

TOWN OF COTTESLOE



DEVELOPMENT SERVICES COMMITTEE

MINUTES

**MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
6.00 PM, MONDAY, 15 SEPTEMBER 2008**

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DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member announced the meeting opened at 6:02 pm.

RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)**Present**

Cr Jack Walsh	Presiding Member
Cr Greg Boland	
Cr Jo Dawkins	
Cr Victor Strzina	(from 6:21 pm)
Cr Bryan Miller	

Mr Andrew Jackson	Manager Planning & Development Services
Mr Ed Drewett	Senior Planning Officer
Ms Pauline Dyer	Planning Services Secretary

Apologies

Cr Jay Birnbrauer

Leave of Absence (previously approved)

Cr Ian Woodhill

RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

PUBLIC QUESTION TIME

Nil

APPLICATIONS FOR LEAVE OF ABSENCE

Nil

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Dawkins, seconded Cr Boland

The Minutes of the Ordinary Meeting of the Development Services Committee held on Monday, 18 August 2008 be confirmed.

Carried 5/0

ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

PUBLIC STATEMENT TIME

Nil

PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

REPORTS OF COMMITTEES AND OFFICERS**1 PLANNING****1.1 NO. 135 (LOT 15) CURTIN AVENUE – SINGLE HOUSE**

File No:	1498
Author:	Ed Drewett
Author Disclosure of Interest:	Nil
Attachments:	Location plan Plans Photos
Report Date:	8 September, 2008
Senior Officer:	Mr Andrew Jackson
Property Owner:	Michael & Sally Hunt
Applicant:	Webb Brown-Neaves
Date of Application:	26 June, 2008
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	491m²
M.R.S. Reservation:	N/A

SUMMARY

This application is for a two-storey house fronting Curtin Avenue. A similar application has also been submitted by the same owner/applicant for the adjoining lot at 137 Curtin Avenue. Both applications are discussed separately in this agenda.

The applicant is seeking front and side setback variations to the acceptable development standards of the Residential Design Codes and is seeking a variation to the Council's 'Garages and Carports in the Front Setback Area' Policy.

Given the assessment that has been undertaken, the recommendation is to Approve the Application.

PROPOSAL

The proposal is to demolish the existing house and outbuildings that straddle both the subject lot and Lot 58 adjoining and construct a two-storey house with access from Curtin Avenue.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No 2
- Residential Design Codes

POLICY IMPLICATIONS

- Garages and Carports in the Front Setback Area

Policy No 003

HERITAGE LISTING

N/A

DRAFT LOCAL PLANNING SCHEME NO. 3

The lot is proposed to be zoned Residential R30 under the draft Scheme.

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town Planning Scheme Policy/Policies

Policy	Required	Provided
Garages and Carports in Front Setback Areas	4.5m	2.5m

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
6.2-Streetscape	Garages setback 4.5m from the primary street	2.5m	Clause 6.2.3 – P3
6.3-Boundary setback requirements	1.6m setback from proposed upper floor to NE & SW boundaries	1.505m to SW boundary & 1.58m to NE boundary	Clause 6.3.1 – P1
6.3-Boundary Setback requirements	Walls built up to the boundary behind the front setback line	Wall on the boundary within the front setback	Clause 6.3.2 – P2

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2. The advertising consisted of a letter to three adjoining property owners. No submissions were received.

APPLICANT'S JUSTIFICATION

The applicant has provided a letter in support of the application. The main points raised are summarised below:

- The variation to the front setback is consistent with adjoining homes and is considered to comply with performance criteria due to the location on Curtin Avenue;
- Curtin Avenue is classified as a Primary Regional Road under the MRS and TPS and carries a high volume of traffic;
- The verge outside Lot 15 is nearly 30m wide so the proposed development is located well away from the road;
- The reduced setback to the development will not produce excessive bulk to the street and will not interfere with traffic safety;
- The adjoining homes at 133 and on the corner of Pearse Street are setback similar distances from the front boundary, as is No. 137. The proposed setback will continue to form a consistent streetscape;
- The amenity of the proposed development is increased by having a reduced front setback. The forward location of the building enables a larger rear garden and retention of a swimming pool and mature trees. It also acts as a barrier to noise, exhaust fumes and other pollutants from Curtin Avenue.
- The site is to be zoned R30 under TPS 3 which has less stringent boundary wall requirements than the R20 zone. The garage wall on the boundary complies with the length and height requirements of the R30 standards;
- The proposed garage is in a similar location to the existing garage so the impact on the adjoining site is comparable. The garage adjoins a driveway and wall with no major openings to the neighbouring site at 133 Curtin Avenue;
- The garage is a non-habitable room and does not contain any major openings so will not produce any overlooking;

STAFF COMMENT

The proposed house complies with Town Planning Scheme No 2 and the Residential Design Codes with the exception of the proposed front setback to the house and garage, the proposed upper floor side setbacks and the location of the proposed garage wall on the boundary. Each of these aspects is discussed below:

Front Setback to house

The applicant is seeking a variation to Council's requirement for a 6m front setback (Council Resolution 28/10/02) as 2.5m is proposed to the ground floor (including the garage) and setbacks of 1.73m and 2.63m are proposed to the upper floor bedroom and balcony respectively.

Under the *acceptable development* standards of the Residential Design Codes (RD Codes) the front setback to the house may correspond to the average setback of existing dwellings on each side fronting the same street.

In this case, the adjoining house at 133 Curtin Avenue is setback approx. 6m from the front boundary but has a large gabled porch that extends to within 3m of the front boundary, the existing house at 137 Curtin Avenue has a reduced front setback of between approximately 1m and 3m (although this is proposed to be demolished), and the property on the corner of Pearse Street has a reduced front setback and a zero setback to its garage on Curtin Avenue.

Although these adjoining properties are only single-storey the proposed reduced front setback to the proposed two-storey house is nevertheless consistent with an average setback based on the adjoining properties and is therefore unlikely have a significant visual impact on the existing streetscape.

The proposed reduced front setback also satisfies the relevant performance criteria of the Codes which states:

Buildings set back from street boundaries an appropriate distance to ensure they:

- *contribute to the desired streetscape;*
- *provide adequate privacy and open space for dwellings; and*
- *allow safety clearances for easements for essential service corridors.*

As previously mentioned, there are a number of other houses adjoining which have a reduced setback to Curtin Avenue and this section of road also has a particularly wide verge (approx. 27m) which further reduces the visual impact of the proposed dwelling on the existing streetscape.

The modern contemporary design of the proposed house will be matched on the adjoining lot at 137 Curtin Avenue, subject to approval by Council, and the existing solid front wall along the frontage is proposed to be removed to give a more open aspect to the street which will assist in contributing to the desired streetscape. Adequate privacy and open space is retained for the house and adequate clearances for easements for essential services appear satisfactory.

Setback of garage

The proposed double garage is an integral feature of the proposed house but only has a 2.5m front setback, in lieu of 4.5m required under the acceptable development standards of the RD Codes.

It is considered that the reduced setback to the garage can be supported under the relevant performance criteria of the Codes which states:

The setting back of carports and garages so as not to detract from the streetscape or appearance of dwellings, or obstruct views of dwellings from the street and vice versa.

The juxtaposition of the proposed garage to the house is sympathetic with the overall design and will not detract from the streetscape for reasons already discussed. Furthermore, the width of the garage is only approximately 50% of the lot frontage and will therefore not obstruct views of the house from the street or vice versa.

Council Policy for 'Garages and Carports in Front Setback Area' (Policy TPSP 003) generally requires garages to be positioned behind the 6m front setback line. However, the policy does also allow for garages to be constructed with a reduced 4.5m front setback in most cases and further variations can be considered having regard to:

- *the relevant objectives of the RD Codes;*
- *the effect of such variation on the amenity of any adjoining lot;*
- *the existing and potential future use and development of any adjoining lots;*
- *existing setbacks from the street alignment in the immediate locality, in the case of setbacks from the principle street.*

Although this Policy does not specifically address walls on boundaries (see below) it is nevertheless relevant in this case and the setback variations sought for the proposed garage can be supported for the reasons previously discussed.

Side setbacks

The upper floor of the proposed house has a minimum 1.505m setback from the south-west boundary and a minimum 1.585m setback from the north-east boundary, in lieu of a 1.6m setback required in both cases under the Codes. These setback variations are relatively minor and are due to the requirement under the Codes to take the nearest higher value for all intermediate height and length values rather than extrapolating a more exact setback calculation based on the actual length and height of the walls proposed.

The side setback variations sought are no greater than 0.1m and therefore will have a negligible affect on the adjoining properties, one of which is under the same ownership and proposed to be demolished, and the other which has no major openings directly opposite the subject portion of upper floor and which is separated by an existing driveway. For these reasons the reduced side setbacks may be deemed to satisfy the relevant performance criteria of the RD Codes and can be supported.

Wall on boundary

A double garage is proposed on the south-west boundary with a 2.5m front setback, in lieu of a 6m front setback required under the acceptable development standards of the Codes for a wall on the boundary. The length and average height of the proposed wall on the boundary (excluding a minor front feature wall) would otherwise be compliant with the Codes.

The location of the wall on the boundary can be considered under performance criteria of the Codes which states:

Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- make effective use of space; or*
 - enhance privacy; or*
 - otherwise enhance the amenity of the development; and*
 - not have any significant adverse effect on the amenity of the adjoining property;*
- and*
- ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The location of the proposed garage on the boundary makes effective use of space particularly as the lot only has a 12.19m frontage. Furthermore, it will be located next to an existing driveway on the adjoining lot and will not be directly opposite any major openings and therefore is unlikely to have a significant adverse effect on the amenity of the adjoining property and potentially will enhance privacy. It also replaces an existing garage which is setback only approximately 1.5m from the front boundary, albeit setback 1m from the side boundary, and so it is not inconsistent with the existing streetscape. In addition, no submission has been received from the adjoining property owner at 133 Curtin Avenue following the advertising period for the application.

CONCLUSION

The proposed two-storey house can be supported with the setback variations sought as the proposal satisfies the relevant performance criteria of the RD Codes and is an acceptable variation to Council's policy pertaining to Garages and Carports in Front Setback Areas.

The ridge height of the proposed dwelling is only 7.5m above the ANGL which is 1m below the maximum height permitted under TPS 2 and this will assist in ameliorating any visual impact on adjoining dwellings and the existing streetscape.

The modern contemporary design of the proposed house is in-keeping with other two-storey houses along this section of Curtin Avenue. Although the proposed front bedroom on the upper floor which has been designed to project 0.7m into the front setback over the double garage this should assist in providing good articulation to the frontage, improve surveillance to the street and lessen the visual impact of the garage on the streetscape.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed the proposed arrangement of the front setback in relation to the adjacent other proposed and existing dwellings, as well as the wide verge and streetscape. It was observed that the stepping of front setbacks to dwellings in the locality and the presence of forward parking structures serves to support the proposed setbacks in this overall context. Also, the creation of open-aspect frontages/fencing would be an improvement. The Manager Development Services added that as Curtin Avenue has residential development to one side only and given

the relatively small scale of the proposed dwelling (which otherwise complies and to which there has been no objection) the setback could be supported.

1.1 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Walsh, seconded Cr Boland

That Council GRANT its Approval to Commence Development for the proposed single house at No. 135 (Lot 15) Curtin Avenue, Cottesloe, in accordance with the plans submitted on 26 June 2008, subject to the following conditions:

- (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
- (b) Stormwater runoff from the driveway or any other paved portion of the site shall not being discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.**
- (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
- (d) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.**
- (e) The applicant complying with the Town of Cottesloe Policies and procedures for Street Trees (February 2005) where the development requires the protection or pruning of existing street trees.**
- (f) The proposed crossover being located to ensure the retention of the existing street trees and the Works Supervisor determining the distance that the crossover shall be located away from the base of the trees.**
- (g) The existing redundant crossover being removed, the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.**
- (h) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
- (i) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**
- (j) The finish and colour of the boundary wall facing the neighbour be to the satisfaction of the Manager Development Services.**
- (k) Any fencing to the site within the front setback area being of an "Open Aspect" design in accordance with Council's local law and the subject of a separate application to Council.**

Carried 3/2

1.2 NO. 137 (LOT 58) CURTIN AVENUE – SINGLE HOUSE

File No:	1497
Author:	Ed Drewett
Attachments:	Location plan Plans
Author Disclosure of Interest:	Nil
Report Date:	10 September, 2008
Senior Officer:	Mr Andrew Jackson
Property Owner:	Michael & Sally Hunt
Applicant:	Webb Brown-Neaves
Date of Application:	26 June, 2008
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	311m²
M.R.S. Reservation:	N/A

SUMMARY

This application is for a two-storey house fronting Curtin Avenue. A similar application has also been submitted by the same owner/applicant for the adjoining lot at 135 Curtin Avenue. Both applications are discussed separately in this agenda.

The applicant is seeking front and side setback variations and a minor concession to overshadowing requirements pertaining to the *acceptable development* standards of the Residential Design Codes and is also seeking a variation to Council's 'Garages and Carports in Front Setback Area' Policy.

Given the assessment that has been undertaken, the recommendation is to Approve the Application.

PROPOSAL

The proposal is demolish the existing house and outbuildings that straddle both the subject lot and Lot 15 adjoining and construct a two-storey house on Lot 58 with access from Curtin Avenue.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No 2
- Residential Design Codes

POLICY IMPLICATIONS

- Garages and Carports in the Front Setback Area Policy No 003

HERITAGE LISTING

N/A

DRAFT LOCAL PLANNING SCHEME NO. 3

The lot is proposed to be zoned Residential R30 under the draft Scheme.

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town Planning Scheme Policy/Policies

Policy	Required	Provided
Garages and carports in Front Setback Areas	4.5m	2.5m

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
6.2-Streetscape	Garages setback 4.5m from the primary street	2.5m	Clause 6.2.3 – P3
6.3-Boundary setback requirements	1.6m-2.1m from proposed upper floor to SW boundary	1.5m-1.985m	Clause 6.3.1 – P1
6.3-Boundary setback requirements	Walls built up to the boundary behind the front setback line	Wall on the boundary within the front setback	Clause 6.3.2 – P2
6.9-Design for climate requirements	Maximum shadow-25%of the adjoining site area	27% shadow of adjoining site area	Clause 6.9.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2. The advertising consisted of a letter to two adjoining property owners. No submissions were received.

APPLICANT'S JUSTIFICATION

The applicant has provided a letter in support of the application. The main points raised are summarised below:

- The variation to the front setback is consistent with adjoining homes and is considered to comply with performance criteria due to the location on Curtin Avenue;
- Curtin Avenue is classified as a Primary Regional Road under the MRS and TPS and carries a high volume of traffic;
- The verge outside Lot 58 is nearly 30m wide so the development is located well away from the road;
- The reduced setback to the development will not produce excessive bulk to the street and will not interfere with traffic safety;
- The adjoining homes at 133 and on the corner of Pearse Street are setback similar distances from the front boundary, as is No. 137. The proposed setback will continue to form a consistent streetscape;
- The amenity of the proposed development is increased by having a reduced front setback. The forward location of the building enables a larger rear garden and acts as a barrier to noise, exhaust fumes and other pollutants from Curtin Avenue;
- The site is to be zoned R30 under TPS 3 which has less stringent boundary wall requirements than the R20 zone. The garage wall on the boundary complies with the length and height requirements of the R30 standard;
- The proposed garage adjoins the proposed development on Lot 15. The same owner is developing both homes, so there is no objection to the parking structure;
- The reduced setback to the SW boundary enables the house to maximise space on site. The location of the wall concentrates overshadowing at the front of the lot where it will not impact on the neighbour's rear garden area. The wall does not contain any major openings so will not produce overlooking;
- The proposed home has been designed in consultation with the new 2-storey home on Lot 15. Whilst the homes are separate single houses, the impact of the setback variations have been considered in the design of 135 and will not affect major openings or sensitive areas;
- The reduced area of the subject site and the adjoining Lot 15, in combination with the lot orientation, produces more overshadowing than the 25% allowed under the R20 zoning. The variation is minor at 2% and the proposal will be in compliance under the proposed R30 coding;
- The rear garden area on the adjoining Lot 15 retains full access to northern sunlight and will have high amenity for outdoor entertaining and recreation. The adjoining home has few major openings which will be affected by the additional shadow, indicating the impact is minor.

STAFF COMMENT

The proposed house complies with Town Planning Scheme No 2 and the Residential Design Codes with the exception of the proposed front setback to the house and garage, the proposed upper floor side setback to the SW boundary, the location of the proposed garage wall on the boundary and solar access requirements to the adjoining site. Each of these aspects is discussed below:

Front Setback to house

The applicant is seeking a variation to Council's requirements for a 6m front setback (Council's Resolution 28/10/02) as a 2.5m and 3.6m setback is proposed to the garage and front porch respectively and a setback of 3.87m is proposed to the upper floor balcony, although the remainder of the upper floor is setback 7.76m which is compliant.

Under the *acceptable development* standards of the Residential Design Codes (RD Codes) the front setback to the house may correspond to the average setback of existing dwellings on each side fronting the same street.

In this case, the house at 133 Curtin Avenue is setback approx. 6m from the front boundary but has a large gabled porch that extends to within 3m of the front boundary, the existing house at 137 Curtin Avenue has a reduced setback of approximately 1m and 3m (although will be demolished to allow for the proposed development), and the property on the corner of Pearse Street has a reduced front setback and a zero setback to its garage on Curtin Avenue.

Although these properties are only single-storey the proposed reduced front setback to the proposed two-storey house is nevertheless consistent with an average setback based on the adjoining properties and is therefore unlikely to have a significant visual impact on the existing streetscape.

The proposed reduced front setback also satisfies the relevant performance criteria of the Codes which states:

Buildings set back from street boundaries an appropriate distance to ensure they:

- *contribute to the desired streetscape;*
- *provide adequate privacy and open space for dwellings; and*
- *allow safety clearances for easements for essential service corridors.*

As previously mentioned, there are a number of other houses adjoining which have a reduced setback to Curtin Avenue and this section of road also has a particularly wide verge (approx. 27m) which further reduces the visual impact of the proposed dwelling on the streetscape.

The modern contemporary design of the proposed house will be matched on the adjoining lot at 135 Curtin Avenue, subject to approval by Council, and the existing solid front wall along the frontage is proposed to be removed to give a more open aspect to the street which will assist in contributing to the desired streetscape.

Adequate privacy and open space is retained for the house and adequate clearances for easements for essential services appear satisfactory.

Setback of garage

The proposed double garage is an integral feature of the proposed house but only has a 2.5m front setback, in lieu of 4.5m required under the acceptable development standards of the RD Codes.

It is considered that the reduced setback to the garage can be supported under the relevant performance criteria of the Codes which states:

The setting back of carports and garages so as not to detract from the streetscape or appearance of dwellings, or obstruct views of dwellings from the street and vice versa.

The juxtaposition of the proposed garage to the house is sympathetic with the overall design and will not detract from the streetscape for reasons already discussed. Furthermore, the width of the garage is only approximately 50% of the lot frontage and will therefore not obstruct views of the house from the street or vice versa.

Council Policy for 'Garages and Carports in Front Setback Area' (Policy TPSP 003) generally requires garages to be positioned behind the 6m front setback line. However, the policy does also allow for garages to be constructed with a reduced 4.5m front setback in most cases and further variations can be considered having regard to:

- *the relevant objectives of the RD Codes;*
- *the effect of such variation on the amenity of any adjoining lot;*
- *the existing and potential future use and development of any adjoining lots;*
- *existing setbacks from the street alignment in the immediate locality, in the case of setbacks from the principle street.*

Although this Policy does not specifically address walls on boundaries (see below) it is nevertheless relevant in this case and the setback variations sought for the proposed garage can be supported for the reasons previously discussed.

Side setbacks

The upper floor of the proposed house has a 1.5m -1.985m setback from the south-west boundary in lieu of a 1.6m - 2.1m setback required under the Codes. These setback variations are relatively minor and will have a negligible affect on the adjoining property, which is under the same ownership. Furthermore, the reduced side setback may be supported under the relevant performance criteria of the RD Codes, having no significant impact on direct sun and ventilation to the building or the house proposed on the adjoining lot, and protecting privacy by use of appropriate screening.

Wall on boundary

A double garage is proposed on the south-west boundary with a 2.5m front setback, in lieu of a 6m front setback required under the acceptable development standards of the Codes for a wall on the boundary. The length and average height of the proposed wall on the boundary (excluding a minor front feature wall) would otherwise be compliant with the Codes.

The location of the wall on the boundary can be considered under performance criteria of the Codes which states:

Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- *make effective use of space; or*
- *enhance privacy; or*
- *otherwise enhance the amenity of the development; and*
- *not have any significant adverse effect on the amenity of the adjoining property;*
and
- *ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The location of the proposed garage on the boundary makes effective use of space particularly as the lot only has a 12.19m frontage. It will also not have any significant adverse effect on the amenity of the adjoining property at 135 Curtin Avenue, as it is under the same ownership and once re-developed will be adjacent to a bedroom on the ground floor which has alternative major openings to the front of the house.

Solar access

The proposed development will overshadow 27% of the adjoining Lot 15, in lieu of a maximum 25% permitted under the acceptable development standards to the RD Codes.

This is a relatively minor variation that can be supported under the relevant performance criteria of the Codes which states:

Development designed to protect solar access for neighbouring properties taking account the potential to overshadow:

- *outdoor living areas;*
- *major openings to habitable rooms;*
- *solar collectors; or*
- *balconies or verandahs.*

Due to the orientation of the lots the shadow cast will be predominantly over the front portion of adjoining Lot 15 thereby avoiding the main outdoor living area or major openings pertaining to the new house proposed for that lot. Although a small balcony is proposed at the front of the adjoining house this will be screened along its NE elevation and would be likely overshadowed even if a concession was not sought. It would also probably be used infrequently and appears predominantly a design feature rather than an essential outdoor living space.

The additional overshadowing equates to less than 10m² over that permitted under the Codes which will have negligible impact on the adjoining property, which in any event is under the same ownership.

CONCLUSION

The proposed two-storey house can be supported with the setback and solar access variations sought as the proposal satisfies the relevant performance criteria of the RD Codes and are an acceptable variation to Council's policy pertaining to Garages and Carports in Front Setback Areas.

The ridge height of the proposed dwelling is only 7.1m above the ANGL which is 1.4m below the maximum height permitted under TPS 2 and this will assist in ameliorating any visual impact on adjoining dwellings and the existing streetscape. The modern contemporary design of the proposed house is also in-keeping with other two-storey houses along this section of Curtin Avenue and is of similar design to that proposed on the adjoining lot.

The main building setback on the upper floor varies between 6m to the proposed bedroom and 7.7m to a recessed stairwell which satisfies Council's setback requirements and although a balcony has been designed off the bedroom with a reduced front setback of only 3.87m this will provide improved visual surveillance to the street, and together with the ground floor setback variations sought, will provide good articulation to the frontage without appearing overly intrusive on the streetscape.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee reiterated the discussion as for No. 135 Curtin Avenue in the above report.

1.2 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Walsh, seconded Cr Boland

That Council GRANT its Approval to Commence Development for the proposed single house at No. 137 (Lot 58) Curtin Avenue, Cottesloe, in accordance with the plans submitted on 26 June 2008, subject to the following conditions:

- (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
- (b) Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.**

- (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (e) The applicant complying with the Town of Cottesloe Policies and procedures for Street Trees (February 2005) where the development requires the protection or pruning of existing street trees.
- (f) The proposed crossover being located to ensure the retention of the existing street trees and the Works Supervisor determining the distance that the crossover shall be located away from the base of the trees.
- (g) The existing redundant crossover being removed, the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (h) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (i) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (j) The finish and colour of the boundary wall facing the neighbour be to the satisfaction of the Manager Development Services.
- (k) Any fencing to the site within the front setback area being of an "Open Aspect" design in accordance with Council's local law and the subject of a separate application to Council.

Carried 3/2

1.3 USE OF MEDIANS FOR BUILDING ACTIVITY

File No: SUB/tba
Author: Mr Andrew Jackson
Author Disclosure of Interest: Nil
Report Date: 11 September 2008
Senior Officer: Mr Stephen Tindale

PURPOSE

- This report reviews the use of medians within the district for building activity.
- Whilst not a direct planning aspect it falls under the ambit of development control and the principle of amenity to which building regulation relates.
- It presents the pros and cons involved then options for Council to consider its approach or policy on the matter and seeks direction for officers to pursue.

STATUTORY ENVIRONMENT

- LG Act, Building Regs, Local Law on Thoroughfares, Policies on verge use and parking,

POLICY IMPLICATIONS

- Suggested potential to expand existing policy to address.

STRATEGIC IMPLICATIONS

- Broadly relates to the facilitation of development, management of the townscape and protection of residential amenity.

FINANCIAL IMPLICATIONS

- Nil.

BACKGROUND

- In the past couple of years the use by builders of the large central medians to certain road reserves in Cottesloe has caused concern to some residents.
- There has also been concern about other usage of medians, including the standing of a sea container (Grant Street) and parking (*Daisies* in Grant Street; Forrest Street in Town Centre), which have highlighted the general consideration of the use of medians.
- Recently similar issues have arisen with verges, including unauthorised removal a street tree (Margaret Street) and an unauthorised vegetable garden (Lyons Street).
- Given this groundswell a report is warranted so that best practice can be achieved.

MEDIANS IN CONTEXT

- The historical subdivision of the district produced a primary grid of wider road reserves, resulting in either wide verges or a wide central median to those streets.

- This spatial arrangement has accommodated trees, provided view/breeze corridors and afforded openness/greening.
- Only a few roads have these wide/long medians, being Grant Street west of Curtin Avenue and east of Railway Street and Forrest Street east of Railway Street, which are orientated east-west, and Congdon and Parry Streets in the Claremont Hill locality, which are orientated north-south.
- Each of these medians has its own character in relation to topography, adjacent land use/development, traffic and how the median tends to be used. The settings, planting, condition and use of the medians also vary over their lengths.
- In this way these medians contribute to the urban environment and provide amenity value to their streets, as do the wide verges.
- Although medians are Council-controlled land as part of the road reserve, like verges they “belong” to the residents there and become used in association with those residents’ properties.
- Hence there can be a tension between the actual public status of medians and their identification with the immediate property owners/residents.
- This is manifest in the use of medians in connection with the development of nearby lots, which is the focus of this report.
- Existing residents incur impacts from such use of their part of the street, while the owner/developer likewise assumes a right to the median.
- At the same time medians perform important public-purpose functions for the community, including underground services, drainage, parking (informal and formal), de facto open space and streetscape.
- Some have reticulated lawn, whereas others are in a more natural state.
- Overall, to Council they represent an asset as well as a responsibility, therefore requiring sound management.

THE PROBLEM

- Culturally and administratively, verges are allowed to be used by adjacent owners/residents/businesses/institutions/clubs as an extension of those properties and are usually respected accordingly.
- Parking is a prime example of use by occupiers, visitors, deliveries and trades.
- Storage of building materials is another common activity.
- Such usage is regulated and tolerated, but can get out of hand.
- The same applies to the use of medians, but because medians are separated from verges/properties and essentially public space they are prone to being used indiscriminately and taken for granted.
- This can be exacerbated where the median compensates for a narrow verge and is the logical choice for use.
- The nature and duration of developments in Cottesloe (which are mainly residential but also some commercial) has seen medians taken advantage of.
- Small lots, large dwellings, topography, excavations, limited access, materials/techniques, and other factors mean that the use of sites and verges for construction is constrained.
- At this higher end of the real estate market the size, sophistication and finish of buildings entails complex works over longer periods, which leads to increased activity, parking, storage and impacts.

- Heavy and continual use of verges and medians for building activity is disruptive to neighbours and can reduce amenity.
- There are compromises comprising obstructions and accessibility; safety and security; maintenance and repair/rehabilitation; parking and traffic movements; noise, dust, sand blow and mess; unattractiveness and blocked views.
- In summary, while medians are an obvious opportunity for overflow use arising from occasional domestic activities such as parties, when medians are used extensively/intensively by the building industry the impacts on amenity are of greater significance and longer-lasting, which invokes increased scrutiny.

CURRENT SITUATION

- Under the Local Government Act, Council is able to regulate the use of streets for storage of building materials by a system involving licences; fees; conditions; hoardings/fencing and lighting for public safety and convenience; bonds for repair of damage; inspection; and penalties for non-compliance.
- This is aimed mainly at the control of verges but also applies to medians and is a long-established standard practice, as by other councils, and operates relatively well yet does demand constant monitoring/policing.
- Council is empowered to refuse permission, and if so an applicant has an avenue of appeal to the State Administrative Tribunal.
- Where the process is not followed it generates a compliance burden and sets a presumed precedent.
- The regulatory framework that guides this includes Council's local law on thoroughfares and policies on residential verges and on verge parking, and procedurally the building regulations under the Act (applicable to any land within a road reserve).
- These instruments do not readily distinguish between verges or medians and do not mention medians for any particular control or special treatment.
- On this basis Council may wish to consider the benefits and shortcomings associated with the use of medians and the introduction of dedicated controls for them.

OUTLINE OF CONSIDERATIONS

- Whether the use of medians should be specifically regulated in relation to building activity, parking and so on.
- Whether the use of medians for building activity should be prohibited or limited.
- Whether Council should take a uniform approach throughout the district or handle each median individually.
- An order of preference for building activity to use sites, verges or medians.
- Having regard to use of medians avoiding use or impacts on verges.
- Limitations and requirements on building activity use to include location, area, period, materials, machinery, vehicles small and large re parking and movements, safety and security (fencing, lighting, signage, etc), amenity (screening, noise and dust/sand blow abatement, waste/litter, etc) and any other criteria discerned.
- Maintenance, repair, and rehabilitation, including re-grassing/planting, watering, etc).

- Construction management plans, including liaison with affected parties and responding to complaints.
- The scale of fees/bonds in keeping with needs.
- Balancing degrees of practicality, economy, efficiency, convenience, safety, amenity and sustainability.
- Formulation of proposed policy controls for medians, consultation, finalisation, implementation and dissemination.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed the matter as follows:

- The extensive use of medians is abnormal as most developments use the site or verge, including large dwellings.
- Residents can easily rehabilitate the verge but it is harder to rehabilitate a median.
- Use of medians for building activity could be banned.
- As the Town has the authority to regulate the use of medians why not simply rely on that and require rehabilitation rather than have policy on the matter?

The Manager Development Services advised that the advantage of having policy is to be clear about Council's approach/position and to communicate that for effective regulation/administration. Making policy is a consultative process which would allow the matter to be further examined and aired, with consideration of any public comment and determination by Council.

OFFICER RECOMMENDATION

That Council gives consideration to the issues and aspects conveyed in this report and decides what instructions to give to officers, with a view to further exploring the matter for a report back on draft policy improvements to address the use of medians for building activity or otherwise.

1.3 COMMITTEE RECOMMENDATION

Moved Cr Miller, seconded Cr Boland

That Council gives consideration to the issues and aspects conveyed in this report and requests staff to report back on draft policy provisions to prohibit the use of medians for building activity.

Carried 5/0

ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING

Nil

MEETING CLOSURE

The Presiding Member announced the closure of the meeting at 6:52 pm.

CONFIRMED: PRESIDING MEMBER _____ *DATE:/...../.....*