



Brighton Council

MINUTES OF THE **PLANNING COMMITTEE MEETING**
OF THE BRIGHTON COUNCIL HELD
IN THE COUNCIL CHAMBER, COUNCIL OFFICES
GAGEBROOK AT 5.35 P.M. ON TUESDAY,
12TH APRIL, 2011

PRESENT: Cr Gray (Chairperson); Cr Curran; Cr Garlick; and Cr Taylor.

IN ATTENDANCE: Cr Jeffries; Cr Owen; Cr Williams; Mr R Sanderson (General Manager); Mr G Davoren (Deputy General Manager); Mr H Macpherson (Municipal Engineer); Mrs J Banks (Manager Governance & Human Services) and Mr J Dryburgh (Senior Planner).

1. APOLOGIES:

Cr Curran moved, Cr Taylor seconded that Cr Foster and Cr Geard be granted leave of absence.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Garlick	
Cr Gray	
Cr Taylor	

2. QUESTION TIME & DEPUTATIONS:

- Cr Owen addressed Committee in relation to Item 4.1

3. DECLARATION OF INTEREST:

In accordance with Part 5, Section 48 of the *Local Government Act 1993*, the Chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have an interest in any item on the agenda; and

Part 2 Regulation 8 (7) of the Local Government (Meeting Procedures) Regulations 2005, the Chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have, a pecuniary interest in any item on the agenda.

Accordingly, Councillors are requested to advise of any interest they may have in respect to any matter appearing on the agenda, or any supplementary item to the agenda, which the Council has resolved to deal with, in accordance with Part 2 Regulation 8 (6) of the Local Government (Meeting Procedures) Regulations 2005.

There were no declarations of interest.

4. COUNCIL ACTING AS PLANNING AUTHORITY:

In accordance with the provisions of Part 2 Regulation 25 of the Local Government (Meeting Procedures) Regulations 2005, the intention of the Council to act as a planning authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted. In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under Item 4. on this agenda, inclusive of any supplementary items.

4.1 APPLICATION FOR PLANNING APPROVAL – BUSINESS & PROFESSIONAL SERVICES (BEAUTY TREATMENT) IN RESIDENTIAL ZONE, 27 BASKERVILLE ROAD, OLD BEACH:

FILE REFERENCE: DA2011/26

AUTHOR: Senior Planner
(Mr J Dryburgh)

Applicant: A. Thompson

Owner: A.Thompson

Location: 27 Baskerville Road, Old Beach

Application no.: DA2011/26

Zoning: Residential - Brighton Planning Scheme 2000 (the planning scheme)

Use class: Business and Professional Services (Beauty Treatment)

Date accepted: 23/02/2011

Date advertised: 26/02/2011

Decision required 20/04/2011 (by agreement)

Background:

Application has been made for the use of an existing unit, known as 1/27 Baskerville Road, for Business and Professional Services (Beauty Treatment). The service to be provided is specifically waxing. The proposal requires the use of the existing rumpus room, which is located on the lower level, at the rear of the garage, for the operation of the business. It is also proposed that an existing visitor parking space be utilised for client parking.

Clients are only proposed on a one at a time basis due to the type of work and this subject section of the house is separated from the rest of the dwelling, having its own access and toilet.

No changes to the structure of the building or site are necessary and the applicant claims that the type of work would be quiet and non-intrusive to neighbours.

The applicant is a beautician who works in Hobart, but currently only has part time work and would like to offer her services locally.



Fig. 1 - Locality Plan

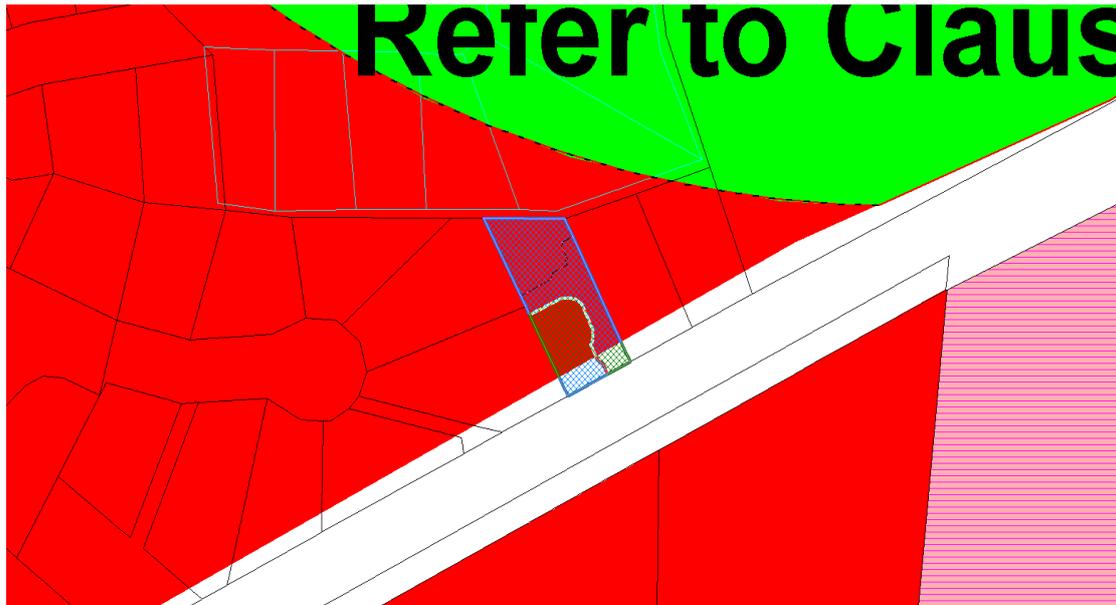


Fig. 2 - Zoning plan

Consultation:

The application was advertised in accordance with the Act and *Land Use Planning and Approvals Regulations 2004* and one (1) representation was received.

However, a letter of support for the proposal was also received before the public notification period from the owner of the adjoining unit (2/27 Baskerville Road). This letter is not classified as a formal representation, but has been considered as part of the planning assessment nonetheless. The letter shows that the current owner of the rear unit (2/27 Baskerville Road) does not have any concerns with the proposal.

The objection is from the owners of the vacant lot at 29 Baskerville Road, which adjoins the subject site. They are currently living in the UK but intend to move here eventually to build a home on their lot. They are primarily concerned about the affect the proposal may have on their future residential amenity.

The concerns raised in the representations are outlined and addressed as follows:

Concerns Raised	Planning Response
Representor 1: Objection	
The proposal will damage the residential character and amenity of the locality.	This is a reasonable concern given that the area is zoned Residential and is dominated by residential development. However, the Scheme does allow for the possibility of this kind of use in the Residential zone and it is considered that the scale of this proposal in conjunction with the restrictive permit conditions

	proposed enable the proposal to proceed with minimal impact on the residential amenity or character of the area.
Loss of property value.	Loss of property value is not a planning consideration.
Loss of privacy and noise intrusion due to clients potentially arriving 24 hours a day 7 days a week.	<p>There is not likely to be any significant loss of privacy. Parking is proposed on site with a maximum of one client only ever on site at a time. The property is also bounded by a high solid paling fence. All operations are to occur inside the unit and naturally the nature of the proposed work requires a high level of privacy, which will also lead to lesser outward privacy concerns.</p> <p>A condition of permit is recommended limiting the operating hours to between 8am and 6pm and that the use only operates on two separate days of any week, and between Monday and Friday.</p>
Insufficient parking spaces on site and likely traffic problems, including safety.	Due to the one on one nature of the business only one client is proposed at a time. It is recommended that this be conditioned by requiring clients to be staggered with a minimum of half an hour between the end of one session and the start of the next. The applicant claims this is required for her work anyway. This condition should ensure that no more than one parking space is ever required for the proposed use.
Problems caused by clients waiting on the street until the prior client has finished.	(As above).
Signage	A condition is recommended to require signage to be that of the standard consulting room signage, defined as "Name Plate" sign that does not exceed 0.2m ² in area. The signage is small enough not to create a visual impact and this type of sign is actually exempt under Clause S2.5(e) of the Planning Scheme.

It is important to note that the Senior Planner has discussed the proposal at length with both the applicant and the objector. The Senior Planner proposed the permit conditions present in this report as a means to address the objector's concerns whilst allowing the proposal to proceed. Both applicant and objector expressed their satisfaction verbally with regard to the proposed permit conditions.

Consultation has been held with the Council's Senior Technical Officer, who has no issues with the proposal.

Risk Implications:

Section 63A of the Act provides that a planning authority that fails to take all reasonable steps to ensure that its planning scheme is complied with may be liable to a fine of up to \$50,000.

Financial Implications:

Approval of the application will increase the number and value of rateable properties.

Other Issues:

This report details the basis and reasons for the recommendation. An alternative decision by the Council will require a statement of the reasons for the decision in order to maintain the integrity of the planning approval process and to comply with the intent of the Judicial Review Act 2000. In addition, section 25 of the Local Government (Meeting Procedures) Regulations 2005 provides that the General Manager is to ensure that the reasons for a decision by a Council acting as a planning authority are recorded in the minutes of the meeting.

Assessment:

Strategic Plan

The objectives of the planning process established by the *Land Use Planning and Approvals Act 1993* (the Act) in support of the Objectives of the Resource Management and Planning System of Tasmania include a requirement for sound strategic planning and co-ordinated action by State and local government. In addition, section 20(d) of the Act provides that a planning scheme must have regard to the strategic plan referred to in Division 2 of Part 7 of the *Local Government Act 1993* adopted by Council at the time the Scheme was prepared.

The Council's Strategic Plan provides for a future with practical and effective land use strategies that will be achieved by focusing on the following key area¹: -

A land use and development strategy to provide a long-term approach that produces sustainable and measurable economic, environmental (built and "green") and social benefits for the municipal area and the region.

¹ Brighton Council: *Strategic Plan 2006 – 2016*, Brighton Council, Gagebrook, 2006.

The proposal is considered consistent with Council's Strategic Plan as the proposal has a social and economic benefit due to the provision of a service, and the development should not create any significant environmental issues.

Objectives of the Resource Management and Planning System of Tasmania

Section 5 of the Act provides that Council is obliged to further the Objectives of the Resource Management and Planning System of Tasmania (RMPS) set out in Schedule 1 of the Act when determining an application for planning approval. The Objectives of the RMPS are -

- a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
- b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
- c) to encourage public involvement in resource management and planning; and
- d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and
- e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.

The proposal is consistent with the objectives of Schedule 1 of the Act.

State Policies

Clause 3.3 (a) of the Planning Scheme requires Council to take into consideration any State planning policies before granting or refusing planning approval and Section 13(1) provides that where inconsistency occurs between State Policy and Planning Scheme the Policy takes precedence.

State Coastal Policy 1996

The State Coastal Policy 1996 (Coastal Policy) applies to the coastal zone, which includes all State waters and land within 1 km from the High Water Mark (HWM).² The subject land is located within 1 km from the HWM of the Derwent Estuary and the Coastal Policy applies to the land.

The proposal will not materially change the site or area and as such is considered consistent with the outcomes of the State Coastal Policy.

State Water Quality Policy 1997

The State Policy on Water Quality Management 1997 (Water Quality Policy) requires that a use or development be consistent with the physical capacity of the land so that the potential for erosion and subsequent water quality degradation is minimised.

The proposed use should not create any water quality issues.

²State Coastal Policy Validation Act 2003

The State Policy on the Protection of Agricultural Land 2009

The subject land is located in a residential zone and established suburb and it is therefore considered that the Agricultural Policy does not apply to the land.

National Environmental Protection Measures (NEPM's)

No NEPM's are applicable to this proposal.

Planning Scheme

Scheme Objectives

Clause 3.3(b) of the planning scheme requires Council to take into consideration the planning scheme Objectives before granting or refusing planning approval.

Clause 2.2 of the Brighton Planning Scheme 2000 prescribes the Residential Objectives as being based on the following:

- (a) To encourage and facilitate opportunities for diversity in residential type, choice and affordability commensurate with Brighton's quality of lifestyle and environment.
- (b) To promote Brighton as an independent suburb within the regional metropolitan context.
- (c) To establish residential growth within existing settlement areas serviced with infrastructure.
- (d) To ensure that the future patterns of residential development protect and enhance the natural and man-made assets of the Municipality.
- (e) To encourage infill within the existing townships and suburbs as a consolidation of services and to provide definable communities with strong interconnectivity.
- (f) To discourage the loss of existing housing stock by conversion to or redevelop for non-residential use.
- (g) Concentration of new residential development remains within the green fields sites of Tivoli Green and Compton and for continued growth of Old Beach and Brighton- Pontville. Other areas will concentrate on the infill of existing develop areas within the service capabilities of the local area.

The proposal does not negate the primary residential use of the site and area as the property will remain a residence but will also provide a small-scale service. The proposal also promotes the Brighton area as independent in that it provides a service that will save local residents from the need to travel to Glenorchy or Hobart.

Zone Requirements

The land is located within the Residential zone of the planning scheme and a beauty treatment consulting room is classified as Business and Professional Services under the Scheme, which is a discretionary use under Clause 6.2.3, subject to it complying with all development standards of the zone and environmental standards, including environmental impact, natural hazards and emissions.

Clause 6.2.1 of the Planning Scheme provides that the purpose of the Residential Zone and is reproduced as follows:

- (a) To ensure sufficient land is available to meet anticipated demand for residential use in the next five years.
- (b) To protect residential amenity by reducing the potential for land use conflicts between residential uses and other uses.
- (c) To allow for a range of housing types within the zone, subject to meeting performance guidelines, so as to satisfy different housing needs within the community.
- (d) To restrict non-residential uses to those that are compatible with maintaining residential amenity and servicing local needs.
- (e) A broad range of residential options should be accommodated subject to the maintenance of satisfactory levels of amenity for new and existing development.

The proposed use of the site should not cause any significant adverse impacts on residential amenity. There should be no significant land use conflict between the proposed professional service and the residential use either on site or surrounding it.

General Provisions

Before granting or refusing planning approval, Council must also take into consideration the following criteria, which are reproduced only where relevant to the application in question:

Clause 3.3(e) - the character of the locality, the existing and future amenities of the neighbourhood and the effect of the development on the amenity of the area;

As previously discussed the proposed use of the site is sufficiently restricted in scale and is of a nature that it will not significantly impact the character of the locality or existing and future amenity.

Amenity

Clause 3.3(e) of the Scheme requires Council to take into consideration the character of the locality, the existing and future amenities of the neighbourhood and the affect of the development on the amenity of the area.

As discussed within the 'Consultation' section of this report there is unlikely to be any impact on amenity to neighbours or to the surrounding area. The proposal is small scale, severely limited in terms of operating periods and hours and will be contained within the dwelling. There should never be more than one client on site at once and it is recommended signage be conditioned to a level that is normally exempt. As such, there is little potential for adverse impacts on amenity.

Environment

Clause 3.3(n) of the Scheme requires Council to take into consideration the effect on the environment of the development on nearby land before granting or refusing planning approval.

The proposal should not create any environmental issues.

Services

Clause 3.4(l) of the Scheme requires Council to take into consideration the availability and provision of utility services, including water, sewerage, drainage and electricity when considering the application.

There are no significant additional issues regarding services caused by this proposal.

Parking

Clause 3.3(h) of the Scheme requires Council to take into consideration the provision of access, loading, parking and manoeuvring of vehicles when considering the application.

Table S1.1 of the Off-street parking: - Car parking, Access & Loading Schedule of the Scheme provides four (4) spaces per "consulting room" with a minimum of five (5) spaces are to be provided.

Clause S1.4 provides Council discretion under section 57 of The Act to vary the car parking requirements established in Table S1.1.

Clearly the proposed use will create a much smaller parking demand than the type of consulting room the parking standards cater for. In practical terms the proposal is much closer to a home occupation than consulting terms. Given that the permit conditions require that there shall never be more than one client visiting the premises at once, there should never be the requirement for more than one client car space. As such, it is recommended that Council exercise discretion to reduce the car parking space requirement to one. The associated visitor space is considered acceptable because the occupant is unlikely to have personal visitors whilst working.

Parking layout and manoeuvring complies with the Scheme as it was all previously approved as part of the unit development.

Traffic and Access

Clause 3.4(g) of the Scheme requires Council to take into consideration the layout of roads, having regard to their function and relationship to existing roads.

Traffic and access issues are considered negligible as just as much traffic could be generated without a permit if the unit happened to be occupied by a particularly sociable person.

Engineering comments

Consultation has been held with the Council's Senior Technical Officer, who has no issues with the proposal and does not require any permit conditions.

Conclusion

Subject to the proposed permit conditions the proposal is considered of a small enough scale and sufficiently restricted to ensure that it does not cause any significant adverse impacts on neighbours or the locality. For this reason, conditional approval is recommended.

Options:

1. Issue a written approval specifying the conditions (if any) imposed upon the use or development in accordance with the recommendation; or
2. Issue a written approval providing alternative or additional conditions (if any) imposed upon the use or development; or
3. Issue a written refusal for the use or development stating the reasons for refusal.

RECOMMENDATION:

That the application submitted in accordance with Part 4 of the Land Use Planning and Approvals Act 1993 for land at 1/27 Baskerville Road, Old Beach, described in Folio of the Register Volume 143522 Folio 5 and associated visitor parking space, to be used for Business and Professional Services (Beauty Treatment) and associated works be approved subject to the following conditions.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT –

General

- (1) The use or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
- (2) This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this letter or the date of the last letter to any representor, whichever is later, in accordance with section 53 of the *land Use Planning And Approvals Act 1993*.

Regulation of Client Visits

- (3) Client visits to the approved use must be separated by a minimum of thirty (30) minutes, between the end of one session and the beginning of the next, to ensure client visits do not overlap.

Signage

- (4) The approved signage is limited to a “Name Plate” sign (defined under Clause S2.4 of the *Brighton Planning Scheme 2000*) not exceeding 0.2m² in area and only displaying the name of the occupant, qualifications and the occupation of the person occupying the premises. The sign is to be attached to the wall of the unit, not the boundary fence.

Hours of Operation

- (5) The use or development must only operate on two days of any week between the following hours unless otherwise approved by Council’s Senior Planner:
 - Monday to Friday 8:00 a.m. to 6:00 p.m

THE FOLLOWING ADVICE APPLIES TO THIS PERMIT:

- A. This permit does not imply that any other approval required under any other legislation or by-law has been granted.

- B. A separate permit is required for any signs unless otherwise exempt under Council's planning scheme.
- C. The site is part of a strata title and the development approved by this permit may not be able to proceed without the written approval of the Body Corporate.
- D. The issue of this permit does not ensure compliance with the provisions of the Commonwealth *Disability Discrimination Act 1992* in relation to access to or use of premises that the public can enter or use. Building access issues may also arise under other *Disability Discrimination Act 1992* provisions relating to employment, access to services and accommodation provisions. The operator may be liable to complaints in relation to any non-compliance with the *Disability Discrimination Act 1992*.

There are currently no standards prescribed for compliance with the *Disability Discrimination Act 1992*, however, Australian Standards associated with the Act, including AS 1428.1-2001 - *Design for access and mobility - General requirements for access - New building work* and the Building Code of Australia (BCA) may apply to occupants of the building. It is recommended that you obtain further information concerning the *Disability Discrimination Act 1992* from the Office of the Human Rights and Equal Opportunities Commission or the Tasmanian Anti-Discrimination Commission.

- E. **This planning approval shall lapse at the expiration of two (2) years from the date of the commencement of planning approval if the development for which the approval was given has not been substantially commenced. Where a planning approval for a development has lapsed, an application for renewal of a planning approval for that development shall be treated as a new application.**

DECISION:

Cr Curran moved, Cr Taylor seconded that the recommendation be adopted.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Garlick	
Cr Gray	
Cr Taylor	

4.2 PLANNING UPDATE:

FILE REFERENCE:

AUTHOR: Senior Planner
(Mr J Dryburgh)

The Senior Planner, James Dryburgh and General Manager, Ron Sanderson provided Committee with an update on planning issues within the municipality.

RECOMMENDATION:

That the report be received.

DECISION:

Cr Garlick moved, Cr Curran seconded that the reports be received.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Garlick	
Cr Gray	
Cr Taylor	

The meeting closed at 6.15 p.m.

Confirmed:

(Mayor)

Date:

19th April 2011