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Ms K Lyons  
Highland Council  
Sent By E-mail

Our ref: PPA-270-2170  
Planning Authority ref: 16/04199/FUL

3 October 2017

Dear Ms Lyons

**PLANNING PERMISSION APPEAL: TORSEALLADH, MUNRO PARK, CONTIN,  
STRATHPEFFER, IV14 9ES**

Please find attached a copy of the decision on this appeal.

The reporter's decision is final. However you may wish to know that individuals unhappy with the decision made by the reporter may have the right to appeal to the Court of Session, Parliament House, Parliament Square, Edinburgh, EH1 1RQ. An appeal **must** be made within six weeks of the date of the appeal decision. Please note though, that an appeal to the Court of Session can only be made on a point of law and it may be useful to seek professional advice before taking this course of action. For more information on challenging decisions made by DPEA please see <https://beta.gov.scot/publications/challenging-planning-decisions-guidance/>.

I trust this information is clear. Please do not hesitate to contact me if you require any further information.

Yours sincerely

*Christopher Kennedy*

**CHRISTOPHER KENNEDY**  
**Case Officer**  
**Planning and Environmental Appeals Division**





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Decision by Steve Field, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2170
- Site address: Torsealladh, Munro Park, Contin, Strathpeffer, IV14 9ES
- Appeal by Mr Robert Finnie against the decision by The Highland Council
- Application for planning permission 16/04199/FUL, dated 5 October 2016, refused by notice dated 27 February 2017
- The development proposed: change of use of land to domestic curtilage, erection of two garages and a garden shed (retrospective)
- Application drawings: listed at the end of this notice
- Date of site visit by Reporter: 2 August 2017

Date of appeal decision: 3 October 2017

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## Decision

I allow the appeal for the change of use to domestic curtilage, the erection of the southernmost garage and garden shed and grant planning permission subject to the three conditions listed at the end of the decision notice. Attention is drawn to the three advisory notes at the end of the notice.

I dismiss the appeal for the erection of the northernmost garage.

## Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan that relates to this site is the Highland-wide Local Development Plan 2012 read with the Inner Moray Firth Local Development Plan 2015.
2. Having regard to the provisions of the development plan, the main issue in this appeal is whether the proposed change of use to garden ground and the proposed erection of the two garages and a shed are compatible with the protection of amenity in the Munro Park area of Contin.

### *Proposed change of use to garden ground*

3. The site is situated within a residential cul-de-sac, adjoined by the appellant's house to the north, two other houses to the east and south (Midville and Whyalla) and a playing field to the west. That part of the site located to the south of Torsealladh has no authorised



use currently. I consider that the proposed change of use to garden ground would be compatible with the surroundings of the site. Indeed, the site already has the appearance of garden ground associated with Torsealladh. The report by the Area Planning Manager – North to the North Planning Applications Committee on 29 November 2016 advises that outline planning permission was granted for a house on this site in 2000. Although planning permission appears to have lapsed, this decision reinforces my view that the proposed change of use is appropriate.

4. Highland-wide Local Development Plan Policy 34 Settlement Development Areas states that the council 'will support proposals within Settlement Development Areas (as defined in the existing local plans and future area local development plans) if they meet the requirements of Policy 28 Sustainable Design and all other relevant policies of the plan'. The Inner Moray Firth Local Development Plan 2015 shows that the site is located within the Contin settlement boundary but is not allocated for any specific use. Policy 28 states that the council 'will support developments which promote and enhance the social, economic and environmental wellbeing of the people of Highland' and that proposed developments will be assessed on the extent to which they address a number of criteria, the most relevant of which to this aspect of the appeal is the 'impact on individual and community residential amenity'. The proposed change of use to garden ground would have no adverse impact on residential and community amenity and would, therefore be consistent with Policy 28. Policy 34 refers to 'other relevant policies of the plan'. The only other policy referred to by any of the parties to the appeal is Policy 29 Design Quality and Place-making, which is cited in the council's reason for refusal. This policy is aimed primarily at the design of buildings and is not directly relevant to this aspect of the appeal proposals. Consequently, I consider that there is no issue with Policy 34 of the local development plan.

#### *Proposed southernmost garage*

5. The proposed garage in the south-east corner of the site would have approximately the same floor area (36 square metres) as a typical double garage but would be narrower north to south (4 metres wide) and longer east to west (9 metres long). The proposed building would also be significantly higher to the ridge than a typical garage (3.61 metres compared with 2.5 metres). The superstructure of the proposed garage was already in place at the time of my site inspection. The garage would be partially screened from the road and houses to the east by a 1.8 metre high fence and from the house immediately to the south by a hedge which, at the time of my site inspection, was slightly higher than the fence. Consequently, although the upper part of the garage would be visible in views from the street and from neighbouring houses, it would be largely unobtrusive. The proposed garage would be visible in views from the playing field to the west but would be seen against houses and gardens on rising ground to the east and would not detract from the enjoyment of this area of open space. I am of the view that the proposed use of green metal cladding would help to ensure the proposed building would be an unobtrusive addition to the street scene. The precise details of the materials to be used can, in any case, be controlled by condition.

6 I consider, therefore, that the proposed southernmost garage would comply with local development plan Policy 28 in terms of its impact on individual and community residential amenity, which I have referred to in paragraph 4 above. There is one further

criterion under Policy 28 which is relevant to this part of the appeal. This states that proposed developments will also be assessed on the extent to which they demonstrate sensitive siting and high-quality design in keeping with local character and the historic and natural environment and in making use of appropriate materials. For the reasons I have outlined in paragraph 5 above, I am of the view that the proposed garage in the south-east corner of the site meets this part of the policy. I also consider that the location, size and materials of the southernmost proposed garage meet the requirement of Policy 29 that new development should be designed to make a positive contribution to the architectural and visual quality of the place in which it is located, where appropriate. It is not appropriate to expect too much from a domestic garage in terms of design quality and place-making but the proposed building would maintain the existing amenity of this part of the village. Consequently, I find that the proposed southernmost garage would also comply with the terms of Policy 34, which I have referred to in paragraph 4 above.

7. Concern has been expressed that the proposed garage may be used for business purposes not compatible with the surrounding residential area. I am content that this can be controlled by the imposition of a condition on the planning permission that restricts the use of the building to domestic purposes.

#### *Proposed northernmost garage*

8. The proposed northernmost garage would have approximately the same floor area (35 square metres) as a typical double garage and would have similar dimensions in terms of length and width (7 metres long by 5 metres wide). It would be significantly higher at the ridge, however, with a proposed ridge height of 4 metres, depending on ground levels, compared with a typical double garage which would have a ridge height of about 2.5 metres. The building that has been constructed on site is oriented north-south but the proposal that is the subject of this appeal involves dismantling the garage and reconstructing it so that it is oriented east-west.

9. This proposed building would be much more open to view than the southernmost garage in that it would be situated in a forward location on the site immediately adjacent to the driveway which serves the appellant's house and would be located on ground which is rising to the north and east. This prominent location, combined with the height of the proposed building means that it would be unduly intrusive when viewed from both the house and garden of Midville. The proposed east-west orientation of the garage would reduce the impact on Midville to some extent compared with the garage that has been built but not sufficiently, in my view, to make that impact acceptable.

10. Re-orienting the garage would also increase the impact of the proposed building when viewed from the street in Munro Park. I also viewed the site from the Manse, which is located to the south of Midville. At the time of the inspection, the appeal site was largely obscured by vegetation in the garden of the Manse. The intervening trees appeared to be largely deciduous so the proposed garage would be more evident in the winter months. However, the greater distance between this property and the appeal site would, in my judgement, make the impact of the proposed garage less significant and, therefore, more acceptable when viewed from the Manse and other properties located to the south of the Manse.

11. The proposed garage would be visible in views from the playing field to the west where, as with the other garage, it would be seen against a backdrop of houses and gardens in Munro Park and would not detract from the public enjoyment of the open space. I am of the view that the proposed green cladding would help to ensure the garage integrates with the backdrop of the playing field and wooded hill beyond when viewed from the east and the gardens of Munro Park when viewed from the west but would not reduce the visual dominance of the building in shorter views.

12. Overall, however, I am of the view that domestic garages, as ancillary buildings to the house with which they are associated, are usually less visually dominant than that proposed. The northernmost garage would appear incongruous in this residential cul-de-sac and have an unacceptable impact on the amenity enjoyed by the residents of Midville, in particular, and the wider community, generally, when viewed from Munro Park. I do not consider, therefore, that the proposed northernmost garage would comply with local development plan Policy 28, either in terms of demonstrating an acceptable impact on individual and community amenity or sensitive siting and high-quality design. I do not consider the proposed garage would comply with Policy 29 because it would not make a positive contribution to the visual quality of the place where it would be located, or even have a neutral effect, as with the southernmost garage. I do not consider the proposed northernmost garage complies with Policy 34 because it does not meet the terms of Policies 28 and 29.

#### *Proposed garden shed*

13. The proposed garden shed is already on site and is located immediately to the north of the proposed southernmost garage. It is unexceptional in terms of its size and timber construction and typical of sheds found in many gardens. Furthermore, it is largely concealed by a timber screen fence in public views from Munro Park, would be seen against the backdrop of the southernmost garage from Midville and would be unobtrusive when viewed from the playing field. Consequently, I consider the proposed shed is acceptable in terms of residential and community amenity and complies with local development plan Policies 28 and 34. Evaluation against Policy 29 is not appropriate because of the small scale of the proposed building.

#### *Conclusion*

14. I therefore conclude, for the reasons set out above, that the proposed change of use to garden ground, southernmost garage and garden shed accord overall with the relevant provisions of the development plan and that there are no material considerations which would justify refusing to grant planning permission.

15. I also conclude, for the reasons set out above, that the proposed northernmost garage does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission.

16. Concern has been expressed by some people who made representations on the planning application that the proposed change of use to domestic curtilage may lead to inappropriate development on the site. However, any future development requiring

planning permission would be the subject of a future application which would be dealt with on its merits in relation to the development plan and other material consideration that may prevail at the time.

17. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

*Steve Field*

Reporter

### Schedule of plans

1. Plan 000003 - Location plan.
2. Originally submitted layout, plus garden shed (03/09/17). *For the avoidance of doubt, the northernmost garage shown on the site plan is not approved.*
3. Plan 000001 – Southernmost garage elevations and floor plan.
4. Photograph of garden shed as built, viewed close-up.
5. Photograph of garden shed as seen looking south-west from Munro Park.
6. Photograph of garden shed as seen looking south-east from the garden of Torsealladh.

### Conditions

1. Planning permission is not granted for the northernmost garage.

*Reason: In the interests of neighbour and residential amenity and for the avoidance of doubt.*

2. The ground subject to the change of use to domestic curtilage, the proposed southernmost garage and the proposed garden shed shall be used solely for domestic purposes ancillary to the use of the property currently called Torsealladh.

*Reason: In the interests of neighbour and residential amenity.*

3. Prior to any other work commencing, a sample of the proposed cladding material for the southernmost garage and a plan showing the details of the finish and extent of any access to the garage and shed from the existing driveway shall be submitted to the planning authority for approval in writing. The development shall proceed thereafter in accordance with the approved details.

*Reason: In the interests of neighbour and residential amenity.*

### Advisory notes

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has

been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

**2. Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

**3. Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).