staying in same during a holiday period or on short stays in the summer months. The applicant states that other existing courtyard restored buildings and structures are used for agricultural and domestic storage use only. During site inspection I saw no evidence to demonstrate otherwise.
- 7.3.3. The Planning Authority in its assessment consider the use of the structure as a games room at first floor level and a study area and sanitary accommodation at ground floor level is acceptable. Condition No. 3 imposed by the Planning Authority requires that 'the proposed games room / study area shall not be used for human habitation, commercial use, industrial use or for any other purpose other than a purpose incidental to the enjoyment of the existing residential accommodation on site.
- 7.3.4. Having regard to the planning history of the site, I note that permission was granted to the applicant under P.A. Ref. KA100484 to construct 1 no. self-catering accommodation unit to an existing courtyard building and to renovate and re-furbish the existing residual courtyard building area to incorporate domestic storage areas and agricultural storage areas. Extension of Duration of Permission was granted under P.A. Ref. KA151337. Having regard to the nature and use of the proposed development, i.e. a games room, study and w.c., I am satisfied that the proposed development is consistent with the permitted use on the site and would be used ancillary to the permitted self-catering accommodation unit. Given the residential nature of the proposal development ancillary to the permitted self-catering accommodation unit, I do not consider it appropriate to restrict its hours of use.

7.4. Proposed Entrance Gates and Piers

- 7.4.1. The appellants object to the proposed development on the grounds that the proposed entrance piers and gates are located within the landholding of the appellants. The appellants state that they have not given consent for these proposed works. The appellants have submitted a survey report prepared by Johns Brook Surveys with photos, maps and land registry details substantiating this claim.
- 7.4.2. In consideration of the issue of title of land, Section 5.13 of the Development Management Guidelines (2007) refers to 'Issues relating to title to land' and states that the planning system is not designed as a mechanism for resolving disputes about title to or rights over land and that these are ultimately matters for resolution in the Courts. The Guidelines advise that where there is doubt in relation to the legal title of the applicant, the Planning Authority may decide to grant permission, however a grant of permission is the subject of Section 34(13) of the Planning and Development Act 2000 (as amended). Section 34(13) of the Planning and Development Act states that 'a person is not entitled solely by reason of permission to carry out any development'.
- 7.4.3. Having regard to the above and the dispute over the title of land and the applicant's sufficient legal interest to carry out the proposed development, I consider it inappropriate to refuse permission for the proposed development on these grounds.

7.5. Appropriate Assessment

- 7.5.1. The closest Natura 2000 site to the appeal site is the River Boyne and River Blackwater SAC (Site Code 002299) and SPA (Site Code 004232) located c. 2.5km to the south of the site. Having regard to the nature and modest scale of the proposed development, its connection to a proprietary treatment system and percolation area with capacity for the proposed development, and to the absence of a clear direct pathway to the nearest European site, I am of the 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.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to conditions, for the reasons and considerations below.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Meath County Development Plan 2013-2019, the nature and scale of the proposed development and the suitability of the site for the safe disposal of domestic effluent and surface water drainage, it is considered that, subject to compliance with the Conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 30th day of October 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>

3.	<p>The use of the development for residential purposes shall be restricted to a residential use directly associated with the use of the permitted self-catering accommodation unit within the courtyard building.</p> <p>Reason: To protect the amenities of property in the vicinity.</p>
4.	<p>Details [including samples] of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

Brendan Coyne
 Planning Inspector

21st June 2021