

5.4 82 FERNTREE GULLY ROAD OAKLEIGH EAST –DEVELOPMENT AND USE OF A CHILDCARE CENTRE TO ACCOMMODATE 100 CHILDREN WITH ASSOCIATED CAR PARKING AND ALTERATION TO ACCESS FORM A ROAD ZONE – CATEGORY 1

(TPA/36340:MD:RMK)

Ward : Oakleigh

Responsible Director: Don Cameron

Cost of Development : \$1.8 million

Statutory Processing Date : 26 September 2008

RECOMMENDATION

*Council having caused notice of planning application No. 36340 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to **refuse** the application for the planning permit under the provisions of the Monash Planning Scheme in respect of the land known and described as 82 Ferntree Gully Road, Oakleigh, for the development and use of a two storey childcare centre to accommodate 100 children with associated car parking and alteration to access from a Road Zone – Category 1 on the following grounds:*

- 1. The proposal does not satisfy the purpose, intent and objectives of the Local Planning Policy Framework under the Monash Planning Scheme particularly having regard to the Garden City Character.*
- 2. The proposal is an overdevelopment of the site.*
- 3. The proposed development is not appropriate for the locality in regards to its adverse impact on streetscape and general neighbourhood character.*
- 4. The proposal will have an adverse impact on the amenity of adjoining and nearby residential properties.*
- 5. The location of car parking within the front setback is inappropriate.*
- 6. Inadequate provision has been made for on site parking of vehicles.*
- 7. The proposal will necessitate the removal of a street tree, which is required to be retained by Council.*

and directs that the Applicant and each objector be given a notice of the Council's decision to refuse the permit.

BACKGROUND

The subject site is located on the south side of Ferntree Gully Road approximately 170 metres east of Huntingdale Road, Oakleigh East. The land is

regular in shape and has frontage to Ferntree Gully Road of 23.5 metres, depth of approximately 60 metres and overall site area of approximately 1,410 square metres. (See Attachment 1 for locality plan)

There is slope on the land running from the rear of the site to Ferntree Gully Road of approximately 2.6 metres. Drainage and sewerage easements traverse through the rear third of the site. An existing single storey brick dwelling with separate garage currently occupy the site.

Surrounding development is generally modest one and two storey residential development comprising single dwellings and multi unit development. An existing private aged care facility is located 5 allotments to the east of the subject site.

PROPOSAL

The application is for the construction of a child care centre for up to 100 children and the plans submitted with the application provide for the following (Attachment 2):

- A two storey childcare building setback 25.84 metres at ground level and between 12 metres and 17 metres at the upper level from Ferntree Gully Road.
- A total of 6 children's rooms located within the building catering for babies and children up to preschool age.
- Other areas within the building include reception, office, staff room, laundry and kitchen.
- A total of 20 car parking spaces are provided at the front of the site with access via a 6 metre wide crossover from Ferntree Gully Road. Seven car parking spaces are provided in tandem. Of the total number of spaces provided, eight car parking spaces are designated for staff.
- The setback of the car park varies between 3.4 metres and 5.2 metres from Ferntree Gully Road
- The playground area at the rear and the sides of the building has a total area of 427 square metres.
- Screening is provided at a height of 2.6 metres around the proposed playgrounds located at the first floor level of the building.
- The playground area at first floor level comprises a total of 335 square metres and is covered by shade sail structures.
- A 1.2 metre high retaining wall is proposed at the front of the site and a sliding gate is proposed across the driveway to be used after hours.
- Boundary fencing is proposed to be 2 metre high paling acoustic fences.

The building is contemporary in style and is proposed to be constructed of a mix of brick, render and western red cedar.

It is noted that the site is to be excavated and at the rear the building and playground areas will be approximately 1.3 metres below the natural ground level.

The applicant advises that the childcare centre will operate between the hours of 6.30am and 7.00pm Monday to Friday. A maximum of 16 staff will be working at the centre at any one time.

POLICY IMPLICATIONS

The policies relevant to the current application under the provisions of the Monash Planning Scheme include the following:

State Planning Policy Framework

Clause 12: Metropolitan Development

This clause gives expression to Melbourne 2030 by providing specific objectives and strategies for Metropolitan Melbourne. Strategies include defining the role and function of activity centres and broadening the base of activity in centres that are currently dominated by shopping to include a wider range of services over longer hours by locating new small scale education, health and community facilities that meet local needs in or next to Neighbourhood Activity Centres.

Clause 14.01: Planning for Urban Settlement

Clause 15.12: Energy Efficiency

Clause 18.02: Car parking and public transport access to development

'To ensure access is provided to developments in accordance with forecast demand taking advantage of all available modes of transport and to minimise impact on existing transport networks and the amenity of surrounding areas.'

Clause 19.03: Design and Built Form

'Development should achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.'

Local Planning Policy Framework

Clause 21: Municipal Strategic Statement

The City of Monash is characterised by its garden city character, which is predominant in residential areas and higher quality commercial areas. In respect to demographics the City has a high proportion of families with dependent children.

Clause 21.03-3: Garden City Character

This clause particularly requires that the Garden City Character is to form a central component of land development especially when considering aspects such as setbacks of buildings from roads, public spaces and other buildings, the mass and scale of building envelopes, well designed building facades, canopy tree landscaping and location of car parking and accessways.

Clause 21.03-4: Strategic Framework Plan

Among other things the objectives of the plan include the enhancement of the Garden City Character and enhancement of accessibility to services and facilities.

Clause 22: Residential Development and Character Policy

The subject site is located within Character Area B which is characterised by the evenly distributed mix of consistently setback post-War single storey weatherboard and brick houses of a common, functional architectural style. Multi-dwelling developments occur intermittently throughout the Character Type.

The desired future character statement indicates that the neighbourhood character of this area will, as it develops, retain its modest and unassuming character by ensuring that multi-housing developments, including dual occupancies are appropriate in scale and form to existing dwellings. The built form will be unified by a general consistency of street setback.

Clause 22.09: Non-Residential Use and Development in Residential Areas

Objectives of the policy relating to the built environment are as follows:

- *To ensure development is appropriate having regard to the residential environment of the surrounds and that the amenity of the neighbourhood is not adversely affected by a business conducted in a residential area.*
- *To ensure that all built form in residential areas is respectful of residential character.*
- *To ensure that adequate and well-located vehicle parking is provided for all new developments.*

It is indicated that uses such as childcare centres should be located in residential areas adjacent to existing activity centres and on higher order and busier roads, and particularly on corner sites.

Zoning

The subject site is located within a Residential 1 Zone under the Monash Planning Scheme. A planning permit is required for the childcare centre and to construct and carry out works associated with this use.

The purpose of the zone is to:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households.*
- *To encourage residential development that respects neighbourhood character.*
- *In appropriate locations, to allow educational, recreational, religious, community and a limited range of non-residential uses to serve local community needs.*

Ferntree Gully Road is located within a Road Zone – Category 1. A planning permit is required to alter the crossover to Ferntree Gully Road.

CONSULTATION

Notification of the application was sent by mail to owners and occupiers of land opposite and adjoining the site and within the immediate area. One large notice was also displayed on the land.

Six (6) objections have been received to the proposal. A summary of the objections is as follows:

- The proposal is an overdevelopment of the site
- The large two storey building will affect the amenity of the area
- Inadequate landscaping
- Inappropriate development of a business within a residential area
- The proposal will lead to an increase in traffic congestion and likely accidents within Ferntree Gully Road
- Inadequate car parking and drop off facility for the proposed use
- Overlooking and loss of privacy to surrounding neighbours
- Overshadowing of adjoining properties
- Increase in noise and car noise from the facility

The application was referred to VicRoads for comment. VicRoads have no objection to the proposal subject to a number of conditions being placed on any permit issued.

The application was also referred to Council's drainage and traffic engineers for comment. Council's drainage engineers have no objection to the proposal subject to a number of conditions being placed on any permit issued. Council's traffic engineers object to the childcare centre as there is inadequate car parking provided for the proposal.

Council's Horticultural Section has also commented on the proposed removal of the street tree (*Melaleuca linariifolia*) within Ferntree Gully Road. The Horticultural advice is that the tree exhibits good vigour and shows no significant defects and should be retained.

ASSESSMENT

It is acknowledged that the use of the site for a childcare centre is a permitted use subject to a permit within a residential zone however it is considered that the current proposal is inconsistent with requirements of the Monash Planning Scheme and will lead to a loss of amenity within the surrounding area.

Many of the concerns highlighted by objectors are considered valid and a discussion of the specific matters regarding the proposal is as follows.

Use

The use of the site for a childcare centre does not meet all the locational criteria listed in Clause 22.09-4 of the Monash Planning Scheme. Although the land is located on a higher order road, it fails to meet the locational criteria as the site is not located adjacent to an existing activity centre and does not provide appropriate buffers between the interface with the existing residential land uses.

Under Council's 'A Guide to Child Care Centres in Monash' it is also stated that it is inappropriate to locate a childcare centre that is located on a main road in isolation and not associated with an existing activity centre.

Under the requirements of the urban design criteria of the clause, the following is indicated that is particularly relevant to the current proposal.

- *Maintain and enhance the established canopy treed environment throughout the municipality, continuing its significance in defining the garden city character of Monash.*
- *Maintain a consistency of street setbacks and building height with existing residential neighbourhood and residential scale.*

Accordingly it is considered that particularly combined with the other concerns listed below the proposed use is inappropriate for the site.

Setback

The setback of car parking from Ferntree Gully Road is inadequate and contrary to the garden city character policies of the scheme. The minimum setback of adjoining dwellings is 7.6 metres and 10.6 metres. The proposed setback of car parking between 3.4 metres and 5.2 metres is inadequate and out of character within the area. In addition there are two 1.2 metre high retaining walls proposed within the front setback, effectively reducing the area even further.

Under the Residential Development and Character Policy for the site it is clearly stated in the desired future character statement that the built form will be unified

by a general consistency of street setback. The current proposal does not meet this requirement and is out of character with the surrounding streetscape.

Built Form

The contemporary built form in itself is not fatal to the application however the extent of building extending across and within the site is considered to be out of character with the surrounding area.

The building and walls located across the site as viewed from the street frontage is not reflective of the separation distance of existing buildings within the area and interrupts the rhythm within the streetscape.

The need for 2.6 metre high screens around most parts of the first floor level of the building also results in a 'box' like built form, particularly affecting the visual amenity of adjoining residents. The depth of the building as it extends into the property is approximately 38 metres, which only exaggerates this problem.

Accordingly the proposal does not pay due regard to the character of the surrounding area.

Car Parking and Traffic

Under Clause 52.06 of the Monash Planning Scheme there is no specific parking rate for a childcare centre. Council however has adopted a 'Guide to Child Care Centres in Monash', which indicates car parking requirements to satisfy demand requirements for staff and users to minimise impacts on the surrounding neighbourhood. Accordingly the number of car parking spaces required for the proposed use is as follows:

Car parking Requirement under Council's Guide to Childcare Centres in Monash	<i>NUMBER OF STAFF/CHILDREN</i>	Number of Car Parking Spaces Required
1 space to each full time staff member	16 staff	16
1 space to each two part time staff members	2 staff	1
1 pick up/drop off space per 10 children	100 children	10
TOTAL		27

A total of 20 car parking spaces have been provided on the plans, of these 7 are provided in tandem and have been designated as staff car parking spaces.

Accordingly, there is a deficit of at least 7 spaces with this number increasing to 14 spaces if the tandem spaces are excluded from the total.

Council's engineers have raised concern that there is insufficient car parking provided on site particularly given that Ferntree Gully is a main road and carries large volumes of traffic during peak times. The engineers have highlighted that this may have a negative impact on Ferntree Gully Road creating safety issues for parents and children required to park on this busy road. The proposal would also affect peak hour traffic using Ferntree Gully Road, requiring drivers to merge to the right to avoid parked cars.

Further comments on car parking and traffic issues are as follows:

- The report submitted with the application proposes a staff management plan to stagger staff arrivals and departures. However, there is concern that the timing of parent drop off and pick up times is outside the control of the centre, and would affect the staff numbers required to be on site during peak times. There is also concern that the combination of staff and parents in tandem spaces may be problematic, with the potential for parents to block access to staff tandem spaces.
- The report notes that kerbside parking is unrestricted on both sides of Ferntree Gully Road, however it states that

“minimal use is made of kerbside parking due to dominant traffic function...”.

It is considered inappropriate to rely on parking for the childcare centre on an arterial road. As a consequence, it is critical that the total parking demand for both parents and staff is provided on site, both for the safety of parents and their children and for the convenience of staff. The nearest side street for parent and staff parking on the south side of Ferntree Gully Road is a significant distance (around 200 metres) away, or alternatively parents and staff would have to cross busy Ferntree Gully Road.

- A dynamic “ Parking Full” sign is proposed to be installed in association with a detector loop to advise approaching vehicles when the car park is at capacity. This would assist in reducing the incidence of vehicles attempting to reverse onto Ferntree Gully Road when unable to find a parking space within the car park. However, this would also lead to parents being required to park within Ferntree Gully Road.
- The plan indicates a canopy tree with tree surround between spaces 11 and 12. This is not considered appropriate for tandem parking spaces as the surround will affect vehicle movements and could cause damage to vehicles.
- Pedestrian circulation is considered to be adequate, with a separate pedestrian entry proposed on the eastern property boundary. However, it

appears that vehicles will be able to overhang the path and will affect pedestrian movements. Also pedestrians on the west side of the car park will need to cross behind parked vehicles to access the entry as it is unlikely that there will be sufficient room between the tandem vehicles for the pedestrians.

- It is unclear on the plans how disabled persons access the entry area.

Amenity Issues

In respect to issues of overlooking and overshadowing the proposal complies with Rescode requirements, which is considered a satisfactory benchmark to use for the development. However, the extensive use screening of play areas at the first floor level is considered excessive and another symptom of the overdevelopment of the site.

The issue of noise is not usually considered to be a concern with the establishment of childcare centres within a residential neighbourhood however the first floor play areas could become problematic given the location close to neighbouring properties and habitable room windows.

Tree Removal

As previously indicated in the consultation section of the report, Council's Horticultural Section do not support the removal of the street tree for the proposed crossover.

It is noted that a number of services will be affected by the relocation of the crossover and approval will be required from the appropriate service authorities. In particular, there is an electronic school speed sign, which is linked to the power pole and to a repeater electronic speed sign on the central median. The power pole will need to be relocated to reduce sight distance concerns if the crossover is relocated.

CONCLUSION

Overall it is considered the proposal is inappropriate for the site for a number of reasons including inadequate on site car parking, loss of amenity to the surrounding area and inadequate front setback. Accordingly, it is recommended that the application be refused.