



An  
Bord  
Pleanála

## Inspector's Report

**ABP-315947-22**

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<b>Development</b>	Demolition of existing dwelling and construction of two storey dwelling
<b>Location</b>	Ballintlea, Llleamybrien, Co. Waterford
<b>Planning Authority</b>	Waterford City & County Council
<b>Planning Authority Reg. Ref.</b>	239
<b>Applicant(s)</b>	Russell and Marian Bassindale
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal for 1 no. reason
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Russell and Marian Bassindale
<b>Observer(s)</b>	Padraic Roche and Deirdre Barron
<b>Date of Site Inspection</b>	12 <sup>th</sup> August 2023
<b>Inspector</b>	Bernard Dee

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
4.0 Planning History.....	5
5.0 Policy and Context.....	6
6.0 The Appeal .....	9
7.0 Assessment.....	10
8.0 Recommendation.....	13
9.0 Reasons and Considerations.....	14

## 1.0 Site Location and Description

- 1.1. The appeal site is located approximately 2.5km west of the village of Leamybrien which is located on the N25. The site is located in the foothills of the Comeragh mountain range and accessed off the Local Primary road L3067 via a private road in the ownership of the applicant according to the application drawings. The area is characterised by one off rural housing in agricultural lands with stands of trees scattered about the hillside.
- 1.2. The appeal site is enclosed by a screen of mature trees and the house currently on the site is not visible from the local road. The house on the site which it is intended to demolish is an L-plan two storey farm dwelling of probable mid-19<sup>th</sup> century date. There are several sheds and outbuilding located adjacent to the existing dwelling.
- 1.3. The Board should note that the access road running in a NW direction from the existing dwelling as shown in the site location map is a separate access to farm building and gives access to farm buildings located to the NE of the appeal site. Access to the appeal site is from a dirt track leading north from the L3067.
- 1.4. Aside from the existing dwelling, there are several single storey vernacular farm outbuildings on the site which the drawings indicate are to be retained. There are also several drystone walls at the site, some of which have collapsed and are in a poor state of repair.
- 1.5. It was noted during my site visit of 12<sup>th</sup> August 2023 that the appellant has already commenced works on site in the form of site clearance, tree felling, site levelling and access lane improvements.

## 2.0 Proposed Development

- 2.1. It is proposed to demolish an existing L-plan, 1.5 storey, three bedroom farm dwelling on the site that has a 14m length and an 11m depth (at its deepest, 4.8m at its shortest depth) and a ridge height of 5.3m at its highest point. The GFS of the existing dwelling is stated to be 159m<sup>2</sup>.

- 2.2. From the drawings submitted the replacement building will have a footprint of 18.8m x 13m (16m including the bay window projections on the NW and SE elevations) and a maximum ridge height of 8.5m. The GFS of the proposed dwelling is stated to be 392m<sup>2</sup>. The new dwelling will accommodate 4 no. bedrooms.
- 2.3. The architectural style of the proposed house could be described as eclectic as it contains elements of Palladian, Georgian, Victorian and Arts and Crafts styles.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Permission for the proposed development was refused on 22<sup>nd</sup> February 2023 for 1 no. reason.

*Having regard to the location of the site in an upland rural area in a Most Sensitive Landscape adjoining a scenic route as designated in the current Waterford City and County Development Plan 2022-2028, it is considered that the proposed dwelling by reason of its height, bulk and scale would seriously injure the amenities of the area and be contrary to Objective H32 and Landscape Policies Lo2 & Lo4 of the development plan which seeks to protect such areas from inappropriate development that would have an adverse impact on the landscape or detract from scenic views. The proposed development would therefore be contrary to the proper planning and development of the area.*

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

The main points raised in the Planner's Report on file are as follows:

- The application site is located in an area that is zoned agriculture and to protect and improve local amenity. In addition, the site is located in an 'Area under Strong Urban Influence' as defined in the Development Plan and in a 'Most Sensitive' classification in the Landscape and Seascape Character Assessment in the Development Plan.

- The current application is largely identical to Ref. 22191 an application for a house on the same site by the same applicant which was refused due to the adverse impact it would have on the visual and environmental amenity of the area.
- As there has been no substantive change in the current design from the refused Ref. 22191, therefore the same reason for refusal applies.

#### 3.2.2. Other Technical Reports

- No responses on file.

#### 3.2.3. Prescribed Bodies

- No responses on file.

#### 3.2.4. Observations

- One observation was made in relation to this application by the same Observer to the appeal and raised the same points as are summarised in Section 6.4 below.

## 4.0 Planning History

### 4.1. On the Appeal Site

- Ref. 22191: Permission refused for the demolition of an existing storey and a half dwelling house and the construction of a two storey replacement dwelling house, install a new wastewater treatment system & associated percolation area and carry out all other associated ancillary site works. The house design was virtually identical to the current house on appeal and the reason for refusal was the same as in the current appeal case.

### 4.2. In the Vicinity of the Appeal Site

- The Observers in this appeal, Deirdre Barron and Padraic Roche, whose house is located 200m south of the appeal site fronting the L3067 have been granted two permissions: Ref.16299 for retain amendments to a dwelling and Ref. 14600221for a single storey dwelling and ancillary works.

## 5.0 Policy and Context

### 5.1. Development Plan

The Waterford City & County Development Plan 2022-2028 is the statutory plan for the area within which the appeal site is situated. Set down below are the policies and objectives contained in the Development Plan relevant to this appeal.

All lands outside of the designated settlements and land zoning maps is regarded to be zoned as Agriculture A. This zoning objective is not included in the Zoning Matrix contained in Table 11.2 of Volume 2 of the Development Plan.

#### 11.1.4 White Lands

These lands relate to all areas outside zoned and/or designated settlement. These lands are chiefly in agricultural use, and may contain some isolated development. Such lands are not currently zoned under any land use classification

#### Appendix 8 - Table A8.2. Sensitivity Classifications and Map A8.3

The appeal site falls within an area designated as 'Most Sensitive' - Very distinctive features with a very low capacity to absorb new development without significant alterations of existing character over an extended area.

### 4. Landscape Sensitivity Guidelines

4.1(a) Most Sensitive Areas Landscape Character - Areas and features designated as 'Most Sensitive' represent the principal features which create and sustain the character and distinctiveness of the surrounding landscape. To be considered for permission, development in or in the environs of these areas must be shown not to impinge in any significant way upon its character, integrity or uniformity when viewed from the surroundings. Particular attention should be given to the preservation of the character and distinctiveness of these areas as viewed from scenic routes and the environs of archaeological and historic sites.

#### L02 - Protecting our Landscape and Seascape

We will protect the landscape and natural assets of the County by ensuring that proposed developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area and ensuring that such proposals are not

unduly visually obtrusive in the landscape, in particular, in or adjacent to the uplands, along river corridors, coastal or other distinctive landscape character units.

5. Scenic Routes and Protected Views - Scenic routes and protected views indicate public roads and viewing points from which views and prospects of areas of natural beauty and interest can be enjoyed. Sightseeing visitors are more likely to be concentrated along these routes. The onus should be on the applicant for permission to develop in the environs of a scenic route, to demonstrate that there will be no obstruction or degradation of the views towards visually vulnerable features nor significant alterations to the appearance or character of sensitive areas.

#### LS04 - Scenic Routes and Protected Views

We will protect the scenic routes and specified protected views identified in our Landscape Character Assessment (Appendix 8), including views to and from the sea, rivers, landscape features, mountains, landmark structures and urban settlements from inappropriate development that by virtue of design, scale, character or cumulative impact would block or detract from such views.

#### 7.12 Refurbishment, Extensions and Replacement of Existing Structures in Rural Areas

The Council encourages the reuse, refurbishment and upgrade of older vernacular rural dwellings and structures which form an important part of our built heritage. Applicants for planning permission will not be required to demonstrate a local housing need in this instance.

Permission for demolition will only be considered where it is demonstrated that a vernacular dwelling is not reasonably capable of being made structurally sound or otherwise improved.

If a dwelling is not considered to be vernacular and does not make an important contribution to the heritage, appearance or character of the locality, or has been damaged beyond reasonable repair, planning permission will be considered for a new, replacement dwelling, subject to appropriate design, scale of building and normal planning considerations.

When assessing proposals to convert, re-use and/or adapt traditional buildings in rural areas, it is a requirement that:

- The original walls must be substantially intact.

- The size of any house extension takes account of the siting and size of the existing dwelling and that the character of the original structures is respected.
- The design of the proposal does not erode the siting and design qualities of the building and its setting which makes it attractive in the first instance.
- Mature landscape features are retained and enhanced with landscape proposals.

H31 - We encourage the retention and sympathetic refurbishment, with adaptation as necessary, of vernacular dwellings and structures in the countryside. In addition:

- There will be a presumption against demolition where restoration or adaptation is feasible.
- Proposals for the conversion to full-time residential use of a premises which has not been previously occupied as a dwelling must demonstrate that they can be independently accessed and serviced independent of any third party.

H32 - If a dwelling is not considered to be vernacular, does not make an important contribution to the heritage, appearance or character of the locality or is not reasonably capable of being made structurally sound or otherwise improved, planning permission may be granted for a replacement dwelling where it can be demonstrated that the layout, siting and design will not adversely impact on the rural character of the area and that the development is consistent with best practice design principles for housing in rural countryside location

## 5.2. Natural Heritage Designations

The following natural Heritage designations are located approximately 1.5km north of the appeal site:

- Special Area of Conservation: Comeragh Mountains SAC – 001952.
- Proposed Natural Heritage Area: Comeragh Mountains - 001952.



### 5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

6.1. The grounds of appeal, prepared by Emmet Murray Architects, in summary, are as follows:

- The existing dwelling on the site is of no architectural merit and it is not feasible to upgrade the building to make it habitable.
- The ridge height of the proposed dwelling is similar to the ridge height of the existing dwelling and so the proposed dwelling would be in keeping with the general massing of the building currently on the site.
- The overall positioning and footprint of the proposed dwelling is similar to the existing building on the site.
- The design of the proposed dwelling is in keeping with the design of other two storey farmhouse type dwellings in the area.
- The current building on the site is not visible from the public road due to the screening effect of trees surrounding the house. This screening will be maintained and enhanced by the planting of new trees and the proposed dwelling similarly will not be visible from the public road.

6.2. Applicant's Response

Not applicable.

6.3. Planning Authority Response

The Planning Authority has responded that all relevant issues were addressed in the Planner's Report on file.

#### 6.4. Observations

An observation was received from Padraic Roche and Deirdre Barron who in summary raise the following issues:

- The proposed house, being two storey, is out of character with the predominantly single storey houses in the area.
- The height and footprint of the replacement dwelling are far in excess of the height and footprint of the existing house and the site being in an elevated position means that the proposed dwelling will be visible in the landscape.
- The site is located along a scenic route in a landscape designated as an area with a low capacity to absorb new development due to its sensitivity. The proposed dwelling would impact adversely on these designations.
- The SE elevation windows and terrace area could lead to overlooking of neighbouring properties and loss of privacy.
- The current screening may not be retained in the future which would make the proposed dwelling even more visible in the landscape.
- There is a watercourse running under the entrance to the site which provides water for livestock.

#### 6.5. Further Responses

Not applicable.

### 7.0 **Assessment**

Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.

The main issues, therefore, are as follows:

- Principle of development.
- Design and visual impact.
- Loss of privacy.

- Other issues.
- AA Screening.

## 7.1. Principle of Development

7.1.1. Having regard to the white zoning of the area within which the appeal site is situated, and to the fact that the 'Permitted in Principle, 'Open to Consideration' and 'Not Permitted' designations do not apply in a white zone, and to the proposal to replace an existing dwelling with a new dwelling, I conclude that the construction of a residential development at this location is acceptable in principle.

## 7.2. Design and Visual Impact

7.2.1. The appeal site is located in an elevated position in an upland area which is designated as 'Most Sensitive' in the Development Plan. The site is also located in close proximity to a designated 'Scenic Route'. The applicant states that the replacement dwelling is similar in height and massing to the existing dwelling on site. The planning authority has refused permission due to the negative impact the height, scale and massing of the proposed would have on the landscape.

7.2.2. Firstly, the issue of height is one aspect of the design that increases the visibility of the proposed dwelling in the landscape. The highest point of the existing dwelling is 5.3m and the proposed height of the replacement structure is 8.5m. This represents a 3.2m increase in height. For the First Party appellant to state that the heights of the existing and proposed building would be "similar" is clearly a statement without basis in fact.

7.3. The First Party appellant states that the footprint and positioning of the replacement and existing buildings are "similar". The existing dwelling has a 14m length and an 11m depth (at its deepest, 4.8m at its shortest depth) and a GFS of 159m<sup>2</sup>. The replacement building will have a footprint of 18.8m x 13m (16m including the bay window projections on the NW and SE elevations) and a GFS of 392m<sup>2</sup>. While the footprint of the replacement building overlays the footprint of the existing, the area of the footprint is significantly larger than that of the existing building.

7.3.1. The footprint of the existing building is approximately 79.5m<sup>2</sup> (159m<sup>2</sup>/2) while the footprint of the proposed building is 196m<sup>2</sup> (392m<sup>2</sup>/2) or over 40% larger than the existing building's footprint. The combination of increased height and footprint make the scale, bulk and massing of the proposed dwelling considerably larger than the existing building on site. Notwithstanding the existing tree screening around the site, the sheer size of the proposed dwelling would represent a strident and obtrusive element in this sensitive landscape and would be contrary to Development Plan policies and objectives that seek to protect the visual and natural amenity of the area.

7.3.2. In addition, the First Party states that the design of the proposed dwelling is in keeping with other two storey farm dwellings in the area. Having visited the site I can confirm to the Board that the proposed design does not resemble any farm buildings in the area and its eclectic design would render the proposed dwelling incongruous with regard to the vernacular and modern buildings in the vicinity of the appeal site.

7.3.3. I conclude on this basis that the proposed development would adversely impact the visual and natural amenity of the area and be contrary to Development Plan policy to protect same.

#### 7.4. Loss of Privacy

7.4.1. The Observer fears loss of privacy due to windows and a terrace on the SE elevation overlooking neighbouring properties. Having visited the site I can confirm to the Board that the distance from the SE elevation of the proposed dwelling to the nearest property (the Observer's house) is approximately 200m so the issue of overlooking and loss of privacy does not arise. Currently the appeal site is surrounded by trees so that there is no intervisibility between the appeal site and the Observer's property. Even if the trees were removed, at a 200m separation distance the claim of a potential loss of privacy is without substance.

7.4.2. I conclude on this basis that the proposed development will not by virtue of overlooking of neighbouring properties lead to a loss of privacy.

## 7.5. Other Issues

7.5.1. Reference is made by the First Party appellant to the screening effect provided by both existing and proposed tree planting which will render the proposed dwelling all but invisible in the landscape. However, having regard to the provisions of Article 8F of the Planning and Development Regulations 2001 (as amended) which states that “(a) the thinning, felling or replanting of trees, forests or woodlands, or (b) works ancillary thereto, shall be exempted development”, there is a risk, given the clearance and tree felling witnessed during the site visit, that the existing screen of trees may be removed to avail of the scenic views of the coast afforded by the site. Were the Board minded to grant permission in this instance then a condition removing this exemption would be necessary in any Board Order.

7.5.2. Having regard to the climate crisis, it is more environmentally friendly to reuse an existing building, rather than demolish it and build another dwelling in its place. The existing building and the outbuildings on site are perfectly capable of being restored and upgraded to suit modern needs. The applicant has chosen not to pursue this option and that is their choice. If the appeal related to the conservation and reuse of the existing dwelling and outbuildings I would have no hesitation in recommending a grant of permission to the Board. However, the demolition and replacement of the existing dwelling with a significantly larger building in terms of height, scale and massing should not be supported by the Board.

## 7.6. AA Screening

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

## 8.0 Recommendation

I recommend that planning permission be refused for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

The site of the proposed development is located within an 'Area under Strong Urban Influence', a 'Most Sensitive' landscape category and in close proximity to a 'Scenic Route' as set out in the current Development Plan for the area, where emphasis is placed on the importance of designing with the landscape and of siting of development to minimise visual intrusion, which policies and objectives are considered to be reasonable. Having regard to the elevated position of the proposed development, together with its design, scale, bulk and massing, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape, would militate against the preservation of the rural environment and would set an undesirable precedent for other such prominently located development in the vicinity and be contrary to the provisions of the Development Plan for the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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**Bernard Dee**  
**Planning Inspector**

**15<sup>th</sup> August 2023**