



APPEAL

File No. 3/03/007

Integrated Planning Act 1997

BUILDING AND DEVELOPMENT TRIBUNAL - DECISION

Assessment Manager: Logan City Council

Site Address: 948 Rochedale Road, Rochedale South

Nature of Appeal

The appeal is against the decision of the Logan City Council to refuse an application seeking an amendment to delete portion of the front veranda and the entire right hand side veranda in relation to a previous approval dated 23 October 2002, for an amenity and aesthetics assessment of a Class 1a removal dwelling.

Date and Place of Hearing: 9.00 am Wednesday 26 February 2003
Inspection of the dwelling located at 948 Rochedale Road, Rochedale South, followed by a hearing at Logan City Council City Council Administration Centre, 150 Wembley Road, Logan Central.

Tribunal:

Phil Locke	-	Aesthetics Referee
Jenny Owen	-	Aesthetics Referee
L F Blumkie	-	Aesthetics Referee (Chairperson)

Present:

Applicants / Owners		
Observer		
Councillor Peter Collins	-	Logan City Council
Mr Philip Leung	-	Logan City Council
Mr L Blumkie	-	Tribunal Chairperson
Ms Jenny Owen	-	Tribunal Member
Mr P Locke	-	Tribunal Member

Decision

The Tribunal changes the decision by Logan City Council and varies the conditions of the original approval, with the consent of the appellant, to allow the deletion of the side veranda subject to the following conditions:-

1. The roof to the front veranda is for the full width of the house and the fascia is in line for the full width of the veranda roof.
2. The roof to the front veranda, steps etc is in accordance with the plan submitted to the Registrar on Friday 7 March 2003 and marked 'A' (Copy attached).
3. The landscaping is in accordance with the plan submitted to the Registrar on the 3 March 2003 and marked 'B' (Copy attached).
4. The roof to the carport is changed from a flat roof to a gabled roof and is in accordance with the plan submitted on Friday 7 March 2003 and marked 'A' (Copy attached).
5. The owner submits to the Tribunal satisfactory detail sections through the roof of the front veranda at both the 2m and 4m length of roof showing the fixings to the existing house and heights at the outer edge of the veranda before the roof is constructed.
6. The owner discusses with the left hand side neighbour (when viewed from the street) and reaches agreement on the extent, choice of material and height of the boundary fence, and obtains any necessary approvals from the Logan City Council.
7. The work required under conditions 1 to 3 is completed within 2 months of this decision.
8. All to be completed in the accordance with the requirements of Queensland building legislation.

Background

- Logan City Council granted approval to relocate a removal house to the subject property on the 23 October 2002.
- The approval was subject to a number of conditions none of which referred to the plans accompanying the application.
- The plans accompanying the application however, indicated a new veranda on the front, rear and right hand side when viewed from the street.
- The owner obtained development approval from Logan Development Services on the 28 October 2002.
- It is noted the development approval plans were different to the plans submitted as part of the amenity and aesthetics assessment application. They were different in that the front veranda was reduced in size and the side veranda was deleted.
- The owner having obtained the development approval proceeded with the relocation of the removal house.
- Further amendments were made to the proposal including relocation of the carport to the front of the house and changes to the location of the house on site, which were subsequently approved by Logan Development Services.
- The owner received a facsimile dated 6 January 2003 and a letter from Logan City Council dated 14 January 2003 advising that the development was not in accordance with the approval dated 23 October 2002.

- On the 14 January 2003 the owner made an amended application to the Logan City Council for amenity and aesthetics assessment. This proposal deleted the majority of the front veranda and the total side veranda.
- On the 22 January 2003 Logan City Council refused to grant approval for the modified design on amenity and aesthetic grounds.
- An appeal was received by the Registrar on the 12 February 2003.

Material Considered

In coming to a decision, consideration was given to the following material: -

1. Logan City Council approval dated 23 October 2002 to relocate the removal house.
2. Plans accompanying the application for amenity and aesthetic assessment.
3. Plans approved by Logan Development Services on the 28 October 2002.
4. Facsimile dated 6 January 2003 and a letter from Logan City Council dated 14 January 2003 advising of the non-compliance.
5. Amended plans submitted with the application to review the amenity and aesthetics proposal.
6. Amended plans relocating the carport etc approved by Logan Development Services.
7. Letter from the Logan City Council dated 22 January 2003 refusing the proposed changes to the amenity and aesthetics application.
8. Written submissions from the adjoining neighbour on the left-hand side of the subject property.
9. Written submission from the adjoining neighbour on the right-hand side of the subject property.
10. Site plan showing proposed landscaping.
11. Amended plans forwarded to the Registrar on 3 and 7 March 2003.
12. Correspondence from the owner dated 3 March 2003.
13. Verbal submissions by the owner on 26 February 2003.
14. Verbal submissions by Councillor Peter Collins and Philip Leung of Logan City Council setting out Council's reasons for refusal.
15. The Standard Building Regulation.
16. The Building Act.
17. The Integrated Planning Act.

Findings of Fact

Section 50 of the Standard Building Regulation grants power to local government to establish an amenity and aesthetics policy.

Logan City Council adopted an Amenity and Aesthetics Policy under Section 50 of the Standard Building Regulation on 5 May 1998, which amongst other things required class 1a removal houses to be assessed by Council on the amenity and aesthetics aspects of the proposed building work.

The policy does not stipulate any specific conditions, which need to be satisfied.

The removal house as approved in the original amenity and aesthetics assessment was high set timber framed house with a hip roof and had verandas on the front, right hand side and rear.

The Logan City Council approved the relocation of the house into the Rochedale South neighbourhood.

An inspection of the neighbourhood indicated similar houses, some with verandas on the front and some with verandas on the front and rear.

No houses were observed in the neighbourhood with verandas on three sides.

The Council representative advised at the hearing as follows:-

- Council was satisfied that the proposal was not in extreme conflict with the amenity or likely amenity of the building's neighbourhood.
- Council believed the aesthetics of the building without the front and side verandas was in extreme conflict with the character of the building's neighbourhood. (It was noted that the decision of Council did not state that the proposal was in **extreme** conflict)

Reasons for the Decision

The Logan City Council's Amenity and Aesthetics Policy, appears to have been correctly established and is applicable to the site.

In the opinion of the Tribunal

- The inclusion of the side veranda would have an **extremely** adverse effect on the **amenity** of the adjoining owner on the lower side. Because of the levels and the height of the proposal it would be possible to view from the veranda directly down on the adjoining allotment and the proposed new house.
- The deletion of the side veranda did not cause the aesthetics of the building to be in **extreme conflict** with the character of the building's neighbourhood.
- The proposed roof to the front veranda was not properly considered. It did not have the same clean straight fascia lines as proposed in the original application and needed revision.
- The direction of the steps did not take into account the fall of the ground and required further consideration.
- The relocated carport to the front of the house with a flat roof had detrimental effect on the overall appearance of the house and improvements could be made with minimal cost.
- The proposed landscaping and choice of materials was not clear on the drawings. The completion of the landscaping would also assist in enhancement of the completed project.
- The cut and fill of the site had an impact on the effectiveness of boundary fencing, and approvals for a variation on fence heights may be necessary to provide adequate amenity for the adjoining neighbours.

The above matters were discussed in detail with the appellant and he agreed at the hearing to:-

- Amend the application to include a full width roofed veranda to the front and submit amended drawings to the Tribunal.
- Provide a detailed landscaping plan to the Tribunal.
- Discuss and agree with the adjoining left hand side neighbour (when viewed from the street) as to the height, style and choice of materials for the dividing fencing and if required, submit an application to Logan City Council to vary the fence height.
- Change the roof of the carport to a gabled style and submit amended drawings to the Tribunal.
- Obtain a written response from the adjoining neighbour on the right hand side (when viewed from the street) regarding his concerns if the side veranda was constructed and submit same to the Tribunal.
- Submit the above documents, where possible to the Tribunal within 1 week of the hearing date.

Amended drawings were submitted to the Tribunal on both the 3 March 2003 and 7 March 2003

The Tribunal considered the amended proposal and agreed the aesthetics of the building when completed would not be in **extreme conflict** with the character of the buildings neighbourhood however the Tribunal also considered the amended drawings were not in sufficient detail with regard to:-

- Choice of roof sheeting and minimum fall of the front veranda roof;
- Fixings of structural members to the existing house at the 2m and 4 m length of roof;
- The depth of flashings at the 2 m length of roof;
- The height of the roof and beam at the outer edge of the veranda.

and requested that satisfactory additional details be submitted to the Tribunal before the construction of the roof is commenced.

Hence, in accordance with section 4.2.34(1) of the Integrated Planning Act the Tribunal changes the decision by Logan City Council and varies the conditions of the original approval, with the consent of the appellant, to allow the deletion of the side veranda subject to the following conditions:-

1. The roof to the front veranda is for the full width of the house and the fascia is in line for the full width of the veranda roof.
2. The roof to the front veranda, steps etc is in accordance with the plan submitted to the Registrar on Friday 7 March 2003 and marked 'A' (Copy attached).
3. The landscaping is in accordance with the plan submitted to the Registrar on the 3 March 2003 and marked 'B' (Copy attached).
4. The roof to the carport is changed from a flat roof to a gabled roof and is in accordance with the plan submitted on Friday 7 March 2003 and marked 'A' (Copy attached)
5. The owner submits to the Tribunal satisfactory detail sections through the roof of the front veranda at both the 2m and 4m length of roof showing the fixings to the existing house and heights at the outer edge of the veranda.

6. The owner discusses with the left hand side neighbour (when viewed from the street) and reaches agreement on the extent, choice of material and height of the boundary fence, and obtains any necessary approvals from the Logan City Council.
7. The work required under conditions 1 to 3 is completed within 2 months of this decision.
8. All to be completed in the accordance with the requirements of Queensland building legislation.

Leo F Blumkie
Building and Development
Tribunal Chairperson
Date: 10 March 2003

Appeal Rights

Section 4.1.37. of the Integrated Planning Act 1997 provides that a party to a proceeding decided by a Tribunal may appeal to the Planning and Environment Court against the Tribunal's decision, but only on the ground:

- (a) of error or mistake in law on the part of the Tribunal or
- (b) that the Tribunal 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 Tribunal's decision is given to the party.

Enquiries

All correspondence should be addressed to:

The Registrar of Building and Development Tribunals
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