

5.5 23 OXFORD STREET OAKLEIGH – ERECT A 4 STOREY BUILDING WITH A BASEMENT TO BE USED FOR 2 SHOPS AND 13 DWELLINGS, TO REDUCE CAR PARKING AND TO WAIVE A LOADING BAY

(TPA/35919:CD:SYL)

Ward: Oakleigh

Responsible Director: Don Cameron

Reason for Council Consideration: Cost of Development

Cost of Development: \$2.5 million

Statutory Processing Date: 4 April 2008

Pre Application Discussion: Yes

RECOMMENDATION

*Council having caused notice of planning application No. 35919 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 23 Oxford Street Oakleigh, for the erection of a 4 storey building with a basement to be used for 2 shops and 13 dwellings, to reduce car parking and to waive a loading bay in accordance with the submitted plans on the following grounds:*

- 1. The proposal is not consistent with the State Planning Policy Framework, particularly the Design and Built Form Policy at Clause 19.03 of the Monash Planning Scheme.*
- 2. The proposal is not consistent with the Local Planning Policy Framework, particularly the Retail Policy, Transport and Traffic Policy and Tree Conservation Policy at Clauses 21.06, 21.08 and 22.05.*
- 3. The proposal does not provide sufficient on-site car parking.*
- 4. The proposed waiver of loading facilities will have a detrimental impact on the amenity of the area.*
- 5. The proposal would have a detrimental impact on the character of the area.*
- 6. The proposal would have a detrimental impact on the amenity of the area.*
- 7. The proposal would not provide an acceptable level of internal amenity for future residents.*

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

BACKGROUND

The subject land is located on the west side of Oxford Street, approximately 180 metres south of Atherton Road Oakleigh.

A Locality Map is at Attachment 1.

The site is regular in shape with a frontage of 21.36 metres, a depth of 32.61 metres, and a total site area of 696 square metres. The land is not encumbered with easements or covenants.

A single-storey residential dwelling exists on the land. The land is relatively flat.

Properties to the north, south and east are developed with residential dwellings. To the west (rear) of the site is a double-storey medical centre and Council car parking for the Oakleigh Major Activity Centre.

Whilst the western side of Oxford Street, including the subject site, is located within the Activity Centre, the majority of the lots are developed with dwellings.

In November 2004 VCAT directed the issue of a permit for the use and development of a four storey building at 31 Oxford Street (on the corner of Burlington Street) containing 36 residential apartments and 4 offices together with associated gymnasium, basement car parking and a reduction on the provision of car parking. Council is currently processing an application for an increase in the height of that development to five storeys, and the number of dwellings to fifty.

PROPOSAL

It is proposed to develop the site with a 4 storey building, with basement comprising the following:

- Two (2) retail shops at ground floor level of 84 square metres and 105 square metres in area.
- Car parking in the basement, 7 standard spaces, and 10 spaces in 5 mechanical stackers.
- 13 dwellings will be provided in total, with a mix of 2 single bedroom and 11 two bedroom configurations. There will be 2 dwellings at ground level behind the shops, 5 dwellings at each of levels 1 and 2, and 1 dwelling on the top level.
- Lift access from the basement to top level.
- On-site bicycle parking provided within the basement, the majority of storage and the bin enclosure at ground level.
- Front boundary setback at ground level of 1192mm. The building steps back to 3.95 metres at the first and second levels, and 9.14 metres at the top level.
- A contemporary architectural style is proposed, with face brickwork, pressed metal cladding and painted render finishes.

- A mature street tree will be removed to allow for a new vehicle crossing.

Plans, Elevations and Sections of the proposal are at Attachment 2.

POLICY IMPLICATIONS

The land is zoned Business 1 under the Monash Planning Scheme. There are no overlays.

A planning permit is required to carry out buildings and works pursuant to the Business 1 Zone controls at Clause 34.01-4 of the Scheme.

A waiver of the standard car parking, and loading bay provisions requires a permit under Clauses 52.06 and 52.07 respectively.

The following provisions of the Scheme are also relevant:

State Planning Policy Framework

- Clause 12 – Metropolitan Development
- Clause 11.03 – Principles of Land Use and Development Planning Policy
- Clause 14 – Settlement Policy
- Clauses 15.12 –Energy Efficiency Policies
- Clauses 17.01 and 17.02 – Activity Centres and Business Policies
- Clause 18.03 – Bicycle Transport Policy
- Clause 19.03 – Design and Built Form Policy

Local Planning Policy Framework

- Clause 21.03 – Strategic Framework Plan
- Clause 21.05 – Economic Development Policy
- Clause 21.06 – Retail Policy
- Clause 21.08 – Transport and Traffic Policy
- Clause 22.05 – Tree Conservation Policy

Council's 'Guidelines for Multi Storey Residential and Mixed Use Development of Three Storeys and Above in the City of Monash' and the Department of Sustainability and the Environment's 'Guidelines for Higher Residential Development' should also be considered.

Amendment C60 to introduce the Oakleigh Parking Precinct Plan is currently with the Minister for gazettal.

CONSULTATION

Notification

The application was advertised pursuant to Section 52 of the Planning and Environment Act by mail to the owners and occupiers of the 17 abutting and opposite properties (32 addressees), and a notice displayed on the land.

A public information session was held at Oakleigh on 13 March 2008. Approximately 18 residents attended.

Fourteen (14) objections have been received, including a petition with 35 signatories ultimately seeking rezoning of the western side of Oxford Street. The grounds of objection are summarised as:

- The proposal is out of character with the scale of development within Oxford Street.
- The proposed 4 storey height and bulk is out of scale with residential scale streetscape
- Insufficient car parking is proposed which will exacerbate existing parking problems
- Loading within the street will cause detriment to residents
- Basement access design is a safety hazard
- Existing traffic volumes and noise will be exacerbated
- Proposed car stackers will be noisy (based on manufacturers advice) and may cause structural issues for neighbouring properties
- Noise from lift and air-conditioning plant
- Style of building not sympathetic to heritage character of Oxford Street
- Proposed front setback inconsistent with the street, no trees retained or room left for landscaping
- The proposal will set an undesirable precedent
- Issues with waste disposal, insufficient room for bins on road reserve
- Loss of privacy for abutting land, including private swimming pool
- Reduced property values
- Residents have renovated homes in Oxford Street within heritage guidelines, proposal should be required to comply
- Proposal fails to meet a number of the ResCode standards, including Neighbourhood Character, Building Height and Bulk, Overshadowing, Overlooking, Car Parking, Access Safety, Traffic and Noise, Design Detail, Integration With The Street and Streetscape Landscape
- Although a Business Zone, there is only one commercial development on the west side of the street, and it fronts other commercial land uses
- Proposal is an over-development due to site coverage, building height and minimal front setback
- Pedestrian canopy should be deleted to prevent visual intrusion and amplification of noise to abutting site
- Stormwater drainage issues cause by extent of site cover, needs to be addressed and may warrant redesign
- Basement design may not work based on the dimensions of car stackers, and Australian Standards for construction

- General loss of amenity
- Overshadowing and loss of sunlight
- Reduced safety for children
- Potential retail trading hours could cause a loss of amenity

Referral

There are no statutory referral authorities.

The application was referred internally to Council's Drainage and Traffic Engineers, and Horticultural Services. Their comments are as follows:

Drainage Engineers

- Stormwater is to be detained on-site to pre-development levels. A cash-in-lieu contribution may be accepted.

Traffic Engineers

- The access ramp needs to be widened to 5.5 metres for the first 6 metres so that vehicles can pass one another.
- To ensure visibility between vehicles leaving the ramp and pedestrians a splay on corner of the shop is required.
- One disabled car parking space is required.
- There is a minor discrepancy in levels and the access ramp gradient
- The corner of the stairwell obscures sight distances of vehicles entering or exiting the basement car park. A convex mirror should be utilised.
- A loading bay should be provided.

Horticultural Services

- The street trees are in good health and structure and contribute to the streetscape. They should not be removed.
- A 2.7 metre setback is desirable from any excavation.

ASSESSMENT

Car Parking

The following table details the car parking requirement for the proposal.

The Council Policy shop rate is based on the car park rate in the adopted Parking Precinct Plan provisions for the Oakleigh Major Activity Centre. Under the proposed provisions a permit cannot be issued to waive or reduce the parking requirement.

Use	MPS Ratio	Spaces Required	Council Policy Ratio	Spaces Required	Spaces Provided
Shops 189 m ²	8 spaces per 100 m ²	15	3.1 spaces per 100 m ²	6	2
1 bedroom dwellings (2)	2 spaces per dwelling	4	1 car space per dwelling	4	2
2 bedroom dwellings (11)	2 spaces per dwelling	22	1.5 car spaces per dwelling	17	12 3 visitors
TOTAL		41		27	19

On the basis of the Council's policy, the proposal would be deficient 8 car parking spaces.

Although the parking precinct plan is not currently in place, it is a seriously contemplated Planning Scheme amendment. It is considered that waiving 8 car parking spaces would be inappropriate due to the current car parking issues in the Activity Centre and the negative impact it will have on the adjacent property users.

Clause 21.06 (Retail Policy) seeks to ensure parking is provided to meet the needs of the Oakleigh Activity Centre. Similarly, the Transport and Traffic Policy at Clause 21.08-3, seeks to ensure that adequate parking is provided for all new uses.

The use of mechanical stackers is also of concern. The sharing of a mechanical stacker by a number of different users is an impractical arrangement. All spaces should function independently. In addition, the stackers do not conform with the Planning Scheme standards being only 2.3 metres wide.

Loading and Unloading

The proposal seeks a waiver of the loading bay provisions under Clause 52.07 of the Scheme. Loading and unloading of goods for the proposed shops within Oxford Street would be likely to have a negative impact on the amenity of residents and other users of Oxford Street.

Activity Centre Policy

The retail policy at Clause 21.06 specifies a hierarchy of business activity within Monash. One objective of the policy is to promote higher density residential development in appropriate locations to support ongoing economic viability of the Glen Waverley and Oakleigh Activity Centres.

Although the site is located within the Activity Centre, it is ostensibly low rise residential in nature. Many of the homes have been developed or renovated in keeping with the character of the era of development.

The Urban Design Framework (UDF) for the Oakleigh Shopping Centre proposes an urban form which generally reinforces the traditional configuration and 'village feel' of the centre. The traditional two storey scale of the core retail blocks is to be protected with higher scale redevelopment (up to 8 stories) focussed along the western edge of the centre near Warrigal Road.

The land on the western side of Oxford Street should provide a transition to the residential dwellings on the eastern side. The UDF suggests development of 2 to 3 storeys at the northern end of Oxford Street, with the retention of existing dwellings on the southern end (where this site lays). The four-storey scale of the proposal is therefore completely inappropriate.

Whilst the use of the ground floor for shops in this location does not require a permit, retail use is incongruous with existing land uses in the street, with no other retail premises present. It is made all the more inappropriate by the built form and setback, minimal car parking and a lack of loading facilities.

Design and Built Form Policy

The Design and Built Form Policy at Clause 19 aims to achieve high quality urban design and architecture that reflects the particular characteristics, aspirations and cultural identity of the community; enhances liveability, diversity, amenity and safety of the public realm; and promotes attractiveness of towns and cities within broader strategic contexts.

The Landscape Architecture design principal of the policy requires that recognition is given to the setting in which buildings are designed and the integrating role of landscape architecture.

The proposed front setback of 1.19 metres does not respect the character of the streetscape. The average setback of the dwellings on the two abutting sites is 6.8 metres, with a setback of around 5 metres prevalent within the street. No room is left for landscaping of the frontage.

Residential Development

An assessment of the proposal against Council's Multi-storey Policy is in the table at Attachment 3.

The key issues of non-compliance highlighted are the elements of Neighbourhood Character, Building Height and Bulk, Integration with the Street, Street Setback, Streetscape Landscape, Side and Rear Boundary Setbacks, Privacy, Safety, Overshadowing open Space, Overlooking, Open Space, Parking Provision, Dwelling Entry and Site Coverage and Permeability.

It is considered the proposal does not provide an acceptable form of residential development, consistent with the relevant policies.

Neighbouring Amenity

It is again noted that the standards of Clause 55 do not apply, however, they provide guidance as to acceptable amenity outcomes for the abutting residential properties.

The balconies adjacent to secluded areas of neighbouring properties are provided with privacy screening, except for the large rooftop balcony of the top dwelling. Habitable room windows, including those of living rooms, remain unscreened on all sides, allowing overlooking and a loss of amenity.

Overshadowing to the units on the southern side is also of concern. The proposed building will overshadow the secluded open space areas in excess of the minimum standards.

Tree Conservation Policy

Although the site does not contain any significant trees, the planting of new trees and retention of the street tree are sought by Policy.

The residential properties in Oxford Street generally have well landscaped front and rear gardens, some containing canopy trees. Semi-mature canopy trees with spreading crowns should be planted as part of any new development, in open space areas, along boundaries adjacent to neighbouring open space and in front setback areas to reinforce the Garden City Character of the area. The minimal building setbacks and encroachment of the basement prevent this happening.

The proposed new vehicle crossing requires the removal of a mature plane tree. This tree is a healthy specimen which forms part of a consistent planting theme in the street. The loss of the tree will exacerbate the impact the proposal would have on the character and amenity of the area. It is inconsistent with the Garden City Character Policy.

It is noted that Council's Horticultural Services Coordinator does not consent to the removal of this tree.

OBJECTION RESPONSE

Issues raised by objectors, that have not already been discussed in the assessment, are considered as follows:

- Basement access design is a safety hazard
Council's Traffic Engineers have suggested modifications to address issues.
- Existing traffic volumes and noise will be exacerbated
It is not anticipated that the increase in traffic and noise associated with the proposal will be significantly detrimental.
- Proposed car stackers will be noisy (based on manufacturers advice) and may cause structural issues for neighbouring properties

Manufacturers specifications indicate the stackers should be “built separately from the dwelling”. The stackers will be within a basement, so noise should not be an issue for either future residents or neighbours.

- Noise from lift and air-conditioning plant
This can be addressed by permit condition.
- Style of building not sympathetic to heritage character of Oxford Street
Oxford Street is not located in a heritage overlay.
- The proposal will set an undesirable precedent
Each application must be assessed on its merits.
- Issues with waste disposal, insufficient room for bins on road reserve
This can be addressed by permit condition, requiring private collection as per Council policy.
- Reduced property values
Council cannot consider this matter.
- Residents have renovated homes in Oxford Street within heritage guidelines, proposal should be required to comply.
Oxford Street is not located in a heritage overlay.
- Pedestrian canopy should be deleted to prevent visual intrusion and amplification of noise to abutting site
It is considered the proposal as a whole will create visual intrusion on the abutting land. Greater setbacks from the side boundaries should be provided.
- Stormwater drainage issues cause by extent of site cover, needs to be addressed and may warrant redesign
Council’s drainage engineers have no issues with the management of storm water. It can be addressed by permit condition.
- Reduced safety for children
Council’s Traffic Engineers have suggested modifications to address the access visibility issues.
- Potential retail trading hours could cause a loss of amenity
The use of the land for a shop does not require approval, and any conditions in respect of use would be ultra vires.

CONCLUSION

The proposal is an over-development, which will unreasonably impact on the character and amenity of surrounding land. It should be refused by Council.