



An
Bord
Pleanála

Inspector's Report

ABP-309736-21

Development	Demolition of living room extension and storage shed to rear of dwelling and replacement with single/two storey extension to rear and side of dwelling.
Location	Holloweds Hill, Redgap, Rathcoole, Co. Dublin
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD20B/0510
Applicant(s)	Robert and Helen Kavanagh
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Robert and Helen Kavanagh
Observer(s)	None
Date of Site Inspection	17 May 2021
Inspector	Una Crosse

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.3 hectares is located at Holloweds Hill, Redgap, approximately 900m south of Rathcoole village in County Dublin. The site is on the east side of Rathcoole Hill Road and is part of a cluster of rural houses of varying designs along this stretch of the road which lies east of the main Rathcoole to Killeel Road. The area is elevated, with levels rising in a southerly direction.
- 1.2. The site accommodates a two-storey house set back c.40m from the public road, a detached shed and a private garden, enclosed by post and rail fencing along the east and west boundaries with mature trees along the south boundary and by a low-level stone wall along the northern boundary, parallel to the road. The site access is shared with the east-adjointing property, with both entrances framed by a stone wall and controlled access gate.

2.0 Proposed Development

- 2.1. The proposed development consists of the demolition of a single storey extension to the rear of the dwelling and a storage shed as well as the demolition of the front entrance porch on the front elevation. It is also proposed to demolish part of the first-floor internal walls. The area of the proposed demolition is stated to be 29.1 sq.m. The area of the house to be retained is stated to be 285 sq.m.
- 2.2. The proposal then consists of a new single/two-storey modern 'cuboid' extension to the rear and side of the dwelling comprising the entire length of the rear elevation and a further 5.1 metres to the south west of the existing building line on the ground floor with an overall length of 21.2m. On the first floor, the extension comprises the length of the existing dwelling (c.14.66m).
- 2.3. The proposal also includes the reconfiguration of the internal layout of the ground floor of the existing dwelling including raising the first-floor level and existing ridge level of the roof.
- 2.4. It is also proposed to add dormer windows to first floor bedrooms on the front elevation and develop what is described as a feature entrance to the front of the dwelling which is a large double height structure which incorporates timber louvres.
- 2.5. The area of the proposed extension is stated to be 499 sq.m.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 19th February 2021 South Dublin County Council refused permission for two reasons, as follows:

1. *Having regard to:*

(i) *The 'RU' land-use zoning objective, and*

(ii) *the Rural Housing Strategy contained in the South Dublin County Development Plan 2016 – 2022, in particular Policy H22 Objective 1 which states that within areas designated with Zoning Objective RU (to protect and improve rural amenity and to provide for the development of agriculture) new or replacement dwellings will only be permitted in exceptional circumstances and H22 Objective 1 which states:*

To consider new or replacement dwellings with areas designated with Zoning Objective 'RU' (to protect and improve rural amenity and to provide for the development of agriculture) where:

-The applicant can establish a genuine need to reside in proximity to their employment (such employment being related to the rural community) OR

- The applicant has close family ties with the rural community.

The development as proposed, in the absence of a genuine rural generated housing need and no close family ties with the rural community, and the absence of evidence of exceptional circumstances to replace a dwelling, materially contravenes the policy and objectives of the South Dublin County Development Plan 2016-2022 and would be contrary to the proper planning and sustainable development of the area.

2. *The proposed development constitutes a replacement dwelling by virtue of the scale and extent of intervention relevant to the existing house and development to a habitable structure. Having regard to the 'RU' zoning objective and the criteria for development of a replacement structure contained in Policy H25 of the SDCDP 2016-2022, the applicant has not shown that:*

- (a) there is a genuine need for replacement or refurbishment of the structure; or*
- (b) that the replacement dwelling would largely occupy the same footprint, scale and location of the dwelling to be replaced.*

Thus the proposed development would materially contravene Policy H25 and be contrary to the proper planning and sustainable development of the area.

- 3. The proposed development would set an undesirable precedent for other similar urban generated housing development in a 'RU' zoned area, which would in themselves and cumulatively, be harmful to the rural amenities of the area, contravenes the 'RU' zoning objective and would be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

- 3.2.1. A planning report dated 19th February 2021 reflects the decision to refuse permission. It sets out the zoning, consultations, planning history, policy and relevant government guidelines. The report states that the proposal consists of the partial demolition and extension of the existing dwelling including the removal and raising of the first floor and removal and replacement of the roof and complete removal of internal walls. It states that the application form indicates an area of 499 sq.m for works but it is not clear if this includes the existing. It considers that the proposal comprises the essential removal of the existing structure and its replacement with something far larger and it is considered to be a replacement dwelling, of a dwelling permitted in 2004, as referred to in the CDP policies. It is stated that the applicant has not provided information relating to the 5 criteria in policy H25 and it is considered that the proposal does not meet the 1st and 5th criteria (genuine need and same footprint/scale/location) as it is a recent build and is of a much larger scale. Stated applicant has not shown that they meet the criteria in Policy H22 to justify a replacement dwelling.
- 3.2.2. In terms of visual impact, it is stated that the proposal is taller and has a greater massing. The site at 0.7ha (0.3ha) has the capacity for the proposal to sit comfortably within its surroundings without impacting on amenities of the area and would comply with policy H27 other than the last criterion of H27 which seeks that development would not create or exacerbate ribbon or haphazard forms of development. It is stated that the proposal, which is substantially larger with a greater occupancy rate, by way

of precedent it would set could exacerbate ribbon development. In relation to the previous reasons for refusal it is stated that the proposal is considered to be a replacement dwelling of a larger scale; the applicant has not overcome the housing need requirements in Policy H22 and by reason of same the development exceeds the design standards provided for in Policy H25 and may exacerbate ribbon development contrary to policy H27. No AA or EIA issues arise. The Notification of Decision to Refuse Permission (outlined above) is generally in accordance with the recommended reasons for refusal.

3.2.3. **Other Technical Reports Received**

Irish Water – noted in Planners Report that no report was returned to the PA.

Water Services Department – no objection, subject to a number of standard planning conditions.

Roads Department – report not provided by PA but noted in Planners Report - no objection subject to conditions.

Parks and Landscape Services / Public Realm – report not provided by PA but noted in Planners Report - no objections subject to conditions requiring a landscape plan and retention of all existing trees and hedgerows.

Environmental Health – No objection subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. None

3.4. **Third Party Observations**

None

4.0 Planning History

4.1. On Site

SD04A/0408

Permission granted November 2004 for a two-storey residence, together with retention and renovation of existing cottage converted to stables and demolition of old outhouse and sheds. Permission was also granted for construction of a new septic tank and percolation area, together with ancillary site works to construct new sight lines.

SD19A/0317 (ABP-307268-20)

Permission was refused by the Board on appeal in October 2020 for the demolition of a house and the construction of a replacement house, new wall, landscaping and all associated site works for the following reason:

“Having regard to the location of the site within an area under strong urban influence, in accordance with the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005, and in an area subject to the zoning objective RU ‘To protect and improve rural amenity and to provide for the development of agriculture’ of the South Dublin County Development Plan 2016-2022, where Policy Objective H22 restricts new or replacement dwellings on the basis of a genuine rural generated housing need and evidence of exceptional circumstances. Having regard to the provisions of Section 2.5 ‘Rural Housing Strategy’ of the development plan, it is considered that the applicants have not demonstrated a genuine rural generated housing need and that exceptional circumstances do not apply, which justify the proposed replacement house. The proposed development would therefore be contrary to the RU zoning objective and to Policy H22 in particular, and would, therefore, be contrary to the proper planning and sustainable development of the area”.

A **Note** attached to the Direction stated the following: Having regard to Policy H25 of the South Dublin County Development Plan 2016-2022 which provides criteria for the Replacement of Rural Dwellings, the Board was not satisfied on the basis of the

information on the file that there adequate justification provided for the demolition of a house which is of relatively recent construction. Furthermore, the Board noted that the proposed replacement house is significantly larger in terms of its scale and its gross floor area and that Policy H25 provides for a replacement house to be similar in terms of footprint, scale and location of the house. However, the Board considered that this was a new issue and in the light of the substantive reason for refusal set out above, decided not to pursue this issue.

4.2. Sites in Vicinity

The following decisions may be of interest:

SD18A/0011 – (ABP-301367-18)

Outline permission refused on 17th September 2018 for a house..

SD16A/0312 – (ABP Ref. PL 06S.247577)

Permission refused on 20th March 2017 for a single storey, four bed house and associated development.

SD16A/0089

Permission refused on 9th May 2016 for construction of a house and associated development.

SD15A/0346

Permission refused on 21st January 2016 for redevelopment and extension of a barn, to provide a dwelling, together with associated development.

SD15A/0239

Permission and retention permission granted on 21st December 2015 for amendments to single storey detached dwelling, treatment plant and percolation area permitted under planning reference SD02A/0180.

5.0 Policy Context

5.1. National Policy

5.1.1. National Planning Framework

Policy Objective 15: Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

Policy Objective 19: Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.1.2. Sustainable Rural Housing Guidelines for Planning Authorities

The Guidelines refer to persons considered as constituting those with rural generated housing needs being persons who are an intrinsic part of the rural community or working full-time or part-time in rural areas. The Guidelines refer to persons who are an intrinsic part of the community as having 'spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes'.

5.2. Regional Policy

5.2.1. Eastern & Midland Regional Spatial & Economic Strategy 2019-2031

RPO 4.80: Local authorities shall manage urban generated growth in Rural Areas Under Strong Urban Influence (i.e. the commuter catchment of Dublin, large towns

and centres of employment) and Stronger Rural Areas by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.3. Development Plan – South Dublin County Development Plan 2016-2022

- 5.3.1. The subject site is zoned 'RU' under the South Dublin County Development Plan 2016-2022, with an objective *“to protect and improve rural amenity and to provide for the development of agriculture.”*
- 5.3.2. Section 2.5 of the Development Plan contains the Planning Authority's Rural Housing Strategy. Policy H20 is the overarching policy control for such housing, outlining that: *“It is the policy of the Council to restrict the spread of dwellings in the rural “RU”, Dublin Mountain ‘HA-DM’, Liffey Valley ‘HA-LV’ and Dodder Valley ‘HA-DV’ zones and to focus such housing into existing settlements.”*
- 5.3.3. Subsequent policies within the Section outline separate approaches to the different rural zones and also in relation to replacement house and house extensions.
- 5.3.4. Policy H22 is directly relevant to the proposed development, where it states: *“It is the policy of the Council that within areas designated with Zoning Objective ‘RU’ (to protect and improve rural amenity and to provide for the development of agriculture) new or replacement dwellings will only be permitted in exceptional circumstances.”*
- 5.3.5. H22 Objective 1 clarifies the application of this policy, outlining that it is an objective of the Council: *“To consider new or replacement dwellings within areas designated with Zoning Objective “RU” - where (i) The applicant can establish a genuine need to reside in proximity to their employment (such employment being related to the rural community) or (ii) the applicant has close family ties with the rural community.”*
- 5.3.6. Policy H25 is also directly relevant to the proposed development, where it states:

“It is the policy of the Council to consider applications for replacement dwellings in rural and high amenity areas where there is a genuine need for refurbishment and/or replacement.”

5.3.7. H25 Objective 1 clarifies the application of this policy, outlining that favourable consideration will be given to such proposals, when the following criteria are met:

- *“There is a genuine need for replacement or refurbishment of the structure; and*
- *The roof, internal walls and external walls of the structure on site are substantially intact; and*
- *The structure on site is a habitable dwelling and its use as a habitable dwelling has not been abandoned (for a period that exceeds 5 years); and*
- *The structure on site is of limited value in terms of built heritage, character and visual amenity; and*
- *The replacement dwelling would largely occupy the same footprint, scale and location of the dwelling to be replaced, save in exceptional circumstances where the Planning Authority agrees a more favourable position in the context of the development management criteria outlined in Chapter 11 Implementation.”*

5.3.8. The following policies are referenced in the grounds of appeal.

HOUSING (H) Policy 17 - Residential Consolidation - It is the policy of the Council to support residential consolidation and sustainable intensification at appropriate locations, to support ongoing viability of social and physical infrastructure and services and meet the future housing needs of the County.

H17 Objective 1: To support residential consolidation and sustainable intensification at appropriate locations and to encourage consultation with existing communities and other stakeholders.

H17 Objective 2: To maintain and consolidate the County’s existing housing stock through the consideration of applications for housing subdivision, backland development and infill development on large sites in established areas, subject to appropriate safeguards and standards identified in Chapter 11 Implementation.

5.3.9. The following policy relates to rural house and extension design:

HOUSING (H) Policy 27 Rural House & Extension Design - It is policy of the Council to ensure that any new residential development in rural and high amenity areas, including houses and extensions are designed and sited to minimise visual impact on the character and visual setting of the surrounding landscape.

H27 Objective 1: Ensure that all new rural housing and extensions within areas designated with Zoning Objective 'RU' (to protect and improve Rural Amenity and to provide for the development of Agriculture), Zoning Objective 'HA-DM' (to protect and enhance the outstanding natural character of the Dublin Mountains Area), Zoning Objective 'HA-LV' (to protect and enhance the outstanding character and amenity of the Liffey Valley) and Zoning Objective 'HA-DV' (to protect and enhance the outstanding character and amenity of the Dodder Valley):

- Is designed and sited to minimise impact on the landscape including views and prospects of natural beauty or interest or on the amenities of places and features of natural beauty or interest including natural and built heritage features; and
- Will not have a negative impact on the environment including flora, fauna, soil, water (including ground water) and human beings; and
- Is designed and sited to minimise impact on the site's natural contours and natural drainage features; and
- Retains and reinstates traditional roadside and field boundaries; and
- Is designed and sited to circumvent the need for intrusive engineered solutions such as cut and filled platforms, embankments or retaining walls; and
- Would comply with Code of Practice Wastewater Treatment Systems Serving Single Houses, EPA (2009) or other superseding standards; and
- Would not create or exacerbate ribbon or haphazard forms of development.

5.4. Natural Heritage Designations

5.4.1. The subject site is not located within or adjacent to any designated European Site.

5.5. EIA Screening

5.5.1. Having regard to the limited nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- Previous planning history outlined with appellant instructing architect to design a renovation of the existing building following refusal of permission to replace the structure.
- Changes following refusal do not seem to have been considered with refusal on subject proposal identical to previous.
- Site context not considered with area, semi-suburban, surrounded by houses of similar nature built on their own site with area not pristine rural location and no amenity impacts identified by PA with potential interference with amenity referenced in Reason 3 not appearing to be based on realistic assessment of proposal but rather on theoretical assessment of a new house in a theoretical situation.
- To refute PA contention that proposal is a replacement dwelling, drawings included (Appendix A) comparing site plan to existing and highlighting the existing structure to be retained and proposed additions on the elevations and sections with-in excess of 50% of the fabric of the building being retained.
- Building regulations require higher floor to ceiling height for purposes of ventilation which has a knock-on effect on height of the roof but roof remains in substantially same location albeit higher and of a different material with re-roofing of a structure coming within Section 4(1)(h) although exemption not claimed.

- Two matters addressed in previous Inspectors Report related to (i) whether replacement would be less expensive than renovation and whether this justified replacement and (ii) whether new dwelling would occupy larger footprint; second matter noted in the Board direction with Inspector suggesting that existing walls could have been upgraded rather than replaced which is what is being done now.
- Replacement or rearrangement of internal walls/demolition of external walls for exempt extension exempt under Section 4(1)(h).
- Replacement not defined in Development Plan but in normal use of language would comprise an entire replacement with precedent in the Board that where more than 50% of building being retained, the building is not being demolished.
- Where a building is extended, parts/substantial elements of fabric of building will be replaced but this is not taken as a replacement building even if completed building substantially different character.
- If interpretation that in excess of 50% of fabric retained proposal cannot be considered a replacement with PA decision erroneous.
- Policy H22 does not prohibit the extension of dwellings with largest proportion of work in this case consisting of an extension with rationale for policy related to practice of acquiring small cottages and replacing same but not the case in this instance where proposal is to upgrade and extend an existing habitable dwelling.
- None of planning considerations of rural housing policy arise in this instance as house is not being replaced and area not going to be returned to rural state with proposal entirely in keeping with the development plan.
- Consider that as per Section 37(2)(b)(ii) there are contradictions in the Development as Housing Policy H17 supports residential consolidation and sustainable intensification at appropriate locations (Obj 1). Maintain existing housing stock (Obj 2) and support and facilitate the replacement of existing dwelling with one or more replacement dwellings (Obj 3).
- 37(2)(b)(iii) – recent amendment to Building Regulations which require significant improvements to buildings including where in excess of 25% of fabric of existing building being altered with many governmental schemes promoting energy upgrades.

- 37(2)(b)(iv) – Board entitled to grant permission having regard to pattern of development in the area, and given same, difficult to see how anyone could conclude that permission should not be granted.
- In previous refusal reference to Policy H25 for replacement dwelling and while argue that proposal is not a replacement if Board refer to same consider:
 - (i) outlined why building should be refurbished with Government policy strongly directed towards retrofitting;
 - (ii) external walls are being retained;
 - (iii) structure is habitable;
 - (iv) works will improve visual amenity;
 - (v) not a replacement building with building occupying substantially the same footprint.
- Proposal could not create precedent for breaching Council’s rural housing policy as it is not a replacement dwelling with only precedent likely to be established that of appropriate upgrading with each case requiring to be considered on its own merits.
- No third-party submissions and no environmental issues raised by PA with appellant entitled to effect improvements to the building with existing and proposed contextual elevations outlining how proposal will have minimal visual disruption.
- House is strategically located to enable easy access to appellant’s work.
- Cannot be argued that proposal will have any negative planning implications with no negative amenity or visual implications.

6.2. Planning Authority Response

6.2.1. No response on file.

6.3. Observations

6.3.1. None on file.

7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the first-party appeal in detail, the main planning issues in the assessment of the proposed development are as follows:

- Principle of Development
- Other Issues
- Appropriate Assessment.

7.2. **Principle of Development**

The main issue in this appeal relates to the principle of the development and I propose to address this matter under three headings as follows:

- Nature of the Development
- Material Contravention; and
- Precedent

7.2.1. **Nature of the Development**

The first matter to be addressed is whether the proposal in principle comprises a replacement dwelling or whether it is, alterations to and an extension of, an existing dwelling. This is key to the consideration of this appeal in my opinion. The Planning Authority have taken the view that the works proposed to the structure, given the scale of the works and nature of alterations particularly to the first floor and roof, provide that the development is a replacement dwelling rather than an extension of an existing house. The appellants grounds of appeal put forward their contention that the proposed development does not constitute a replacement house but comprises necessary alterations to bring the house up to an appropriate level of comfort and sustainability. While I would agree that the alterations proposed are substantial and the house is significantly altered, in principle I do not agree that the proposal is a replacement house. The external ground floor walls and large part of first floor external walls of the existing house is being retained and the new build is proposed around same. While the front elevation is altered by the new dormers and entrance features the proportions of the scale of the front elevation are not dramatically changed as is evidenced by the comparison contextual elevations submitted with the appeal. In

terms of the principle of the proposed development I do not agree that the proposal comprises a replacement dwelling but rather is the remodelling of an existing dwelling.

7.2.2. **Material Contravention**

While I do not agree that the proposed development is a replacement dwelling, but rather comprises the remodelling of an existing dwelling, two of the three reasons for refusal cited by the Planning Authority, refer to the proposal materially contravening Policy H22 Objective 1 and Policy H25 Objective 1 of the County Development Plan. Policy H22 requires an applicant to prove a genuine need to reside in proximity to their employment or have close family ties to the rural community. Policy H25 Objective 1 which relates to replacement houses has 5 criteria which are as follows:

- *“There is a genuine need for replacement or refurbishment of the structure; and*
- *The roof, internal walls and external walls of the structure on site are substantially intact; and*
- *The structure on site is a habitable dwelling and its use as a habitable dwelling has not been abandoned (for a period that exceeds 5 years); and*
- *The structure on site is of limited value in terms of built heritage, character and visual amenity; and*
- *The replacement dwelling would largely occupy the same footprint, scale and location of the dwelling to be replaced, save in exceptional circumstances where the Planning Authority agrees a more favourable position in the context of the development management criteria outlined in Chapter 11 Implementation.”*

The appellants have sought to address these concerns and I note that the Planning Authority consider that all bar criteria 1 & 5 have been met. The PA consider that the proposal does not meet these two criteria as it is a recent build and is of a much larger scale. In terms of Criteria 1 the appellants state that the building should be refurbished with Government policy strongly directed towards retrofitting. In relation to Criteria 5 they state that the proposal is not a replacement building and the building would occupy substantially the same footprint. While I consider that there is some merit in the PA’s contention on both criteria, fundamentally I agree with the appellant that the

proposal is not a replacement dwelling and therefore the criteria should not have to be considered in this context.

However, while I do not agree that the proposed development is a replacement dwelling and therefore I do not consider that the proposal comprises a material contravention of Policy H22 Objective 1 or Policy H25 Objective 1 as it does not comprise a replacement dwelling, Section 37(2)(a)&(b) of the Planning and Development Act 2000, as amended states that:

(a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

I do not consider that subsection (i) would apply. In relation to subsection (ii), conflicting objectives, I consider that the appellants have made a reasonable case on this consideration particularly where Housing Policy H17 supports residential consolidation and sustainable intensification at appropriate locations (Obj 1 and seeks to maintain existing housing stock (Obj 2). I would also note the Housing Policy 27 which relate to rural house and extension design and I consider that the proposal

complies with all of the requirements none of which include a threshold on the size or nature of the extension. I consider that one of the key considerations in respect of conflicting objectives is that the Planning Authority have themselves conflicted the objectives in this case by implying and imposing objectives related to replacement dwellings which are not applicable in this instance where the house is being remodelled and the policies set out in Housing Policy 27, for rural house and extension design are more applicable. I therefore consider that this provision of Section 37(2)(b) would apply. I also consider that the provisions of subsection (iv) apply as the pattern of development on the site in question provides that a substantial part of the external structure is being retained thereby providing that the proposal to remodel the building would consolidate the pattern of development rather than alter same in any material way.

7.2.3. **Precedent**

Finally, I note the reason for refusal that states that the proposal would set an undesirable precedent for other similar urban generated housing development in a 'RU' zoned area is unreasonable. I consider that given that the existing house has already been developed on the site and has been in situ for in excess of 15 years provides that altering/remodelling the existing house would have no impact on the principle of further urban generated housing.

7.3. **Other Issues**

- 7.3.1. While I would agree that the scale of the proposed works are significant when compared to the existing house, I would note that the house is located on a substantial site of c.0.3 hectares. Therefore, the site has the ability to absorb the greater scale of structure now proposed and this is accepted by the Planning Authority. The design is modern and contemporary as opposed to the design of the existing structure which has very little by way of architectural quality to justify its retention. I would suggest that the remodelling of the dwelling would be a significant visual gain to the local environment rather than an impact on same.
- 7.3.2. I do not consider that there are issues in respect of the residential amenity of adjoining properties. While the alterations create a larger dwelling, the site is of a significant size and the proposed structure can be appropriately accommodated within the site without

impacting on any adjoining development. Matters in respect of surface water and landscaping can be addressed by compliance.

- 7.3.3. Given the requirements of the Parks Department as set out in the Planners Report I recommend that a condition is attached requiring a Landscape Plan for the site. I would also note that the wastewater treatment system on site is proposed to be used with the Environmental Health Department of the Local Authority satisfied with same.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development, which is a small-scale residential development, outside of any Natura 2000 sites, I do not consider that any Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1.1. I recommend that planning permission should be granted subject to the conditions outlined below.

9.0 Reasons and Considerations

- 9.1. Having regard to the existing use of the site for residential purposes and the proposal to retain substantial elements of the existing structure, it is considered that, subject to compliance with the conditions set out below, the proposed development would not comprise a replacement dwelling and would be acceptable in terms of residential amenity, traffic safety and would not detract from the character of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 submitted on the 17th day of December, 2020 and as received by the

Board with the appeal on 18th March 2021, 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. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and shall include a plan to scale of not less than 1:500 showing the species, variety, number, size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder] which shall not include prunus species and details of screen planting which shall not include cupressocyparis x leylandii.

Reason: In the interest of residential and visual amenity

3. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phase, which shall be carried out in full, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of the environment and sustainable waste management.

4. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times

will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

6. 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 the 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.

Una Crosse

Senior Planning Inspector

17 May 2021