

**ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979
NOTICE OF DETERMINATION OF APPLICATION**

27 March 2019

Baini Design
PO Box 2402
NORTH PARRAMATTA NSW 1750

Dear Sir/Madam

Pursuant to Section 4.16 of the Act, Council has refused to grant approval to your Development Application described as follows:

PROPERTY: Lots 26 & 27, section 7, DP 734

STREET ADDRESS: 70 Cardigan Street Guildford

REFUSAL NO. 2018/293/1

DECISION: Cumberland Local Planning Panel

PROPOSED DEVELOPMENT: Demolition of existing structures, consolidation of two lots into 1 lot and construction of a 4 storey boarding house accommodating 11 rooms (15 lodgers) and a manager's room, over basement parking accommodating 6 parking spaces and 2 motorcycle spaces

This Development Application is **REFUSED** in accordance with the Environmental Planning & Assessment Act 1979. The reasons for refusal are set out below.

NOTES:

1. Section 8.2 of the Act provides that an applicant may request, within 6 months of the date of determination of the Development Application, that the Council review its determination (this does not apply to designated development). A fee is required for this review.

It should also be noted that an application under Section 8.2 of the Act cannot be reviewed/determined after 6 months of the date of determination. Therefore, the submission of a Section 8.2 application must allow sufficient time for Council to complete its review within the prescribed time frame, including the statutory requirement for public notification.

2. Section 8.10 of the Act provides that an applicant who is dissatisfied with the Council's determination of the Development Application may appeal to the Land and Environment Court within six (6) months of the date of determination, or as otherwise prescribed.

REASONS FOR REFUSAL

Landscaped area

1. Clause 29(2)(b) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP (ARH)) requires the consent authority to consider whether the landscape treatment of the front setback area of a proposed boarding house is to be compatible with the streetscape in which the building is located. The landscape treatment of the front setback area of the proposed development is not considered to be compatible with the streetscape in that the majority of the setback is paved and there is very limited soft landscaping provided.

Solar access

2. Clause 29(2)(c) requires the consent authority to consider whether the communal living room will receive a minimum of 3 hours direct solar access between 9 am and 3 pm at mid-winter. The information provided indicates that the communal living room will receive less than 3 hours direct solar access at mid-winter.

Maximum size of boarding rooms

3. Clause 30 (1)(a) requires that the consent authority must not consent to development for a boarding house where any boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 m². Rooms 4 and 7 of the proposed development have a floor area greater than 25 m².

Kitchen facilities

4. Clause 30(1)(d) requires that the consent authority must not consent to development for a boarding house unless adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger. The kitchenette facilities provided within each room are not sufficient and there are no common kitchen facilities proposed.

Bicycle and motorcycle parking

5. Clause 30(1)(h) requires that the consent authority must not consent to development for a boarding house unless a minimum of one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms. The proposed development requires a minimum of 3 motorcycle spaces and 3 bicycle spaces and only two of each are proposed.

Character of the local area

6. Clause 30A of the SEPP (ARH) requires that the consent authority must not consent to development for a boarding house unless it is satisfied that the proposal is consistent with the character of the local area.

The proposed development is not considered to be compatible with the character of the local area in terms of the physical characteristics of the building, the overshadowing impacts on the adjacent property to the south, and the relationship of the proposed building to the site and the streetscape.

Holroyd Development Control Plan (HDCCP) 2013

7. The development as proposed does not comply with the following provisions of HDCCP 2013:

- a. *Section 4, Part A – Tree and landscape works*

The proposed landscaping does not enhance the streetscape or setting of the development and does not allow for appropriate screening of the development from the side boundaries.

- b. *Section 6.3, Part A – Erosion and sediment control*

An erosion and sediment control plan was not submitted with the application.

- c. *Section 1.5, Part B – Landscape area*

8.7% of the site is proposed to be soft landscaped where a minimum of 30% is required.

- d. *Section 1.8, Part B – Sunlight access*

The proposal results in overshadowing of existing dwellings to the south such that they will receive no solar access to their living areas or private open spaces at mid-winter.

- e. *Section 1.9, Part B – Cut & fill*

HDCCP requires that fill in excess of 600 mm be contained within the building envelope. The proposal involves 1 m of fill within the front setback and directly adjacent to the northern boundary.

- f. *Section 6.2, Part B – Site coverage*

The proposal has site coverage of 35% where a maximum of 30% is permitted.

- g. *Section 6.3, Part B – Setbacks and separation*

The proposal provides for building separation of 7.5 m to the southern adjoining neighbour, and 7 m to the northern adjoining neighbour where a minimum of 12 m is required.

h. Section 6.7, Part B – Building appearance

The proposed design does not provide for appropriate scale, rhythm or proportion and as such would have adverse streetscape impacts.

i. Section 6.8, Part B – Building entry and pedestrian access.

The proposal does not provide for disabled access from Cardigan Street to the building entry.

j. Section 7.0, Part B – Controls for landlocked sites

The proposed development does not achieve a satisfactory level of solar access, privacy or amenity for either the existing adjacent dwellings, or the proposed boarding rooms. The proposed design would detract from the character of the streetscape.

Amenity of proposed boarding house

8. The development as proposed will not provide for adequate residential amenity for future occupants as detailed below:
 - a. The proposal provides for a total of two washing machines and one laundry tub within the common laundry on level 1. This is not considered sufficient for the number of occupants proposed.
 - b. The high sill windows proposed to habitable rooms on the northern elevation will compromise light and outlook to those rooms.

Suitability of the site for the proposed development

9. The subject site is not considered suitable for the development as proposed due to the inadequacies detailed above (section 4.15(c) of the Environmental Planning and Assessment Act 1979).

Environmental impact

10. Due to the deficiencies detailed above, the likely environmental impacts of the proposed development are considered to be unacceptable (section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979).

Public interest

11. Due to the deficiencies detailed above, approval of the proposed development would be contrary to the public interest (section 4.15(1) (d) & (e) of the Environmental Planning and Assessment Act 1979).

Yours faithfully

Sohail Faridy
COORDINATOR DEVELOPMENT ASSESSMENT