QUALIFIED PERSONS ADVICE

The Local Government Act 1993 provides (in part) as follows:

- A General Manager must ensure that any advice, information or recommendation given to the Council is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.

- A Council is not to decide on any matter which requires the advice of a qualified person without considering such advice unless the General Manager certifies in writing that such advice was obtained and taken into account in providing general advice to the Council.

I therefore certify that with respect to all advice, information or recommendation provided to the Council in or with this agenda:

1. The advice, information or recommendation is given by a person who has the qualification or experience necessary to give such advice, information or recommendation; and

2. Where any advice is directly given by a person who does not have the required qualifications or experience that person has obtained and taken into account in that person’s general advice the advice from an appropriately qualified or experienced person.

Gerald Monson
GENERAL MANAGER
1. PLANNING MATTERS

SUPPLEMENTARY AGENDA:

ADDITIONAL REPRESENTATION TO BE CONSIDERED – PLANNING AUTHORITY AGENDA
ITEM DA 2018/012

ATTACHMENT – Copy of representation from Mr. J Crowley dated 19th November, 2018

In addition to a representation lodged by Environplan on behalf of Mr Jim Crowley dated 14th November, 2018, Mr. Crowley also submitted a personal representation dated and received by Council on 19th November, 2018 which is within the 14 day statutory timeframe for submissions.

This representation was omitted from the agenda issued on 29th November, 2018.

Consultant planner Ashley Brook has considered the representation and advises the following:

Issues 2-6 have broadly been raised in other representations and are addressed in the report.

Issue 1 in relation to advertising of the DA is not an issue relating to the merits of the proposal when assessed against the provisions of the Planning Scheme.
ATTACHMENT
To: General Manager  
PO Box 63,  
Sheffield TAS 7306

From: Jim Crowley  
762 Sunnyside Road  
Sunnyside TAS 7305

Re: DA2018/012 – Unit Development – 41A Main Street, Sheffield.

In this representation I run the risk of having all points ignored as I am unable to ‘hook’ them onto any of the Performance Criteria that the applicant has to satisfy.

I was advised that the applicant has to satisfy 21.3.1 P1; 21.4.2 P2; 21.4.3; 21.4.4 P2; 21.4.5 P1

The points that follow in this Representation regarding DA2018/012 [amended] are:

1. Is about wondering what screening processes are applied to a DA by Planning prior to it ‘going public’;
2. Is about Prohibited Use;
3. Is asking that no vehicular access via the right-of-way be stated explicitly in any permit granted by Council in relation to DA2018/012;
4. Asks for a permanent barrier rather than removable bollards;
5. Asks that pedestrian access from the development to/from Main St be denied;
6. Is to change the address to 47A High Street, Sheffield.

1. This is the third version of this Development Application.

The first version of DA2018/012 was advertised on 3rd March 2018. At the Council office, all that was available to view were concept drawings and no written material. Questioning the Planning Officer re the use of the Right-Of-Way onto Main Street for pedestrian access, the answer given was that pedestrians were not permitted to access the site via High Street as ‘no room for a footpath to be provided’.

This version of DA2018/012 was for 14 units, six of which were double-story along the NE boundary. Representations were received by Council, and as a result of one of the Representations in particular, DA2018/012 was amended.

The second version of DA2018/012 was advertised on 19th October 2018. This was for 17 single-story units. This version did not include a copy of the current certificate of title, both folio text and plan, for the proposed development. This error was pointed out in a Representation and, DA2018/012 [amended] was further amended.

The third version of DA2018/012 was advertised on 10th November 2018. This Representation is in relation to this third version of DA2018/012.
Whilst the information to this point adds nothing to the consideration of this Development Application, I include it by way of a wonder: how can a development of this size and significance in the heart of Sheffield be treated with such seeming casualness; such casualness making the task of compiling a Representation by Joe Ordinary ratepayer more daunting than it already is!

2. Prohibited Use.

DA2018/012 [amended] claims, that in relation to 21.2 Use Table within the General Business Zone, that this discretionary Residential Development qualifies, because it is ‘to be located at pedestrian level and roadway level … [and] … the development sits in behind current General Business within the current zoning …’

According to my reading of the Discretionary Use Class and Qualification, ‘Residential’ in a General Business Zone qualifies ‘if located on a floor above road or pedestrian level or to the rear of active frontage premises’. The proposers of DA2018/012 [amended] have ‘stretched’ the Qualification into the realms of the bizarre! How can the proposed units be anything other than located at ‘pedestrian level and roadway level’? If they weren’t, how would residents be able to access their properties!!

None of the proposed units is located ‘on a floor above road or pedestrian level’. Neither are any of the proposed units ‘located … to the rear of active frontage premises’. To merely claim that the development ‘sits in behind current General Business’, and therefore qualifies, may well be a truism, but stretches to the extreme an interpretation of ‘to the rear of active frontage premises’. The importance of this development to Sheffield is not reflected in the scant regard paid to ‘Qualification’ by the writers of this DA.

See also a Representation written by Michael Wells, Planning Consultant, on my behalf, where he provides substance and reference re the issue of Prohibited Use in relation to DA2018/012 [amended].


At the above meeting, SA2016/005 was received and a proposed subdivision and consolidation of various Certificates of Title was approved. This approval set the scene for DA2018/012 [amended] which is now under consideration.

In the Planning Officer Recommendation re SA2016/005, point 5, it was stated that, ‘the final plan of survey must include ... the right of carriageway in favour of Certificate of Title 40978/3’.

In the discussion on a Representation relating to SA2016/005, it was stated that ‘according to the requirements of the Planning Scheme [Clause 21.4.1 A2] vehicular access to any future development on proposed Lot 1 must be via the 6.0m wide frontage onto High Street, which is not used as the means of access for any other property.’
This key point of no vehicular access via the right of carriageway, which is a legal impost on Lot 1, was not included in the Planning Officer Recommendation.

I ask most strongly, that this key point, of no vehicular access via the right of carriageway, be included in any permit granted by Council in relation to DA2018/012.

4. Removable Bollards.

Drawing SK02 within DA2018/012 [amended] shows 'Removable Bollards' at the point where the development block becomes subject to the legal impost of a right of way, marked 'Right of Way Access [Vehicle]/Walkway'.

This legal impost over this portion of the development block has been acknowledged by Council as a 'sensitive issue' [Refer letter dated 26 Feb 2016 – Sharon Holland to Hussein Tas].

This legal Right-of-Way allows access by the 'dominant tenement' to 43 Main Street. Currently this is known as the Apple Tree café. There is a residence to the rear of the café. Whilst the café can be accessed by pedestrians via Main Street, the only access/exit for the dwelling and café kitchen by pedestrians/vehicles is via this Right-of-Way.

Staff and residents use this Right-of-Way to access parking areas located to the rear of 43 Main Street. Delivery vehicles and trucks use this Right-of-Way for café deliveries. There is an existing, 7-day per week, traffic movement in and out of this 3.6m access.

Into this existing movement, 'Removable Bollards' raises a concern. Removed by whom and for what purpose? Who holds the key[s] and why?

Whilst the owner of the development site unquestionably owns and therefore has right of access onto Main Street, that right of access is not to hinder in any way the rights of the dominant tenement to access the rear of 43 Main Street. Whilst that access will be restricted during the development phase of DA2018/012 [amended], it is to be hoped that that restriction will be by negotiation between the parties. This Right-of-Way has been the source of much angst, bordering on the violent, going back to the previous motel owner.

Why 'Removable Bollards'? The Fire Dept are clear that, as things stand, no fire crew would be instructed to use the 41A Main Street access to attend to any fire within the proposed unit development. Access for them would be via the High Street entrance. I have not contacted the Ambulance Service, but my sense is that I would get a similar response.

Point 3 [above] clearly indicates that the intention is for NO vehicular access to/from the development via Main Street. Consequently, any barrier needs to be permanent. Again, I strongly ask that such a permanent barrier be a condition of any permit granted by Council in relation to DA2018/012.
5. Pedestrian Risk.

Drawing Legend on SK02 indicates that all concrete pathways to each unit are a ‘minimum’ 1m wide.

Council Agenda, 20th June 2018, sale of Public Land 31 Henry Street, Sheffield, 11.2.1
Officer Recommendation, that, 2[ii] ‘an easement for a right-of-footway for a minimum of 1.8m is registered ... to allow public pedestrian access from ... to ...’

Given the minimum width seen necessary for this residential development of 1m concrete pathways and the 1.8m requirement that Council sees necessary to allow public pedestrian access where Council has an interest to minimize risk, it seems outrageous that Council would consider fostering a risk situation to pedestrians to freely come and go via a 3.6m access that has a known, acknowledged and established vehicle and delivery truck usage.

This piece of the development land is going to be a service easement. This piece of the development land will eventually be owned by a Body Corporate. This access by the proposed units to/from Main Street needs to be closed in the interests of safety

6. Change of Address.

Given that the mail boxes and water meter are shown on the drawings at the prominent High Street entrance, and given that Google Earth can take up to two years to change even the smallest detail, can Council ensure that the street address/postal address for this development is 47A High Street, Sheffield.

In summary:

1. Is about wondering what screening processes are applied to a DA by Planning prior to it ‘going public’;
2. Is about Prohibited Use;
3. Is asking that no vehicular access via the right-of-way be stated explicitly in any permit granted by Council in relation to DA2018/012;
4. Asks for a permanent barrier rather than removable bollards;
5. Asks that pedestrian access from the development to/from Main Street be denied;
6. Change the address to 47A High Street, Sheffield.

Jim Crowley