5.6 1945 DANDENONG ROAD CLAYTON – DEVELOP THE LAND BY CONSTRUCTING A TWO STOREY BUILDING COMPRISING NINE DWELLINGS PLUS SUB BASEMENT CAR PARKING AND TO CREATE ACCESS TO A ROAD IN A ROAD ZONE, CATEGORY 1.

(TPA/39069:DL:HM)

Ward : Oakleigh
Responsible Director: Paul Kearsley
Reason for Council Consideration: Cost of Development
Cost of Development : $3,000,000
Statutory Processing Date : 28 October 2011

Pre-Application Meeting: 5 October 2010

RECOMMENDATION

Council having caused notice of planning application No. TPA/39069 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 1945 Dandenong Road, Clayton for the purpose of developing the land by constructing a two storey building comprising nine dwellings plus sub-basement car parking and to create access to a road in a Road Zone, Category 1 on the following grounds:

1. The proposal does not adequately satisfy the objectives and/or design standards of Clause 55 of the Monash Planning Scheme having regard to neighbourhood character.

2. The proposal is an overdevelopment of the site having regard to the extent of continuous unbroken building mass visible from Dandenong Road, Stockdale Avenue and adjoining land.

3. The proposed development is out of character with the existing development in the area in particular with regard to mass, bulk and scale.

4. The proposed development is not appropriate for the locality in regards to its adverse impact on the streetscape and general neighbourhood character.

5. The development provides for a poor level of internal amenity.

6. The proposal would require the removal of a nature strip tree.

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 situated on the east corner of Dandenong Road and Stockdale Avenue, Clayton. It has a frontage to Dandenong Road of 13.72 metres (excluding corner splay) and to Stockdale Avenue of 43 metres. The land is occupied by a single storey brick dwelling and is separated from Dandenong Road by a service road.

Land adjoining to the north is occupied by three single storey dwellings and land adjoining to the east is occupied by a single storey dwelling. A planning permit was issued in September 2009 to construct four double storey dwellings on the opposite side of Stockdale Avenue. Those dwellings are now complete.

At its Ordinary Meeting of 2 February 2010, Council refused an application to construct a two storey building comprising ten dwellings and a sub-basement car park on the subject land. It was refused on the grounds that it did not satisfy Rescode requirements for neighbourhood character, streetscape, internal amenity, vehicle access, bicycle and car space provision. Vic Roads also objected to the proposal. In addition, the applicant was advised that Council would not approve removal of a street tree from the Dandenong Road nature strip.

The Victorian Civil and Administrative Appeals Tribunal (VCAT) upheld Council’s Notice of Refusal and determined that a planning permit should not be issued. In its assessment, the Tribunal made the following comments:

“…I agree with the Council that [the] site’s context is consistent with the description of the area as having a low key character even with the townhouse development that has occurred nearby.”

“...in this location I do not consider attached building forms are inappropriate in character terms per se.”

“ I am unable to conclude the outcome is responsive to the character of this area and desired future character . I am particularly concerned about the following elements of the proposed design that, cumulatively, result in too much visible built form too close to boundaries with little opportunity to enhance the garden character that is fundamental to the vision for Monash:

- Raised basement and batters. The protruding basement level... [causes] the parking level to be a prominent element in the public realm.
- Attached building form. The raised basement, and limited recession of the upper levels, result in the proposed building presenting at a scale that is at odds with older houses and new development.
- Building massing. I do not agree ...that the building presents in a manner that is akin to two large townhouses. ...the visual impact would be discordant and not represent a comfortable fit.
- Position facing northern and eastern boundaries. There are limited side setbacks, and little building recession or graduation, along these elevations. ...the setbacks from side boundaries are too narrow to mitigate the considerable bulk.
Wide driveway. The driveway from the service road would be 6 metres wide and result in the loss of a street tree.”

This decision by VCAT will also assist Council in its consideration of the current application.

PROPOSAL

It is proposed to demolish the existing dwelling and construct a two-storey building comprising nine dwellings and semi basement car parking.

The plans submitted with the application provide for the following:

- Seven dwellings each with two bedrooms, kitchen and open plan living area and two dwellings each with one bedroom, kitchen and an open plan living area;
- Building setbacks to Dandenong Road of between 7.3 and 7.6 metres;
- Building setbacks to Stockdale Avenue of between 2.85 and 4.95 metres;
- Open space in the form of a balcony between 8 and 10 square metres per dwelling;
- The pedestrian entry to the building via Stockdale Avenue;
- Access to the semi basement car park from the Dandenong Road service road;
- Stair only access to the ground and upper floor.

POLICY IMPLICATIONS

Planning Provisions

Residential 1 Zone

Pursuant to Clause 32.01-4 of the Monash Planning Scheme, a permit is required to construct two or more dwellings on a lot, dwellings on common property and residential buildings.

State Planning Policy Framework

The following aspects of the State Planning Policy Framework are relevant in consideration of this application:

- Clause 11 – Settlement.
- Clause 11.02 – Urban Growth.
- Clause 11.04 – Metropolitan Melbourne.
- Clause 12.01 – Native Vegetation Management
- Clause 15 – Built Environment.
- Clause 16 – Housing.
- Clause 18 – Transport.
- Clause 19 – Infrastructure.

Local Planning Policy Framework

The following aspects of the Local Planning Policy Framework are relevant in consideration of this application:

- Clause 21 – Municipal Strategic Statement.
CONSULTATION

Notification
The application was referred to the owners and/or occupiers of adjoining and surrounding properties. No objections were received.

Referral
Council’s Traffic Engineer comments as follows:

- The proposed crossing width is considered excessive for the number of spaces it serves. A maximum width of 4 metres would be more appropriate;
- Car space 10 protrudes out of the building with safety concerns regarding the steep batter down to the basement car park on the west side of the building;
- Car spaces 5, 9 and 11 should be widened by 300mm because door opening is restricted in those spaces by adjacent columns or walls;
- Clear sight lines are required at the property line to ensure adequate visibility between vehicles leaving the driveway and pedestrians on the frontage road;
- The predicted traffic generation is low and is expected to have a negligible impact on the local traffic network.

Council’s Drainage Engineer does not have concerns with the proposal subject to conditions.

There is a 6 metre high Pyrus tree in the Dandenong Road nature strip that would have to be removed to allow the proposed vehicle crossing. Council’s Horticultural Services Department advise that the tree is in good condition and that there is to be no excavation within 2 metres of the tree measured from the trunk face at ground level.

The application was referred to Vic Roads and they object on the following ground:
• Inappropriate basement ramp slope design – ramp slope should not commence on a road in a Road Zone, Category 1. The existing levels and topography should remain unchanged and the basement ramp slope within the property should be designed in accordance with AS 2890.1.

Following subsequent discussions with officers from Vic Roads an application was received to amend plans pursuant to Section 57A of the Planning and Environment Act 1987 the amendments being to the location and angle of the basement ramp and the situation of car space 10 to within the building.

The amended application was referred to Vic Roads which advised that, subject to the plan amendments, they have no objection to the granting of a permit without conditions.

**ASSESSMENT**

**Neighbourhood Character**

Council’s Urban Character Study 1997 refers to the neighbourhood surrounding the land as “…characterised by the evenly distributed mix of consistently setback post-War single storey weatherboard and brick houses of a common, functional architectural style”.

In attempting to address the tribunal’s concerns the applicant has made the following design changes

- Roof top terrace deleted;
- Ground floor front setback reduced from 9.0 to 7.3 metres but balconies still intrude;
- East boundary ground floor setback increased by 100mm;
- West boundary ground floor setback reduced by 150mm
- North boundary ground floor setback increased by 1.7 metres;
- Smaller and less intrusive balcony 3;
- Increased setback of car space 10 from the west boundary;
- East boundary upper floor setback increased by 800mm to 1300mm;
- West boundary upper floor setback increased from 3-4 metres to 4-5 metres but balconies still intrude;
- Front setback of upper level reduced from 9.6 to 9.2 metres;
- North boundary upper floor setback increased from 2.0 to between 4.0 and 5.8 metres;
- Reduction of total number of dwellings from 10 to 9.

Compared to the original proposal the ground floor would be setback only 100mm further from the east boundary while from the west boundary it would be reduced by 150mm. It is considered that these setbacks remain inadequate to ensure the establishment of quality screen planting which was a central concern of the tribunal in the previous proposal.

It is considered that the increased setback of the basement and ground levels from the north boundary would allow screen planting to be implemented. However, the other
three boundaries are more visible in streetscape terms and, as a consequence, the bulk and mass of the proposal would be as visible as it was within the previous proposal.

The area of the upper level as a proportion of the ground level would be approximately 66% which compares favourably to the 82.5% of the previous proposal. In addition the west façade would be more articulated. However, the continuous built form that was criticised by Council and then supported by the tribunal remains.

**Car Parking**

According to Rescode one car space should be provided per one or two bedroom dwelling plus one visitor space per five dwellings. The proposal is for seven (7) two bedroom dwellings and two (2) one bedroom dwellings so eleven car spaces are required. The proposed semi basement car park could accommodate this number and is satisfactory as indicated in the following table.

<table>
<thead>
<tr>
<th>Number of bedrooms.</th>
<th>Car spaces required by Rescode</th>
<th>Car spaces provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>7 x 2 bedroom dwellings.</td>
<td>1 car space per dwelling.</td>
<td></td>
</tr>
<tr>
<td>2 x 1 bedroom dwellings.</td>
<td>1 car space per dwelling.</td>
<td></td>
</tr>
<tr>
<td>Nine dwellings.</td>
<td>9 car spaces plus one visitor space per 5 dwellings.</td>
<td>11 car spaces.</td>
</tr>
</tbody>
</table>

Whilst a numerical compliance can be achieved the design deficiencies remain.

**Overlooking**

Owing to the raised nature of the semi-basement car park, and minimal building articulation, there is potential for overlooking toward the secluded open space of the dwelling to the east from ground and upper level windows. The applicant intends that overlooking be prevented by the use of screens. However owing to the number of windows involved the effect would be visually unappealing. A better alternative would be a recessed building design allowing some of these habitable room windows to face north or south thereby avoiding the need for screens. Extensive use of screens would also result in a reduced level of internal amenity for future occupants.

**Private open space**

The semi basement car park design of the proposal means that, instead of ground level open space, each dwelling would have a balcony. The Monash Planning Scheme requires that each dwelling be provided with an 8 square metre balcony. All dwellings would satisfy this requirement; however, the design and use of balconies is not an appropriate design response.

**Tree removal**

The applicant has submitted an arborist report supporting removal of several trees from the land. The only significant tree is an Atlas Cedar but according to the arborist the structure of the tree is poor owing to the removal of the central leader and should be removed. The views of the arborist are supported.

It would be necessary to remove a mature street tree in order to construct access to the basement car park. Council’s Parks and Garden’s Department have identified the tree
as a 5 metre high Pyrus in good condition and have specified that no excavation may take place within 2 metres of the tree. The driveway is proposed within this setback.

**CONCLUSION**

The proposal is an attempt by the applicant to overcome design shortfalls identified by Council and the Victorian Civil and Administrative Tribunal with a previous application for this site. Those shortfalls were mostly related to the bulk and mass of the proposal. However, the resultant design is still considered unsatisfactory. The applicant appears to have only tinkered around the edges, as opposed to making genuine changes to improve this development.

Although the number of dwellings has been reduced from ten to nine, the bulk and mass of the proposal has not been substantially reduced. This is evidenced by the general lack of ground floor roof form and continuous building mass when viewed from Dandenong Road and Stockdale Avenue.

While preventing overlooking the liberal use of screens is also evidence of a building form lacking articulation.

The use of a 6.0 metre wide vehicle crossing would require the removal of a mature Pyrus street tree. Council’s Horticultural Services Department has previously opposed construction within 2 metres of the trunk of this tree and this continues to be the case.

Having regard to these concerns, it is considered that the proposal remains unacceptable and should be refused.