

THE HIGHLAND COUNCIL

**NORTH PLANNING APPLICATIONS COMMITTEE
21 February 2017**

Agenda Item	6.3
Report No	PLN/011/17

**16/04199/FUL: Mr Robert Finnie
Torsealladh, Munro Park, Contin, Strathpeffer.
Supplementary Report No 1**

Report by Area Planning Manager

SUMMARY

Description : Change of use of land to domestic curtilage, erection of two garages and a garden shed (retrospective)

Recommendation - GRANT

Ward : 06 - Wester Ross, Strathpeffer And Lochalsh

Development category : Local Development

Pre-determination hearing : Not required

Reason referred to Committee : 5 or more objections.

1. Background

- 1.1 Members will recall this application was considered at the November Planning Committee with a recommendation to approve. Although retrospective permission was sought for three structures the Committee considered the garage as built was unacceptable as positioned. The application was deferred to establish whether the applicant would be willing to amend the siting of the garage on land within his ownership.

In response to this the applicant has submitted a revised plan proposing to dismantle and re-orientate the garage 90 degrees on the existing foundations with a further 2m metres of hardstanding provided to accommodate this. This would mean that the ridge line of the garage would run east to west and not north to south. The garage doors would be repositioned to ensure they were on the north west elevation facing the applicant's property and not in the gable as currently positioned. It is proposed that this work would be done within 3 months of permission being granted.

2. Further Representations

- 2.1 Following receipt of the amended plans the adjoining neighbours were re-notified. A further 8 representations were received from seven parties. In addition to the previously raised concerns the following new issues were raised :

- 2.2
- The applicant has only proposed to turn the garage 90 degrees. The foundations can be reused and it is considered that this represents little change to what was previously proposed.
 - The revisions do not address the previously raised concerns.
 - The re-orientation will have a greater impact on a nearby property “Kilmory”
 - There is no access to the lower shed, within which it is proposed to store a caravan. Permission should have been sought from Highland Council to allow access here.
 - If permission was granted the new garden ground would benefit from permitted development rights for further sheds or buildings to be erected within the curtilage.
 - If permission was granted what will prevent the applicant applying to seek the removal of conditions imposed.

2.3 All letters of representation are available for inspection via the Council’s eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

3. **Assessment**

3.1 As set out above the applicant has proposed to dismantle the garage and turn it 90 degrees on the existing foundations with a further 2m metres of hardstanding installed to accommodate this. The garage will be turned 90 degrees at the southern corner. It will not project any further eastwards than its current position. The garage doors will be moved from the gable end, to the north west and side elevation to ensure they face towards the applicant’s house. It is considered that this amendment in itself will slightly lessen the visual impact of the garage on adjoining residential properties facing the site namely, Midville by reducing its scale and bulk as only the gable will face towards it. By turning the garage on its southern axis it will help to increase slightly the outlook from Midville.

3.2 Concerns have been raised by the occupiers of Kilmory this revision will result in the garage having a greater impact as it will “jut out” when viewed from their property. The position of the garage will be turned but will not project any further beyond the existing building line. It is accepted that from this property the side elevation as opposed to the gable will be viewed. This is considered acceptable given the separation distance between the affected buildings.

3.3 A representation refers to the further permitted development rights that will be awarded to the new area of residential curtilage and the potential for future development as a result. Permitted development rights will apply to the area of land subject to the change of use to residential curtilage. However, permitted development regulations restrict the height and percentage of garden area that is allowed to be developed without planning permission in order to protect neighbour amenity. The restriction of permitted development rights can only be justified

when absolutely necessary, for example, where there may be an impact upon a designated feature or where a site is very constrained in terms of size. The amended boundaries will result in the property having a large curtilage as such it is not considered that the removal of permitted development rights in this instance is justified.

- 3.4 Comments have been made regarding the access and the parking of the applicant's caravan within the most southerly garage and whether permission is required from the Council to enable this to occur from the road. The applicant has advised it is not intended to amend the existing access. Rather the caravan will be parked from within the garden using a "mover" which allows it to turn within a very small space.
- 3.5 If permission is granted there is nothing to preclude this or any applicant from seeking to appeal or remove any conditions imposed by means of a section 42 application. Any such application, if it were submitted, would require to be assessed on its merits and all material planning considerations.
- 3.6 The unauthorised nature of the works is regrettable, however, in instances such as this the Planning Authority is required to consider whether the planning application is acceptable or not. In view of the retrospective nature of the application and the applicants agreement to reposition the garage it is considered necessary that this is undertaken within a reasonable timeframe. In order to ensure this a further condition is proposed to ensure this is undertaken within 3 months of this permission being granted.

4. CONCLUSION

- 4.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

5. RECOMMENDATION

Action required before decision issued N

Subject to the above, it is recommended the application be **Granted** subject to the following conditions and reasons/notes to applicant:

- 1. The two garages, shed and the ground subject to the change of use to domestic curtilage hereby approved shall be used solely for domestic purposes ancillary to the use of the property currently called Torsealladh and any other future name/number that this property may be given.

Reason : In the interests of neighbour and residential amenity.

- 2. Prior to any other work commencing, details of the finish and extent of the access to the sheds from the existing driveway shall be submitted to the Planning Authority for approval in writing. The development shall thereafter proceed in accordance with the approved details.

Reason : In the interests of neighbour and residential amenity.

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The northernmost garage shall be dismantled and rebuilt prior to the 30th June 2017, in the revised location as denoted in the amended plans dated 19 January 2017.

Reason: In the interest of amenity and in accordance with the submitted plans.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

Completion Notice

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

A copy of the notice referred to is attached to this decision notice for your convenience.

Accordance with Approved Plans and Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action.

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (p.198), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Mud and Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Signature: Dafydd Jones
Designation: Area Planning Manager - North
Author: Dafydd Jones
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Site Plan 00004
Plan 2 – Northeast Elevation 00005
Plan 3 – Northwest Elevation 00006
Plan 4 – South East Elevation 00007
Plan 5 – South West Elevation 00008