



An
Bord
Pleanála

Inspector's Report ABP-320596-24

Development	Demolition of farm house and construction of house, gym and carport, together with all ancillary works.
Location	Ballyconnaught, Tullogher, Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	23185
Applicant(s)	Darren Holmes and Rosaleen O'Byrne
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Darren Holmes and Rosaleen O'Byrne
Observer(s)	none
Date of Site Inspection	16 th January 2025
Inspector	Aisling MacNamara

1.0 Site Location and Description

- 1.1. The site is a 1.76ha site within the rural area of Ballycnaught, Tullogher in County Kilkenny, located approximately 1.7km north of Listerlin and 1.8km west of Tullogher. Access to the site is from local secondary road L7487. The site contains an existing 19th century two storey house and outbuildings and the property is currently vacant and in state of disrepair. There is an existing single storey house and farm buildings adjoining the front part of the side / eastern boundary of the site.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of the existing 144sqm farmhouse and for the construction of a new 469sqm house, 40sqm gym and carport. It is proposed to install a new sewage treatment system and alter the entrance and roadside boundary.

3.0 Planning Authority Decision

3.1. Decision

The planning authority issued a notification of a decision order dated 23rd July 2024 to refuse permission for two reasons, summarised as follows:

1. The planning authority is not satisfied that the applicant qualifies for a rural house at this location as set out in Section 7.8.3 Rural Housing Policy and in particular section 7.8.4 Categories of rural compliance and qualification criteria of the Kilkenny City and County Development Plan 2021-2027.
2. The application fails to acknowledge the vernacular significance of the existing farmhouse dwelling, its material composition and its relationship to the host landscape and surrounding rural area. The proposed demolition instead of retention, refurbishment and reuse is contrary to national policy for traditional vernacular buildings as contained in National Planning Framework Objective 17 and the Kilkenny County Development Plan, section 9.3.8 Embodied Energy, section 7.8.5 Refurbishment and Replacement Dwellings in Rural Areas and section 9.3.6 The Vernacular Built Heritage.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The first report of the Case Planner sets out a basis for a recommendation to request further information.
- Further Information was requested on 19th September 2023 in relation to two items, summarised as follows:
 - (i) The planning authority has concerns regarding the demolition of the existing building which represents vernacular built heritage of Kilkenny. The planning authority disagrees that the building is derelict and with the correct interventions it can be brought back into use. The proposal does not comply with replacement house policy of the CDP where the emphasis is on retention, refurbishment and reuse of the structure. The applicant is afforded the opportunity to submit revised proposals and highlights policy in relation to built and vernacular heritage, replacement house policy and ‘embodied energy’
 - (ii) Submit revised drawings and details in relation to existing and proposed access, boundary walls, sightlines and drainage.
- A response to the further information request was received on 24th May 2024. There is no change to the proposal to demolish the existing house and a structural engineers report is submitted. Revised drawings and details are submitted for the roadside entrance and boundary.
- The second report of the Executive Planner sets out the basis for a recommendation to seek clarification of further information.
- Clarification of further information was requested on 19th June 2024 in relation to one item summarised as follows:
 - (i) Following a review of the response and structural engineers report, the planning authority is still in disagreement that the dwelling is derelict and beyond repair and it is considered that with the correct interventions that the building can be made safe and brought back into use. The proposed demolition is an excessive solution and does not

comply with the replacement policy of the CDP. Applicant is afforded a further opportunity to review the proposal.

- The applicants submitted a response on 27th June 2024 outlining the structural works required and stating that very little of the original house would remain once all remedial works carried out, the building is unsafe to work on and outlines the alterations required to comply with Building Regulations. No change to the proposal to demolish.
- The final report of the Case Planner includes a recommendation to refuse permission for one reason. The Senior Planner added a second refusal reason.

3.2.2. Other Technical Reports

- The Architectural Conservation Officer submitted two reports both recommending refusal. The application fails to acknowledge the vernacular significance of the current dwelling, its material composition and relationship with the landscape. The demolition is contrary to national policy on vernacular buildings and CDP policy on reuse and embodied energy. Grants are available for vacant traditional farmhouses and property.
- Area Engineer – recommends request for further information in relation to access, sightlines, roadside boundary and drainage.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

One submission was received from an adjoining property raising concerns that the first floor overlooks the rear garden and main access of their house.

4.0 Planning History

00/540 – Alan Lyons – grant 2000– permission to construct an extension to an existing dwelling house, alterations to an existing entrance, attached garage and stable annex and associated site works

5.0 Policy Context

5.1. National

- National Planning Framework 2040

Planning for Diverse Rural Places

National Policy Objective 14 Protect and promote the sense of place and culture and the quality, character and distinctiveness of the Irish rural landscape that make Ireland's rural areas authentic and attractive as places to live, work and visit. The Action Plan for Rural Development will support this objective up to 2020; thereafter a review of the Action Plan will be undertaken to ensure continued alignment and consistency with the National Policy Objectives of this Framework.

Planning Framework Objective 17 Enhance, integrate and protect the special physical, social, economic and cultural value of built heritage assets through appropriate and sensitive use now and for future generations.

- A Living Tradition: A Strategy to Enhance the Understanding, Minding and Handing on of Our Built Vernacular Heritage, Department of Housing, Local Government and Heritage, 2021.

5.2. Kilkenny City and County Development Plan 2021-2027

Rural Settlement Strategy is set out in section 7.8. The following is of relevance:

- Figure 7.1 Rural Housing Strategy shows that the site is located in an area under urban influence. Section 7.8.3 sets out rural housing policies and

section 7.8.4 sets out categories of rural compliance and qualifying criteria. It is the Council's objective for areas of urban influence to facilitate the rural generated housing requirements of the local rural community (as identified in this section) while on the other hand directing urban (non-rural) generated housing to areas zoned and identified for new housing development in the city, or towns and villages.

- Section 7.8.5 Refurbishment and Replacement Dwellings in rural areas

The Council will encourage and facilitate the appropriate refurbishment of existing housing stock and other structures in rural areas and in certain limited cases the replacement of existing dwellings subject to the criteria outlined below

Development Management Requirements:

- For refurbishment of structures the emphasis should be on the retention, refurbishment and reuse of the structure as part of the development proposal.
- For refurbishment the scale and architectural treatment of proposed works should be sympathetic to the character of the original structure and the surrounding area including adjoining or nearby development.
- In the case of replacement dwellings, to require proof that the original structure was last used as a dwelling and was a habitable dwelling so as not to invoke the policies under Section 7.8.3 Rural Housing Policies.
- In cases where retention or reuse of the existing dwelling is not technically feasible, the size and scale of any replacement dwelling should reflect the site's characteristics and context and shall accord with best practice in rural house design.

Where an original structure was not habitable, if an applicant can demonstrate that their proposals will ensure the sensitive restoration of vernacular and traditional buildings in the rural area, thereby respecting and maintaining the integrity and scale of the original building, and does not compromise any other development management considerations, such proposals shall not be subject to the policies in Section 7.8.3 Rural Housing Policies that applies to new dwellings (see also Section 9.3.6 Vernacular Built Heritage).

- Rural House Design Guidance

The Design Guide acts as an instrument to develop best practice in the design and siting of one-off rural housing.

9.3 Built Heritage

- Section 9.3.6 Vernacular Built Heritage

Development Management Requirements:

- To apply the conservation principles and guidelines in practice as set out in the ICOMOS Charter on the Built Vernacular Heritage (Mexico 1999) when considering proposals to adapt vernacular buildings to meet contemporary living standards and needs.
- To promote the retention and re-use of the vernacular built heritage through increasing public awareness of its potential for re-use and its adaptability to change. See Re-use of Farm Buildings Laura Bowen and Nicki Matthews, Kildare County Council, 2007 and National Rural Network Case Study, Conservation of Old Farm Buildings.
- To promote the refurbishment of vernacular built heritage in rural areas as per development managements standards set out under Section 7.8 Rural Settlement Strategy of this Plan.

Section 9.3.8 Embodied Energy

- The Council recognises the embodied energy within our traditionally constructed building stock while assessing proposals for demolition or development and will ensure that refurbishment works to traditionally constructed buildings will not be detrimental to the occupants or to the fabric of the building.

Development Management Requirements:

- To have regard to the DCHG Advice Series on Energy when assessing energy upgrades of traditionally constructed buildings.
- To assess the whole life energy costs, its lifespan and durability of new building stock, as part of proposals to demolish traditionally constructed structures in favour of new development.

- To ensure refurbishment work on these buildings is undertaken in an appropriate manner using suitable materials.

5.3. **Natural Heritage Designations**

The site is not located within or in close proximity to a designated European site.

The closest sites are:

- River Barrow and River Nore SAC – 0.6km distance from site
- Brownstown Wood pNHA – 2.7km to the east
- River Nore SPA – 5.5km to northeast

5.4. **EIA Screening**

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment and there is no need for environmental impact assessment. Refer to attached form 1 and form 2.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal are summarised as follows:

- The planning authority failed to have regard to the structural engineers report and failed to consider the seriousness of the dereliction. The house is beyond repair and retention and refurbishment is not technically possible. Section 7.8.5 of the CDP allows replacement where retention is not technically feasible. Section 9.3.6 does not preclude demolition where it is justified.
- The Council has arbitrarily treated the house as if it is a protected structure. The house is not a protected structure and is not a heritage asset and NPO17 does not apply.
- The house is not of special social significance as referenced in the Architectural Heritage Protection Guidelines. The original courtyard layout is no longer in place. The vernacular form and layout of the farmyard has

changed. The buttressing of the building has altered the vernacular character of the building diminishing its design.

- The best overall design solution is to replace the existing house with a new energy efficient house and this is the most sustainable solution.
- The structure was last used as a dwelling and was a habitable dwelling and the policies of section 7.8.3 rural housing policy do not apply. Circular SP5 noted – the decision fails to have regard to national and EU requirements.
- The applicants work in the creative industry, make a valuable contribution to the economy and require the house in association with their employment. The decision is contrary to strategic outcome 5 of the National Planning Framework and the strategic economic policies of the development plan to support the economic development, innovation and skills.
- The design of the replacement house and gym building is in accordance with the Kilkenny Rural Design Guide. All existing trees and hedging are retained. The privacy of the neighbouring property will be protected by existing trees and supplemental planting. Revised drawings submitted showing alterations to the front door design.
- The Architectural Heritage Protection Guidelines notes that analysis of structural stability requires the input of specialist advice which has been provided.
- The rebuilding of the house is not feasible – no foundations, building at risk of collapse, rebuilding each element would result in pastiche building as no original fabric would remain.
- Section 9.3.8 on embodied energy does not preclude demolition of structurally unsound building. The loss of embodied energy should be balanced against the improved energy standard of a new house. There is no contravention of the plan.
- The building cannot be safely refurbished.
- No evidence to support the refusal.

6.2. Planning Authority Response

None

6.3. Observations

None

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all submissions received in relation to the appeal, and inspected the site and having regard to relevant local policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle
- Retention or demolition of existing dwelling

7.2. Principle

- 7.2.1. Permission is sought to demolish an existing farm house and to replace it with a new dwelling including ancillary works.
- 7.2.2. The site is located within the rural area where the rural housing objectives of the Kilkenny City and County Development Plan (CDP) 2021-2027 apply. The site is located in an area under urban influence and in this area it is the Council's objective to facilitate the rural generated housing requirements of the local rural community and to direct urban non rural generated housing into zoned land in city, towns and villages. In areas under urban influence the Council will permit single houses for person where they comply with the qualification criteria which requires them to be a person with a demonstrable economic or social need to live in a particular rural area.
- 7.2.3. Section 7.8.5 of the Rural Settlement Strategy sets out a policy relating to refurbishment and replacement dwellings in rural areas. It states that the Council will encourage and facilitate the appropriate refurbishment of existing housing stock and other structures in rural areas and in certain limited cases the replacement of existing dwellings subject to criteria. In the case of replacement dwellings, proof is

needed that the original structure was last used as a dwelling and was a habitable dwelling so as not to invoke the rural housing policies.

- 7.2.4. The planning authority refused permission for two reasons, the first being that the applicant does not qualify for a rural house at this location as per the rural housing policy and qualification criteria of the CDP.
- 7.2.5. The applicants have recently purchased the property and have submitted documentary evidence in the form of a letter from the estate agent confirming that the property advertised as a dwelling house was recently purchased by the applicants and that it was lived in by the previous occupants up until December 2020. A copy of an electricity bill to the property dated January 2023 is submitted.
- 7.2.6. Having regard to the details submitted I am satisfied that the existing building was last used as a dwelling and was a habitable dwelling. It is proposed to demolish this dwelling and to construct a new replacement dwelling on the site. I am satisfied that the rural housing policies do not apply and that the proposal is in accordance with the requirements of 7.8.5 of the CDP that allows replacement dwellings.

7.3. Retention or demolition of existing dwelling

- 7.3.1. It is the policy of the Council as set out in section 7.8.5 of the CDP to encourage and facilitate refurbishment of the existing housing stock in rural areas and to allow replacement dwellings in certain limited cases. The development management requirements indicate that such a case would be where the retention or reuse of the existing dwelling is not technically feasible.
- 7.3.2. The building to be demolished is a 144sqm four bay two story house with ashlar render, slate roof, timber sash windows, flat roof porch and with additional single storey bay attached to the east gable. The Osi 6 inch first edition maps show the dwelling and its location within a courtyard of other buildings located to the south and west of the house. There are two large abutments attached to the rear elevation which diminish the architectural integrity of the building. The building is not a protected structure and is not listed on the National Inventory of Architectural Heritage. The house is a large vernacular farm house set on a large open site and it presents as an attractive feature in this landscape.

- 7.3.3. The planning authority refused permission for the reason that the proposal fails to acknowledge the vernacular significance of the existing farmhouse dwelling, its material composition and relationship to the landscape and rural surroundings and that the proposal to demolish instead of refurbishment is contrary to national policy for vernacular buildings NPF objective 17 and the policies in the CDP relating to embodied energy, refurbishment and replacement dwellings in rural areas and vernacular built heritage.
- 7.3.4. The case put forward by the applicant is that the house is in such poor structural condition that it is beyond repair and that the renovation of the dwelling is not a viable option. It is argued that demolition and replacement with a new house is the most energy sustainable option. A structural engineers report is submitted prepared by Timothy Guerin C.Eng. B.E. to support their case. The report recommends replacement of the roof, ground and first floors, most of the internal walls, windows and door. The external original stone walls are constructed on clay with no structural foundation and have large cracks from ground floor to roof level and it is recommended to demolish these walls and construct new walls.
- 7.3.5. I note the objectives in the National Planning Framework for rural areas which aim to protect and promote the sense of place and the culture, quality, character and distinctiveness of the Irish rural landscape as per NPO14 and to enhance and protect the special value of built heritage assets as per NPO17. I note the policy in section 9.3.6 of County Development Plan to promote the retention and re use of vernacular built heritage. I also note the 2021 publication 'A Living Tradition' published by the DoHLGH which recognises that vernacular heritage is a significant part of our cultural heritage. The strategy is in favour of preserving and rehabilitating derelict vernacular buildings. The document also acknowledges that the reuse of existing buildings and materials over new construction is energy efficient and can reduce carbon footprint.
- 7.3.6. Having considered the structural engineers report and having visited the site, it is clear that the structural condition of the house is very poor with many elements decayed and that significant works are required to rehabilitate the house. Whilst the building presents a significant structural challenge, no advice has been provided by a conservation architect or conservation engineer which are specialists in the renovation of old buildings and this, in my view, is lacking. The planning authority

raised this in their letters at further information and clarification stages. In the absence of specialist conservation advice, I do not consider that sufficient justification has been provided to justify the demolition which would result in the loss of this vernacular building and its original materials.

- 7.3.7. Lastly, I will consider the proposed replacement house. The proposed new house is a 469sqm two storey five bay house of traditional form with height of 9.4m and finished in render with metal roof. Revised drawings have been submitted with appeal showing the removal of the porch and this simplifies the design. It is proposed to construct a 40sqm single storey gym building with curved metal roof. The building is to be sited slightly west of the existing house and a new driveway and a new entrance is to be constructed to the road and thereby the relationship of the building to the historic courtyard layout is lost.
- 7.3.8. Section 7.8.5 of the CDP states that the size and scale of any replacement dwelling should reflect the sites characteristics and context and shall accord with best practice rural house design. The floor area of the proposed house is about three times the size of the existing house and is of significant size and scale compared to the existing house. The house has a deep plan with gable depth of 12.2m which adds significantly to the volume and bulk of the house. This is contrary to the County Kilkenny rural house design guide which promotes good design including simple traditional narrow plan designs and cites a traditional gable width of 5 to 7m for a two storey house. Whilst the front elevation windows are symmetrical, the windows on the rear and side elevations are a mis match of poorly proportioned shapes and sizes that bear no relation to each other and I note the fire escape stairs to be attached to the side elevation which diminishes the house design.
- 7.3.9. In summary, having regard to the above I do not consider that the applicant has provided a satisfactory case to demolish the existing farm house and to replace it with the proposed house. I consider that the proposal would not be in accordance National Policy Objective 17 of the National Planning Framework to protect built heritage and would not be in accordance with the Kilkenny City and County Development Plan including section 9.3.6 to promote the retention, reuse and refurbishment of vernacular built heritage and section 7.8.5 to encourage refurbishment of existing housing stock and to allow replacement in limited cases. The demolition would also result in the loss of the embodied energy that is within the

existing building, contrary to section 9.3.8. The proposed development would be detrimental to the unique vernacular built heritage of this area and seriously injures the visual amenity and character of this rural area and refusal recommended.

- 7.3.10. Furthermore, there are features of the proposed replacement house that do not accord with the best principles of good rural design set out in the Councils design guide and this further diminishes the visual amenity and character of the area.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.
- 8.2. The subject site is not located within or adjacent to any European Site. The closest European Site, part of the Natura 2000 network, is the River Barrow and River Nore Special Area of Conservation located c. 0.6km to the east of the proposed development. The River Nore Special Protection Area is located c. 5.5km to northeast.
- 8.3. Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.
- 8.4. The reason for this conclusion is as follows:
- the nature of the proposed development being for the replacement of an existing house,
 - the existing developed nature of the farmyard site,
 - distance from the European site network and
 - absence of ecological or hydrological pathways to a European site.

I consider that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site and appropriate assessment is therefore not required.

9.0 Recommendation

I recommend that permission be refused for the following reasons and considerations.

10.0 Reasons and Considerations

- 1) The Kilkenny City and County Development Plan 2021-2027 includes policy and requirements in section 9.3.6 to promote the retention, reuse and refurbishment of vernacular built heritage and section 7.8.5 to encourage refurbishment of exiting housing stock and to allow replacement in limited cases. In addition, section 9.3.8 recognises the embodied energy within existing buildings. In the absence of specialist conservation appraisal and advice, the applicant has not provided sufficient evidence to show that conservation of the building is not technically feasible and therefore the demolition of the building will lead to an unacceptable loss of vernacular architectural heritage in this respect. As such, to permit the proposed demolition of the existing farm house and replacement of a new house would be contrary to the Council's policy and requirements for vernacular built heritage. Furthermore, by reason of its scale, bulk and design, it is considered that the proposed replacement house is not in accordance with the principles of good rural design as set out in the County Kilkenny Rural Design Guide and the proposed house would be visually obtrusive in this rural area. The proposed development would be detrimental to the unique vernacular built heritage of this area and seriously injures the visual amenity and character of this 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.

Aisling Mac Namara
Planning Inspector

21st January 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	320596		
Proposed Development Summary	Demolition of farm house and construction of house, gym and carport, together with ancillary works		
Development Address	Ballyconnaught, Tullogher, Co.Kilkenny		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes x	Proceed to Q2.
		No	No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	x	Schedule 5, Part 2, 10 (b) (i) Construction of more than 500 dwelling units	Proceed to Q3.
No			No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes		State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	x		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	x	1 dwelling unit	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	x	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	320596
Proposed Development Summary	Demolition of farm house and construction of house, gym and carport, together with ancillary works
Development Address	Ballyconnaught, Tullogher, Co.Kilkenny
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(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).</p>	<p>Proposed replacement of an existing house on an existing developed farm yard site. This is a modest domestic development. There is limited use of natural resources, production of waste, pollution or health risks.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development 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>This is an existing rural area. There are no significant ecological sensitivities on the site.</p> <p>An existing vernacular farmhouse building is to be demolished.</p>

Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).		Any effects are of local extent and low intensity.
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	
There is no real likelihood of significant effects on the environment. x	EIA is not required.	
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.		
There is a real likelihood of significant effects on the environment.		

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)