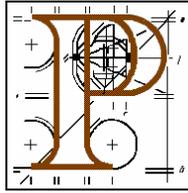


**An Bord Pleanála**



**INSPECTOR'S REPORT**

**DEVELOPMENT** retention of attached garage

**LOCATION** 7 Carraig Bridge, Bridgend, Co Donegal

**PLANNING APPLICATION**

**Planning Authority** Donegal County Council

**Planning Authority Reg. Ref.** 09/70363

**Applicant** Michael McClelland

**Type of Application** Permission

**Planning Authority Decision** Refuse

**PLANNING APPEAL**

**Appellant** Michael McClelland

**Type of Appeal** First Party

**Observers** None

**DATE OF SITE INSPECTION:** February 2010

**INSPECTOR:** Mary Crowley

## 1.0 SITE LOCATION AND DESCRIPTION

1.1 The appeal site with a stated area of 0.04 ha comprises No 7 Carraig Bridge, a two storey dwelling located within a small modern housing estate consisting of similar design detached and semi detached dwellings on the southern outskirts of Bridgend. The row of houses of which the appeal forms part has a generally consistent front building line. It was noted on day of site inspection that a number of the houses in the estate have detached garages located in their rear gardens. It was also noted that there is a similar attached single storey garage to No 5 (see Section 6.0 Planning History below). A set of photographs of the site and its environs taken during the course of the site inspection is attached.

## 2.0 PROPOSED DEVELOPMENT

2.1 This is an application for permission for retention of an attached pitched roof domestic garage with a stated floor area of 22.58 sqm to the southern side of existing two storey detached dwelling. No 7 is constructed at a slightly lower level to that of its immediate neighbour (No 8) to the south.

2.2 The application was accompanied by (1) letter from the applicant outlining the contents of the Inspectors Report at No 5 Carraig Bridge (PL05A.228741 (Reg. Ref. 08/70077) refers) and (2) a letter from occupants of No 8 Carraig Bridge adjoining the appeal site to the south stating that they have no objection to the applicant building a garage beside the common dividing boundary wall and that they consent to the applicant gaining access to his garage over their property for the purpose of maintenance.

## 3.3 TECHNICAL REPORTS

3.1 **Sanitary Services** have no objection. The Local Authority **Planner** notes the previous decision of the Board at No 5 Carraig Bride and the report of the Planning Inspector but considers that they do not attach enough weight to the need to maintain the subject garage (as consent from neighbours will almost certainly not be forthcoming in all cases) nor to the precedent what would be set for similar developments if the Board had decided to grant permission i.e. that new developments would not have to comply with the lateral building line policies of Donegal County Council which are there to ensure an adequate level of residential amenity for occupants. It is considered that the proposed development contravenes the policies set out in Section 1, Section A of the Development Plan and would set an undesirable precedent for similar developments. The notification of decision to refuse planning permission issued by Donegal County Council reflects the recommendation of the Planner.

## 4.0 OBSERVATIONS / OBJECTIONS

4.1 None submitted.

## 5.0 PLANNING AUTHORITY DECISION

5.1 The planning authority issued notification of decision to **refuse** planning permission for one reason as follows:

It is an objective of the Planning Authority to ensure that "new housing development(s) comply with the Development Guidelines and Technical Standards set out in Appendix

A of the County Development Plan 2006 – 2012 (as varied)" and it is a requirement of said Appendix A to establish and maintain a minimum lateral building line of 2 metres from dwelling houses with an integrated (attached) garage (Section 1.2, Part 9, Appendix A, County Development Plan 2006 – 2012). Having regard to the fact that the garage subject to the submitted application is constructed on the adjoining property boundary and fails to provide a lateral building line in accordance with the necessary standards, it is considered that to permit the retention of the development would render the parent dwelling house and composite residential development of the subject site contrary to the aforementioned objective and would otherwise result in a substandard form of residential development which would set an undesirable precedent for similar developments which themselves and cumulatively would be contrary to the proper planning and orderly residential development of the area. Accordingly, it is considered that to permit the retention of the subject development would materially contravene the aforementioned objective of the County Donegal Development Plan 2006 – 2012 (as varied), would be contrary to the Development Guidelines and Technical Standards set out in Appendix A of said plan and would thereby be contrary to the proper planning and sustainable development of the area.

## 6.0 PLANNING HISTORY

- 6.1 There is no evidence of any previous planning appeals on this site. No planning history was made available with the file however reference is made in the Planners Report to the following site history one of which is currently under appeal and that can be summarised as follows. It should also be noted that reference is made to a pre planning consultation and an Enforcement Notice (Ref UDIN 0825 refers) regarding the appeal site however no information in this regard has been made available with the file.

**Reg. Ref. 06/72352** – Local Authority decision to **refuse** permission for the erection of a domestic garage to the southern gable of **No 7** Carraig Bridge

**Reg. Ref. 07/71799** – Local Authority decision to **refuse** permission for the retention of a domestic garage to the southern gable of **No 7** Carraig Bridge

**Reg. Ref. 08/70338** – Local Authority decision to **refuse** permission for the retention of a domestic garage to the southern gable of **No 7** Carraig Bridge

**PL05A.228741 (Reg. Ref. 08/70077)** – Local Authority decision to **refuse** permission for the retention of a domestic garage attached to the side of **No 5** Carraig Bridge was appealed to An Bord Pleanála and subsequently **refused** as the drawings submitted with the application did not accurately reflect the garage as constructed whereby the Board was precluded from considering the granting of permission.

**PL05A.235240 (Reg. Ref. 09/70423)** – Local Authority decision to **refuse** permission for the retention and alterations of a domestic garage attached to the side of **No 5** Carraig Bridge was appealed to An Bord Pleanála. No decision has issued to date.

## 7.0 THE DEVELOPMENT PLAN

- 7.1 The operative plan for the area is the **County Donegal Development Plan 2006-2012 (as varied)**. Appendix A to that Plan sets out the Council's Development Guidelines and Technical

Standards. Section 1.2 Part 9 states that lateral or side building lines will be applied in low density developments (20 units per hectare or less). The lateral building lines will be at least two metres for houses with an integrated garage and three metres where no garage exists or the garage is detached. At higher densities relaxation of this requirement may be permitted where the design of scheme layout shows that it would not result in maintenance problems for properties.

## **8.0 GROUNDS OF APPEAL**

- 8.1 The first party appeal has been prepared and submitted by the North West Modern Designs, Buncrana, Co Donegal on behalf of the applicant and can be summarised as follows:
- 8.2 The purpose of the garage is to provide secure storage for the applicants car and to store toys, buggies as there is limited storage space in the dwelling (approx 1600 ft) together with garden tools and toys (swings and slides). If the garage was built any smaller it would be too small for the applicant needs.
- 8.3 The applicant built the garage presuming that the Council would grant permission. This error in judgment was not intentional. It is considered that the garage sits well on site and blends well with its surroundings.
- 8.4 A letter of consent from the affected neighbour, James Campbell, No 8 Carraig Bridge is provided stating that he has no objection to the applicant building a garage beside [the] common dividing boundary wall together with permission for access over his lands for maintenance purposes. Pictorial evidence of other dwellings in the vicinity which breach the Planning Authority's stipulated minimum separation distances demonstrating that a precedent has already been set is also provided.
- 8.5 A copy of Planning Inspectors report on a previous appeal at No 5 Carraig Bridge (PL05A.228741 refers) is provided together with specific comments by the applicant highlighting sections of this previous appeal report and concluding that the Boards refusal at No 5 was specifically due to incorrect plans being submitted and not because the Board believed that garage was injurious to the overall estates or area

## **9.0 RESPONSE OF THE PLANNING AUTHORITY**

- 9.1 The Planning Authority considers that given that the development has been constructed up to the party boundary, the Councils requirement to provide a minimum 2 metre lateral building line along the side boundary has not been provided. It is further stated that there have been other refusals in the immediate vicinity of the subject site for similar type developments, where the development has encroached on third party lands.

## **10.0 OBSERVATION**

- 10.1 None received

## **11.0 ASSESSMENT**

- 11.1 At the outset it is worth noting that Donegal County Council refused permission for the retention of attached garage to the side of No 5 Carraig Bridge to the north of the appeal site for similar

reason to No 7 Carraig Bridge. This decision is also under appeal (PL05A.235240 (Reg. Ref. 09/70423 refers) and it is recommended that this report (No 7) be read in conjunction with the appeal report of No 5 to the north as many of the issues raised and assessment of same are similar.

- 11.2 Having regard to the current County Development Plan (as amended) the development does not comply with the Council's stated policy on retaining at least two metres from the side boundary on low density estates and it would therefore be open to the Board to refuse permission for this reason as indicated in the Council's Notification of Decision. However I agree with the comments of the previous Planning Inspector on the adjoining site at No 5 in that I too am not entirely convinced that this breach of policy would result in significant harm warranting a reason for refusal in this particular instance. Overall I am satisfied that the scale and design of the garage to be retained does not overwhelm or dominate the original form or appearance of the parent house and that the garage will not have a significant negative impact on the established character or visual amenities of the area. Furthermore the garage to be retained would not result in significant or harmful coalescence of the dwellings or further terracing effect to an extent that would seriously damage the character and appearance of the estate or area generally. While there is a clear conflict with the Council's policy I do not consider significant harm arising to the general visual amenities of the area that could be considered contrary to the proper planning and sustainable development of the area.<sup>1</sup>
- 11.3 With regards to impact of the scheme on residential amenities I am satisfied that the garage respects the amenity of the neighbouring property to the south in that it will not result in any significant or unreasonable loss of privacy by means of overlooking or loss of natural light or overshadowing to neighbouring properties over and above that currently associated with the existing parent dwelling. With regard to the concerns raised in relation to persons accessing the adjoining property at No 8 to carry out maintenance work I note the letter from James Campbell (No 8) stating that he has no objection to the applicant building a garage beside [the] common dividing boundary wall together with permission for access over his lands for maintenance purposes however I would point out that such matters are not planning issues in this instance. If planning permission is granted and if another party considers that a part of the planning permission granted by the Board cannot be implemented because of landownership or title issue then Section 34 (13) of the Planning and Development Act 2000 is relevant. This section of the Act states that a person shall not be entitled solely by reason of a permission under this section to carry out any development.
- 11.4 The Planning Authority in its reason for refusal have cited that to permit the retention of the subject development would materially contravene the objectives (as set out) of the County Donegal Development Plan 2006 – 2012 (as varied). I therefore consider that it is appropriate to consider the provisions of section 37(2)(b) of the 2000 Planning and Development Act where the Board may only grant permission where it considers the criteria in clauses (i) to (iv) might apply. In this instance the objectives in the development plan are clearly set out, the proposal does not constitute a development of strategic or national importance and there are no relevant regional planning guidelines or similar guidance documents to which regard must be had. However I agree with the previous Planning Inspector comments at No 5 in that having regard to the scale and nature of this proposal together with the comments set out above I consider such a breach of policy to be relatively minor and not resulting in significant demonstrable harm to the character of the area or amenities of adjoining property. Accordingly I do not therefore

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<sup>1</sup> Planning Inspectors Report at No 5 (PL05A.228741 (Reg. Ref. 08/70077) refers)

consider the development to constitute a significant material contravention of the Plan in this instance.

## 12.0 RECOMMENDATION

- 12.1 Having considered the contents of the application, the provisions of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the reasons and considerations set out below.

## 13.0 REASONS AND CONSIDERATIONS

Having regard to the provisions of the County Donegal Development Plan 2006-2012 (as varied) the overall design and scale of the development proposed, the location of the appeal site and the established pattern of development in the area it is considered that subject to the conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity or depreciate the value of properties in the vicinity of the site and would therefore be generally in accordance with the proper planning and sustainable development of the area

## 14.0 CONDITIONS

1. The garage hereby permitted shall be used for domestic storage purposes only ancillary to the use of the existing dwelling on site.

**Reason:** In the interest of clarity and to cater for orderly development.

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Mary Crowley  
Planning Inspector