

<b>Planning Committee Report LA01/2018/1172/F</b>	<b>28<sup>th</sup> August 2019</b>
<b>PLANNING COMMITTEE</b>	

<b>Linkage to Council Strategy (2015-19)</b>	
<b>Strategic Theme</b>	Protecting and Enhancing our Environment and Assets
<b>Outcome</b>	Pro-active decision making which protects the natural features, characteristics and integrity of the Borough
<b>Lead Officer</b>	Development Management & Enforcement Manager
<b>Cost: (If applicable)</b>	N/A

<b><u>No:</u></b>	<b>LA01/2018/1172/F</b>	<b><u>Ward:</u> Aghanloo</b>
<b><u>App Type:</u></b>	<b>Full</b>	
<b><u>Address:</u></b>	<b>6 Broighter Gardens, Limavady.</b>	
<b><u>Proposal:</u></b>	<b>Retrospective application for retention of domestic garage with alterations to building's exterior finishes</b>	
<b><u>Con Area:</u> N/A</b>	<b><u>Valid Date:</u> 2<sup>nd</sup> October 2018</b>	
<b><u>Listed Building Grade:</u> N/A</b>		
<b>Agent:</b>	<b>GM Design Associates Ltd, 22 Lodge Road, Coleraine, BT52 1NB</b>	
<b>Applicant:</b>	<b>Mr. Martin and Orla Bradley.</b>	
<b>Objections:</b> 2	<b>Petitions of Objection:</b>	<b>0</b>
<b>Support:</b> 0	<b>Petitions of Support:</b>	<b>0</b>

**Drawings and additional information are available to view on the Planning Portal- [www.planningni.gov.uk](http://www.planningni.gov.uk)**

## **1 RECOMMENDATION**

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Section 9 and the policies and guidance in Sections 7 and 8 and resolves to **REFUSE** permission for the full application subject to the reason set out in section 10.

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The site is located at 6 Brighter Gardens, Limavady. The application dwelling is a two storey semi-detached dwelling. The front of the site contains a grass amenity area and a paved amenity area that allows for in-curtilage parking. The rear of the site contains a paved amenity area and a grass amenity area, it is enclosed via a 2m high wooden fence, separating the site from all of the surrounding properties at the rear. The detached garage is located to the side of the site.
- 2.2 The dwelling incorporates a pitched roof and is finished externally with red brick and render, black uPVC windows, rainwater goods and black concrete slate roof tiles.
- 2.3 The large detached garage, subject of this application, has walls finished externally with profile metal cladding in a grey colour. The roof is finished in a grey coloured profile metal cladding. The side elevation of the garage that faces onto the rear amenity space of the associated dwelling includes two uPVC black windows and a pedestrian uPVC door. The front elevation of the garage contains a large metal roller door and another uPVC pedestrian door. The garage incorporates a low angle pitched roof. The footprint of the garage, which is the subject of this application, measures approximately 10.05m x 6.05m with a ridge height of approximately 3.9m. The eaves are set at approximately 3.35m above ground level. The appearance of the garage is akin to a commercial or light industrial use.

- 2.4 The surrounding area is characterised by semi-detached residential dwellings finished in red-brick and white render, with paved amenity areas that allow for in-curtilage parking located to the front of the site.
- 2.5 The site is located to the east of Limavady, within the settlement development limit, and is zoned as white land. The site is not subject to any specific zonings or designations as set out in the Northern Area Plan 2016.

### **3 RELEVANT HISTORY**

- 3.1 LA01/2017/0450/F - 6 Brighter Gardens, Limavady BT49 0GH - Retrospective application for domestic garage adjacent to dwelling – Permission Refused (10/07/2017)
- 3.2 LA01/2017/1058/LDP - 6 Brighter Gardens, Limavady - Proposed Domestic Garage – Permitted Development Certified (01/11/2017)

### **4 THE APPLICATION**

- 4.1 Full permission is sought for the retention of domestic garage with alterations to the building's exterior finishes.
- 4.2 The proposal retains the existing size dimensions and footprint. The proposed colours of the finishes for the garage have been altered. The profile metal cladding walls of the garage will remain, however they are to be finished in a light beige colour. The uPVC pedestrian doors and roller door remain and are to be finished in a brown colour. The black uPVC windows and dark grey profile metal cladding roof finishes are to remain the same. The outward dimensions of the proposal have not been altered. The side elevation of the garage that faces onto the rear amenity space of the associated dwelling includes two uPVC black windows and a brown pedestrian uPVC door. The front elevation of the garage contains a large metal roller door and another uPVC pedestrian door, both brown in colour. The garage incorporates a low angle pitched roof. The dimensions of the garage are:

Footprint- 10.05m x 6.05m (60.8m<sup>2</sup>)  
Ridge height- 3.9m

## **5.0 PUBLICITY & CONSULTATIONS**

### **5.1 External**

There were 2 objections received raising the following concerns:

- Nothing appears to have changed from the previously refused application.
- Appears non domestic/Large agricultural shed
- Out of character
- Impact on light

### **5.2 Internal**

There were no consultations on this application.

## **MATERIAL CONSIDERATIONS**

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local development plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.2 The Development Plan is:  
Northern Area Plan 2016 (NAP)
- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.5 Due weight should be given to the development plan.

- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

## **7.0 RELEVANT POLICIES & GUIDANCE**

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

PPS7 Addendum- Residential Extensions and Alterations

## **8.0 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the previous history & fall-back, design, scale & massing and impact upon the character and; other matters.

### **Principle of development**

- 8.2 The site is located to the east of Limavady, within the settlement development limit, and is un-zoned land. The site is not subject to any specific zonings or designations as set out in the Northern Area Plan 2016.
- 8.3 The principle of the type and scale of development proposed must be considered having regard to the SPPS and PPS policy documents specified above.
- 8.4 The site is within a residential area, and the surrounding area is characterised by semi-detached residential dwellings finished in red-brick and white render, with paved amenity areas that allow for in-curtilage parking located to the front of the site.
- 8.5 The site comprises a two storey semi-detached dwelling, associated front and rear amenity space, and detached garage.

## **Design, Scale, & Massing, and Impact on Character**

- 8.6 Policy EXT1 of PPS7 Addendum, states that permission will be granted for a proposal to extend or alter residential property where all of the following criteria are met:
- The scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area;
  - The proposal does not unduly affect the privacy or amenity of neighbouring residents;
  - The proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality; and
  - Sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.
- 8.7 The Strategic Planning Policy Statement for Northern Ireland (SPPS) (Paragraph 4.27) states where the design of proposed development is consistent with relevant LPD policies and/ or supplementary guidance, planning authorities should not refuse planning permission on design grounds, unless there are exceptional circumstances. Planning authorities will reject poor designs, particularly proposals that are inappropriate to their context, including schemes that are clearly out of scale, or incompatible with their surroundings, or not in accordance with the LDP or local design guidance.
- 8.8 The critical views of the subject building are from along the frontage of the boundary of no. 56 Petrie Place and no. 2 Brighter Gardens to the corner of no.14 Brighter Gardens, and from within the cul-de-sac of nos. 4-14 Brighter Gardens.
- 8.9 The scale massing, design and external materials of the proposal are not sympathetic with the built form and appearance of the associated dwelling and detracts from the character and

appearance of the dwelling and surrounding area. The design and materials of the proposal are not reflected in the associated dwelling or surrounding buildings. The scale and design of the shed is more akin to a light industrial or commercial, rather than a domestic, use. This matter, and the issue of being out of character, have been raised by objectors.

- 8.10 PPS7 EXT1 makes specific reference to garages and other associated outbuildings, Annex A states that they can often require as much care in siting and design as works to the existing residential property. They should be subordinate in scale and similar in style to the existing property, taking into account materials, the local character and the level of visibility of the building from surrounding views.
- 8.11 The proposal is not subordinate in scale to the existing dwelling. The footprint of the garage measures approximately 60.8m<sup>2</sup>, with a ridge height of approximately 3.9m. The applicant has stated that the size of the garage is required for the overnight storage of a van. It was suggested that a secure gate or bollard system would have been more appropriate.
- 8.12 The garage is large in size and dominates the existing streetscape. It also appears alien in its environment and detracts from the appearance and character of the area. The design and finish of the proposal is not considered to be characteristic of a domestic use or setting. The building is visible from various public viewpoints.
- 8.13 There are no privacy concerns with the proposal given the positioning of the windows and position of the garage in relation to the neighbouring property.
- 8.14 The size of the proposal detrimentally impacts the neighbouring properties via dominance, in particular, 4 Brighter Gardens.
- 8.15 The proposal will not result in the unacceptable loss of any trees or landscape features. The proposal will not affect car parking and manoeuvring at the dwelling.
- 8.16 The development fails to meet the policy requirements of EXT 1.

## **Previous History and Fall-back**

- 8.17 Retrospective permission was previously sought for an almost identical proposal (LA01/2017/0450/F) which was refused planning permission by Council on the 10<sup>th</sup> July 2017. The applicant did not appeal this decision.
- 8.18 On the 9<sup>th</sup> August 2017, the applicant submitted a Certificate of Lawfulness of Proposed Development (CLUPD) for a proposed domestic garage. While this was a similar footprint, and similar materials to what has been built, the height of the eaves and roof form are different. This CLUD was certified as lawful on 1<sup>st</sup> November 2017. This Certificate is neither what the applicant has built, nor is it what permission is being sought.
- 8.19 A CLUD is a different process to a planning application. A CLUD certifies that a development proposal either meets the permitted development rights or it does not. However, in a planning application, professional judgement must be exercised, having regard to all the material considerations of the specific case.
- 8.20 The proposed garage certified under the CLUPD creates harm by reason of the incongruous form, design and materials, and is harmful within this residential environment. Notwithstanding this, what has actually been constructed does not fall within a householder's permitted development rights, and exacerbates and compounds this harm further by reason of the increase in the height of the eaves by 0.8m. Even with the proposed change to materials within the subject application which is seeking to change the colour to match the projection on the front elevation, it is still industrial in style, and appears completely incongruous in this residential environment.
- 8.21 The previous history and fall-back are material to this application. Given the overall harm of this fall-back position, it is given limited weight in this case.

## **Other Matters**

- 8.22 There has been an objection regarding the loss of light in the immediate vicinity. Given the existing orientation of the subject development, in relationship with surround properties, it is

unlikely there will be an unacceptable loss of light. While there may be an impact on ambient light, having regard to the sun path (east – west) and the applicant’s property is situated to the north, and the distance the garage is away from the neighbouring properties, it is considered that any loss of light is not so great as to merit the withholding of planning permission.

## **9.0 CONCLUSION**

- 9.1 In summary, the proposed garage is unsympathetic in scale, design and materials in relation to the existing dwelling. The scale, design and materials of the garage detrimentally impact the character and appearance of the area. The development is dominant and incongruous in this area given its appearance is more similar to a light industrial or commercial use, rather than a domestic use. The proposal offers a more inappropriate design solution relative to the design certified by the CLUD. The proposal’s location sited within a residential area further exacerbates the unsympathetic nature of the proposal. Refusal is recommended.

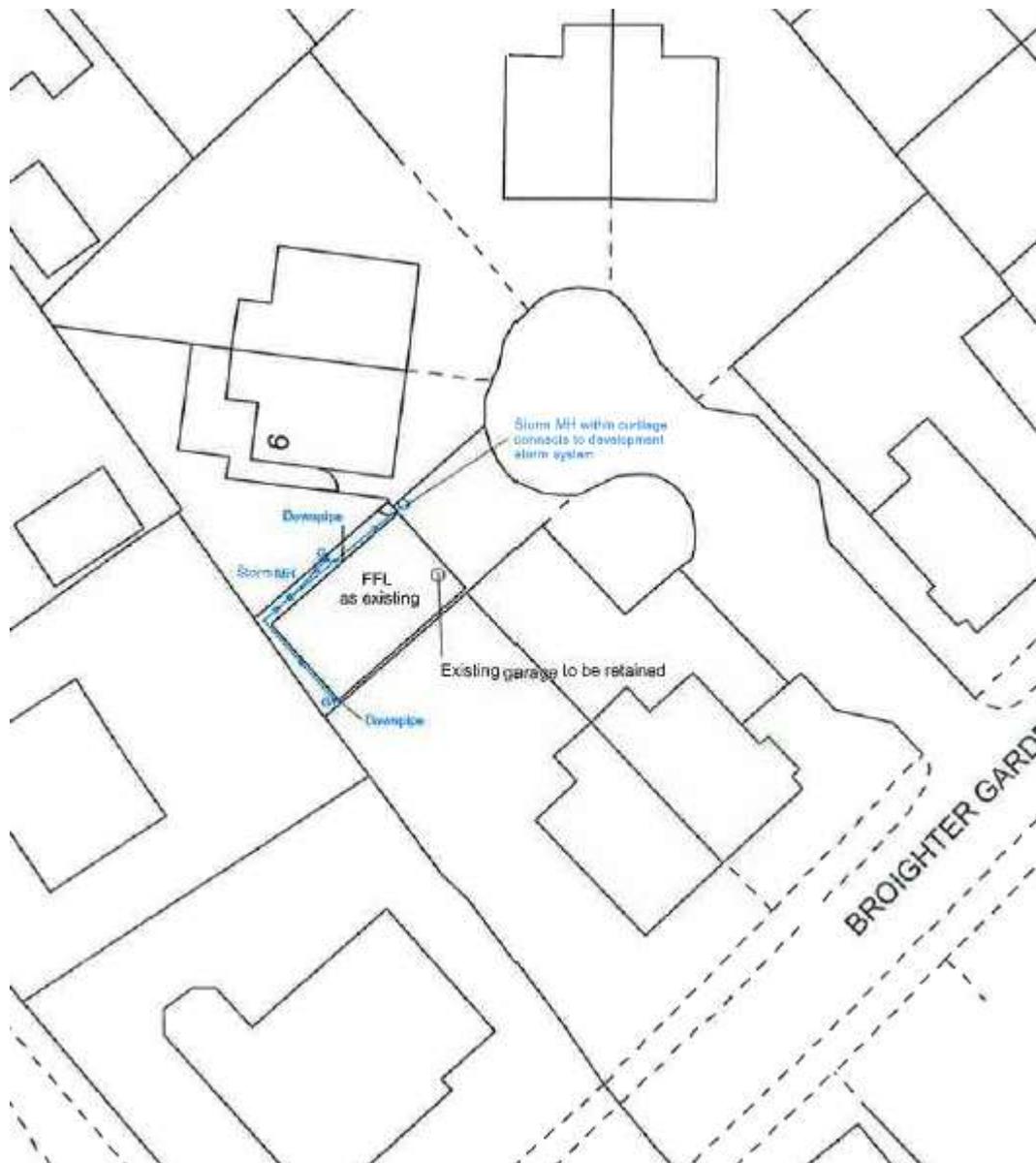
## **10.0 REFUSAL REASON**

1. The proposal is contrary to Policy EXT 1 of the Addendum to Planning Policy Statement 7, Residential Extensions and Alterations, in that the scale, massing, design and external materials of the development are unsympathetic with the built form and appearance of the existing property, and would detract from the character and appearance of the surrounding area.

# Site Location Plan



# Block Plan



# Addendum

## LA01/2018/1172/F

### **Further information**

The 2<sup>nd</sup> sentence in Paragraph 8.11 states that:

*“The footprint of the garage measures approximately 60.8m<sup>2</sup>, with a ridge height of approximately 3.9m.”*

The planning agent has provided information stating that the external footprint of the dwelling is circa 61sqm. This is similar to the footprint of the proposed garage.

The agent has also confirmed the ridge height of the dwelling, from ground level, is circa 8.4m; approximately 4.5m higher than that of the garage.

### **Recommendation**

That the Committee notes the contents of the Addendum and agrees with the recommendation to refuse, as set out in paragraph 9.1 of the Planning Committee Report.

# **Addendum 2**

## **LA01/2018/1172/F**

### **Update**

Three further letters of objection have been received from No.4 Brighter Gardens, No.2 Brighter Gardens and No.56 Petrie Place on 21/03/2019.

The planning concerns raised by No.4 Brighter Gardens state that the garage is not in keeping with the existing residential environment as it has a commercial/agricultural appearance, as opposed to domestic; the development is unacceptable in size; it's an eyesore and it sets a bad precedent for the area.

The objection from No.4 Brighter Gardens also stated that the proposal will affect the re-sale value of the property; the rear of the property is flooding, the applicant doesn't store their van in the shed and the location of the garage, due to the close proximity to the boundary, can result in a major fire hazard.

The planning system does not operate to protect the private interests of individuals, as considered in the SPPS, rather the public interest of which the value of individual properties would not be. The existing garage does not include guttering and based on current drawings and location on site it may be difficult to include within the applicants ownership. The Addendum to PPS 7 advises (paragraph. A10) that encroachment into a neighbouring property would not be acceptable, although this is primarily a legal matter between relevant parties. The parking of the van on neighbouring properties land would be a civil matter between these parties. The implications of the garage being a fire hazard is outside the remit of planning.

The objection letter received from No.2 Brighter Gardens adds additional points from the previous objection letter received from this address, the letter states that the structure is commercial in size and design, is not in keeping with the existing residential area, is an eyesore and sets a bad precedent for the area.

The objection also states that the rear garden of the property is being flooded and the applicant doesn't store their van in the shed. These matters are addressed above.

The issues raised by No.56 Petrie Place were that the garage is not in keeping with the existing residential area, it is agricultural in appearance, dominates the area and has impacted the light at the immediate vicinity of the garage due to its size.

The planning issues raised are similar to the objections already received and have been previously addressed in the Committee Report. Paragraphs 8.0 – Considerations and Assessment, includes full assessment of the proposal with the impact upon the neighbouring residential amenity fully explored under paragraphs 8.8 - 8.14.

### **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.

# **Addendum 3**

## **LA01/2018/1172/F**

### **Update**

At the previous Planning Committee meeting on 27 March 2019, the Committee resolved to approve the application subject to the conditions that the exterior finish is amended (to external render board) and the provision of spouting. It was agreed that amended plans would be submitted to address this and that re-notification would be undertaken. It was resolved that if no objections were received, an approval could issue. However, if objections were received, the application would be brought back to the Committee.

### **Revised Plans**

Revised plans were submitted on 16 May 2019. These contain the site location plan and a block plan that indicates the location of the downpipes and storm water drainage. They also show where the gullies for the garage will connect to the existing storm water system for the dwelling. These revisions are considered acceptable to address the storm water issue associated with this development.

Further submitted plans comprise the floor plans and elevations of the garage. The amendment made to these plans involves the materials. The materials of the garage have been changed from profile metal cladding, with the colour to match the existing front projection of the dwelling, to profile metal cladding with rendering boards fixed to the façade and rendered to match the existing front projection of the dwelling. The amended materials are deemed to be acceptable.

### **Consultation**

NI Water was consulted in relation to this application and raised no objection to the proposal. Further correspondence has been carried out with NI Water and the applicant's agent in relation to this response.

NI Water stated that the sewers in this vicinity have not yet been adopted, so anything relating to foul and storm water sewer would be the responsibility of the developer. When the agent was contacted about this he responded by stating that there is no change to the foul drainage around the dwelling. The storm water drainage for the garage does not connect directly into the main storm run within the development's road, but instead connects into the existing storm run within the curtilage of the dwelling, owned by the applicant. Therefore, permission from the developer is not required in this instance.

## **Objections**

The proposal was advertised in the local paper and neighbour notification was completed.

There are 14 objection letters received in relation to this application. There are 4 letters of objection from 56 Petrie Place, 4 letters of objection from 2 Brighter Gardens and 4 letters of objections from 4 Brighter Gardens. The latest objection from No. 4 Brighter Gardens includes a planning report from Lee Kennedy Planning, which was sent on behalf of the objector by Robin Swann MLA via email.

The planning concerns raised by No.4 Brighter Gardens state that the garage is out of character with the area, has a commercial/agricultural appearance, sets a bad precedent, causes dominance, the size, scale and design are unacceptable and it creates an eyesore. The residential amenity is also affected due to the flooding cause by the garage. However, amended plans have been submitted to address this flooding issue. No.4 Brighter Gardens states that the proposed materials change (rendering boards) is still unacceptable. The objector claims this proposal will affect the re-sale value of the property, that the applicant doesn't store their van in the shed, and the location of the garage, due to the close proximity to the boundary, could result in a major fire hazard. The planning system does not operate to protect the private interests of individuals, as considered in the SPPS, rather the public interest of which the value of individual properties would not be. The amended drawings include guttering and arrangements to deal with water runoff. However, the objectors are of the opinion that this will not address their concern.

The latest objection from No.4 Brighter Gardens received on 17/06/2019, contains a report from Lee Kennedy Planning. This stated that the garage is out of character with the area, as it impacts significantly on the uniform characteristics of the housing development and is contrary to paragraphs 4.23 - 4.30 of the SPPS, it also states that the proposal has a poor design and is inappropriate due to its scale being out of context. The report mentions that the garage is alien to the area and is incompatible with the Local Development Plan, and local design guide. It should be noted that there is no local design guide for Brighter Gardens.

The scale, size, form, finishes and massing are also said to be unacceptable, as the garage is prominent and has an industrial appearance. The report refers to the garage being unacceptable as an ancillary building within the curtilage of the dwelling house. The report indicates the garage to have a footprint of 60.8m<sup>2</sup> and the dwelling to have a footprint of 61m<sup>2</sup>. The report then questions whether or not the garage is actually being used commercially. However, the use of the garage is not the subject of this application.

The objections received from No.2 Brighter Gardens state that the structure is commercial in size and design and unsympathetic, dominant, is not in keeping with the existing residential area (out of character), is an eyesore, prominent and sets a bad precedent for the area.

The objection also states that the rear garden of the property is being flooded. However, the amended plans address the flooding issues. The proposed amended materials (rendering boards) are also mentioned as still being unacceptable. This objection also states that the van is not stored in the garage and the garage will affect the re-sale value, these are not planning concerns. The resale value of the property is also mentioned but this is not a material planning issue. It is also mentioned in the objections that there is overshadowing of the garden area. However, paragraph A33 of the addendum to PPS 7 states that this is rarely a grounds for refusal.

The issues raised by No.56 Petrie Place are that the garage is not in keeping with the existing residential area (out of character), it is industrial/agricultural in appearance, dominates the area and sets a bad precedent. It's also mentioned that the proposal has impacted the light at the immediate vicinity of the garage due to its size. However, paragraph A33 of the addendum to PPS 7 states that this is rarely a grounds for

refusal, as previously stated. The size and scale is also mentioned as being unacceptable.

An objection letter was received from Gregory Campbell MP. This letter reiterates the points stated by No.4 Brighter Gardens.

An objection letter was received from Mr Jim Allister MLA stating that the CLUD does not correspond with what is being sought by way of the retrospective application and is therefore of no assistance. This matter is considered in Paragraphs 8.17 – 8.21 under the heading “Previous History and Fall-back”.

This objection continues by stating that the external materials is the only matter that has been revised but the matters of scale, massing and design all still remain and must still be unacceptable.

### **Conclusion**

The further planning concerns raised are similar to the objections already received which have been previously considered within the Planning Committee Report. Paragraph 8.0 – Considerations and Assessment includes a full assessment of the proposal with the impact upon the neighbouring residential amenity fully explored under paragraphs 8.8 - 8.14.

### **Recommendation**

That the Committee note the contents of this Addendum and agree with the recommendation to Refuse the revised application as set out in paragraph 9.1 of the Planning Committee Report. While the proposed materials can be considered acceptable; the scale, massing and design of the proposal remain unacceptable.