ITEM 7. DEVELOPMENT APPLICATIONS - NO PERSONAL REPRESENTATION

ITEM 7.1 040/2019/15 - HOUSE AND LAND SA

<table>
<thead>
<tr>
<th>Development Application No.</th>
<th>040/2019/15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant’s Name</td>
<td>House and Land SA</td>
</tr>
<tr>
<td>Applicant’s Address</td>
<td>PO Box 544</td>
</tr>
<tr>
<td></td>
<td>KENT TOWN SA 5071</td>
</tr>
<tr>
<td>Subject Land</td>
<td>109 Pitman Road, Windsor Gardens SA 5087</td>
</tr>
<tr>
<td>Description of Development</td>
<td>A building of two storeys comprising seven dwellings, with associated earthworks and retaining walls.</td>
</tr>
<tr>
<td>Application Type</td>
<td>Merit, Category 2</td>
</tr>
<tr>
<td>Relevant Development Plan</td>
<td>Consolidated 16 April 2015</td>
</tr>
<tr>
<td>Zone</td>
<td>Residential</td>
</tr>
<tr>
<td>Policy area</td>
<td>Residential East (64)</td>
</tr>
<tr>
<td>Properties notified</td>
<td>8</td>
</tr>
<tr>
<td>Representations received</td>
<td>1 (subsequently withdrawn)</td>
</tr>
<tr>
<td>Representors to be heard</td>
<td>Nil</td>
</tr>
<tr>
<td>Recommendation</td>
<td>Planning consent</td>
</tr>
</tbody>
</table>

BACKGROUND

The Panel is advised that there was an application received by Council in 2015 (040/1268/15) to divide 107 Pitman Road into two separate allotments. The subsequent created the allotment subject of this development application.

SITE AND SURROUNDING LOCALITY

The subject land is vacant land as a result of the division of land undertaken in 2015 with some vegetation in the form of shrubs and trees.

The surrounding locality consists of:

**North, East & West**
- A mix of single storey and two-storey detached dwellings.
- As a result of the steep fall to the River Torrens the locality close to the subject site includes retaining walls integrated to the dwelling development.
- Ancillary structures in association with the existing residential land uses.

**South**
- The River Torrens Linear Park
- Approximately 125m away across Linear Park, residential development in the City of Campbelltown
DESCRIPTION OF THE PROPOSAL

The proposal consists of a building of two stories comprising seven dwellings in a row. The proposal seeks to have the dwellings facing onto the linear park and have the garaging and service aspects fronting onto a private laneway to the rear. Incidental earthworks are proposed in association with the construction of the building resulting in some retaining walls internal to the development site. The removal of some pine trees along the Pitman Road frontage are proposed but are not 'development' as the trees are not regulated or significant trees as defined under the Act.

NATURE OF THE DEVELOPMENT

The proposal comprises a type of development that is neither complying nor non-complying in the Residential Zone, Policy Area 64. The proposal is therefore considered on planning merit, taking into account the relevant provisions of the Development Plan, in accordance with Section 33 of the Development Act 1993.

As the proposal comprises a development containing a building of two stories comprising dwellings, it represents a Category 2 form of development pursuant to Schedule 9, (18)(a) of the Development Regulations 2008.

One representation was received during the period of notification. However, after direct discussions with the applicant the representor subsequently informed Council that they wished to formally withdraw their representation in relation to the proposal.
CONSULTATION WITH OTHER AGENCIES/DEPARTMENTS

External:

The nature of the development was not a type that required an external referral to any agency or department under Schedule 8.

The applicant initially sought to dispose of stormwater directly into the River Torrens from the subject site, but after initial discussions with the Adelaide and Mount Lofty Ranges Natural Resources Management Board it was considered that the proposed method was not desirable and should be disposed of into Council’s existing stormwater system. The applicant amended the drawing in respect of the proposal and Technical Services have reviewed the proposal.

Internal:

Technical Services:

The proposal was assessed by Council’s Technical Services Department in relation to traffic and stormwater methods. In relation to traffic it was considered that the proposal had a sufficient lane way width to support manoeuvring out of the garages. In addition, it was considered that each dwelling had adequate numbers of visitor car parking spaces.

Council’s Technical Services advised that they are satisfied in principle with the stormwater management plan, however would assess the final technical aspects of the proposal prior to full development approval being granted.

SUMMARY OF THE PROPOSAL

<table>
<thead>
<tr>
<th>Dwellings</th>
<th>Development Plan</th>
<th>Development Plan Provisions Met</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-4</td>
<td></td>
<td>300 (PDC 4 - PA 64)</td>
</tr>
<tr>
<td>5</td>
<td></td>
<td>No</td>
</tr>
<tr>
<td>6-7</td>
<td></td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Site Area</th>
<th>Site Area Per Dwelling (m²)</th>
<th>Development Plan Provisions (m²)</th>
<th>Development Plan Provisions Met</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwellings 1-4</td>
<td>213.7</td>
<td>300 (PDC 4 - PA 64)</td>
<td>No</td>
</tr>
<tr>
<td>Dwelling 5</td>
<td>210</td>
<td></td>
<td>No</td>
</tr>
<tr>
<td>Dwellings 6-7</td>
<td>204.1</td>
<td></td>
<td>No</td>
</tr>
</tbody>
</table>

Setbacks

<table>
<thead>
<tr>
<th>Dwellings 1-7</th>
<th>Development Plan Provisions</th>
<th>Front (m)</th>
<th>Rear (m)</th>
<th>Side (m)</th>
<th>Side (m)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>In line with the adjoining dwelling of 5m (PDC 7 - Residential Development)</td>
<td>9m</td>
<td>6m (to garage); to dwelling component average 17m.</td>
<td>1m setback for single storey; 2m for second storey. Wall can be on a boundary for a maximum length of 8m and wall height of 3m. Unless abutting a wall of the same length and height. (PDC 8 - Residential Development)</td>
<td></td>
</tr>
<tr>
<td>Development Plan Provisions Met</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>(Western Wall of Building (Dwelling 1) and Eastern Wall of Building (Dwelling 7)).</td>
<td></td>
</tr>
</tbody>
</table>
Private Open Space (to side or rear)

<table>
<thead>
<tr>
<th>Dwellings 1-4</th>
<th>Open Space Provided (m²)</th>
<th>Development Plan Provisions (m²)</th>
<th>Development Plan Provisions Met</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwellings 1-4</td>
<td>61</td>
<td>50 sqm</td>
<td>Yes</td>
</tr>
<tr>
<td>Dwelling 5</td>
<td>59</td>
<td>(for allotments under 250 sqm)</td>
<td>Yes</td>
</tr>
<tr>
<td>Dwellings 6-7</td>
<td>55</td>
<td>(PDC 30 - Residential Development)</td>
<td>Yes</td>
</tr>
</tbody>
</table>

*NOTE: The Panel has previously assessed undersized allotments in the Residential East Policy Area 64 as requiring the minimum open space as would be required for the minimum allotment size in the policy area (300sqm). Applying that method the proposal would require 75sqm per dwelling and therefore fails to satisfy that criteria.

On-site Car Parking

<table>
<thead>
<tr>
<th>Dwelling 1-7</th>
<th>On-site Parking Provided (per dwelling)</th>
<th>Development Plan Provisions (per dwelling)</th>
<th>Development Plan Provisions Met</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling 1-7</td>
<td>2</td>
<td>2 car parking spaces for a dwelling containing up to 3 bedrooms (Table PAdE/5)</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Building Materials

<table>
<thead>
<tr>
<th>Dwelling 1-7</th>
<th>Roof</th>
<th>Walls</th>
<th>Garage Doors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling 1-7</td>
<td>Colorbond Roof at 3 degrees in angle.</td>
<td>Selected face brick</td>
<td>Panel lift</td>
</tr>
</tbody>
</table>

ASSESSMENT OF THE PROPOSAL

When determining if the proposed development is a reasonable form of development for the subject site, an assessment is conducted against the relevant provisions of the Development Plan. The appropriateness of the proposal is therefore reliant on satisfying such provisions and having no unreasonable impact on adjoining properties and on the amenity and character of the locality.

Zoning and Land Use

*General Section - Residential Development Objectives: 2, 3*
*General Section - Residential Development Principles of Development Control: 1, 3*
*Zoning Objectives: 1, 2, 3, 4*
*Zoning Principles of Development Control: 1, 3, 6*
*Policy Area Objectives: 1, 3*
*Policy Area Principles of Development Control: 1, 2, 3, 4*

The subject land is located in Council’s Residential Zone and the Residential East Policy Area. The policy for both the Residential Zone and the Policy Area seeks a variety of dwelling types in the area. At its most elementary, the application proposes to continue to develop the land use in the form of dwellings that are consistent with the envisaged use for the area.
The application does propose allotment sizes that are less than the minimum allotment size for the Policy Area of 300 square metres. It is considered that this is not 'fatal' to the application per se but will need to be further assessed in the context of the other quantitative and qualitative criteria in the Development Plan. This will be discussed in further detail under the relevant headings below.

**Amenity, Character & Visual Appearance of Built Form**

*General Section - Residential Development Principles of Development Control: 5, 6, 8, 13, 14, 22, 23*

*Zoning Objectives: 3, 4*

*Zoning Principles of Development Control: 3, 6*

*Policy Area Objectives: 1*

*Policy Area Principles of Development Control: 1, 2, 3*

The proposal is situated abutting a traditional low density suburb and the River Torrens Linear Park. The locality provides a mix of built and natural settings with more mature landscaped gardens being interspersed with newer infill development; some of this development directly facing on to the Linear Park.

The application proposes to construct a building comprising seven dwellings in built form not dissimilar to that of row dwellings. Presently the site is vacant. The locality is mixed with sites to the east not directly fronting the River Torrens and having colour bond fencing bordering the reserve. To the west of the subject site, dwellings directly face the river as a result of a local road abutting Linear Park. Due to the topography of the locality there is a mix of single and two storey dwellings.

In accordance with examples in the wider locality, the proposal seeks to also construct a building two stories in height facing the river reducing to single storey at the rear as a result of the steep topography of the site. This type of design does meet PDC 8 - Residential Development of the Development Plan relating to taking advantage of the natural features of the site and reducing and significant cut and fill. It is considered that the proposal also seeks to provide for passive surveillance of Linear Park. It is considered that the design of the building assists in this regard.

The proposal seeks balconies to Linear Park, in order to reduce the ability to overlook adjoining dwellings it is recommended that if the Panel were consent to the application that a condition be provided that provides a visual barrier up to 1.7m between each balcony up to the posts of the balcony so as to restrict direct overlooking into adjoining dwelling's habitable rooms.
Access, Car Parking and Manoeuvring Areas

*General Section - Residential Development Principles of Development Control: 17, 50, 52
Table PAdE/5*

The proposal seeks to construct an access way (internal roadway) from Pitman Road to enable access to the building containing seven dwellings and another two allotments (with dwellings to be developed in the future).

The application was considered by Council's Technical Services section advising that they had no concern with the proposal in terms of manoeuvring and car parking arrangements.

The Development Plan states that each dwelling should have two car parking spaces each. As provided in the "Summary of the Proposal" section the proposal meets the quantitative criteria.

**Setbacks**

*General Section - Residential Development Principles of Development Control: 20, 23, 25
Zoning Principles of Development Control: 7, 8*

The Development Plan provides quantitative criteria in respect of setbacks for new buildings so as to contribute to the amenity and character of the area. As discussed in the 'summary of the proposal' section, the building generally complies with the front and rear setbacks. It is considered that the front setback proposed is unlikely to impinge upon the spacious quality exhibited in the River Torrens Linear Park. The rear setbacks are approximately 6-8m from the rear boundary, also meeting the quantitative provisions of the Development Plan.

In respect of the side boundaries, the development is innovative in that small courtyards are provided in between the different dwellings breaking up the built form whilst maintaining a legible connection to the garaging. On the whole the proposal does ensure that walls between dwellings align with one another exemplifying the intention of *PDC 9 (c) - Residential Development*.

The building proposes to be built one metre from the side boundaries of Dwelling 1 and Dwelling 7, interfacing with the future allotments east and west respectively. In this regard the proposal does not meet the quantitative criteria of *PDC 8 - Residential development*, which states that:

> (8) *Dwellings not sited on side boundaries should have side walls that are set back at least:*

> …

> (c) 2 metres (plus any increase in wall height above 6 metres) where the maximum height of the wall is above 6 metres.

It is considered that the rationale for the quantitative provisions is guided by the more general provisions of *Design and Appearance* pertinent to *PDC 4*, which states:

> (4) *Where a building is sited on or close to a side boundary, the side boundary wall should be sited and limited in length and height to minimise:*

> (a) The visual impact of the building as viewed from adjoining properties

> (b) Overshadowing of adjoining properties and allow adequate sun light to neighbouring buildings.*
It is considered that the setback is a variance from the Development Plan, however is satisfactory because:

- The difference between natural ground level to the adjoining allotment and the cut of the building will reduce the building height as viewed from the adjoining allotment;
- That the adjoining allotment is large so as to not be affected by overshadowing to a significant degree to offend the overshadowing provisions in the development plan.
- That the wall provides some visual relief through the brick face design, rather than a hebel rendered surface.

It is acknowledged that whist the proposal has variances from the recommended setbacks in the Development Plan; these departures from the Development Plan are not considered to be detrimental to the overall concept of this application.

**Overlooking**

*General Section - Residential Development Principles of Development Control: 9, 10, 11*

The proposal seeks to construct a two storey building containing dwellings. Due to the fall of the land some retaining will be required. However the following is noted in relation to overlooking:

- The levels between the dwellings will be the same;
- Private open space will be at similar levels to adjoining dwellings;
- A condition will provide screening between the balconies in order to provide some privacy to adjoining balconies.

It is considered that the overlooking potential to adjoining properties is suitably mitigated by the reasons above and meets the visual privacy provisions in the Development Plan.

**Private Open Space**

*General Section - Residential Development Principles of Development Control: 29, 30, 32, 33*

The proposal seeks to incorporate in each dwelling between 55-61 square metres of private open space. Calculation of private open space was calculated via the areas in red below:
It is considered that the proposal meets the PDC 30 - Residential Development in relation to the minimum square metres per dwelling and the qualitative criteria. The private open space at the front of the dwellings facing on to the Linear Park has not been calculated. However, it is considered that the area is semi-private due to the low levels of passing traffic.

CONCLUSION

This application has been assessed on its individual planning merits and although the proposed allotments for the building are below the recommended minimum allotment size for the Residential East Policy Area, this assessment concludes that, on balance, the proposal demonstrates sufficient value to achieve the zoning objectives and desired future character within this context. The proposal will make efficient use of well serviced land in producing additional dwellings that can comfortably meet the requirements for residential development.

The most poignant shortfall in this proposal is the aforementioned allotment size; however there are also deficiencies in regard to the area of side setbacks for the proposed end dwellings. Nevertheless, it is concluded that the proposed development reasonably satisfies the qualitative provisions of the Development Plan in terms of functional private open space and built form consistency, and such, represents a positive outcome for the subject site.

The locality demonstrates an opportunity for infill development with transport routes, public open spaces and varied land uses with 500m. The proposal represents an opportunity to contribute to the provision of diversity in housing stock that can meet the needs of all people within a community.

It is concluded that the proposed residential allotments offer appropriate area, configuration, dimensions and gradients to provide for the siting and construction of a functional dwelling, useable areas of private open space and sufficient and convenient vehicle access and parking. On this basis, it is unlikely that the allotment size alone will have any undue impact on the quality of living for future residents on this site or other sites in the locality.

On balance, the proposed development adequately meets the majority of the Development Plan requirements. It is therefore considered that the proposal has sufficient planning merits to warrant the granting of Development Plan Consent.

The relevant application details have been provided to all Members. (Refer Attachments)

CITY PLAN

A diverse range of socially and environmentally appropriate housing to meet community needs and expectations. (Objective)

A vibrant and attractive City that is well-planned and accessible, with safe and healthy places to live, work and play. (Goal)

CORPORATE PLAN

Provide an efficient and effective development assessment service. (Strategy)

Monitor and enforce the quality and standard of development approvals. (Strategy)
RECOMMENDATION

That the Port Adelaide Enfield Development Assessment Panel resolves that:

1. Pursuant to Section 35(2) of the Development Act 1993, the proposal is NOT considered to be seriously at variance with the relevant provisions of the Port Adelaide Enfield (City) Development Plan.

2. Pursuant to Section 33 of the Development Act 1993, Development Application No. 040/2019/15 by House and Land SA for a building of two storeys comprising seven dwellings, with associated earthworks and retaining walls, at 109 Pitman Road, WINDSOR GARDENS SA 5087 be GRANTED Development Plan Consent subject to the following conditions:

   2.1 Except where minor amendments may be required by other relevant acts, or by conditions imposed by this application, the development is to be established in strict accordance with the endorsed stamped details and plans submitted in Development Application 040/2019/15 and all works shall be completed to the reasonable satisfaction of Council prior to the occupation and/or use of the development.

   2.2 All car parking spaces, driveways and associated manoeuvring areas shall be sealed in bitumen, concrete or brick pavers prior to first occupation of the site.

   2.3 Driveway, manoeuvring areas, car parking spaces, and landscape areas shall not be used for the storage or display of any materials or goods.

   2.4 The upper level window(s) to the sides and rear shall be fixed obscured glass and not openable up to 1.7m from the finished floor level of the upper storey.

   2.5 The applicant shall submit amended plans which show screening provided to the sides of the herein approved balconies, the screening shall be a minimum of 1.7m high from the finished floor level of the upper story to meet the reasonable satisfaction of Council prior to the issue of Development Approval.

   2.6 The applicant shall submit a detailed stormwater management plan specifying how stormwater from buildings and paved areas shall be captured, stored, reused or disposed of. Such design shall be in a manner and with materials which meet with the reasonable satisfaction of Council prior to the issue of Development Approval.

   2.7 All stormwater works shall be completed in a manner and with materials which meet with the approved drainage design and to the reasonable satisfaction of Council prior to the occupation of the development herein approved.

Advisory Notes

- The applicant and owner are reminded that temporary fencing should be provided during demolition and construction, or where the site is left vacant, to ensure privacy and security to adjoining properties and to restrict wind-blown soil and sand.

- The granting of this consent does not remove the need for the applicant to obtain all other consents that may be required by other statutes or regulations.
• The applicant is advised that any works (stormwater connections, driveways, etc.) undertaken on Council owned land will require the approval of Council's Technical Services Department, prior to any works being undertaken. Further information may be obtained from the Technical Services Department on telephone (08) 8405 6600.

• The Local Government Act 1999 provides that the Council may adopt, alter or substitute a numbering system for buildings and allotments. It is an offence to adopt a number that is inconsistent with the numbering system by the Council.

Maximum Penalty: $2,500 fine

To ascertain the number(s) that must be used, contact the Council's Street Numbering Officer on telephone 8405 6811.

• This application involves development located on the boundary or within close proximity to the boundary of the allotment. To ensure that the proposed development is constructed within the allotment, it is recommended that a site survey be undertaken to confirm the location of the relevant boundaries.

• The Environment Protection (Water Quality) Policy 2015 requires any person who is undertaking an activity, or is an occupier of land to take all reasonable and practicable measures to avoid the discharge or deposit of waste from that activity or land into any waters or onto land in a place from which it is likely to enter any waters (including the stormwater system).

The policy also creates offences that can result in on-the spot fines or legal proceedings. The following information is provided to assist you to comply with this legislation:

(1) Building and construction must follow sediment control principles outlined in the Stormwater Pollution Prevention – Code of Practice for the Building and Construction Industry (EPA, 1999). Specifically, the applicant must ensure:
- During construction no sediment should leave the building and construction site. Appropriate exclusion devices must be installed at entry points to stormwater systems and waterways.
- A stabilised entry/exit point should be constructed to minimise the tracking of sand, soil and clay off site. However, should tracking occur, regular clean-ups are advised.

(2) Litter from construction sites is an environmental concern. All efforts should be made to keep all litter on site. The applicant should ensure that bins with securely fitted lids, capable of receiving all waste from building and construction activities, are placed on site.

(3) All building and construction wastewaters are listed pollutants under the Environment Protection (Water Quality) Policy 2015 and as such must be contained on site.

It is important that you familiarise yourself with the terms of the Policy and ensure that all contractors engaged by you are aware of the obligations arising under it. For further information please contact the Environment Protection Authority on telephone 8204 2004.
Reason(s) for Development Plan Consent

- To ensure the development proceeds in an orderly manner.
- To ensure no undue loss of privacy for neighbours.
- To ensure stormwater is disposed of in a controlled manner.