

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 11 SEPTEMBER 2007, COMMENCING AT 6.30PM.

T84. OPENING OF MEETING

T84.1 Present

T85. WELCOME TO GALLERY

T86. APOLOGIES

T87. CONFIRMATION OF MINUTES

T87.1 Town Planning & Building Committee (Private Domain) – 14 August 2007

T88. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T88.1 May Street No. 22 (Lot 4)

T88.2 Illegal Demolition

T89. REPORTS OF COMMITTEES

T89.1 Town Planning Advisory Panel – 24 October 2006

T90. REPORTS OF OFFICERS

T90.1 Receipt of Reports

T90.2 Order of Business

T90.3 Oakover Street No. 88 (Lot 306)

T90.4 Angwin Street No. 13 (Lot 4)

T90.5 Canning Highway No. 217-219 (Lot 1)

T90.6 Canning Highway No. 253 (Lot 351)

T90.7 May Street No. 22 (Lot 67)

T90.8 Allen Street No. 50 (Lot 305)

T90.9 Alexandra Road No. 40 (Unit 8)

T91. EN BLOC RECOMMENDATION TO COUNCIL

T91.1 Fletcher Street No. 4 (Lot 122)

T91.2 Glyde Street No. 45 (Lot 136)

T91.3 Wolsely Road No. 27 (Lot 18)

T92. REFERRED BUSINESS (NOT INCLUDED ELSEWHERE)

T93. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

T93.1 Residential Design Guidelines

T93.2 *Illegal Demolition*

T94. **CLOSURE OF MEETING**

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 11 SEPTEMBER 2007, COMMENCING AT 6.30PM.

T84. OPENING OF MEETING

T84.1 Present

Mayor James O'Neill
Cr Stefanie Dobro Presiding Member
Cr Alan Ferris
Cr Jennifer Harrington
Cr David Martin
Cr Richard Olson
Mr Chris Warrener Consultant Town Planner
Mrs Peta Cooper Minute Secretary

T85. WELCOME TO GALLERY

There were 10 members of the public in the gallery at the commencement of the meeting.

T86. APOLOGIES

An apology was submitted on behalf of Cr Alex Wilson.

T87. CONFIRMATION OF MINUTES

T87.1 Town Planning & Building Committee (Private Domain) – 14 August 2007

Cr Ferris – Cr Martin

That the Town Planning & Building Committee (Private Domain) minutes dated 14 August 2007 as adopted at the Council meeting held on 21 August 2007 be confirmed. CARRIED

T88. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

Nil

T88.1 May Street No. 22 (Lot 4)

Two late submissions were received from Mr Rodney O'Byrne (designer) addressing issues raised in the officer's report on the proposed development for 22 May Street.

Cr Olson – Cr Harrington

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T90.7) CARRIED

T88.2 Illegal Demolition

Correspondence was received from the Mayor of the Town of Claremont seeking Council's support in encouraging the Minister for Planning and Infrastructure to review the Planning and Development Act penalty provisions.

Cr Olson – Cr Harrington

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T93.2) CARRIED

T89. REPORTS OF COMMITTEES

T89.1 Town Planning Advisory Panel – 24 October 2006

Cr Ferris – Cr Martin

That the minutes of the Town Planning Advisory Panel meeting held on 24 October 2006 be received and each item considered when the relevant development application is being discussed.

CARRIED

T90. REPORTS OF OFFICERS

T90.1 Receipt of Reports

Cr Harrington – Cr Ferris

That the Reports of Officers be received.

CARRIED

T90.2 Order of Business

Cr Harrington – Cr Ferris

The order of business be altered to allow members of the public to speak to relevant agenda items.

CARRIED

T90.3 Oakover Street No. 88 (Lot 306) Applicant & Owner: Paul Keenan & Hayley Neil-Kappelle Application No. P157/07 By Chris Warrener, Town Planner on 31 August 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a double garage and replacement front fence at 88 Oakover Street.

Statutory Requirements

Town Planning Scheme No. 3 – Residential R12.5
Local Planning Strategy – Woodside Precinct (LPS)
Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy No. 142 – Residential Development (LPP 142)
Local Planning Policy No. 143 – Fencing (LPP 143)

Documentation

Plans and relevant forms date stamp received on 2 August 2007

Date Application Received

2 August 2007

Additional information

Revised plans for the front fence received on 31 August 2007

Advertising

Adjoining land owners only

Date Advertised

8 August 2007

Close of Comment Period

22 August 2007

No. of Days Elapsed between Lodgement & Meeting Date

40 days

Any Relevant Previous Decisions of Council and/or History of an Issue or Site

27 February 1990	Council grants special approval for the erection of an additional dwelling unit at the rear of 158 Marmion Street (88 Oakover Street) including a pitched roof carport;
21 May 1990	Council grants special approval for the relocation of the carport with a 3 metre setback from Oakover Street;
29 May 1990	Building Licence 66A/90/1687 issued for carport;
7 August 1990	State Planning Commission endorses Certificate of Approval for Strata Plan for the subdivision of 158 Marmion Street into 2 lots creating 88 Oakover Street;
20 December 1993	Council refuses an application to erect a garage to an existing carport;
21 February 1994	Council grants approval for a relaxation of standards to the western setback from 6m to 5.3m to allow the erection of a shed;
3 March 1994	Building Licence 008/2148 issued for storage shed.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting on 28 August 2007 and the following comments were made:

- acceptable because as recessed down
- could consider some decorative elements consistent with original front façade of dwelling
- appropriate to location and minimises impact

Public Submissions

At the close of the comment period no submissions were received.

Site Inspection

By Consultant Town Planner on 28 August 2007

REPORT

Issues

Boundary Setbacks	<p>The house at 88 Oakover Street is set back 9m from the front boundary.</p> <p>The proposed double garage is in front of the house set back 2.114m from this boundary.</p> <p>LPP 142 states:</p> <p>(i) <i>Buildings are to be set back such a distance as is generally consistent with the building set back on adjoining land and in the immediate locality.</i></p> <p>(ii) <i>Notwithstanding (i) above, garages and carports located at or behind the main building line for primary and secondary streets and in accordance with Table 1 – Minimum Setbacks of the Residential Design Codes.</i></p>
Fencing	<p>The application proposes to replace a front fence which is 'open style' (complies with LPP 143) along the Oakover Street frontage, and is solid up to 1.4m high along the Marmion Street frontage.</p> <p>It is proposed to increase the height of the solid limestone wall/fence along Marmion Street up to 1.8m high, and to replace the vertical grill in the remainder of the fence with horizontal timber batons 70mm wide with 30mm gaps between (visual permeability = 30%).</p> <p>LPP 143 states: <u>Part 3 - Fence Design</u> Council requires front fences and walls above 1.2m to be visually permeable defined as:</p>

Continuous vertical gaps of at least 50mm width occupying not less than 60% of the face in aggregate of the entire surface that is at least 60% of the length of the wall must be open. (Note: This differs from the 'R' Codes)

Discussion

Boundary Setbacks

The application proposes to replace a pitch/gable roofed single carport forward of the main building line with a flat/concealed roof double lock-up garage in a similar position.

The earth-works to construct the proposed garage involve excavation of the site up to 0.6m below NGL.

The impact of this will be to reveal more of the single house behind the garage than currently viewed behind the pitched roof carport from Oakover Street.

Unfortunately there is no option available on this particular property for a carport or garage to be built behind the main building line.

The applicant states in support of the proposed setback variation

“According to the R-Code (part 3, page 51, section “Garages”) I tried to integrate the garage into the existing design as a means of satisfying the performance criteria relating to streetscape.

I would like you to consider that the house in question is not provided with a garage and store room but just with a simple carport and at the moment the members of the family have to park their cars on the driveway or most of the time on the street with the risk of someone damaging them and that would also spoil the aesthetics of the street.

The garage is located mainly where the existing carport is located now and that is the only suitable location for an additional covered parking within the existing dwelling.”

In terms of streetscape and setbacks directly opposite the subject property at 87 Oakover Street is a double garage forward of the main building line similar to the proposed setback. This garage appears to be well-integrated with the house it appends.

Next door at 86 Oakover Street is a single storey house which is built on a reduced front setback to 4m from the front boundary.

Given the presence of structures on properties next to and opposite the subject site forward of the main building line, and given the constraints to the siting of a carport or garage on this property, and considering that the proposed garage will be an improvement on the existing carport, the garage is supported.

Fencing

The topography of the property rises away from the corner by more than a metre (approx. 1.1m). The house is therefore situated higher than the adjoining road and is more visible to the street than a house on an otherwise level roadside block.

Being situated on a corner, headlights from traffic turning east into Marmion Street from Coode Street have a detrimental impact on the amenity of the house.

This situation will be ameliorated by increasing the height of the fence to comply with LPP 143, with timber panelling at 30% permeability.

Conclusion

The present owners are currently undertaking substantive improvements to restore and conserve a unique "art deco" style 1950's residence, which has a relatively high rating in the Draft MI.

The proposed garage will not compromise the appearance of the house rather it will blend in a very non-dominant manner.

The front fence improvements will improve the amenity of the property for the owners by providing a little more privacy, and reduce the impact of traffic in Marmion Street.

RECOMMENDATION

That Council exercise its discretion in granting approval for the following:

- (a) variation to the west side boundary setback pursuant to the Residential Design Codes from 7.5m to 2.114m
- (b) variation to the permeability of the portion of the front fence above 1.2m high facing Marmion Street pursuant to Local Planning Policy 143 from 60% to 0%;
- (c) variation to the permeability of the portion of the front fence above 1.2m high facing Oakover Street pursuant to Local Planning Policy 143 from 60% to 30%;

for the construction of a double garage and replacement front fence at No. 88 (Lot 306) Oakover Street, East Fremantle in accordance with the plans date stamp received on 31 August 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed garage and front fence are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

The following are not conditions but notes of advice to the applicant/owner:

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

Ms Marzia Ferro (designer) addressed the meeting.

Amendment

Cr Martin – Cr Harrington

That discretion (b) of the officer's report be deleted.

CARRIED ON THE CASTING VOTE OF THE PRESIDING MEMBER

RECOMMENDATION TO COUNCIL

Mayor O'Neill – Cr Ferris

That Council exercise its discretion in granting approval for the following:

- (a) variation to the west side boundary setback pursuant to the Residential Design Codes from 7.5m to 2.114m;**
- (b) variation to the permeability of the portion of the front fence above 1.2m high facing Oakover Street pursuant to Local Planning Policy 143 from 60% to 30%; for the construction of a double garage and replacement front fence at No. 88 (Lot 306) Oakover Street, East Fremantle in accordance with the plans date stamp received on 31 August 2007 subject to the following conditions:**
 - 1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
 - 2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
 - 3. the proposed garage and front fence are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
 - 4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
 - 5. this planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

The following are not conditions but notes of advice to the applicant/owner:

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.***
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.***
- (c) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).***

CARRIED

T90.4

Angwin Street No. 13 (Lot 4)

Applicant & Owner: Ms Sue Booth

Application No. P129/07

By Chris Warrener, Town Planner on 4 September 2007

BACKGROUND

Description of Proposal

An Application for Amended Planning Approval for modifications to a front fence, and removal of privacy screens from balconies at the rear of the 3-level house at 13 Angwin Street.

Statutory Requirements

Town Planning Scheme No. 3 (TPS 3) – Residential R12.5

Local Planning Strategy - Riverside Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy No. 142 – Residential Development (LPP 142)

Local Planning Policy No. 143 – Fencing (LPP 143)

Documentation

Plans and relevant forms date stamp received on 28 June 2007

Date Application Received

28 June 2007

Additional Information Received

10 August 2007

Correspondence from Applicant/Owner;

31 August 2007

Revised plans for front fence to accurately illustrate unauthorised works.

Advertising

Adjoining land owners only

Date Advertised

9 August 2007

Close of Comment Period

23 August 2007

No. of Days Elapsed between Lodgement & Meeting Date

75 days

Any Relevant Previous Decisions of Council and/or History of an Issue or Site

16 December 2003

Council decides that the application be held over pending receipt of west elevation showing relationship of revised proposal (building height of 29.00m AHD, wall height of 26.16 AHD and a minimum roof pitch of 26 degrees) in relation to adjoining sites;

2 March 2004

Council grants conditional approval for setback and height variations for additions to the single storey house;

10 June 2005

Approval granted under delegated authority for amended plans;

2 August 2005

Demolition Licence 05/04 issued for existing house;

4 November 2005

Building Licence 05/49 issued for additions and alterations;

12 June 2007

Request from Owner for a variation to the Building Approval regarding the front fence to accommodate a recessed bin area;

25 June 2007

Email from owner of adjoining property (11 Angwin Street) regarding unauthorised building and overlooking; Site visit to investigate works at 13 Angwin Street.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 28 August 2007 and the following comments were made:

- appears to be a suitable substitute for the gatehouse.

Public Submissions

At the close of the comment period a submission was received from Kristen & Andrew McPhail of 11 Angwin Street:

- object to location of garbage bin area because of overlooking
- object to balcony screening not having been installed as required

Site Inspections

By Town Planner on 25 June, 23 & 30 August 2007

REPORT

Issues

Amended Planning Approval

This is an application for an amended planning approval for a front fence, and deletion of balcony screening at the rear of the 3-level house under construction at 13 Angwin Street.

TPS 3, clause 8.3 states:

*"8.3. Amending or Revoking a Planning Approval -
The local government may, on written application from the owner of land in respect of which planning approval has been granted, revoke or amend the planning approval, prior to the commencement of the use or development subject of the planning approval."*

However what began as a reasonable request for an amended planning approval has now turned out to be an application for unauthorised works.

Unauthorised Works

On 12 June 2007 Council's Building Surveyor received a request from the owner for permission to vary the building approval to modify the front fence in addition to the additions to the single storey house at 13 Angwin Street.

The request states: *"This request involves a panel of rendered brickwork incorporated into the southeast fenceline, fronting Angwin Street, to accommodate a recessed services area for reading of the gas and electricity meters, and enclosing an internally-facing bin area."*

The Building Surveyor consulted with the Town Planner and it was determined that this request would require Planning Approval because the fence does not comply with LPP 143.

On 25 June 2007 the Town Planner received an email from the owner of the adjoining property at 11 Angwin Street bringing attention to building works comprising a brick shed/garden bin structure built using a parapet wall, and also raising concerns that the owner of 13 Angwin Street *"is pressuring us to waive the building condition that involves opaque glass on the side and partial front of 3rd level balcony, and on the front of the 2nd level balcony."*

The Town Planner made arrangements to meet the owner of 11 Angwin Street to discuss the matter, and discovered that the owner of 13 Angwin Street had already undertaken works to the front fence not in accordance with the approved plans or in fact the amended plans received on 28 June 2007 (the owner has since submitted plans date stamp received on 31 August 2007, which more accurately reflect the front fence).

Prior to that meeting the owner of 13 Angwin Street met the Town Planner (by coincidence) to explain the unauthorised works and to show the extent of the overlooking from the balconies at the rear.

By letter dated 26 June 2007 (see attachment) the Town Planner requested that all work on the fence cease pending a determination by Council on an application for planning approval for the unauthorised works.

The owner has acceded to this request.

Balcony Screens

Council conditionally approved the additions to the house at 13 Angwin Street on 2 March 2004 and subsequent amended plans on 10 June 2005 on the basis of plans, which show the balconies at the rear being screened on the south side nearest 11 Angwin Street.

These balconies are set back a significantly lesser distance from the adjoining property (11 Angwin Street), than recommended under the RDC.

Assessment of the application determined that additional screening was required along portions of the west sides of the balconies to comply with the RDC.

The officer's report to the Committee and Council meetings in December 2003 states:

"Relaxation is sought for the southern side setback to the ground floor screened balcony be reduced from 5m to 1m. The location of the screened balcony is considered to have some impact on the adjoining property in terms of overlooking given the angled nature of the subject dwelling. As such, it is recommended that additional screening be provided to a portion of the south-west corner of the balcony. The setback with appropriate screening is considered not to have an adverse impact on the affected property and can be supported.

Relaxation is sought for the southern side setback to the upper floor screened balcony be reduced from 6.5m to 1m. The same considerations apply to this balcony as discussed above and the same screening provisions will be required."

Therefore in addition to the screens shown on the submitted plans for the south sides of the balconies Council imposed the following condition requiring that the screening be extended along portions of the west sides to further reduce the impact of overlooking:

"11. prior to first occupation, fixed obscure screening shall be provided to a height of 1.6m above the finished floor level to the ground and upper floor balconies facing west, the screening shall be not less than 2m in length extending from the south/western corner, to the satisfaction of the Chief Executive Officer in consultation with relevant officers."

Discussion

Statutory Position – Unauthorised Works

Council has two options in regard to the unauthorised works.

It can prosecute pursuant to clause 11.4 of TPS 3, which states:

“11.4. Person must comply with provisions of Scheme

A person must not —

- (a) contravene or fail to comply with the provisions of the Scheme;*
- (b) use any land or commence or continue to carry out any development within the Scheme area —*
 - (i) otherwise than in accordance with the Scheme;*
 - (ii) unless all approvals required by the Scheme have been granted and issued;*
 - (iii) otherwise than in accordance with any conditions impose upon the grant and the issue of any approval required by the Scheme; and*
 - (iv) otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the local government under the Scheme with respect to that building or that use.*

Note: Section 10(4) of the Town Planning Act provides that a person who —

- (a) contravenes or fails to comply with the provisions of a town planning scheme; or*
- (b) commences or continues to carry out any development which is required to comply with a town planning scheme otherwise than in accordance with that scheme or otherwise than in accordance with any condition imposed with respect to the development by the responsible authority pursuant to its powers under that scheme, is guilty of an offence. Penalty: \$50 000, and a daily penalty of \$5 000.”*

Or

Council can exercise its discretion pursuant to clause 8.4, which states:

“8.4. Unauthorized existing developments

8.4.1. The local government may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.

8.4.2. Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.

- Note:*
- 1. Applications for approval to an existing development are made under Part 9.*
 - 2. The approval by the local government of an existing development does not affect the power of the local government to take appropriate action for a breach of the Scheme or the Act in respect of the commencement or carrying out of development without planning approval.”*

Unauthorised Works

When the unauthorised works to the front fence were undertaken the adjoining property owner complained because of the negative impact on amenity at 11 Angwin Street.

In response to the concerns regarding the wall for the rubbish bin recess these works were modified to improve their appearance as viewed from the front yard of 11 Angwin Street. This involved modifying the rendered brick work so that it stepped down in a similar fashion to the adjacent limestone wall.

Balcony Screens

During site visits on 25 June and 30 August 2007 the Town Planner stood on the balconies at the rear of 13 Angwin Street to see the extent of overlooking of the adjoining property at 11 Angwin Street.

There is overlooking from both balconies; the area overlooked comprises a barbeque area including a gazebo, a grassed rear yard, and portion of a rear verandah.

During a site visit to 11 Angwin Street on 23 August 2007 the Town Planner gained an impression of the impact on the rear of this property by the overlooking balconies.

Based on the two site visits it is considered that the balconies at the rear of the 3-level house at 13 Angwin Street have an impact on back yard privacy at 11 Angwin Street.

To some extent the overlooking by the upper floor balcony is ameliorated because views are of the landscape in the distance, and not the back yard at 11 Angwin Street, however this is not the impression experienced in the back yard of 11 Angwin Street.

Furthermore, it is apparent that while the southwest portions of the two balconies are supposed to be screened the most significant impacts on privacy and "the best viewing/overlooking of 11 Angwin Street" is obtained from those portions of the balconies which are not required to be screened.

Submission

The affected adjoining landowners have objected to the unauthorised works, and to the removal of the balcony screens, which they consider to negatively impact on the amenity of their property at 11 Angwin Street.

The owner of 13 Angwin Street has responded to the submission.

Conclusion(s)

The modifications to the front fence are considered relatively minor, with a large proportion of the fence continuing to comply with LPP 143.

There are no regulations governing the location of rubbish bins or their enclosures where provided.

The area overlooked by the rubbish bin enclosure is in the front setback, and can only be obtained by a conscious effort by the viewer. An average height person cannot see over the bin enclosure into the spa area of 11 Angwin Street.

Under the RDC for Visual Privacy the following performance criteria is applied:

"New development should meet these criteria:

3.8.1 Visual Privacy

P1 *Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:*

- *the positioning of windows to habitable rooms on the development site and the adjoining property;*
- *the provision of effective screening; and*

- *the lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street."*

While the area overlooked contains a spa, this area is in the front setback and under "normal" circumstances is an area that would be visible from the street/public domain.

However, in this case 11 Angwin Street has been developed in significant cut, and combined with a double garage, gate-house, and visually impermeable front fence this area is not visible from the street.

The property at 13 Angwin Street is developed higher up-slope, and without a visually impermeable screen along its south side boundary cannot help but “overlook” 11 Angwin Street.

It is suggested that, in light of the overlooking, in this particular case a “private outdoor living area” containing a spa, and given that the offending works (bin recess area) are built without approval, it is considered reasonable to impose a condition that an effective screen between the two properties be provided along the south side/common boundary within the front setback.

The request for removal of both balcony screens is not considered reasonable given the extent of overlooking and impact on the neighbours’ back yard privacy, and this variation is not supported.

RECOMMENDATION

That

1. Pursuant to Town Planning Scheme No 3 sub-clause 8.4.1 Council grant planning approval for modifications to the front fence at 13 Angwin Street in accordance with the plans date stamp received on 31 August 2007.
2. Council refuses to amend its Planning Approval dated 2 March 2004 for the removal of rear balcony screens subject to the following conditions:
 - (a) a retrospective acknowledgement being obtained from Council’s Building Surveyor for the unauthorised works to the front fence;
 - (b) the applicant/owner is to provide screening along the south side boundary in the front setback to the satisfaction of the CEO in consultation with relevant officers; and
 - (c) this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

The following are not conditions but notes of advice to the applicant/owner:

- (a) this decision of Council does not include acknowledgement or approval of any other unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a retrospective acknowledgement is to conform with the approved plans unless otherwise approved by Council.*
- (c) in regard to the condition relating to the finish of the neighbour’s side of the boundary wall for the rubbish bin recess area it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*

Ms Sue Booth (applicant) addressed the meeting stating that the impact of any development on the subject block was always going to be a sensitive matter for our neighbours. Ms Booth hoped that the submission that she had put in reflected their wish to become good neighbours and good residents and asked that this Committee and Council reconsider the requirement of Condition (2) for obscure screens. The matter had to be seen in situ to gain a true perspective.

RECOMMENDATION TO COUNCIL

Cr Martin – Mayor O’Neill

That:

- 1. Pursuant to Town Planning Scheme No 3 sub-clause 8.4.1 Council grant planning approval for modifications to the front fence at 13 Angwin Street in accordance with the plans date stamp received on 31 August 2007.**
- 2. Council refuses to amend its Planning Approval dated 2 March 2004 for the removal of rear balcony screens subject to the following conditions:**
 - (a) a retrospective acknowledgement being obtained from Council’s Building Surveyor for the unauthorised works to the front fence;**
 - (b) the applicant/owner is to provide screening along the south side boundary in the front setback to the satisfaction of the CEO in consultation with relevant officers; and**
 - (c) this planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote (1):

The following are not conditions but notes of advice to the applicant/owner:

- (a) this decision of Council does not include acknowledgement or approval of any other unauthorised development which may be on the site.***
- (b) a copy of the approved plans as stamped by Council are attached and the application for a retrospective acknowledgement is to conform with the approved plans unless otherwise approved by Council.***
- (c) in regard to the condition relating to the finish of the neighbour’s side of the boundary wall for the rubbish bin recess area it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.***

Footnote (2)

The Presiding Member suggested that elected members take the opportunity to view the site prior to the Council meeting.

CARRIED