

Resolution of Local Planning Panel

10 August 2022

Item 4

Development Application: 25-27 Dunning Avenue, Rosebery - D/2021/1491

The Panel refused consent for Development Application No. D/2021/1491 for the reasons outlined below.

Reasons for Decision

The application was refused for the following reasons:

- (A) The application fails to demonstrate that the land can be made suitable for the proposed commercial development. As such the application fails to satisfy the provisions of the State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP), Chapter 4 - Remediation of Land.
- (B) The proposal includes a development that will dominate the appearance of the existing heritage item and includes a significant level of demolition and facade alteration. This has a significant and detrimental impact on the existing heritage fabric and the internal and external appearance of the heritage listed warehouse building known as 'Paradise Garage' (local heritage item No. I1376). Consequently, the proposal fails to comply with:
 - (i) Clause 1.3(f) under the Environmental Planning and Assessment Act 1979 as the proposal fails to promote the sustainable management of built and cultural heritage, given the level of demolition proposed.
 - (ii) Clause 1.2(2)(k) 'Aims of Plan' under the Sydney Local Environmental Plan 2012 which promotes the conservation of environmental heritage.
 - (iii) Clause 5.10(1)(b) under the Sydney Local Environmental Plan 2012 to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.
 - (iv) Clause 6.21C(4)(d)(iii) - Design Excellence under the Sydney Local Environmental Plan 2012, which requires any heritage issues and streetscape constraints, to be adequately addressed.

- (v) Part 3.9.5 – Heritage Items under the Sydney DCP 2012 in particular provisions (1)(a) minimising the extent of changes to the fabric, (1)(c) enabling interpretation of each significant value, (1)(d) provide a use compatible with its significance and (1)(j) respect the pattern, style and dimensions of original windows and doors.
 - (vi) Part 3.10.1 of the Sydney DCP 2012 where warehouses and industrial buildings older than 50 years old are to be conserved and adaptively re-used to maintain the legibility of their historic use and alterations and additions are sympathetic in scale and style to the existing building.
- (C) The applicant has failed to satisfy Clause 4.6(4) of the Sydney Local Environmental Plan 2012. The submitted Clause 4.6 statement fails to demonstrate that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case. Nor has the statement justified that there are sufficient environmental grounds to justify contravening the standards.
- (D) The proposal has a detrimental impact on the heritage item. It consequently fails to deliver the desired future character of the locality and fails to minimise adverse impacts on the amenity of the locality. As such the development is not entitled to 'additional floor space' accessed through the delivery of Green Square community infrastructure. The proposal fails to comply with:
- (i) Clause 6.14(1)(b) under the Sydney Local Environmental Plan 2012.
 - (ii) Section 5.2 - Green Square and 5.2.3 Community Infrastructure under the Sydney DCP 2012.
- (E) The proposal fails address part 3.11 Transport and Parking of the Sydney DCP 2012 in particular insufficient information was provided to address large vehicle movements on site.
- (F) The proposal fails to adequately address part 3.14 Waste requirements of the Sydney DCP 2012 as the waste management plan fails to demonstrate acceptable waste calculations and servicing.
- (G) The proposed development fails to satisfy Clause 4.15(1) - Matters for Consideration under the Environmental Planning and Assessment Act 1979 as the proposal is considered to be an overdevelopment of the site. The site is not suited to the development and the proposal will have a significant impact upon the qualities of the heritage item.
- (H) In light of the above, the proposal is not considered to be in the public interest, contrary to Clause 4.15(1)(e) of the Environmental Planning and Assessment Act, 1979.

Carried unanimously.

D/2021/1491