VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

|  |  |
| --- | --- |
| planning and environment LIST | vcat reference No. P1852/2020  Permit Application no. TPA/51386 |

|  |  |
| --- | --- |
| APPLICANT | Zlatko Kovanoski |
| responsible authority | Monash City Council |
| SUBJECT LAND | 27 Westbrook Street, Chadstone |
| HEARING TYPE | Hearing |
| DATE OF HEARING | 16 March 2021 |
| DATE OF ORDER | 17 March 2021 |
| CITATION | Kovanoski v Monash CC [2021] VCAT 228 |

# Order

### Conditions changed

1. In application P1852/2020 the decision of the responsible authority is varied.
2. The Tribunal directs that planning permit TPA/51386 must contain the conditions set out in planning permit TPA/51386 issued by the responsible authority on 8 October 2020 with the following modifications:
   1. Condition 1(a) is deleted.
   2. A new condition 1(a) is included as follows:

1(a) The building materials and/or finishes of the western ground floor level elevation of either unit 3 or 4 varied to reduce the extent of face brickwork in the horizontal plane.

* 1. Condition 1(b) is amended to read:

1(b) Inclusion of a small verandah, pergola or awning added to the west facing living room of unit 1.

1. The responsible authority is directed to issue a modified planning permit in accordance with this order.

|  |  |  |
| --- | --- | --- |
| **S McDonald**  **Member** |  |  |

# Appearances

|  |  |
| --- | --- |
| For applicant | Tim Radisich, Town Planner,  Associated Town Planning Consultants. |
| For responsible authority | James Turner, Principal Planner – Appeals Advisor, Monash City Council. |

# Information

|  |  |
| --- | --- |
| Description of proposal | Construction of four double-storey dwellings. |
| Nature of proceeding | Application under section 80 of the *Planning and Environment Act 1987* – to review the conditions contained in the permit. |
| Planning scheme | Monash Planning Scheme. |
| Zone and overlays | General Residential Zone – Schedule 2 (GRZ2); Vegetation Protection Overlay – Schedule 1 (VPO1). |
| Permit requirements | Clause 32.08-6: To construct two or more dwellings on a lot in the GRZ2. |
| Land description | The review site is located on the north-eastern corner of Westbrook Street and Murphy Street. It is rectangular, with a frontage to Westbrook Street (along the southern boundary) of 18.3 metres, and to Murphy Street (along the western side boundary) of 44.2 metres. The land has a fall of approximately 3 metres from the north-eastern corner down to the southern boundary at the front of the site.  The land is located in a residential area comprising a mix of single and double-storey dwellings, and a mix of detached houses and townhouses. |

# Remarks

1. This is an application under section 80 of the *Planning and Environment Act 1987* to review the conditions contained in the permit issued the construction of four, double-storey dwellings on the land at 27 Westbrook Street, Chadstone.
2. The permit conditions in dispute are:

* Condition 1(a) which requires the plans to be amended to show a 2 metre separation at ground level between unit 3 and unit 4.
* Condition 1(b) which requires the plans to be amended to reconfigure the layout for unit 1 so that a small verandah or awning could be added to the west facing living room while still providing a minimum secluded private open space area of 35m2.

1. At the commencement of the hearing the issue relating to condition 1(b) was resolved by agreement of the parties to amend the drafting of this condition. The agreed rewording of that condition is included in this Order.
2. The remaining issue is whether the requirement under condition 1(a) for units 3 and 4 to be separated by 2 metres at ground floor level is warranted and reasonable. I found that condition 1(a) is not warranted or reasonable, but that it should be replaced with a new condition requiring changes to the building materials and finishes of the ground floor level of units 3 and 4.
3. Reasons for this decision were given orally at the conclusion of the hearing.

|  |  |  |
| --- | --- | --- |
| **S McDonald**  **Member** |  |  |