



An
Bord
Pleanála

Inspector's Report

ABP-318682-23

Development	Restoration and extension of derelict cottage in farmyard complex (Protected Structure)
Location	Horse Yard Buildings, Kilsharvan, Bellewstown, Drogheda, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	2360299
Applicant(s)	Lorcan Duffy & Katie Corscadden
Type of Application	Permission
Planning Authority Decision	Grant subject to 14 no. conditions
Type of Appeal	Third Party
Appellant(s)	Eugene & Clare Meegan
Observer(s)	None
Date of Site Inspection	29 th April 2024
Inspector	Bernard Dee

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Kilsharvan along the L16118 to the south of the R150 and to the west of the M1 motorway. Currently the site is accessed through the main estate gate to the south and there is a farm gate SW of the appeal site for the use of agricultural vehicles and horses. The site is not visible from the regional road due to the mature trees and hedgerows.
- 1.2. There is a derelict and overgrown cottage on the site which measures 0.23ha and which is located immediately north of a stable block in the main farm complex. The cottage and garden area is completely overgrown and the interior of the cottage is inaccessible.
- 1.3. The site is located within the curtilage of Protected Structure RPS No: 91007, Kilsharvan County House, a late 18th century house, including a watermill and the appeal site is also in close proximity to Kilsharvan Graveyard ME03505 & Church ME01236, both Recorded Monuments.

2.0 Proposed Development

- 2.1. The drawings submitted with the planning application indicate that the development will consist of the extension and alteration to an existing farm building, 'Apple House, for use as a dwelling house, a new wastewater treatment plant and all associated site works (all within a curtilage of Protected Structure Ref. No 91007).
- 2.2. The existing derelict cottage is stated to be 50m² in area and the proposed extension measures 59m² giving an overall GFS for the proposed dwelling of 109m². The existing cottage has a foot print of 5.239m x 12.381m and a ridge height of 4.434m and is proposed to be converted into a kitchen/dining area and toilet. The proposed extension to the existing cottage is located to the north of the existing cottage and offset to the east and has a foot print of 5.7m x 12.8m and a ridge height of 4.7m and is proposed to be used for two bedrooms, two bathrooms and a living room. The external finish to the proposed extension is zinc/metal finish including the roof with random rubble gables while the stonework of the existing cottage will be retained and a slate roof is proposed.

- 2.3. An on-site effluent treatment system is proposed and water supply will come from the mains system. Two parking spaces are proposed and a new vehicular access.

3.0 Planning Authority Decision

3.1. Decision

Permission for the proposed development was granted on 16th November 2023 subject to 14 no. standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report, in summary, makes the following points:

- It is considered that the principle of residential development is acceptable at this location given that the applicant proposes to restore and extend an old cottage and the demonstration of local housing need is not required in these circumstances.
- The proposed extension can be assessed under section 11.5.25 of the Development Plan which relates to Extensions in Rural & Urban Areas.
- The proposed scale and design of the proposed extension is considered acceptable as is the restoration of the existing stone built cottage on the site having regard to the location of the site within the curtilage of a Protected Structure.
- It is proposed to create a new entrance onto a cul-de-sac where sightlines of 45 metres are indicated in both directions. There are no other dwellings along this cul-de-sac. The entrance will involve breaking through the existing stone wall which is considered acceptable as the majority of the wall will remain intact.
- Proposals for an on-site effluent treatment system and connection to the water mains are acceptable and surface water will be disposed of by means of a soakpit.

- It is noted that the applicant has planning permission under planning reference LB200864, this does not impact on the proposed development, as local needs is not applicable.
- The Planner's Report notes that neither AA nor EIA is required in respect of the proposed development.

3.2.2. Other Technical Reports

- No internal reports received.

3.2.3. Prescribed Bodies

- Irish Water had no objection to the proposed development subject to appropriate conditions being applied.

3.2.4. Observations

- There are submissions on file from the current Third Party appellant Eugene and Clare Meegan.

4.0 Planning History

4.1. On the Appeal Site

- Ref 221631 - Application withdrawn for the provision of 16 residential units in total and will include alterations, extension, and conversion of existing horse yard buildings into 12 residential units including 2 no. 1-bed room units, 8 no. 2-bedroom units, and 2 no. 3- bedroom units and construction of new 2-storey building containing 4 no. 2- bedroom units, new wastewater treatment plant and all associated site works all within a curtilage of protected structure Ref: 91007. The current appeal site was located within the red line boundary of this withdrawn application and the proposal for the cottage which is the subject of the current appeal included plans for restoration and extension as per the current appeal proposals.

4.2. In the Horse Yard Buildings

- Ref. ABP-318681-23 (2360292) - Relates to a live appeal case which should be assessed with the current appeal case. Application for the development of 14 no. residential units, including alterations and extensions to existing horse

yard buildings (A, B & C) and conversion thereof into residential units, construction of a new residential building (D), and a new stable building with overnight staff accommodation, new wastewater treatment plant and associated site works. Buildings A & B will contain 5 no. long term rental residential units (including 4 no. 2-bed. and 1 no. 1-bed.). Building C&D will contain 9 no. units for short term tourist stay (including 7 no. 2-bed. And 2 no. 1-bed) all within a curtilage of protected structure Ref. 91007.

4.3. In the Vicinity of the Site

- Ref 22433 - Permission refused on 27th May 2022 for 4 no. reasons for the construction of a new part single-storey, part storey and a half dwelling, detached garage, wastewater treatment system, new site entrance, and all associated site works. The applicant was Aislinn Duffy and the application site lies to the SW of the current appeal site west of Kilsharvan Graveyard.
- Ref 22432 - Permission refused on 27^h May 2022 for 4 no. reasons for the construction of a new part single-storey, part storey and a half dwelling, detached garage, wastewater treatment system, new site entrance, and all associated site works. The applicant was Cathal Duffy and the application site lies to the SW of the current appeal site and adjacent to and west of Kilsharvan Graveyard.
- Ref LB201801 - Permission granted on 21st September 2021 for the construction of a single storey and two storey extension to the rear of existing two storey dwelling, elevational changes to the existing two storey dwelling and all associated site development works and services.. The applicant was Eugene Meegan (the current Third Party Appellant) and the application site lies to the west of the current appeal site and adjacent to the lane proposed as an access route to the current appeal site.
- Ref. LB200864 (referenced in the Third Party appeal submission) - Permission was granted on 17th December 2020 to Lorcan Duffy for the demolition of existing dilapidated shed, construction of a new single storey dwelling, detached garage, wastewater treatment system, existing field gate

modified to accommodate a domestic entrance and all associated site works subject to 15 no. conditions. This site lies south of the River Nanny and approximately 550m SE of the current appeal site.

5.0 Policy and Context

5.1. Development Plan

Meath County Development Plan 2021-2027 is the statutory plan for the area within which the appeal site is situated and set down below are the relevant Development Plan policies and objectives in relation to this appeal.

Section 8.7.1 Record of Protected Structures

A Protected Structure, unless otherwise stated in the RPS, includes:

- the interior of the structure;
- the land lying within its curtilage;
- any other structures within the curtilage, and their interiors, and;
- all fixtures and features which form part of the interior or exterior of any of these structures.

The term 'curtilage' is generally taken to mean those lands immediately associated with the structure, and in the case of smaller properties usually means all land within the boundaries. In the case of larger properties, the curtilage must be determined on a case by case basis.

It is the policy of the Council:

- HER POL 14 To protect and conserve the architectural heritage of the County and seek to prevent the demolition or inappropriate alteration of Protected Structures.
- HER POL 15 To encourage the conservation of Protected Structures, and where appropriate, the adaptive reuse of existing buildings and sites in a manner compatible with their character and significance. In certain cases, land use zoning restrictions may be relaxed in order to secure the conservation of the protected structure.

- HER POL 16 To protect the setting of Protected Structures and to refuse permission for development within the curtilage or adjacent to a protected structure which would adversely impact on the character and special interest of the structure, where appropriate.
- HER POL 17 To require that all planning applications relating to Protected Structures contain the appropriate accompanying documentation in accordance with the Architectural Heritage Protection Guidelines for Planning Authorities (2011) or any variation thereof, to enable the proper assessment of the proposed works.

Section 11.5.25 relates to Extensions in Urban and Rural Areas.

The objective below relates to residential extensions in urban and rural areas.

DM OBJ 50: All applications for residential extensions in urban and rural areas shall comply with the following criteria:

- High quality design which respects, harmonises and integrates with the existing dwelling in terms of height, scale, materials used, finishes, window proportions, etc;
- The quantity and quality of private open space that would remain to serve the house;
- Flat roof extensions, in a contemporary design context, will be considered on their individual merits;
- Impact on amenities of adjacent residents, in terms of light and privacy. Care should be taken to ensure that the extension does not overshadow windows, yards or gardens or have windows in the flank walls which would reduce a neighbour's privacy;
- Extensions which break the existing front building line will not normally be acceptable. A porch extension which does not significantly break the front building line will normally be permitted;
- Dormer extensions shall not obscure the main features of the existing roof, i.e. should not break the ridge or eaves lines of the roof;
- Proposed side extensions shall retain side access to the rear of the property, where required for utility access, refuse collection, etc.

- Ability to provide adequate car parking within the curtilage of the dwelling house.
- In all cases where diversion or construction over existing sewerage and/or water mains is required, the consent of Irish Water will be required as part of the application.

Vernacular Rural Buildings and Replacement Dwellings

Section 9.14 relates to vernacular rural buildings and replacement dwellings.

A key component of the rural landscape of Co. Meath is the built legacy of traditional dwellings and buildings, many of which have been neglected in preference for new dwellings, or because traditional buildings have become unsuitable as farming practices changed. In the majority of cases in recent times, most vernacular 'Parnellite' cottages are being replaced with larger contemporary and in particular suburban style dwellings that in many instances, are out of keeping with the rural character of the area. Thatched cottages, which were once commonplace, have been and continue to be in decline, and every effort will be made by the Council to encourage and facilitate the survival of the remaining examples. Detailed policy in relation to refurbishment and reuse of existing vacant structures within the UNESCO World Heritage Site of Brú na Bóinne are contained within the Heritage Chapter, section 8.6.1.

- RD POL 30: To promote the viable re-use of vernacular dwellings without losing their character and to support applications for the sensitive restoration of disused vernacular or traditional dwellings.
- RD POL 31: To encourage and facilitate the appropriate refurbishment of existing housing stock in rural areas and in certain limited cases the replacement of existing dwellings subject to development assessment criteria outlined below.
- RD POL 32: To oppose the demolition and replacement of traditional or vernacular rural houses in order to protect the varied types of housing stock in rural areas of the County and to preserve the rural built heritage.

- RD POL 33: To consider the limited conversion of outhouses and other structures attached to large country houses or other heritage structures where acceptable conservation practice is observed in line with the other policies and objectives of this plan and where acceptable site suitability has been established in terms of access, car parking, open space, wastewater disposal and maintaining the setting and amenities of the main structure.
- RD POL 34: To respect the sensitive restoration and conversion to residential use of disused vernacular or traditional dwellings or traditional farm buildings, including those which are Protected Structures, such proposals shall not be subject to the Rural Housing Policy (i.e. local need) that applies to new dwellings.
- RD POL 35: To actively promote the retention and restoration of thatched dwellings as a key component of the built heritage of Co. Meath.

Section 9.14.1 relates to Development Assessment Criteria.

The Planning Authority shall assess applications for refurbishment and/or replacement of existing housing stock in rural areas, having regard to the criteria outlined hereunder:

- That in the case of refurbishment and extension proposals, that the scale and architectural treatment of proposed works are sympathetic to the character of the original structure and the surrounding area including adjoining or nearby development;
- That in the case of replacement dwellings, to require that the original structure was last used as a dwelling and that its roof, internal and external walls are generally intact; That replacement dwellings are provided at locations where safe access and acceptable wastewater disposal arrangements can be put in place and where specific development objectives or other policies of the Planning Authority are not compromised, and
- That the replacement dwelling shall be designed to be of a size and scale appropriate to the site, and;
- The design of replacement dwellings in rural areas shall comply with the 'Meath Rural Design Guide'.

In the assessment of whether a house which it is proposed to replaced is habitable or not, the Planning Authority will rely on the definition contained in Section 2 (Interpretation) of the Planning & Development Act 2000 as amended. A “Habitable House” means a house which: a. is used as a dwelling; b. is not in use but when last used was used, disregarding any unauthorised use, as a dwelling and is not derelict, or; c. was provided for use as a dwelling but has not been occupied.

5.2. Natural Heritage Designations

- River Boyne and River Blackwater SPA (004232) and SAC (002299) are located approximately 5km to the north of the appeal site.
- River Nanny Estuary and Shore SPA (004158) is located approximately 5.5km to the east of the appeal site.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ 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. The relevant planning grounds of the Third Party appeal are, in summary, as follows:

- The grant of planning permission to the applicant (Ref. LB200864) based on local housing need undermines any such argument in favour of the current application for a house on the appeal site.
- The drawings for the withdrawn application (Ref. 221631), indicate that a vehicular entrance already exists where such an entrance is proposed in the application under appeal and there is currently no breach in the stone wall to accommodate a vehicular entrance.

- The current application does not apply for a vehicular entrance going through a wall which is a Protected Structure and the grant of permission issued by the Planning Authority does not include any conditions in relation to any vehicular entrance.
- The access lane to the west of the appeal site and to the east of the appellant's property has been restricted in its use by a gate installed by Meath County Council to prevent anti-social activities occurring in this lane.
- A new entrance onto this lane will have to negotiate this gate but will also cause loss of residential amenity as traffic using this gate will directly overlook our private amenity space.
- An alternative vehicular entrance should be proposed.
- There is no condition attached to the permission preventing the separate sale of the cottage to a third party.

6.2. Applicant Response

The First Party response is, in summary, as follows:

- The cottage proposed for restoration is located behind a 3m high stone estate wall and cannot therefore have any impact on the amenity of the appellant's property.
- The restoration of a vacant cottage and its use as a family home is good for the conservation of the Protected Structure and will also allow the applicants to achieve home ownership.
- The traffic generated by the proposed development will be a maximum of two cars which is in contrast with the relatively high level of traffic generated by the activities of the appellant's on their property.
- The gate on the access lane to the west of the appeal site was erected by Meath County Council with the consent of the landowners as a temporary measure to prevent illegal dumping in the lane as its removal was envisaged as part of the overall future development of 'Apple House' and the main farm buildings.

- Permission Ref. 200864, which relates to a grant of permission to the current applicant is no longer suitable to the needs of the applicant and the application to restore and extend 'Apple House' is now the focus to obtain a family home and Permission Ref. 200864 may be useful to the applicant's siblings who have both been refused permission for new build houses in the locality.

6.3. The Planning Authority Response

- The Planning Authority response states that all issues raised by the appellant were had regard to during the determination of this application by Meath County Council and ask the Board to uphold the decision of the Planning Authority to grant permission for the proposed development.

6.4. Observations

- None received.

7.0 **Assessment**

Having examined all the application and appeal documentation on file and having regard to relevant local and national policy and guidance, 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 main issues, therefore, are as follows:

- Principle of Development.
- Access Issues.
- Other Issues.
- AA Screening.

7.1. Principle of Development

I note that the Planning Authority define a habitable house as a structure, even if unoccupied, as one whose original use was for residential purposes and no other use has taken place since the structure was last occupied. I note also the desirability of the conservation and reuse of Protected Structures as set down in the

Development Plan. Having regard to the above, I consider that residential use on the appeal site and the conservation and extension of 'Apple House' is acceptable in principle.

7.2. Access Issues

7.2.1. The Third Party appellant is of the opinion that the application does not include a proposal for a vehicular entrance onto the access lane to the west of the appeal site but, notwithstanding this, the appellant also expresses concerns that the proposed vehicle entrance would be damaging to the residential amenity and privacy currently enjoyed by virtue of the traffic movements associated with the proposed dwelling.

7.2.2. I note that the statutory notices do not make reference to a new vehicular entrance onto the access lane but that the site layout drawings are clearly annotated with the location of the proposed vehicular entrance to serve the proposed dwelling. As the entrance does not join a public road I believe that the absence of reference to the new entrance in the notices is not a material planning consideration in the assessment of this appeal.

7.2.3. The trip generation levels associated with the proposed residential use of the appeal site would I believe not be of a sufficiently high level or frequency to cause significant disturbance or loss of amenity or privacy to the appellants. I believe that the concerns of the appellants have been overstated regarding the potential of the proposed access to impact adversely on their residential amenity and I do not recommend that the Board give any weight to this Third Party ground of appeal.

7.3. Other Issues

7.3.1. The appellant raises the issue of the applicant already having planning permission for a dwelling based on the need to live in the locality, Ref. 200864, and that the present proposal for a dwelling should not be granted unless the previous permission is nullified.

7.3.2. I would comment that as this appeal relates to the conservation and extension of an existing historic building, the issue of demonstrating local housing need does not arise in this case. The Planning Authority are of the same opinion and I believe this ground of appeal is without substance.

7.3.3. The appellant makes several references to misleading or erroneous drawings in the application package to which I would respond that validation is an issue for the Planning Authority to address and that the Board has no remit in relation to this issue.

7.4. AA Screening

Having regard to the relatively minor development proposed within an existing housing estate and the fact that there are no European sites in the vicinity of the appeal site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that permission be granted for the reasons and considerations set out below and subject to the conditions set down hereunder.

9.0 Reasons and Considerations

Having regard to the provisions of the Meath County Development Plan 2021-2027, including the location of the subject site within the curtilage of a Protected Structure; it is considered that the proposed development would not injure the visual or residential amenities of the area, or of property in the vicinity, nor constitute a traffic hazard by means of the proposed access and would provide an acceptable standard of amenity for future residents. 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 on 27th day of September 2023, 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>Prior to commencement of development, the applicant shall agree in writing with the planning authority details of the proposed vehicular entrance to the site including the making good of the existing stone wall and capping, the design, material and dimensions of the gate and the relocation of the existing gate blocking the access lane. The development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>(a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p>

	<p>This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p>Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area.</p>
4.	<p>(a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 27th day of September 2023, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>
5.	<p>Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development and any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.</p>

	Reason: In the interest of wildlife protection.
6.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
7.	<p>Details of the materials, colours and textures of all the external finishes of 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 visual amenity.</p>
8.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
9.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>
10.	<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>
11.	<p>The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be</p>

	<p>provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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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.

Bernard Dee
Planning Inspector

8th May 2024