

# **Addendum**

## **LA01/2018/1341/F**

### **Full Planning**

#### **Update**

The Planning Agent has submitted a “Briefing Note” for Planning Committee members and an aerial photograph of the application site, taken in 2012, which are attached with this Addendum.

#### **Briefing Note**

Point 6 – The development, as built does not benefit from householder Permitted Development as it has not been demonstrated that the building is for domestic purposes. Even if it were, the building exceeds the height limitation of 4 metres for Permitted Development. It is 5.3 metres at its highest point. The views are not critical to this assessment as it is the principle that has not been established.

Point 9 – Planning Officials do not agree that the reason for refusal is fundamentally flawed. Planning Policy PPS 7 Addendum EXT1 is the relevant policy for domestic building extensions. This policy was prepared on the basis that existing development is authorised. An unauthorised building cannot be extended.

Point 10 & 11 – the building has now changed. On removing the roof, the building was no longer substantially complete. This occurred within the last 2 years. The roof was removed, the eaves raised and a new roof constructed. Even if the previous development was immune, once works recommenced a new building was constructed and this new building is not immune from enforcement action.

Point 12 – The portacabin is only one consideration in this application. The key change is the removal of the roof and raising of the eaves and ridge heights. It is a combination of all the changes which make the existing building not immune from enforcement action.

Point 13 – Therefore, the entire building is now liable to enforcement proceedings.

Point 17 – Reference is made to the lack of overshadowing in the evening. Consideration of the orientation of development relative to the sun path would make overshadowing greatest between midday and mid-afternoon. The issue of dominance is unaffected by the time of day.

### **Recommendation**

That the Committee note the contents of this Addendum and agree with the recommendation to Refuse, as set out in Paragraph 9.1 of the Planning Committee Report.

## Briefing Note for Planning Committee

Retention of garage alterations/extension at 6 Leeke Rd, Bushmills  
(ref: LA01/2018/1341/F)

August 2019

### Background

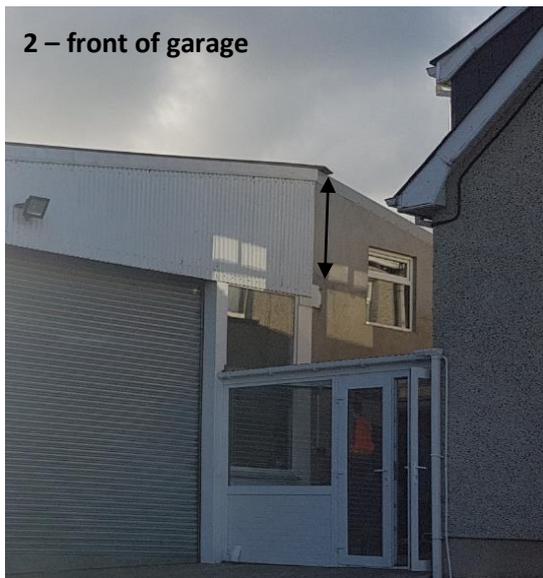
1. This application seeks retrospective planning permission for raising part of the roof of an existing garage.
2. The garage is to the rear of the applicant's semi-detached house. An aerial photo of the garage from June 2012 (over 7 years ago) is shown at Photo 1 below. The garage comprises 2 parts – a northern part and a southern part.

Photo 1: Aerial photograph of site (date on rear of photo is 9<sup>th</sup> June 2012)



3. The Applicant owns two classic cars and two tractors. He restores old vehicles as a hobby in the garage but he has Chronic Obstructive Pulmonary Disease (COPD) which severely limits the amount of physical work he can undertake.
4. The roof of the southern part was higher than the northern part so in summer 2018 (over 6 years after the garage had been completed) the applicant had the height of the roof of the northern part raised to match the southern part – see Photos 2 & 3 overleaf.
5. This was for aesthetic reasons – to make the garage symmetrical or as close to it as possible. The roof was raised by 0.8m at the eaves and by 1.1m at the ridge.

Photos 2 & 3: Increase to height of northern part of garage



6. The Applicant did not realise that he required planning permission for the work – he thought it was permitted development (although it is slightly higher than what can be built under permitted development rights). Photos 4 & 5 below show that the increase to the height of the northern part of the garage can only be seen from an oblique angle along a very short stretch of Leeke Road given that it sits to the rear of the applicant’s dwelling.

Photos 4 & 5: View of garage from southeast on Leeke Road



7. When the applicant received a letter from planning enforcement, he instructed MBA Planning to submit the subject planning application to retain the works.

**The Planning Department’s Suggested Refusal Reason**

8. The Planning Department’s recommended refusal reason is that *‘the proposal is contrary to the Addendum to PPS7 Policy EXT1 as the existing building is unauthorised and the time for enforcement action has not expired’*.

9. This reason is fundamentally flawed. The Planning Department (**PD**) is misapplying Policy EXT1, which says nothing about ‘enforcement action’. It follows that the only refusal reason recommended by the PD has no basis in policy.
10. From the Committee Report (pages 7-8) it appears that the PD’s case is that the garage as it was prior to the alterations (as shown at Photo 1 above) was not lawful and that it is not possible to grant permission to alter an unlawful building.
11. This is also incorrect – the garage had been substantially completed for more than 5 years and so became immune from enforcement and thus lawful.
12. The PD suggest that the placing of a small portacabin beside the garage has created ‘an entirely new building’ which prevents the garage from achieving immunity from enforcement. This is absurd – the portacabin placed beside the garage is a separate structure that can easily be moved around the site. Photo 6 below shows that it sits on metal legs and is not built onto the garage. The portacabin can be accessed from the garage but this only required removing one sheet of aluminium cladding.

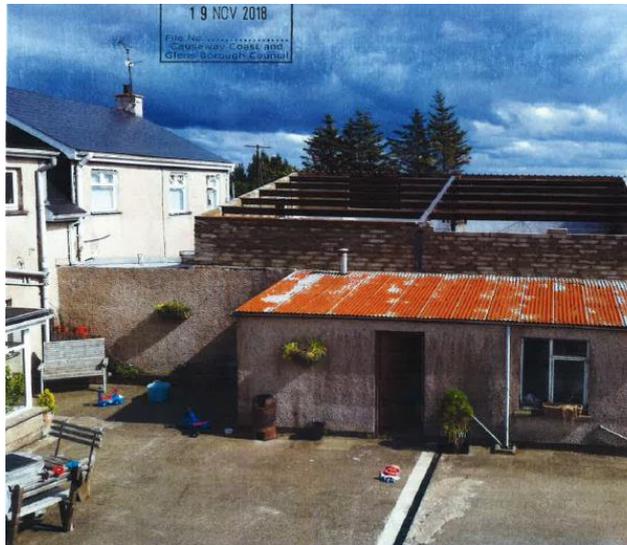
Photo 6: View of underside of portacabin which shows spacing between it and the garage



13. If an enforcement notice was served requiring removal of the garage, it would be appealed on ground F (among others) which is that *‘the steps required...to be taken...exceed what is necessary to remedy any breach of planning control’*. This is because the only possible breach of planning control would be the minor alterations carried out in 2018 – not the building of the garage prior to that which occurred more than 5 years before the minor alterations.
14. The garage building was lawful and the Planning Committee can determine whether permission should be granted for the minor alteration works.
15. As demonstrated in Photos 4 & 5, the alterations to the garage are imperceptible from public view. They are sympathetic with the built form and appearance of the existing property. The refusal reason does not suggest that they are harmful from a planning perspective.
16. The Committee Report states the increased height of the northern part of the garage will *‘negatively impact the adjoining dwelling...as it will cause unacceptable overshadowing in the evening times and dominance to the rear’*.

17. The applicant's neighbour has submitted a photo which purports to show the alleged overshadowing (Photo 7). This was taken in the evening time given the direction of the sun. However, it confirms that the applicant's garage does not overshadow his neighbour's property – the shadow being cast is from his neighbour's own shed and not the applicant's garage.

Photo 7: Garage casts no shadow on neighbour's house



18. Photo 8 shows that the garage is only slightly higher than the neighbour's garage. There is no adverse effect on the applicant's neighbour in terms of overshadowing, overdominance or otherwise.
19. 12 letters of support have been lodged in respect of the application. It complies with Policy EXT1 of the Addendum to PPS7 and we respectfully ask that planning permission be granted.

Photo 8: View of garage from rear



