



Penrith Local Planning Panel

Determination and Statement of Reasons

APPLICATION NUMBER	DA21/0225 – 27 & 28 Park Avenue KINGSWOOD NSW 2747
DATE OF DETERMINATION	21 July 2021
PANEL MEMBERS	Jason Perica (Chair) John Brunton (Expert) Mary-Lynne Taylor (Expert) Stephen Welsh (Community Representative)
DECLARATIONS OF INTEREST	No conflicts of interest were declared
SPEAKERS	Wendy Spinks – Resident Elaine Talbert - Resident

Public Meeting held via video conference on Wednesday 21 July 2021, commencing at 2:00pm.

Matter Determined pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979

Development Application DA21/0225, Lot 11 DP 29528 & Lot 12 DP 29528 at Nos. 27 & 28 Park Avenue KINGSWOOD NSW 2747 - Demolition of existing structures and construction of 2-3 storey boarding house containing 64 rooms and a manager's residence, basement parking, landscaping and stormwater works.

Panel Consideration

The Panel had regard to the assessment report prepared by Council Officers, supplementary memorandum dated 20 July 2021 prepared by Council Officers, submissions received, and the following plans;

- Penrith Local Environmental Plan 2010
- Penrith Development Control Plan 2014
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land

In terms of considering community views, the Panel noted there were 31 unique submissions received from the public notification of the Development Application.

The Panel agreed with the assessment of issues raised, as outlined in the Council report.

Panel Reasons & Decision

DA21/0225 at 27 & 28 Park Avenue KINGSWOOD for Demolition of existing structures and construction of 2-3 storey boarding house containing 64 rooms and a manager's residence, basement parking, landscaping and stormwater works be refused for the following reasons:-

1. The Panel considers this application to be an unsatisfactory over development of the site noting that there are non-compliances with Council's Local Environmental Plan and Development Control Plan that have unsatisfactory impacts on the amenity of the neighbourhood and does not achieve the necessity of being consistent with the character of the area.
2. The Panel agrees with the Council officer's assessment of the application and adopts the recommended reasons for refusal as follows:

- 1. The application is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the provisions of Penrith Local Environmental Plan 2010 as follows:**

- **Clause 2.3 Zone objectives: The proposal is inconsistent with the following objectives of the R3 Medium Density Residential zone:**
 - **To enhance the essential character and identity of established residential areas;**
 - **To ensure that a high level of residential amenity is achieved and maintained; and**
 - **To ensure that development reflects the desired future character and dwelling densities of the area.**
- **Clause 4.3 Height of Buildings: The proposal is non-compliant with the maximum height of building permitted for the site.**
- **Clause 4.3(1) objectives: The proposal is inconsistent with the objectives of Clause 4.3 of Penrith Local Environmental Plan 2010, specifically:**
 - **To ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,**
 - **To minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,**
- **Clause 4.6 Exceptions to development standards:**
 - (a) The written request to contravene the Height of Building development standard as required by subclause (3) of Penrith Local Environmental Plan 2010 under clause 4.6 of that Plan provided by the applicant did not:-**
 - **include sufficient environmental planning reasons to support the variation,**

- justify why the adverse impacts are acceptable.

(b) In relation to subclause 4.6(4) of Penrith Local Environmental Plan 2010, the proposed development will not be in the public interest because:-

- it is not consistent with the objectives of the development standard in relation to the bulk and scale of the desired future character of the locality, and will not contribute to a high-quality urban form

- it is not consistent with the objectives for development in the R3 zone as it will not achieve a high level of residential amenity or reflect the desired future character of the area, and exceeds the desired dwelling density.

2. The application is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 as follows:

- Part 2, Division 3, Clause 29(2)(a) Building Height;
- Part 2, Division 3, Clause 29 (2)(b) Landscaped area;
- Part 2, Division 3, Clause 29(2)(e) Parking; and
- Part 2, Division 3, Clause 30A Character of local area.

3. The development application is not satisfactory for the purpose of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposal is inconsistent with the following provisions of Penrith Development Control Plan 2014:

- Chapter C1 Planning and Design Principles
- Chapter C5 Waste Management and accompanying Waste Management Guideline
- Chapter C10 Transport, Access and Parking
- Chapter C12 Noise and Vibration
- Chapter D2 Residential Development
- Chapter D4 Other Land Uses

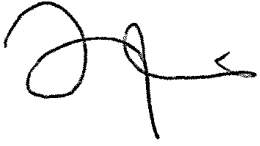


4. The application is not satisfactory for the purpose of Section 4.15(1)(b) of the Environmental Planning and Assessment Act in terms of the likely impacts of the development, including:

- The development is not compatible with the existing and desired future character of the immediate locality in terms of building design, siting, massing, scale and height.
- The proposal provides inadequate front and side setbacks to suitably integrate the development into the existing local character, maintain surrounding residential amenity, and provide appropriate landscape treatment of the site.

- The proposal has not suitably demonstrated that the existing lemon scented gum located at the front of the site that is proposed to be retained, is achievable due to the proximity of the development to the tree. This tree contributes to the surrounding character and streetscape amenity.
 - The proposal does not provide a suitability level of internal amenity stemming from the layout and inadequate provision of communal living area.
 - The proposal provides an insufficient number of onsite car parking spaces to service the development. The development is considered to be an over-development of the site.
 - The application has not demonstrated that onsite waste collection can safely and effectively occur on the site, to service the development.
 - The waste collection room does not meet Council requirements in terms of size and design.
 - The accompanying Acoustic Assessment report provides insufficient information to demonstrate that the development will not result in negative noise impacts on surrounding sensitive receivers and that the development will comply with relevant noise levels for occupants of the development.
5. The application is not satisfactory for the purpose of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 as the site is not suitable for the proposed development.
 6. The application is not satisfactory for the purpose of Section 4.15(1)(e) of the Environmental Planning and Assessment Act as the proposal is not in the public interest, and would create an undesirable precedent.
 7. The application is not satisfactory for the purpose of Section 4.15(1)(d) of the Environmental Planning and Assessment Act due to matters raised in submissions which include:
 - Compatibility of the development with the surrounding local character
 - Amenity and acoustic impacts
 - Car parking impacts

Votes

The decision was unanimous.

Jason Perica – Chair 	John Brunton – Expert 
Mary-Lyne Taylor – Expert 	Stephen Welsh – Community Representative 