



Development

PROTECTED STRUCTURE: demolition of a detached two-storey derelict building a shop and dwelling which is a Protected Structure. Significant Further Information/Revised Plans submitted on this application

Location

Farrell Street, Kells, Meath, A82WV72

Planning Authority

Meath County Council

Planning Authority Reg. Ref.

2560373

Applicant(s)

Kenny Timmons

Type of Application

Permission

Planning Authority Decision

Grant Permission + Conditions

Type of Appeal

Third Party Normal Planning Appeal

Appellant(s)

Imelda Kiernan

Observer(s)

None

Date of Site Inspection

Inspector

Darragh Ryan

1.0 Site Location and Description

- 1.1. The application site is situated in the centre of Kells and comprises commercial property, a detached, unused residential dwelling and several outbuildings. The front of the site is a protected structure within Kells Architectural Conservation Area.
- 1.2. The building located off Farrell Street (Crosby's shop) is recorded in Meath County Council's register of Protected Structures under RPS ID 90510:End-of-terrace three-bay two-storey house, built c.1870, also in use as shop. Pitched tile roof with rendered chimneystacks. Rendered walls. Timber sash windows with stone sills. Timber panelled door with over light.
- 1.3. The property located to the rear of a shop/private dwelling is a two-storey building in a dilapidated and run down state. It is constructed in masonry and plastered in sand/cement. The roof comprises natural slate. It is intact on the southern side but totally damaged on the north side with ivy growing through it. Windows and doors are timber, single-glazed and generally intact but are not considered fit for purpose. The property sits on a stone foundation partly visible in places.
- 1.4. To the very rear of the property are some stone buildings which are in a fully derelict state. The site is accessed via pedestrian gate from Farrell Street where there is a right of way over the site. To the rear of the adjoining site is a detached dwelling which fronts onto the open space between the proposed development and Farrell Street.

2.0 Proposed Development

- 2.1. Planning permission is sought for the demolition of the existing detached residential building in the rear garden space of a commercial property and construct a modern dwelling with connections to existing services.

3.0 Planning Authority Decision

3.1. The planning authority issued a Decision to grant permission subject to 8 conditions:

- C4 - a) Prior to the commencement of any of the proposed development, the applicant shall redesign the surface water system to the written agreement of the planning authority, and the applicant shall implement all recommendations and apply the below conditions into the revised surface water system. The applicant shall install a green roof system for any proposed flat roofs to reduce run-off from the subject site.

b) The applicant shall submit a revised the surface water design showing the correct layout.

c) Prior to the commencement of any of the proposed development, the applicant shall provide BRE 365 infiltration test results for the site. Details of the existing water table level and winter ground water level shall also be provided.

d) Prior to the commencement of any of the proposed development, the applicant shall agree in writing with the planning authority, suitable infiltration systems beneath the proposed permeable paving area with a high-level overflow to the existing combined sewer where applicable. Suitable alternatives can be discussed with the planning authority.

e) All surface water design/work shall comply fully with the Greater Dublin Strategic Drainage Study (GDSDS) Regional Drainage Policies Volume 2, for New Developments.

f) All surface water design/work shall comply fully with the Greater Dublin Regional Code of Practice for Drainage Works Volume 6
- C6 - The developer shall pay the sum of €450.00 to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the Planning Authority in the provision of surface water drainage infrastructure by the Council benefiting development in the area of the Authority, as provided for in the Contribution Scheme of Meath County Council

adopted in accordance with the provisions of Section 48 of the Planning & Development Act 2000-2023.

- C7 - The developer shall pay the sum of €4,950.00 to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the Planning Authority in the provision, refurbishment, upgrading, enlargement or replacement of public roads and public transport infrastructure by the Council benefiting development in the area of the Authority, as provided for in the Contribution Scheme of Meath County Council adopted in accordance with the provisions of Section 48 of the Planning & Development Act 2000-2023.
- C8 - The developer shall pay the sum of €3,600.00 to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the Planning Authority in the provision and extension of social infrastructure (open spaces, recreational and community facilities, amenities and landscaping works) by the Council benefiting development in the area of the Authority, as provided for in the Contribution Scheme of Meath County Council adopted in accordance with the provisions of Section 48 of the Planning & Development Act 2000-2023.

3.2. Planning Authority Reports

3.2.1. There are two Planning Reports on file. The planning report can be summarised as follows:

- The principle of development is considered acceptable on B1 zoned lands.
- The proposed residence is intended to be situated at the rear of an existing property that is associated with both commercial and residential spaces above, located in the town centre. This development will occupy the footprint of an existing building. It is not anticipated that the proposed development will result in excessive overlooking of adjacent residential properties, and it is generally deemed acceptable regarding its impact on neighbouring amenities. Nevertheless, the first-floor windows proposed on the side that overlooks the neighbouring infill site may lead to disorganized development or constraints for any future projects on the infill site. Should permission be granted, it is advisable to impose conditions concerning the

placement of the first-floor windows and the hours of construction to alleviate any impacts stemming from the development's construction.

- The application indicates that there is a single car parking space situated at the back of the property intended for the proposed apartment; however, it fails to specify how this rear parking space will be accessed. A submission has been filed stating that the applicant lacks the right to vehicular access over their land to reach the rear of the applicant's property
 - It is noted that the application form states that surface water disposal is to the public sewer/drain. However, the Meath County Development Plan 2021-2027 requires that SuDS be provided in all new development e.g., Objectives DM OBJ 7, INF OBJ 15) while Objective INF OBJ 18 requires that new developments provide for the separation of foul and surface water drainage networks within application site boundaries. The applicant will be requested to submit a proposal for surface water drainage that accords with the requirements of the Meath County Development Plan
- Further information was sought for the above. Upon receipt of further information the applicant submitted revised information including the retention of outbuilding and conversion of same into 2 one bedroom apartments. The planning authority accepted this proposal, accepted loss of private amenity space and no car parking. The planning authority was generally satisfied with the information provided and recommended a grant of permission.

3.2.2. Other Technical Reports

- Conservation Officer – refusal recommended as follows:

The 'detached' two-storey house is linked to the Recorded Protected Structure by a visually striking stone-cut arch. The rear house and additional stone outbuildings are of notable historical and architectural importance, as is the stone arch itself. All of these features should be preserved and maintained through ongoing repair efforts within any development proposals for the site. It is also possible that these structures predate the front house. The Mall is a historic landmark within the town, and these houses historically fronted onto this space. I strongly oppose their demolition. Therefore, this application should be refused.

The applicant should consider a more appropriate extension to the front street building and prioritize the retention of the rear structures. These could be integrated into a cohesive ensemble of townhouses, enhancing the character and significance of the Architectural Conservation Area (ACA) while supporting town centre living in traditional buildings. The applicant should also provide a Conservation Appraisal of the front building as part of any future application for the site.

The planning authority sought further information to address the concerns of the Conservation Officer, there was no response from the conservation officer in relation to the further information response.

- Environment Flooding -Surface Water Section recommends condition with regard to surface water management.
1. Prior to the commencement of any of the proposed development, the applicant shall redesign the surface water system to the written agreement of the planning authority, and the applicant shall implement all recommendations and apply the below conditions into the revised surface water system. The applicant shall install a green roof system for any proposed flat roofs to reduce run-off from the subject site.
 2. The applicant shall submit a revised the surface water design showing the correct layout.
 3. Prior to the commencement of any of the proposed development, the applicant shall provide BRE 365 infiltration test results for the site. Details of the existing water table level and winter ground water level shall also be provided
 4. Prior to the commencement of any of the proposed development, the applicant shall agree in writing with the planning authority, suitable infiltration systems beneath the proposed permeable paving area with a high-level overflow to the existing combined sewer where applicable. Suitable alternatives can be discussed with the planning authority.
 5. All surface water design/work shall comply fully with the Greater Dublin Strategic Drainage Study (GDSDS) Regional Drainage Policies Volume 2, for New Developments.
 6. All surface water design/work shall comply fully with the Greater Dublin Regional Code of Practice for Drainage Works Volume 6.

- Transportation Section – further information recommended with respect to carparking and access arrangements to the site.
1. The applicant should provide a breakdown of the proposed residential development and demonstrate car parking in compliance with the CDP. Where apartments are proposed the applicant shall demonstrate secure bicycle storage to serve the development.
 2. The applicant shall submit details of the access to the development.
 3. A draft Construction Stage Traffic Management Plan should be submitted, demonstrating how the development is to be accessed.

3.3. Prescribed Bodies

Department of Housing Local Government and Heritage

The site is located in a zone of Archaeological potential. Archaeological monitoring is recommended by condition as follows:

1. The applicant is required to employ a qualified archaeologist to monitor under licence all groundworks associated with the development.
2. Should archaeological material be found during the course of monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by this Department with regard to any necessary mitigating action (e.g. preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found.
3. The Planning Authority and this Department shall be furnished with a report describing the results of the monitoring.

3.4. Third Party Observations

There is a single third party observation on file. The issues raised are similar in nature to those raised in the appeal and will be described in greater detail in Section 7 of this report. The issues raised can be briefly summarised as follows:

- Right of Access

The Applicant has no right of vehicular access over Ms Kiernan's land. To demonstrate this, please refer to the letter and enclosures prepared by Cronin & Co Solicitors. This sets out that the Applicant benefits from a pedestrian right of way only over Ms Kiernan's land. Furthermore, Ms Kiernan has no intention of granting the Applicant any right of vehicular access over her land. Thus it is submitted that the proposed development cannot be implemented and that planning permission should be refused on this basis.

- Overlooking

the proposed development will overlook the appellants property to the west and south of the proposed development. Ms Kiernan considers that the residential privacy / amenity of her property will be substantially harmed by this overlooking.

- Architectural Heritage

It is submitted that the building and archway proposed for demolition comprises part of protected structure RPS ID: 90510 'A. Crosby'. In this regard it is submitted that the building and archway proposed for demolition is located within the curtilage of A. Crosby, and it is highlighted that Section 2 (1) of the Planning and Development Act 2000 as amended ('the Act') sets out that the definition of 'structure' 'in relation to a protected structure includes the land lying within the curtilage of the structure and any other structures lying within that curtilage and their interiors' [my emphasis].

It is highlighted that under Section 57 (10) (b) of the Act, 'a planning authority shall not grant permission for the demolition of a protected structure, save in exceptional circumstances'. It is submitted that no such exceptional circumstances arise in the case of the proposed development, and thus under Section 57 (10) (b) of the Act Meath County Council is prohibited from granting permission for the proposed development. It is submitted that planning permission should be refused on this basis.

- Lack of private amenity space provided
- Invalid Application - It is set out that the application is invalid for a number of reasons for incorrect description of development on site notice in relation to the demolition, the right of vehicular access which is not available to the applicant, no part V provision for housing, no written consent has been

provided by the appellant to make the application as per Article 22 of the Planning and Development Act.

4.0 Planning History

There is no planning history for the site

5.0 Policy Context

5.1. Meath County Development Plan 2021 - 2027

5.1.1. Kells, originating as a Monastic settlement dedicated to St. Columba, is a significant historic town noted for its visible archaeology. Established in 804 AD to escape Viking raids, it evolved into a frontier market town during the Middle Ages, experiencing multiple attacks and fires. Notable developments occurred in the 12th century with Anglo-Norman settlements, leading to its designation as a walled town by 1598. The town's layout reflects its growth, with narrow streets around the monastery, highlighting its religious importance and market function in the 11th century. The town's star-shaped layout arose from key historic routes and featured five gates in its medieval wall. Its archaeological significance lies in the intact street pattern, burgage plots, and St. Columba's Church. Characterized by modest yet elegant late Georgian two-storey buildings, the visual appeal has declined in the last 15 years due to removed traditional features. Kells predominantly showcases plastered buildings, with prominent structures displaying dressed stone or brick facades. Notable landmarks include the medieval tower and 19th-century spire, contributing to the town's architectural identity.

Objectives:

- It is the intention of the Council by the designation of this Architectural Conservation Area, to preserve the historic street pattern within the core of the town, to require that all new developments shall observe the existing scale of the town. to protect the character of the existing streetscape by giving consideration to the suitability of style, construction materials, colour and decoration to be used in any proposals for development taking place within this area.

- To encourage appropriate new uses for empty and under-utilised buildings.
 - To avoid the destruction of minor historic elements whose cumulative loss would severely erode the cumulative cultural significance of the town
- 5.1.2. 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.
- 5.1.3. HER POL 15 To encourage the conservation of Protected Structures, and where appropriate, the adaptive re-use 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.
- 5.1.4. 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.
- 5.1.5. 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.
- 5.1.6. HER POL 18 To require that in the event of permission being granted for development within the curtilage of a protected structure, any works necessary for the survival of the structure and its re-use should be prioritised in the first phase of development.
- 5.1.7. HER OBJ 17 To promote best conservation practice and encourage the use of appropriately qualified professional advisors, tradesmen and craftsmen, with recognised conservation expertise, for works to protected structures or historic buildings in an Architectural Conservation Area.
- 5.1.8. HER POL 19 To protect the character of Architectural Conservation Areas in Meath.
- 5.1.9. HER POL 20 To require that all development proposals within or contiguous to an ACA be sympathetic to the character of the area, that the design is appropriate in

terms of height, scale, plot density, layout, materials and finishes and are appropriately sited and designed with regard to the advice given in the Statements of Character for each area, where available

- 5.1.10. Section 11.5.12 Private Open Space Consolidated Meath County Development Plan 2021-2027 (incl. V1, V2 & V3) All houses should have an appropriate and useable area of private open space, exclusive of car parking, to the rear of the front building line. The minimum area of private open space to be provided is set out in Table 11.1. Exceptions to this may only be considered in relation to the redevelopment of brownfield/regeneration sites where a focus should be on design led and performance-based outcomes rather than specific absolute requirements in all cases. Flexibility will only be permissible in response to well-designed development proposals.
- 5.1.11. DM POL 7: Residential development shall provide private open space in accordance with the requirements set out in Table 11.1. A reduction below the minimum standard of private open space may be considered acceptable where an equivalent amount of high quality semi-private open space is provided in lieu of the private open space, subject to at least 50% of the area being provided as private open space (see table 11.1 above).
- 5.1.12. DM OBJ 46: To allow a reduction in open space and car parking standards for 'living over the shop' accommodation proposals in town centre locations, subject to protecting residential amenity, where considered appropriate by the Planning Authority.
- 5.1.13. Section 11.9.1 Parking Standards - One of the cross-cutting themes of the Development Plan is to encourage a shift to more sustainable forms of transport. The provision of sufficient car parking is important particularly in areas of the County which are currently poorly served by public transport networks. Therefore, the rationale for the application of car parking standards is to ensure that consideration is given to the accommodation of vehicles in assessing development proposals while being mindful of the need to promote a shift towards more sustainable forms of transport.

DM OBJ 89: Car parking shall be provided in accordance with Table 11.2 and associated guidance notes.

Dwellings/Locations Accessible locations³: Maximum of 1.5 spaces per dwelling/unit
Intermediate and peripheral locations: Maximum should be 2 per dwelling/unit

5.2. Relevant National or Regional Policy / Ministerial Guidelines

- Project Ireland 2040, The National Planning Framework (NPF)
- The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland (EMRA) 2019-2031
- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2025
- Quality Housing for Sustainable Communities' (2007)
- Section 28 Planning Guidelines have been considered in assessing this application

5.3. Natural Heritage Designations

River Boyne and River Blackwater SAC 002299 and SPA 004232

6.0 EIA Screening

6.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

7.0 The Appeal

7.1. This is a third party appeal against the decision of Meath County Council to grant permission for the proposed development. The Grounds of Appeal can be summarised as follows:

7.1.1. Lack of Rights over the appellants lands –

In order to carry out works to the proposed site, the applicant is required to have vehicular access to the site. The applicant would also be required to place scaffold on appellants land. There is no consent for vehicular traffic or permission to erect any scaffolding on applicants lands, therefore the proposal should be refused.

While the applicant benefits from a pedestrian right of way the appellant claims that this right does not extend to multiple residential properties.

Contrary to the submission of the applicant there is no ongoing legal process with regard to “Rights of Access” as set out by the applicant.

It is not clear where the bin store can be located to facilitate the development.

There will be no consent provided to wheel commercial bins over appellant’s land for collection on Farrell Street. The pedestrian gate at the access to Mrs Kiernan’s land would not be wide enough for commercial bins to pass through.

There are a number of appeals/case law precedents cited by the appellant where by the applicant did not demonstrate sufficient legal interest to carry out works to a development site and therefore permission was refused/ or decision quashed.

- Further more where by a number of people were to have access over Mrs Kiernan’s lands there would be multiple security and privacy risks to the appellant.

7.1.2. Archietctrual Heritage – The proposed development for demolition lies within the curtilage of a Protected Structure and is thus a protected structure. Under Section 2.1 of the Planning and Development Act the definition of a structure includes the land lying within the curtilage of the structure or any other structure lying within that curtilage and their interiors. There is no detail provided of the structure for demolition, within original planning documentation or submitted information through further information including Conservation Appraisal as submitted.

There are no exceptional circumstances for the demolition as required under Section 57 (10) (b) of the Act. The proposed demolition runs contrary to the National Planning Framework and Development Plan policy

7.1.3. Private Amenity Space - There are no private amenity spaces provided for the two apartments at this location. This runs contrary to the apartment guidelines. The building being a protected structure does not exempt the development from

providing amenity space as set out under Table 2 of the Design Standards for Apartment Guidelines 2025.

- 7.1.4. Car Parking – Table 11.2 of the Meath County Development Plan requires a maximum of 1.5 car parking spaces per dwelling at “accessible locations”. The applicant has not provided any car parking at this location, Kells is not adequately served by sufficient public transportation to waive the requirement for car parking.
- 7.1.5. Surface Water Drainage – The applicant has not provided the relevant BRE 365 testing for the proposed permeable paving. No calculations have been provided. Meath County Council are reliant on pre development conditions for the proposal which runs contrary to the rights of the appellant. The applicant sets out case law with respect to same. There is no consideration for adequately sized soak pits into the western part of the site in place of permeable paving.
- The connection to combined sewer which is within appellant’s property raises concerns in relation to capacity issues.
- 7.1.6. Consolidation of Unauthorised Development – The structure has recently been subject to extensive works including removal of large section of front façade, removal of one of the chimney stacks, removal of historic shopfront and replacement with modern materials, removal of timber sash windows and replacement with modern materials, reconstruction of large sections of rear wall. These works were carried out to the protected structure and key elements of the protected structure as set out by the NIAH, therefore the works carried out were done without the benefit of planning permission and therefore to grant permission in this instance would be to consolidate unauthorised development on site.
- 7.1.7. Validity of the application – the applicant sets out that the application should have been deemed invalid at application stage by Meath County Council. It is set out that the application is invalid for a number of reasons for incorrect description of development on site notice in relation to the demolition, the right of vehicular access which is not available to the applicant, no part V provision for housing, no written consent has been provided by the appellant to make the application as per Article 22 of the Planning and Development Act.

7.2. Applicant Response in the case of a 3rd Party Appeal

- 7.2.1. Right of Access over third party lands – The subject site only requires pedestrian access over the appellants lands in order to service the development. The applicant has sufficient legal interest for pedestrian access to the property. The Commission is not required to make a determination on legal rights of access as per Section 34 (13) of the Planning and Development Act

Furthermore access for the purposes of construction works may be carried out through the ground floor of the shop unit. There is no requirement to access through pedestrian lands. All deliveries and material associated with the demolition can be brought through the shop unit to the front of the site.

Residents will access the bin storage area via the restored archway. On bin collection days bins will be brought through the archway to the street for bin collection.

- 7.2.2. Architectural Heritage, Design/Overlooking - all construction works are to occur largely within the same building envelope of existing outbuilding building. There shall be no additional building that will result in overlooking of adjacent property that is 20m from front boundary of appellants property. Furthermore, the applicant would accept a condition seeking that first floor window onto western elevation shall consist of opaque glass to avoid any potential for overlooking. The potential for overlooking is already limited as a result of existing screening and angles of dwellings.

- 7.2.3. Regarding security risk and increased pedestrian activity, the third party already accepts a pedestrian right of way on site. The proposal is for 2 apartment units with a controlled access in an urban environment, there will be limited additional numbers of people accessing the site.

- 7.2.4. Regarding loss of Architectural Heritage, the applicant submitted a revised proposal to retain the outbuildings and convert same into 2 one-bedroom apartments in response to concerns of the conservation officer and the planning authority in this regard. The proposed conversion of the outbuilding into two viable one-bedroom apartments presents a viable use of the historic outbuilding as it requires a minimum level of intervention to its exterior and would therefore successfully retain its external appearance and character.

- 7.2.5. Regarding lack of private amenity space – It is submitted by the applicant that the shortfall of private amenity space provision associated with the two one-bedroom apartments is offset by the heritage benefits of restoring and re-using the historic building within the Kells Historic Core ACA and in accordance with Section 11.14. of the Meath County Development Plan and heritage policy HER POL 15 and HER POL 21 which encourages the preservation and conservation of heritage properties and their sus re-use in a manner compatible with their character and significance and which allows for a relaxation of other development standards such as private amenity space. Furthermore, residents of the apartments will have access to a generous rear garden space for use as a communal amenity space to serve the proposed apartments.
- 7.2.6. Regarding Carparking – The applicant sets out that there is established policy basis for an appropriate level of discretion and flexibility in balancing the conservation and heritage benefits of ensuring the preservation of the historic building and the contribution it makes to the heritage and character of the Kells Historic Core ACA against development standards including car parking. It is submitted that the provision of zero car parking at this location is consistent with Compact Settlement guidelines that states that car parking should be reduced at urban locations and should ne minimised, substantially reduced or wholly eliminated at locations that have good access to urban services and to public transport. The zero parking arrangement is consistent with SPPR 3 of the Compact Settlement Guidance which are based on “maximum permissible standards” and are not minimum requirements. Policy DM OBJ 89 which the appellant relies is also based on the application of maximum permissible standards. The provision of ancillary private amenity space and car parking provision are two development management parameters where discretion and flexibility are sometimes necessary and appropriate to balance the conservation and heritage benefits of ensuring the preservation of a building and contribution it makes to the heritage and character of the Kells Historic Core ACA.
- 7.2.7. Regarding Surface Water – The applicant has submitted a full engineering report which deals with each aspect of the SUDS issues raised by the appellant. It is concluded that surface water can be adequately managed and there will be no implications or risk to third party property.

- 7.2.8. Consolidation of Unauthorised Development - The applicant states that all works that have been carried out on the Protected Structure to date can be classed as emergency works as set out under section 58 (5) of the Planning and Development Act. All works were carried out in consultation with Meath County Council conservation officer. The urgent works that were undertaken were carried out completely in accordance with Section 58 (5) of the Planning and Development Act. There are no live enforcement proceedings against the applicant with respect to the site. There is no unauthorised use on the appeal site to be consolidated, intensified or extended.
- 7.2.9. Validity of the application – It is submitted that the original statutory notices and Significant Further Information responses included “an indication of fact” that works are proposed to the protected structure. It is clear from the grounds of appeal that the statutory notices has served in its primary purpose of informing third parties of the nature and extent of the proposed development. The purpose of significant of FI notices is to inform the third parties that the proposal has been significantly altered from its original form.
- 7.2.10. Regarding red line boundary – the statement in the appeal that the red line boundary should have included some of the third party lands is incorrect as no development works are proposed on third party lands. There is existing surface water and sewer connection via the adjoining third party lands serving the application site and therefore no requirement to access third party lands.
- The issue of the Right of Way referenced by third parties has been addressed by further information. It is information that would not have been available to Meath County Council, therefore there is no issue of validity.
- The proposed development is sub-threshold development for the purposes of Part V provision. If there was a question over Part V its common practice that this is requested at further information stage or in more straightforward cases included as a standard condition.

7.3. Planning Authority Response

The planning authority submitted a response to the appeal submission on the 23rd of April 2026. The planning authority is satisfied that the proposal was adequately

considered throughout the course of the assessment and respectfully request An Coimisiun Pleanala uphold the decision to grant permission.

7.4. Observations

- None

7.5. Further Responses

The agent for the applicant has submitted a response to the 1st party response to the appeal. The appealnat reiterates some of the arguments made in the original appeal and refutes some of the claims made by the applicant. The response can be summarised as follows:

- 7.5.1. Right of way/ Right of Access – The applicant’s submission does not address the core concerns of the appellant in that in order to complete works on site, it is necessary for scaffold to be erected on third party lands. This has not been addressed by the applicant as the erection of scaffold on third party lands is the only way to complete the required works. The issue of bringing bins out to site has also not been addressed. The bins are commercial and there is no consent to wheel bins through the appellants lands to O’Farrell Street.

The appellant notes the Coimisiún is not obliged to make a determination under Section 34 (13) of the Planning and Development Act, however the Coimisiún should make a determination as it is clear that the applicant does not have sufficient legal interest to carry out the works.

- 7.5.2. Regarding Residential Security – nothing in the applicant’s submission negates the core grounds of the appeal in this topic that the proposed development will result in multiple additional persons taking pedestrian access over Ms Kiernan’s land, which is considered an unacceptable security risk to the appellant and invasion of her privacy. The proposed development will overlook Ms Kiernan’s property will significantly impact residential privacy and amenity of her property.
- 7.5.3. Regarding Architectural Heritage – the applicants submission is vague with regard to elements of the structure to be demolished . The applicant makes no attempt to demonstrate the exceptional circumstances required under Section 57 (10) of the Planning and Development Act before demolition of the structure can be

permitted. . The proposed demolition of any element of the protected structure is contrary to relevant national and local planning policy and materially contravenes the development plan.

- 7.5.4. Private Amenity Space – It is set out that applicants’ submission negates the grounds of Appeal in that the proposed development without the proposed development would result in a low standard of accommodation that should be considered wholly unacceptable. The design standards for new apartments only accepts a reduction in private amenity spaces in certain circumstances, none of which are met by the applicant.
- 7.5.5. Regarding car parking – the applicant’s submission is disingenuous the Compact Settlement Guidelines refer to places that have access to good public transport. Kells does not have the benefit of to quality public transport therefore SPPR3 central or urban location is a disingenuous description of the site. The proposed development will result in residents parking in nearby streets of Kells town centre reducing available parking in the town. The Decision of Meath County Council to grant permission was made in a vacuum of input from Meath County Council transport department.
- 7.5.6. Surface Water Drainage – the applicant has not properly addressed the issue of surface water drainage as no calculations have been provided. Without infiltration test results for the site the proposed permeable paving may not be viable.
- 7.5.7. Consolidation of Unauthorised Development – the appellant contends that the development carried out to date is unauthorised. No supporting evidence has been provided between Meath County Council and applicant to demonstrated that the works carried out were exempt. Section 58 (5) as cited by the applicant has no bearing on the appeal as these relate solely to legal proceedings taken against persons who cause damage to a protected structure. Section 58 (5) has no bearing whether works carried out can be considered exempt or constitute unauthorised development.
- 7.5.8. Validity of the Application – The matters of the application boundary, right of way and consent of owner raised ion our appeal are not trivial, technical or insubstantial matters of detail but rather matters of fundamental importance pertaining to infringement of property rights, sufficiency of legal interest and

whether the proposed development can be implemented/accessed. The DM guidelines do not state that these matters can be addressed through further information as submitted the applicant. It is highlighted in the DM guidelines under section 5.13 that Under the Planning Regulations as amended a planning applicant who is not the legal owner of the land or the structure in question must submit a letter of consent form the owner in order to make the planning application. Where an applicant is not the owner does not submit such a letter of consent the application must be invalidated.

Article 22 (2) (b) (i) requires the applicant to indicate all land to “which the application relates”. The applicant has not done this. As the applicant will require use of third party lands the red line boundary as provided is incorrect and the application should be invalidated.

As the applicant has not provided none of the requisite Part V information , therefore the development should have been invalidated.

8.0 **Assessment**

Having examined the planning application details and all other documentation on the appeal file, including the appeal submission, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this licence appeal are those raised in the grounds of appeal. The issues can be addressed under the following headings:

- Context
- Principle of Development
- Architectural Heritage, Design/Overlooking
- Right of Access
- Surface Water
- Other Matters

8.1. Context

8.1.1. The subject site is located within the town centre of Kells on lands zoned B1 “To protect, provide for and/or improve town and village centre facilities and uses”

under the Meath County Development Plan 2021–2027. The site comprises the protected structure known as “Crosby’s Shop” (RPS Ref. 90510), together with a number of ancillary structures located within its curtilage. The site also lies within the Kells Historic Core Architectural Conservation Area (ACA).

The proposal, as revised following Further Information, comprises three principal elements:

- a contemporary single-storey rear extension to the existing shop unit/protected structure;
- the retention, restoration and adaptive re-use of the historic rear outbuilding and archway to provide two no. one-bedroom apartments; and
- the partial demolition of a separate derelict structure located to the rear of the site.

8.1.2. The existing stone wall on the north side of the site will be retained and incorporated as an internal feature in the revised proposal. The existing outbuildings and cut stone arch will be retained in their entirety with a new pitched roof provided. It is proposed to carry out works to re-establish the outbuilding and to convert the property into 2 no. 1 bed apartments of 48.27sqm each. The proposed design aims to retain and rebuild this structure, restoring it’s character and bringing it back into life. Shared private/communal open space is provided for both apartments to the rear of the building. The recent lean-to addition to the rear will be demolished and the existing window and door opes will be retained and only necessary modifications to openings will be carried out in order to comply with current building regulations.

8.1.3. The floor plan will now feature two one-bedroom accommodations on each floor (one on the ground floor and one on the first floor), each offering a total floor area of 48m². The proposal includes for the removal of the car parking that was previously suggested at the back via the side accessway. No car parking within the curtilage is now included. The applicant intends to solely use the current built footprint to provide two 1-bedroom accommodations through the refurbishment of an existing structure. Although the private amenity space is not specifically designated for the proposed units, the rear garden area offers open space

associated with the property that can serve as the private amenity space for the proposed units.

- 8.1.4. Having regard to the revised drawings, Architectural Impact Assessment, conservation details submitted and the policy framework of the Meath County Development Plan, Meath County Council considered that the proposal represents an appropriate and balanced conservation-led redevelopment of the site.

8.2. Principle of Development

- 8.2.1. The site is located within the B1 zoning objective where residential development is permissible, particularly where it contributes to the regeneration and re-use of existing buildings within town centres. The proposal facilitates the refurbishment and reactivation of long-derelict structures within the historic core of Kells and contributes positively to town centre consolidation and residential occupancy.

- 8.2.2. The proposed residential use arises from the refurbishment and conversion of existing building within the established footprint of the site and does not result in overdevelopment. The omission of previously proposed vehicular access and car parking to the rear, due to legal constraints relating to the side accessway, further reduces potential impacts on the historic fabric and character of the site.

In this regard, the development accords with the strategic objectives of the B1 zoning objective and supports compact growth and town centre regeneration objectives contained within the Development Plan.

8.3. Architectural Heritage and Conservation

- 8.3.1. The front building known as “Crosby’s Shop” is included on the Record of Protected Structures under RPS Ref. 90510 and forms an important component of the historic streetscape within the ACA. The revised proposal retains the protected structure in its entirety and limits interventions to a single-storey rear extension which is contemporary in design, subservient in scale and visually contained within the rear of the site. The proposed rear extension will not be visible from O’Farrell Street or from key views within the ACA and, having regard to its scale, materiality and siting, it is considered to have a neutral impact on the character and setting of the protected structure and the wider ACA.

- 8.3.2. The proposal further provides for the retention and restoration of the significant stone archway and adjoining outbuildings identified by the Conservation Officer as important historic features within the curtilage of the protected structure. The adaptive re-use of these buildings for residential purposes will secure their long-term conservation and reactivation. Existing openings are largely retained, interventions are minimal, and conservation-grade materials are proposed throughout. The retention of sections of the north stone wall as an internal feature further preserves the historic character of the site.
- 8.3.3. The Architectural Impact Assessment submitted by the applicant concludes that the proposal will have an overall positive impact on the site through the restoration and re-use of the historic structures, while resulting in a neutral impact on the protected structure, adjoining protected structures and the ACA. Having regard to the revised proposal and the conservation approach adopted, I concur with this assessment.
- 8.3.4. Demolition of the Derelict Rear Structure- The principal issue raised by the appellant relates to the proposed demolition of the third structure located within the curtilage of the protected structure. While the structure itself is not included on the Record of Protected Structures, it forms part of the wider curtilage and therefore merits consideration from an architectural heritage perspective. The applicant has submitted a reasoned justification for the partial demolition of this building, supported by the Architectural Impact Assessment, which identifies the structure as being in an advanced state of dereliction and structurally unsound. The assessment further notes that the building is unsalvageable in its current form. Notwithstanding this, the revised proposal seeks to retain elements of the structure, including the north wall and part of the west wall, where feasible, and to incorporate these historic fabric elements into the redevelopment of the site. In assessing this aspect of the proposal, regard has been had to the relevant heritage policies of the Meath County Development Plan, in particular:
- 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 re-use of existing buildings and sites in a manner compatible with their character and significance; and
- HER POL 16 – To protect the setting of Protected Structures and refuse development within the curtilage or adjacent to a protected structure which would adversely impact on the character and special interest of the structure.

8.3.5. Section 8.7 of the Meath County Development Plan promotes an active and pragmatic approach to conservation which supports the viable re-use and long-term protection of historic structures. In this instance, the proposal secures the retention and restoration of the principal historic elements on the site, including the protected structure, archway and associated vernacular outbuilding, all of which make a meaningful contribution to the character of the ACA.

8.3.6. While the demolition of part of the derelict rear structure results in some loss of historic fabric within the curtilage, the structure is of limited architectural significance, is physically detached from the protected structure and has been demonstrated to be beyond reasonable repair. Importantly, the proposal overall delivers a substantial conservation gain through the restoration and occupation of the remaining historic buildings on the site which complies with Policy Objective HER POL 15..

8.3.7. I note the argument of the appellant in relation to Section 57 (10) of the Planning and Development Act regarding the requirement to demonstrate exceptional circumstances before the demolition of a Protected structure can be permitted. The derelict structure for demolition is not a Protected structure however as it is in the curtilage of a protected structure, a high level of protection if afforded to the structure. Having regard to the level of detail supplied in the application and the appeal, I consider the applicant has justified the demolition of the structure in this instance and there is no violation of Section 57 (10). The derelict and unsound nature of the structure as well as being physically detached from the protected structure render its demolition justifiable. Furthermore, I note the Planning Authority were satisfied with the level of detail supplied in this regard.

It is considered that the demolition proposed is justified in the circumstances of the case and would not adversely affect the character, setting or special interest of the

protected structure or the ACA. On balance, the overall development complies with the heritage objectives and conservation policies namely Policy Objective HER POL 15 of the Meath County Development Plan 2021–2027 and represents an appropriate conservation-led redevelopment of a long-derelict town centre site.

8.4. Right of Access

- 8.4.1. The appellant raises concerns regarding the applicant's rights of access over adjoining third-party lands, particularly in relation to construction activity, the erection of scaffolding, bin movement and access associated with the proposed residential use of the site. It is contended that, while a pedestrian right of way exists, no legal entitlement has been demonstrated for construction-related access or for intensified use associated with two residential units.
- 8.4.2. In response, the applicant has stated that an established pedestrian right of way exists over the adjoining lands and that the proposed development can be undertaken entirely from within the application site itself. It is submitted that all construction materials can be brought through the existing shop frontage and that no access to third-party lands is required for the carrying out of works. The applicant further states that no scaffolding or construction activity will necessitate encroachment onto adjoining lands.
- 8.4.3. Having regard to the submissions on file, I consider that issues relating to the precise extent of private property rights, rights of way and access arrangements over third-party lands are primarily civil matters and fall outside the remit of the planning process. In this regard, I note that the applicant has demonstrated the existence of pedestrian access to the site and there is no substantive evidence before me indicating that such access is restricted to a particular number of users. Accordingly, it would appear that occupants of the proposed residential units would be capable of accessing the site by means of the established pedestrian route.
- 8.4.4. With regard to construction activity and the potential requirement for scaffolding or temporary access arrangements, I note the applicant's position that all works can be undertaken from within the confines of the site. Nonetheless, given the constrained nature of the site and the concerns raised by the appellant, I consider it reasonable and appropriate that a condition be attached requiring the

submission of a detailed Construction Management Plan for the written agreement of the Planning Authority prior to commencement of development. Such a plan should address construction access arrangements, delivery management, storage of materials, waste management and any temporary scaffolding proposals, ensuring that no unauthorised encroachment onto adjoining lands occurs.

- 8.4.5. I do not consider that the absence of demonstrated rights to use adjoining lands for construction purposes constitutes reasonable grounds for refusal of permission in this instance. The subject site contains a Protected Structure and associated historic fabric which require ongoing maintenance and conservation. A refusal of permission on the basis advanced by the appellant could potentially undermine the reasonable repair, upkeep and viable re-use of the protected structure and associated buildings. Furthermore, the granting of planning permission does not confer any legal right of access over third-party lands, nor does it override existing property rights or obligations. Any dispute concerning trespass, access rights, boundary ownership or easements remains a matter to be resolved between the relevant parties and, ultimately, through the civil courts if necessary.

In this regard, I draw attention to Section 34(13) of the Planning and Development Act 2000, as amended, which provides that a person shall not be entitled solely by reason of a grant of permission to carry out any development. Accordingly, any permission granted would not prejudice private legal rights nor authorise access onto adjoining lands without the consent of the landowner.

8.5. Surface Water Drainage

- 8.5.1. The appellant raises concerns regarding the proposed surface water drainage arrangements for the development. In particular, it is contended that, in the absence of BRE 365 infiltration testing, the applicant has failed to demonstrate that Sustainable Urban Drainage Systems (SuDS) measures can operate effectively on the site. The appellant further submits that the condition imposed by the Planning Authority relating to SuDS is insufficient, as the site's infiltration capacity has not been quantified. Concerns are also raised regarding the absence of consent to connect to the existing combined sewer network traversing third-party lands. In response to the appeal, the applicant submitted a Surface Water Drainage Report which outlines the proposed drainage strategy for the site. The

report identifies that the existing drainage arrangement serving the site comprises discharge of surface water directly to the combined sewer network in an uncontrolled manner, without attenuation or source-control measures. The applicant states that this represents the established drainage regime currently associated with the property. There is no requirement to access third party lands to discharge into combined sewer as this can be done directly from the proposed site.

8.5.2. The proposed revised drainage scheme incorporates a range of SuDS measures designed to improve the existing drainage arrangement by reducing and attenuating peak surface water runoff prior to discharge to the existing combined sewer. The proposed measures include:

- green roof systems;
- SuDS planter systems; and
- permeable paving.

8.5.3. The applicant states that these measures will provide interception, temporary storage and evapotranspiration of rainfall, thereby reducing the rate and volume of runoff entering the downstream sewer network during peak rainfall events. The Surface Water Drainage Report further clarifies that infiltration to ground is not proposed as the primary method of surface water disposal for the development. Rather, the SuDS strategy is intended to attenuate and slow runoff prior to discharge to the existing combined sewer network. In this regard, the applicant contends that BRE 365 infiltration testing is not essential to the proposed drainage strategy. I note that the proposed approach is consistent with the principles of the Greater Dublin Strategic Drainage Study and with national guidance advocating the use of SuDS measures as part of an integrated surface water management strategy.

8.5.4. In assessing this aspect of the proposal, regard has been had to the relevant provisions of the Meath County Development Plan 2021–2027, including:

- INF OBJ 25– To require the use of Sustainable Urban Drainage Systems (SuDS) to minimise and limit the extent of hard surfacing and paving and require the use of sustainable drainage techniques where appropriate;

- INF OBJ 26 – To discourage the use of hard non-porous surfacing and pavements;
- INF OBJ 27 – To encourage the use of Green Roof technology particularly on apartment, commercial, leisure and educational buildings; and
- DM OBJ 7 – Requiring SuDS measures to form part of the design of all developments.

8.5.5. Having regard to the information submitted, I am satisfied that the applicant has provided an adequate surface water management strategy for the scale and nature of the proposed development. The proposal does not seek to intensify discharge rates to the existing network but rather seeks to improve the existing situation through attenuation and source-control measures which will reduce peak runoff rates entering the combined sewer system. I further note that the Planning Authority has attached a condition requiring the submission of detailed drainage design proposals, including pipe sizing and final SuDS specifications, for the written agreement of the Planning Authority prior to commencement of development. I consider this to be a reasonable and appropriate approach having regard to the scale of the proposal and the nature of the drainage strategy advanced.

8.5.6. With regard to concerns relating to third-party consent for sewer connections, I consider these matters to relate primarily to private legal arrangements and do not alter the planning merits of the proposal. The applicant has clarified that there is no requirement for access to third party lands as the connection into the combined sewer is existing. Any permission granted would not confer rights to connect across third-party lands without the necessary legal agreement or statutory consent.

8.5.7. Overall, I am satisfied that the proposed development would result in an improvement over the existing uncontrolled drainage arrangement on the site and that the proposed SuDS measures would provide a net benefit in terms of surface water management. Accordingly, I consider that the proposal complies with the relevant surface water and SuDS objectives of the Meath County Development Plan 2021–2027 and that surface water drainage does not constitute a substantive reason for refusal in this instance.

8.6. Other Matters

8.6.1. Overlooking/Security

The appellant raises concerns regarding potential overlooking, loss of privacy and impacts on security arising from the proposed residential development to the rear of the site. It is submitted that access to the proposed apartments is via a pedestrian right of way adjoining the appellant's property and that the intensified residential use of the site would adversely affect the appellant's residential amenity and sense of security.

- 8.6.2. Having regard to the plans and particulars submitted, I note that the residential component of the proposal relates to the refurbishment and adaptive re-use of an existing two-storey structure within the curtilage of the protected structure. The proposal does not involve the construction of an additional building or any significant alteration to the established footprint, scale or form of the existing structure. Rather, the development consists of the renovation and subdivision of the former dwelling into two one-bedroom apartment units.
- 8.6.3. Importantly, the existing window and door openings are substantially retained as part of the conservation-led approach to the building. As such, the spatial relationship between the subject site and adjoining properties remains largely unchanged from the existing situation. In this regard, I do not consider that the proposal would materially intensify overlooking or overlooking potential beyond that already associated with the existing built form.
- 8.6.4. Notwithstanding this, I note that the applicant has proposed the installation of obscure glazing at first-floor level to the relevant window and door openings in order to further mitigate any perception of overlooking or loss of privacy. I consider this to be a reasonable and appropriate mitigation measure and recommend that it be secured by condition in the event of a grant of permission.
- 8.6.5. With regard to concerns relating to security and access, I note that pedestrian access arrangements to the site are existing and are not altered by the proposed development. The existence of a pedestrian right of way has been acknowledged by both parties. While the appellant contends that such access rights do not

extend to the proposed apartment use, I consider that the precise extent and interpretation of private access rights are legal matters outside the scope of the planning assessment.

- 8.6.6. From a planning perspective, the proposal does not introduce any new access route or materially alter the existing circulation pattern associated with the site. The development seeks to regularise and reactivate an existing residential structure within the established urban grain of the town centre and within the curtilage of the protected structure.
- 8.6.7. In assessing residential amenity impacts, I have had regard to the relevant provisions of the Meath County Development Plan 2021–2027, including the general development management standards relating to residential amenity, protection of adjoining properties and the promotion of compact growth within existing town centres. I am satisfied that the proposal would not result in unacceptable overlooking or loss of privacy to adjoining properties and that the mitigation measures proposed are sufficient to safeguard residential amenity.
- 8.6.8. Accordingly, I do not consider that concerns relating to overlooking or security constitute substantive grounds for refusal of permission in this instance. Subject to the attachment of an appropriate condition requiring obscure glazing to identified first-floor openings, I am satisfied that the proposal would comply with the residential amenity and development management objectives of the Meath County Development Plan 2021–2027.
- 8.6.9. Car parking

The appellant raises concerns regarding the absence of on-site car parking provision associated with the proposed residential development. It is contended that the lack of dedicated parking would adversely affect the residential amenity of future occupants and would place additional pressure on existing on-street parking provision within the town centre. In response, the applicant submits that the applicable parking standards contained within the Meath County Development Plan 2021–2027 are maximum rather than minimum standards and that there is no specific requirement to provide on-site parking in this instance. The applicant further states that the site is located within an accessible town centre location where reduced parking provision is supported by national planning policy and

Section 28 Guidelines. It is also noted that vehicular access to the rear of the site is unavailable and, accordingly, on-site parking cannot reasonably be accommodated within the constraints of the development site.

8.6.10. I note that Table 11.2 of the Meath County Development Plan 2021–2027 sets out maximum parking standards for residential development, including a maximum standard of 1.5 car parking spaces per dwelling unit in accessible locations. The categorisation of accessible locations is informed by the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024, issued under Section 28 of the Planning and Development Act 2000, as amended. Having regard to the central location of the site within the historic core of Kells, its proximity to services, retail uses and public infrastructure, I am satisfied that the site constitutes an accessible urban location for the purposes of the Development Plan and the Section 28 Guidelines. Importantly, the Development Plan parking standards are expressed as maximum standards and should not be interpreted as mandatory minimum requirements. In this regard, I consider that the absence of on-site parking must be assessed in the context of the specific characteristics and constraints of the site, including:

- the brownfield nature of the development;
- the location within the ACA and curtilage of a protected structure;
- the absence of vehicular access to the rear of the site; and
- the conservation-led approach adopted in the redevelopment proposal.

I further note that Policy Objective DM OBJ 46 of the Meath County Development Plan specifically provides flexibility in relation to parking and open space standards for “living over the shop” accommodation proposals within town centre locations, stating that reduced standards may be considered appropriate by the Planning Authority subject to the protection of residential amenity.

8.6.11. I consider this policy objective to be directly applicable in the circumstances of the current proposal, which involves the regeneration and adaptive re-use of an underutilised brownfield site to the rear of an existing town centre commercial premises. Given the physical constraints of the site and the heritage sensitivities associated with the protected structure and ACA, the provision of on-site vehicular

parking would be difficult to achieve without compromising the character and layout of the site. Furthermore, having regard to the modest scale of the proposal, comprising two one-bedroom apartments in a highly accessible town centre location, I do not consider that the omission of on-site parking would give rise to unacceptable impacts on residential amenity or traffic conditions. The proposal is consistent with the broader national policy direction contained within the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024, which support reduced car dependency and more flexible parking standards in centrally located and accessible urban sites.

8.6.12. Accordingly, I am satisfied that the proposed development complies with the relevant parking policies and development management objectives of the Meath County Development Plan 2021–2027 and the applicable Section 28 Guidelines. I therefore do not consider the absence of on-site car parking to constitute a substantive reason for refusal in this instance.

8.6.13. Private amenity space

The appellant raises concerns regarding the absence of dedicated private amenity space associated with the proposed apartment units. It is contended that the lack of private open space provision results in a poor standard of residential accommodation and demonstrates an overall deficiency in the quality of the scheme. It is further stated that the proposal does not comply with Design Standards for New Apartment Guidelines 2025. In response, the applicant states that the proposal relates to the refurbishment and adaptive re-use of an existing brownfield site within the established footprint of historic structures located in the curtilage of a protected structure. It is submitted that the physical and heritage constraints of the site limit the capacity to provide individual private amenity areas in the form of balconies or terraces. Notwithstanding this, the applicant notes that a substantial rear garden area is available within the site and will function as shared communal open space for future residents.

8.6.14. In assessing this issue, regard has been had to the provisions of the Meath County Development Plan 2021–2027 and the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024 issued under Section 28 of the Planning and Development Act 2000, as amended.

8.6.15. Appendix 1 of the Design Guidelines for New Apartments 2025 sets out guidance in relation to private amenity space for apartment development, including the provision of balconies, terraces or patios designed to ensure adequate privacy, functionality and solar access. The Guidelines recommend a minimum private amenity provision of 5 sq.m for one-bedroom apartment units. However, the Guidelines also provide flexibility in relation to refurbishment schemes and urban infill developments, stating that:

- reduced private amenity provision may be accepted where high quality communal open space is available;
- standards may be relaxed on constrained urban infill sites or refurbishment schemes on a case-by-case basis; and
- site-specific considerations, including heritage constraints and design quality, should inform the planning assessment.

8.6.16. I consider these provisions to be directly relevant in the circumstances of the current proposal. The development relates to the refurbishment and re-use of an existing two-storey vernacular structure located within the curtilage of a protected structure and adjoining the Kells Historic Core Architectural Conservation Area. The proposal is conservation-led in nature and confined to the existing building footprint. In this context, the provision of individual balconies or private terraces would be difficult to achieve without adversely impacting the character and historic fabric of the structure and surrounding heritage setting.

8.6.17. I note, however, that the proposal includes access to communal open space within the rear garden area of the site. While not formally designated as private amenity space for each individual apartment, the area provides a usable and accessible external amenity area for future residents. Given the modest scale of the proposal, comprising two one-bedroom apartments only, I consider that the communal open space provision is acceptable in principle. Furthermore, I am satisfied that the constraints associated with the site, including its brownfield nature, heritage sensitivities and location within the historic core of Kells, justify a degree of flexibility in the application of private amenity space standards in this instance. This approach is consistent with the case-by-case flexibility envisaged under the Sustainable Residential Development and Compact Settlements Guidelines for

Planning Authorities 2024 and aligns with the broader objectives of compact growth, adaptive re-use and town centre regeneration promoted under national and local planning policy. I consider it appropriate that a condition be attached requiring the communal open space areas to be permanently retained for the shared use of residents and maintained to an appropriate standard.

8.6.18. Overall, having regard to the scale and nature of the proposal, the constrained heritage context of the site and the availability of communal open space, I am satisfied that the proposed development would provide an acceptable standard of residential amenity. Accordingly, I do not consider the reduced level of private amenity space provision to constitute a substantive reason for refusal of permission in this instance.

8.7. Validity of the Application/Unauthorised Development

8.7.1. The appellant raises a number of concerns regarding the validity of the planning application as lodged with Meath County Council, including matters relating to the content of statutory notices, red line boundary delineation and Part V requirements. It is contended that the application should have been declared invalid by the Planning Authority. Having regard to the file, I note that the application was accepted and validated by the Planning Authority and subsequently proceeded through the statutory planning process, including public notification, consideration by the Planning Authority and the submission of third-party observations and appeals. The appellant has actively participated in the process and has made detailed submissions at both Planning Authority and appeal stages.

8.7.2. In this regard, I am satisfied that the appellant has had adequate opportunity to participate in the planning process and I do not consider that any alleged procedural deficiencies identified have resulted in a breach of fair procedures or have materially prejudiced public participation in the assessment of the proposed development.

8.7.3. The question of whether an application complies with the technical validation requirements of the Planning and Development Regulations is primarily a matter for the Planning Authority at application stage. The role of the Commission in the

current appeal is to assess the planning merits of the proposed development having regard to the proper planning and sustainable development of the area.

- 8.7.4. The appellant also raises concerns regarding alleged unauthorised works on the site. In response, the applicant states that certain works were undertaken as emergency protection and maintenance measures pursuant to Section 57(10) and Section 58(5) of the Planning and Development Act 2000, as amended, in the context of safeguarding the protected structure and associated buildings. I note that the Planning Authority's assessment does not identify any substantive enforcement issue arising on the site. In any event, matters relating to enforcement and the investigation of alleged unauthorised development are separate statutory functions under the Planning and Development Act and fall primarily within the remit of the Planning Authority.

Accordingly, I do not consider that the issues raised in relation to validation or alleged unauthorised development materially alter the planning assessment of the proposed development or constitute substantive grounds for refusal of permission in this instance.

9.0 AA Screening

I have considered the proposed development at Farrell Street, Kells, Meath, in light of the requirements S177U of the Planning and Development Act, 2000, as amended. The subject site is located 1.4km west of River Boyne and River Blackwater SAC 002299 and SPA 004232

There are no drainage ditches or watercourses in the vicinity of the development site that provide direct connectivity to European sites. Article 10 of the Habitats Directive and the Habitats Regulations 2011 place a high degree of importance on such non-Natura 2000 areas as features that connect the Natura 2000 network. Features such as ponds, woodlands and important hedgerows were taken into account in the decision process.

The proposed development comprises the provision of an extension to existing protected structure and refurbishment of existing two storey outbuilding and conversion into apartments.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows;

- The nature and small scale of the development,
- The location of the development site and distance from nearest European site(s), and the weakness of connectivity between the development site and European sites.
- Taking account of the screening report/determination by the Planning Authority.

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act, 2000) is not required

10.0 Water Framework Directive

I have assessed the proposed development for the provision of an extension to existing protected structure and refurbishment of existing two storey outbuilding and conversion into apartments and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to a surface water

The reason for this conclusion is as follows:

- The best practice standard measures that will be employed to prevent groundwater and surface water pollution from the site.
- Connection to existing public sewer

I conclude that on the basis of objective information, that the retention development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment

11.0 Recommendation

11.1. I recommend that permission be granted for the following reasons and considerations:

12.0 Reasons and Considerations

Having regard to the following:

- the nature and scale of the proposed development,
- the consideration of main grounds of appeal and observations in relation to the proposed development set out in Section 7.0 of this report,
- the planning application particulars submitted by the applicant including the response to Further Information and submissions on the appeal,

It is considered that the proposed development does not impact negatively on amenity of neighbouring residential properties owing to nature and scale of development on zoned lands. It is considered that the conversion of existing outbuilding for use as apartment living accords with HER POL 15 and HER POL 16 in relation to the conservation and protection of Protected Structures. The development when complete will support town centre living in traditional buildings. Having regard to the policy framework set out in the Meath County Development Plan the policy framework as set out in Section 8.7 Architectural Heritage Section of the Meath County Development Plan 2021 – 2027 as varied, it is considered that the proposal represents an appropriate and balanced conservation-led redevelopment of the site.

13.0 Conditions

1. 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 received by the planning authority on the 28th day of November 2025 and 11th day of December 2025, 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.

Reason: In the interest of clarity.

2. a) Prior to the commencement of development, a sample material of all the external finishes, including roof materials to be used shall be submitted for the written approval of the Planning Authority.
b) The windows and doors on the proposed dwelling shall be timber or “aluclad”. Full details of windows and doors to have obscure glazing on first floor of northwestern elevation shall be provided
c) Existing cast iron rainwater goods shall be retained in situ and repaired where possible. Any proposed new rainwater goods shall be cast iron or cast aluminium.
d) UPVC shall not be used for windows, doors, fascias, soffits or barge boards, gutters and down pipes

Reason: In the interest of protecting the character and setting of the protected structure and conserving the architectural heritage of the area. (Conservation)

3. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and surface water management.

4. The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development. Prior to the commencement of such works the archaeologist shall consult with and forward to the Local Authority archaeologist or the National Monuments Service as appropriate a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation [preservation in-situ/excavation]. The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation of places, caves, sites, features or other objects of archaeological interest"

5. 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:

(a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;

- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Measures to obviate queuing of construction traffic on the adjoining road network;
- (e) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (f) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (g) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (h) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (i) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (j) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority;
- (k) Methodology for all repairs including roof repair. (how the site shall be accessed)

Reason: In the interest of amenities, public health and safety and environmental protection

6. A full architectural and photographic survey of the derelict structure for demolition shall be carried out, and drawings and photographs indicating details of these buildings, to a scale acceptable to the planning authority, shall be submitted to the planning authority prior to the commencement of development. the commencement of development.

Reason: In order to facilitate the preservation by record and/or recording of the architectural heritage of the site.

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be 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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme

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.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.”

Darragh Ryan

Planning Inspector

20th of May 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	500700-MH-26
Proposed Development Summary	the provision of an extension to existing protected structure and refurbishment of existing two storey outbuilding and conversion into apartments.
Development Address	Farrell Street, Kells, Co Meath
IN ALL CASES CHECK BOX / OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q.2.
	<input type="checkbox"/> No, No further action required.
(For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	

<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR	Schedule 5, Part 2, Class 10 (b) of the Planning and Development Regulations 2001 (as amended) Business District Greater than 2 hectares

<p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	
<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input checked="" type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3) [Delete if not relevant]</p>
<p>No <input type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3) [Delete if not relevant]</p>

Inspector: _____

Date: _____

Appendix 2: Form 2 - EIA Preliminary Examination

Case Reference	500700- MH -26
Proposed Development Summary	the provision of an extension to existing protected structure and refurbishment of existing two storey outbuilding and conversion into apartments.
Development Address	Farrell Street, Kells Co Meath
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The development has a modest footprint, comes forward as a standalone project, requires a modest level of demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development)	The development is situated in a urban area on a brownfield site. The development located within existing

<p>in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>brownfield site adjacent to existing residential property. There is capacity on the site to absorb the proposed development. Land is zoned B1 Town Centre at a distance of 1.4km from nearest European Site. There are no watercourses on site</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>
<p>Conclusion</p>	
<p>Likelihood of Significant Effects</p>	<p>Conclusion in respect of EIA</p>

<p>There is no real likelihood of significant effects on the environment.</p>	<p>The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.</p>
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Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)

