

TOWN OF COTTESLOE



DEVELOPMENT SERVICES COMMITTEE MINUTES

MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
6.00 PM, MONDAY, 20 APRIL 2015

MAT HUMFREY
Acting Chief Executive Officer

23 April 2015

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Town for any act, omission, statement or intimation occurring during council meetings.

The Town of Cottesloe disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission, statement or intimation occurring during council meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a council meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any member or officer of the Town of Cottesloe during the course of any meeting is not intended to be and is not taken as notice of approval from the Town.

The Town of Cottesloe wishes to advise that any plans or documents contained within the agenda or minutes may be subject to copyright law provisions (*Copyright Act 1968*, as amended) and that the express permission of the copyright owner(s) should be sought prior to their reproduction.

Members of the public should note that no action should be taken on any application or item discussed at a council meeting prior to written advice on the resolution of council being received.

Agenda and minutes are available on the Town's website www.cottesloe.wa.gov.au

DEVELOPMENT SERVICES COMMITTEE

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS.....	3
2	DISCLAIMER	3
3	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION	3
4	PUBLIC QUESTION TIME	3
	4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	3
	4.2 PUBLIC QUESTIONS	3
5	PUBLIC STATEMENT TIME.....	3
6	ATTENDANCE	4
	6.1 APOLOGIES	4
	6.2 APPROVED LEAVE OF ABSENCE	4
	6.3 APPLICATIONS FOR LEAVE OF ABSENCE	4
7	DECLARATION OF INTERESTS.....	4
8	CONFIRMATION OF MINUTES.....	4
9	PRESENTATIONS	5
	9.1 PETITIONS.....	5
	9.2 PRESENTATIONS	5
	9.3 DEPUTATIONS	5
10	REPORTS	6
	10.1 PLANNING	6
	10.1.1 NO. 35 (LOT 23) ELIZABETH STREET – TWO-STOREY DWELLING WITH AN ALFRESCO, SWIMMING POOL AND SHED AT THE REAR AND A FRONT BOUNDARY FENCE	6
11	ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	14
12	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:.....	14
	12.1 ELECTED MEMBERS.....	14
	12.2 OFFICERS	14

13 MEETING CLOSED TO PUBLIC 14
13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED 14
**13.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY
BE MADE PUBLIC..... 14**
14 MEETING CLOSURE..... 14

1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Deputy Presiding Member announced the meeting opened at 6:08 PM.

2 DISCLAIMER

The Deputy Presiding Member drew attention to the Town's disclaimer.

3 ANNOUNCEMENTS BY DEPUTY PRESIDING MEMBER WITHOUT DISCUSSION

Nil.

4 PUBLIC QUESTION TIME**4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

4.2 PUBLIC QUESTIONS

Ms Ruth Greble, 47 and 49 John Street, regarding ROW 32

Ms Greble queried the closure of the section of this ROW behind 96-100 Broome Street in relation to the building extensions to Pine Court, referring to Council's earlier refusal to permanently close that section, the impacts on the ROW due to development works in the locality and the aspects of inconvenience, safety and fencing affecting other resident using the ROW.

The Manager Development Services advised that the Town agreed to the temporary blocking-off of the section of ROW to facilitate the Pine Court works, having regard to overall construction management including access, storage, worker parking, etc, so that the main E-W section of the ROW would be less impacted; after which the subject section of ROW would be re-opened.

5 PUBLIC STATEMENT TIME

Ms Ruth Harms, 37 Elizabeth Street, for item 10.1.1., No. 35 Elizabeth Street

Ms Harms expressed strong objection to the proposal on several grounds. She objected to the parapet wall on the northern boundary with her property as a poor interface with her dwelling, as it would be unattractive and detrimental to the front entrance of her home. She also objected to the proliferation of boundary walls in residential development around the district. Ms Harms believed that the dividing fence laws were involved and should be taken into consideration. In addition she was concerned about the dominant effect of the two-storey development as well as her property being looked upon from the dwelling.

6 ATTENDANCE**Present**

Cr Katrina Downes	Deputy Presiding Member
Mayor Jo Dawkins	
Cr Philip Angers	
Cr Helen Burke	
Cr Rob Rowell	
Cr Jay Birnbrauer	

Officers Present

Mr Mat Humfrey	Acting Chief Executive Officer
Mr Andrew Jackson	Manager Development Services
Mr Ronald Boswell	Planning Officer
Mrs Liz Yates	Development Services Administration Officer

6.1 APOLOGIES

Nil.

Officer Apologies

Mr Carl Askew	Chief Executive Officer
Mr Ed Drewett	Senior Planning Officer

6.2 APPROVED LEAVE OF ABSENCE

Cr Peter Jeanes
Cr Jack Walsh

6.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

7 DECLARATION OF INTERESTS

Nil.

8 CONFIRMATION OF MINUTES

Moved Mayor Dawkins, seconded Cr Burke

[Minutes March 16 2015 Development Services Committee.docx](#)

The Minutes of the Ordinary meeting of the Development Services Committee, held on 16 March 2015 be confirmed.

Carried 6/0

9 PRESENTATIONS

9.1 PETITIONS

Nil.

9.2 PRESENTATIONS

Nil.

9.3 DEPUTATIONS

Nil.

10 REPORTS**10.1 PLANNING****10.1.1 NO. 35 (LOT 23) ELIZABETH STREET – TWO-STOREY DWELLING WITH AN ALFRESCO, SWIMMING POOL AND SHED AT THE REAR AND A FRONT BOUNDARY FENCE**

File Ref:	3066
Attachments:	35 Elizabeth Aerial 35 Elizabeth Submission 35 Elizabeth Plans 35 Elizabeth Property Photos
Responsible Officer:	Andrew Jackson Manager Development Services
Author:	Ronald Boswell Planning Officer
Proposed Meeting Date:	20 April 2015
Author Disclosure of Interest:	Nil
Property Owner:	Churchill Court Pty Ltd
Applicant:	Churchill Court Pty Ltd
Date of Application:	6 November 2014
Zoning:	Residential R20
Lot Area:	961m²
M.R.S. Reservation:	Not applicable

SUMMARY

This application complies with LPS3, the RDC and the Fencing Local Law and is being referred to Council due to a neighbour objection to the proposed northern single-storey parapet wall.

This aspect is discussed in this report and refers to revised plans received 2 and 8 April 2015.

Given the assessment that has been undertaken, the recommendation is to conditionally approve the application.

PROPOSAL

The proposed two-storey dwelling comprises:

- Four bedrooms, three bathrooms, WC, powder room, two living areas, games room, two studies, games room and a courtyard.
- Alfresco.
- Swimming pool.
- Void to living room and courtyard.
- Shed.
- Double carport
- Open-aspect front fencing.

BACKGROUND

Following the initial plans submitted on 6 November 2014 and discussions with the applicant, the plans have been changed in order to comply with LPS3, the RDC and the Fencing Local Law. The plans are now at a stage where they can be supported by the Town and conditionally approved.

The applicant lodged a previous planning application for two dwellings for a potential subdivision of the lot on 25 August 2014 which was approved under delegation on 18 September 2014. The proposed two dwellings each had a single-storey parapet wall on the northern boundary totalling a length of 19.5m.

Advertising was undertaken to the surrounding neighbours and there was no objection to the two boundary walls. Therefore the current proposed dwelling with one boundary wall totalling a length of 10.5m is an improvement representing a reduction in the total length of 9m.

STATUTORY ENVIRONMENT

- LPS3
- RDC
- Fencing Local Law

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

This development application has nil non-compliance.

The Town has worked closely with the applicant to produce plans that are compliant with LPS3 and the RDC and the Fencing Local Law.

ADVERTISING OF PROPOSAL

The application was advertised by letter to five adjoining owners. One submission was received from the northern neighbour and the comments are summarised below:

R M Harms, 37 Elizabeth St

- Objects to the parapet wall on the boundary between Nos 35 and 37 Elizabeth Street.
- Objects to the parapet forming a fence and being part of two rooms.
- Objects to the balcony on the north-west side of the dwelling.
- Concerned that the dwelling's bulk and scale is overpowering.

APPLICANT'S JUSTIFICATION

The applicant has considered the Town's advice and the concerns raised by the northern neighbour, and in response provided revised plans that are compliant with LPS3 and the RDC. No further justification against the 'design principles' of the RDC is required in this instance.

The Town has liaised extensively with the objecting neighbour, including showing the neighbour the plans and explaining the planning rules, detailing that the northern

single-storey parapet wall complies with the RDC and will be conditioned to reinforce such.

STAFF COMMENT

The following technical assessment is made in respect of the proposal:

Boundary wall

This application includes one single-storey boundary wall on the northern boundary.

The applicant is permitted a boundary wall to one boundary if it complies with clause 5.1.3 (C3.2) (ii), which states:

In areas coded R20 and R25, walls not higher than 3.5m with an average of 3m or less, up to a maximum length of the greater of 9m or one-third the length of the balance of the lot boundary behind the front setback, to one side boundary only.

The proposed boundary wall does not exceed 3.5m in height and has an average height of 3m. The maximum permitted length is 14.77m and 10.5m is sought. Therefore, the proposed boundary wall complies with the RDC but as mentioned will be conditioned to ensure this.

The proposed boundary wall is abutting the neighbouring carport and a driveway. The boundary wall will not affect northern light and does not adversely affect any outdoor living areas or habitable rooms of the neighbouring property.

Building heights

The proposed dwelling wall and roof heights comply with LPS3 clause 5.7.2(b)(i)(ii) and shall be conditioned to ensure building height compliance occurs.

Setbacks/visual privacy setbacks

The proposed dwelling complies and is in accordance with the RDC setbacks.

Bulk and scale

In addition to matters addressed in the RDC, Council may have due regard to matters it considers relevant to a development proposal.

In accordance with clause 10.2.2(g) of LPS3 this includes:

The relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.

The proposed dwelling is on a large lot greater than 900m². Overall, the dwelling is adequately setback from neighbouring boundaries and would not have an adverse affect on neighbouring properties as it is located centrally with large open spaces at

the front and rear. Its bulk and scale as a complying and conventional two-storey single dwelling is considered acceptable in the streetscape.

Overshadow

The proposed dwelling complies with the RDC.

Fill

The former dwelling has been demolished and observations of the site reveal that a sand pad for the proposed dwelling has been created that is raised above the NGL, before development approval has been granted. The level of the sand pad appears to exceed 0.5m above NGL on the north-east corner then grade back to approximate the NGL at the rear. The owner has advised that this has occurred due to excavating the former pool and possible excavation for a new pool, although the extent of formed fill (photos attached) indicates that there may be added sand.

As excavation and fill constitute development requiring prior approval, this earthwork is unauthorised and premature, also potentially interfering with the determination of NGL based on the survey plan submitted.

To address this, the level and amount of fill intended to comprise part of the development will need to be clarified and shown on the Building Permit plans, in order to ensure that any approved fill does not compromise the Scheme or RDC requirements in relation to building height and design aspects related to fill such as privacy and shadow. A condition is recommended accordingly.

CONCLUSION

The design of the proposed dwelling is in conformity with the LPS3 building heights, the RDC and the Fencing Local Law. However, the unauthorised fill requires rectification as discussed.

In summary, the proposed dwelling is well-setback from the front boundary and represents a contemporary design for the streetscape, which has a mix of old and new dwellings including traditional bungalows, Tuscan styles and modern designs. The application is supported to be conditionally approved by Council.

COMMITTEE COMMENT

Committee discussed the application at some length and considered that the proposed boundary wall was unnecessary on such a large lot in an R20 single residential area, where ordinary and complying setbacks could readily be achieved without compromising dwelling design, while producing better interrelationships between properties and appropriately attractive streetscapes.

Committee was also concerned that the unusual design of the dwelling, with its extensive, lop-sided roof was not so desirable but would have less impact if located off the boundary. The one metre minimum setback required under the RDC is not a lot to provide, yet has the advantages of preserving the normal dividing fence arrangement and being less overbearing to both the neighbouring property and the

streetscape. Therefore an amendment to the recommendation was made in favour of an adequate setback to address these considerations.

Committee went on the express concern about the fill/sand pad in relation to determining natural ground level hence building height compliance. The Manager Development Services drew attention to condition 6 to control this aspect and the Planning Officer confirmed that the design and assessment was based on the survey levels provided prior to the excavation and spreading of sand.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Angers

THAT Council GRANT its approval to commence development for the proposed two-storey dwelling with an alfresco, swimming pool and shed at the rear and a front boundary fence at 35 Elizabeth Street, COTTESLOE, in accordance with the plans received on 2 and 8 April 2015, subject to the following conditions:

1. All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.
2. The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Town.
3. All water draining from roofs and other impermeable surfaces shall be directed to garden areas, sumps or rainwater tanks within the development site, where climatic and soil conditions allow for the effective retention of stormwater on-site.
4. The roof surface being treated to reduce glare if the Town considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
5. The application for a Building Permit shall include detailed, dimensioned plans which demonstrate accurate compliance with the wall and building height requirements of Local Planning Scheme No. 3, to the satisfaction of the Manager Development Services.
6. The application for a Building Permit shall include detailed, dimensioned plans which clearly demonstrate that the pre-existing natural ground level of the site has been used to determine the approved wall and building (roof) heights in accordance with the requirements of Local Planning Scheme No. 3, including how the unauthorised sand pad fill forms part of the approved design and the extent to which it is compliant, to the satisfaction of the Manager Development Services. Alternatively, all fill not consistent with the natural ground level of the site or in accordance with the approval shall be removed from the site prior to an application for and the issue of a Building Permit, all to the satisfaction of the Manager Development Services

7. The application for a Building Permit shall include detailed, dimensioned plans which demonstrate that the design and construction of the northern boundary wall complies with the Residential Design Codes, to the satisfaction of the Manager Development Services.
8. The finish and colour of the boundary wall facing the northern neighbour shall be to the satisfaction of the Manager Development Services in consultation with the Town; the details of which shall be included in the application for a Building Permit.
9. In accordance with the Town's Fencing Local Law, fencing to the front boundary shall ensure that the infill between the brick piers has a minimum space of 50mm and minimum open-aspect of 50%.
10. The pool pump and filter shall be located closer to the dwelling than adjoining dwellings, and suitably housed or treated as may be necessary to ensure that environmental nuisance due to noise or vibration from mechanical equipment does not exceed limits specified in the Environmental Protection (Noise) Regulations 1997.
11. Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property and disposed of into adequate soakwells.
12. A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, with a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
13. Wastewater or backwash water shall not be disposed of into the street drainage system or the Water Corporation's sewer.
14. Air-conditioning plant and equipment shall be located closer to the dwelling than adjoining dwellings, and suitably housed or treated as may be necessary to ensure that sound levels do not exceed those specified in the Environment Protection (Noise) Regulations 1997.
15. The applicant shall apply to the Town for approval to modify or reconstruct the crossover, in accordance with the Town's specifications, as approved by the Manager Engineering Services or an authorised officer.

Advice Notes:

1. The owner/applicant is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development is constructed entirely within the owner's property.
2. The owner/applicant is responsible for applying to the Town for a Building Permit and to obtain approval prior to undertaking construction of the development.

AMENDMENT

Moved Mayor Dawkins, seconded Cr Angers

The proposed northern boundary wall shall be setback a minimum of 1m, with revised plans being submitted for a building permit, to the satisfaction of the Manager Development Services.

Carried 6/0

COMMITTEE RECOMMENDATION

THAT Council GRANT its approval to commence development for the proposed two-storey dwelling with an alfresco, swimming pool and shed at the rear and a front boundary fence at 35 Elizabeth Street, COTTESLOE, in accordance with the plans received on 2 and 8 April 2015, subject to the following conditions:

- 1. All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.**
- 2. The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Town.**
- 3. All water draining from roofs and other impermeable surfaces shall be directed to garden areas, sumps or rainwater tanks within the development site, where climatic and soil conditions allow for the effective retention of stormwater on-site.**
- 4. The roof surface being treated to reduce glare if the Town considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
- 5. The application for a Building Permit shall include detailed, dimensioned plans which demonstrate accurate compliance with the wall and building height requirements of Local Planning Scheme No. 3, to the satisfaction of the Manager Development Services.**
- 6. The application for a Building Permit shall include detailed, dimensioned plans which clearly demonstrate that the pre-existing natural ground level of the site has been used to determine the approved wall and building (roof) heights in accordance with the requirements of Local Planning Scheme No. 3, including how the unauthorised sand pad fill forms part of the approved design and the extent to which it is compliant, to the satisfaction of the Manager Development Services. Alternatively, all fill not consistent with the natural ground level of the site or in accordance with the approval shall be removed from the site prior to an application for and the issue of a Building Permit, all to the satisfaction of the Manager Development Services**
- 7. The application for a Building Permit shall include detailed, dimensioned plans which demonstrate that the design and construction of the northern boundary wall complies with the Residential Design Codes, to the satisfaction of the Manager Development Services.**

8. The finish and colour of the boundary wall facing the northern neighbour shall be to the satisfaction of the Manager Development Services in consultation with the Town; the details of which shall be included in the application for a Building Permit.
9. In accordance with the Town's Fencing Local Law, fencing to the front boundary shall ensure that the infill between the brick piers has a minimum space of 50mm and minimum open-aspect of 50%.
10. The pool pump and filter shall be located closer to the dwelling than adjoining dwellings, and suitably housed or treated as may be necessary to ensure that environmental nuisance due to noise or vibration from mechanical equipment does not exceed limits specified in the Environmental Protection (Noise) Regulations 1997.
11. Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property and disposed of into adequate soakwells.
12. A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, with a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
13. Wastewater or backwash water shall not be disposed of into the street drainage system or the Water Corporation's sewer.
14. Air-conditioning plant and equipment shall be located closer to the dwelling than adjoining dwellings, and suitably housed or treated as may be necessary to ensure that sound levels do not exceed those specified in the Environment Protection (Noise) Regulations 1997.
15. The applicant shall apply to the Town for approval to modify or reconstruct the crossover, in accordance with the Town's specifications, as approved by the Manager Engineering Services or an authorised officer.
16. The proposed northern boundary wall shall be setback a minimum of 1m, with revised plans being submitted for a building permit, to the satisfaction of the Manager Development Services.

Advice Notes:

1. The owner/applicant is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development is constructed entirely within the owner's property.
2. The owner/applicant is responsible for applying to the Town for a Building Permit and to obtain approval prior to undertaking construction of the development.

Carried 6/0

THE AMENDED SUBSTANTIVE MOTION WAS PUT

11 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:

12.1 ELECTED MEMBERS

Nil.

12.2 OFFICERS

Nil.

13 MEETING CLOSED TO PUBLIC

13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil.

13.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC

Nil.

14 MEETING CLOSURE

The Deputy Presiding Member announced the closure of the meeting at 6:42 pm.

CONFIRMED MINUTES OF 20 April 2015 PAGES 1 – 14 INCLUSIVE.

PRESIDING MEMBER:
POSITION:

.....

DATE: / /