

REPORT TO: COUNCIL ASSESSMENT PANEL

DATE: 27 NOVEMBER 2019

SUBJECT: APPEAL ITEM – 110/00516/18 - 541 BRIGHTON ROAD, SOUTH BRIGHTON

WRITTEN BY: DEAN SPASIC – DEVELOPMENT OFFICER PLANNING

ATTACHMENTS:

- A. COMPROMISE DOCUMENTATION
- B. ORIGINAL REPORT AND ATTACHMENTS
 - 1. LOCALITY MAP
 - 2. ORIGINAL PLANS
 - 3. STATEMENTS OF REPRESENTATIONS
 - 4. APPLICANTS REPLY TO REPRESENTATIONS

1. Background

On the 24 April 2019, the Council Assessment Panel refused the proposal for the following reasons:

General Section Transportation and Access Principle 40, Energy Efficiency 2(b), Design and Appearance Principles 15 and 19, Residential Development Principles 31(i), 44, District Centre Zone Principles 8(a)(b)(c), 9, 14, Brighton and Hove Policy Area 16 Desired Character Statement, Principle 9. Specifically, the proposal incorporates:

- An inadequate amount of off-street car parking.
- Buildings that are designed and sited in a manner that do not take advantage of exposure to winter sun.
- Buildings that are designed and sited creating extensive areas of uninterrupted walling facing areas exposed to public view.
- Buildings that are designed without appropriate use of colours, vertical and horizontal elements, roof overhangs and other design techniques that would otherwise provide visual interest and reduced massing.
- Buildings that are designed without appropriately articulated surfaces to visible walls to include a traditional pattern of wall areas and window spaces.
- The use of materials and colour finishes which do not blend with or complement those used on the predominant long-standing buildings in the locality.
- Insufficient setbacks to enable meaningful landscaping and setback consistency with existing buildings in the locality.
- Insufficient provision of landscaping to provide a buffer between non-residential developments and adjacent residential areas.
- Insufficient building setback to the western property boundary.
- Private open spaces sited with direct exposure to noise and air quality impacts from traffic within the locality.
- Residential buildings sited close to high noise sources (major road) without protection for sensitive and habitable areas through appropriate noise attenuation measures.

The applicant has lodged an appeal with the Environment, Resources and Development Court. A compromise plan has been submitted for the Panel's consideration.

2. Compromise proposal

The applicant has submitted a revised set of plans as a compromise to the plans which were previously refused by the Panel. A summary of the amendments are as follows:

1. removal of one office and one dwelling within the "Brighton Road" building;
2. increase in the number of off street car parks;
3. amended built form;
4. amended external materials;
5. refinements to the provision of private open space;
6. altered floor plans to provide increased occupant amenity;
7. increased landscaping;
8. canopy to the Brighton Road street frontage;
9. recycled plastic artwork to Brighton Road street frontage; and
10. provision of noise attenuation measures.

3. Assessment

The amendments are considered to reflect a meaningful change to the proposal, with clear intent shown to seek to address the reasons for refusal.

The removal of 1 office and 1 dwelling has resulted in a substantially improved design and reduced pressure on on-site car parking.

The buildings are now visually enhanced with better architectural value. The introduction of increased landscaping has further improved the visual amenity of the subject site.

Likely occupant needs are also better accommodated with improvements in private open space, altered floor plans and introduction of noise attenuation measures such as the introduction of louvre screens to the balcony to deflect noise, provision of a green wall, removal of abutting balconies and privacy screens and solid walls, relocation of noise sensitive rooms, limiting openings facing Brighton Road, double glazed windows, provision of a canopy on the Brighton Road elevation.

On balance, the amended proposal is not considered to be seriously at variance with the Development Plan and reasonably satisfies the relevant principles of the Development Plan.

The original proposal was one which reflected an overdevelopment of the site, however the substantial amendments are such that have allowed for better building design along with increased usability for occupants and car parking.

The following demonstrates a visual comparison between the previously refused proposal and the compromise:





4. RECOMMENDATION

That the ERD Court be advised that Council accepts the amended plans as a compromise in the Environment, Resources and Development Court appeal matter ERD-19-96 in the matter between MRTD Pty Ltd v City of Holdfast Bay and recommends the following conditions be included:

PLANNING CONDITIONS

1. That the design and siting of all buildings and structures and site works shall be as shown on the plans prepared by Royal Greenhouse, Job No 497-19, Revision A, Sheets 01 to 16 submitted to and approved by Council unless varied by any subsequent conditions imposed herein.
2. All upstairs windows and on the side and rear elevations shall be treated with screening devices to ensure visual privacy is achieved on adjoining properties.
3. That the premises shall be maintained, kept tidy, free of graffiti and in good repair and condition to the reasonable satisfaction of Council at all times.
4. That the premises shall not be used, directly or indirectly, for the purpose now approved until all work has been completed in accordance with the plan approved and the conditions of consent have been complied with, except those conditions that continue to apply.

5. The provision for vehicle crossovers and inverts, and reinstatements of existing crossovers not required by the development, be constructed at the owner's expense.
6. That landscaping shall be established as per the Landscape Plan prepared by Royal Greenhouse, Job No 497-19, Revision A, Sheet 04 which are of semi-mature or of fast growing tubestock. All such landscaping shall be established within 3 months of substantial completion of the development and any such vegetation shall be replaced if and when it dies or becomes seriously diseased.
7. That stormwater from each dwelling shall be collected and connected to a 1000 litre (minimum) rainwater tank with a sealed system over flow connection to the street water table. Furthermore, all stormwater from the dwelling and the site shall be collected and disposed of in a manner that does not adversely affect any properties adjoining the site or the stability of any building on adjacent sites. Stormwater shall not be disposed of over a vehicle crossing place and any connection to the street water table, including remedial works to footpaths, verges or other Council infrastructure, is subject to any necessary approvals from Council and will be at the applicant's cost.
8. The stormwater disposal system shall cater for a 5 year rainfall event with discharge to the street not to exceed 10 litres per second. Any excess above this flow is to be detained on site to the reasonable satisfaction of Council.

DPTI Conditions

9. All vehicular access to/from the site shall be gained via Oleander Street only in general accordance with the Wilcot Drafting, Site Plan, Planning (Revision C), dated 12 December 2018, Sheet 11 of 18. No direct vehicular access onto Brighton Road shall be permitted.
10. The eastern most crossover on Oleander Street shall comply with *AS/NZS 2890.1:2004, Fig. 3.1 'Prohibited Locations of Access Driveways'*.
11. Stormwater run-off shall be collected on-site and discharged without jeopardising the safety and integrity of Brighton Road. Any alterations to the road drainage infrastructure required to facilitate this shall be at the owner's expense.