



Building and Development Dispute Resolution Committees—Decision

Sustainable Planning Act 2009

Appeal Number:	16-10
Applicant:	Cathrine Mary Taylor
Assessment Manager:	Sunshine Coast Regional Council (Council)
Concurrence Agency: (if applicable)	N/A
Site Address:	20 Cinnamon Avenue, Coolum Beach and described as Lot 271 on RP 89622 – the subject site

Appeal

Appeal under section 527(1)(a) of the *Sustainable Planning Act 2009* (SPA) against the decision of Council to refuse a development application for preliminary approval for building work (siting variation) relating to a proposed class 10a carport and fence, within the front boundary setback of the subject site.

Date of hearing:	2.00pm – Friday, 7 May 2010
Place of hearing:	The subject site
Committee:	Mr John Panaretos – Chair Mr Michael Walton – Referee
Present:	Ms Cathrine Taylor – Applicant Mr Geoff Sweet – Resident Mr Fred Vicary – Sunshine Coast Regional Council Representative

Decision:

In accordance with section 564(2)(a) of the SPA, the Committee **confirms** the decision of Council to refuse a building development application for a class 10a carport within the front boundary setback, and the appeal is dismissed.

Background

The subject site contains a low set house, set approximately 6.6 metres back from the front alignment, incorporating a single car garage which also acts as a drive-through to the rear yard. The subject site is generally flat and unconstrained.

The applicant seeks to erect a double carport, 6 metres wide x 7 metres long accessed directly from the street.

On 17 February 2010, the applicant applied for a preliminary approval seeking an alternative solution to acceptable measure A2.4 (carport setbacks: 4.5 metres) of the Code for the Development of Detached Houses and Display Homes.

Council refused the application by its decision notice dated 23 February 2010, on the basis of non-compliance with Element 1, Performance Criteria P2 of the Code which states:

P2 Buildings and structures are sited to contribute positively to the streetscape, maximize community safety, and maintain the amenity of adjacent land and dwellings by having regard to the following:

- a) views and vistas;*
- b) building character and appearance;*
- c) casual surveillance; and*
- d) an adequate area suitable for landscaping being provided for at the front of the lot.*

Material Considered

The material considered in arriving at this decision comprises:

1. 'Form 10 – application for appeal/declaration', grounds for appeal, supporting plans, photos and other documentation lodged with the Registrar on 11 March 2010.
2. Council's decision notice, dated 23 February 2010.
3. Verbal submissions from both parties made at the hearing.
4. A written submission presented by the Council representative at the hearing.
5. Photos and written submission submitted by the applicant to the Registrar on 9 May 2010.
6. Maroochy Shire Planning Scheme, in particular, Code 4.1, Code for the Development of Detached Houses and Display Homes.
7. Queensland Development Code (QDC) – Part MP1.2.
8. The SPA.

Findings of Fact

The Committee makes the following findings of fact:

- The proposed carport is designed with a skillion roof of sufficient height to overhang the roof of the house. Despite not being shown on submitted plans, the applicant proposed a horizontal batten finish to the upper part of the structure.
- Although the submitted site plan showed minimal setback, in later correspondence the applicant proposed a 1.3 metre setback to the front alignment and 0.5 metre setback to the southern side boundary.
- The subject site is located in the Neighbourhood Residential, Coolum Beach North precinct of Planning Area 11 of the Maroochy Planning Scheme, a precinct in which the Code for the Development of Detached Houses and Display Homes applies.
- The Council representative indicated that the carport offended against items a), b) and d) of the criteria, but suggested two alternative solutions, involving the widening of the existing garage, or placement of a single car structure within the front setback, parallel to the street but screened by landscaping. These alternatives were not acceptable to the applicant.
- In support of the proposal, the applicant indicated that the carport would be integrated with a front fence and automatic gate to an aesthetically high standard, which would break down the scale of the

structure, provide privacy and security, and present a tidier streetscape. The applicant also presented nearby locations where carports encroached into the front setback.

- The Council representative indicated that at least two of the structures appear to have been built without authorization and the third pre-dates the current planning scheme.
- Finally, the applicant referred to a recent Council display which indicated Cinnamon Avenue will have an increase in traffic volume in Council's planning.

Reasons for the Decision

- The Committee found that the location for the proposed carport would not contribute positively to the streetscape having regard to its scale which would not complement the existing character of the house, and the impact on views and vistas.
- The existing streetscape was generally consistent in character, with complying front setbacks and landscaped front yards. It is unlikely that more detailed plans showing aesthetic treatment of the structure, as proposed, could better address the relevant performance criteria.
- Despite the applicant's admirable intentions to improve the appearance, security and function of the house, the extent of conflict with performance criterion P2 was unacceptable.

John Panaretos
Building and Development Committee Chair
Date: 2 June 2010

Appeal Rights

Section 479 of the *Sustainable Planning Act 2009* provides that a party to a proceeding decided by a Committee may appeal to the Planning and Environment Court against the Committee's decision, but only on the ground:

- (a) of error or mistake in law on the part of the Committee or
- (b) that the Committee had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.

The appeal must be started within 20 business days after the day notice of the Committee's decision is given to the party.

Enquiries

All correspondence should be addressed to:

The Registrar of Building and Development Dispute Resolution Committees
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