

Permit Appeal P20276

Winter Park Cluster Housing (H1345)
137-149 High Street and 6-17 Timber Ridge, Doncaster
Permit number P19635 – 6 Timber Ridge

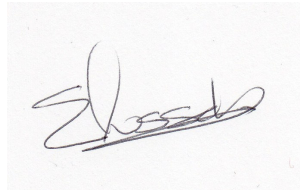
Heritage Council Permits Committee
Hearing – 11 October 2013
Members – Mr Robert Sands (Chair), Ms Emma Russell, Mr Peter Sagar

Decision of the Heritage Council


After considering the appeal and conducting a hearing, pursuant to Section 76(4)(b) of the *Heritage Act 1995* the Heritage Council determines to confirm the decision of the Executive Director and refuse to issue the permit.



Robert Sands
(Chair)



Emma Russell



Peter Sagar

Decision Date – 11 November 2013

APPEARANCES

Executive Director, Heritage Victoria

Ms Ann Gove, Heritage Officer appeared on behalf of the Executive Director. Ms Janet Sullivan, Manager, Permits was available for questions from the Committee.

Appellant

Mr Fergus McDonald appeared at the hearing. He is the owner of 6 Timber Ridge, a part of the registered place.

Written submissions

A written submission was received from Manningham City Council.

INTRODUCTION/BACKGROUND

The Place

- 1 Winter Park Cluster Housing ('Winter Park') comprises twenty detached houses on a 2.43 hectare site, constructed in stages between 1970 and 1974. Four groups of five houses are located around communal car and pedestrian access ways. Each dwelling has a private garden and courtyard. There is also a large central communal recreation space.
- 2 The place was included in the Victorian Heritage Register ('the Register') as H1345 in November 1997. The place is also subject to Heritage Overlay (HO83) and Environmental Significance Overlay (ESO5) under the Manningham Planning Scheme.
- 3 The application for Permit P19635 relates to 6 Timber Ridge, one of the twenty houses that comprise Winter Park.

The Applicant

- 4 On 8 August 2013, the owner of 6 Timber Ridge, Mr Fergus McDonald, applied for Permit P19635 to replace a tiled roof with Colorbond steel roofing.
- 5 The proposal also sought to rectify poor workmanship and lack of insulation in the roof space.

Determination of the Executive Director

- 6 On 14 June 2013, the Executive Director determined to refuse the permit application pursuant to s.74(1)(c) of the *Heritage Act 1995* ('the Heritage Act'). The reasons for the refusal were as follows:
 - The proposal to replace the upper tile terracotta roof with Colorbond is considered an unacceptable compromise of the identified significance.
 - Repairing leaks, poor workmanship and ineffective insulation should be addressed however the proposed changes are in direct conflict with the identified heritage values and the permit policy which identifies the individual buildings in landscaped settings as the key element.
 - Repairs can be carried out using materials associated with the site.

Site Inspection

- 7 The Permits Committee made a site inspection accompanied by the Hearings Officer on 13 August 2013. The Applicant and Ms Janet Sullivan, Permits Manager, Heritage Victoria were present. The Committee did not receive any verbal or written submissions during the inspection.

ISSUES

- 8 This section is not intended to be a complete record of submissions that were made to the Committee. It is a summary of what the Committee considers to be the key issues, followed by an explanation of the position the Committee takes on each issue.

Summary of issues

- 9 The Committee has addressed the matters to be considered in determining permit applications listed at s.73 of the Heritage Act (see Attachment 1 to this report).
- 10 The main issues that the Committee considers relevant in this case are:
- the effects on the cultural heritage significance of the place;
 - the impact of refusal on the reasonable use of the place;
 - whether refusal would cause undue financial hardship to the owner of the place; and
 - the protection and conservation of the place.

Submissions and evidence

s.73(1)(a) the extent to which the application, if approved, would affect the cultural heritage significance of the registered place

- 11 The Committee received submissions about the impact of the proposal on the cultural heritage significance of Winter Park.
- 12 The statement of significance for the place is as follows:

What is significant?

The Winter Park cluster subdivision, comprising twenty detached houses on a 2.43 hectare (six acre) site, was designed by architect Graeme Gunn together with Merchant Designs (architect Rob White) for the firm Merchant Builders Pty Ltd which constructed the development in stages between 1970 and 1974. The four groups of five houses are located around communal car and pedestrian access ways, and each dwelling has a private garden in addition to a large central communal recreation space. The central idea was the free siting of houses, private garden and communal open space to achieve an integration of the built environment within the most efficient use of land. The landscaping for the whole development was designed by Ellis Stones (1895-1975).

How is it significant?

Winter Park is of architectural, social, historic and aesthetic importance to the State of Victoria.

Why is it significant?

Winter Park is architecturally and socially important as the prototype cluster housing development project in Australia - an experimental attempt to present an alternative to the existing subdivision pattern of the "quarter acre block". Winter Park and its protagonists were influential in encouraging the Victorian Government to introduce the Cluster Titles Act 1974, supported by a Model

Cluster Code, to control future cluster housing subdivisions and eventually to consolidate all subdivision legislation in a single act. In 1975 the Winter Park development received a citation in the Royal Australian Institute of Architect's Housing Awards.

Winter Park is historically and socially important for its association with Merchant Builders Pty Ltd, one of the most influential building companies in Victoria in the post-war era. Merchant Builders, which flourished during the 1960s and 1970s, pioneered the introduction of energy efficient, environmentally friendly, architect designed project homes in Victoria. Some of the many innovative design principles and features they pursued included pergolas, exposed brickwork and timber beams, passive solar energy and the use of indigenous materials.

Winter Park is also historically important for its association with John Ridge and David Yencken, Directors of Merchant Builders, Graeme Gunn architect, and Ellis Stones, landscape designer. Graeme Gunn was one of Victoria's leading architects over three decades. Together with John Ridge and David Yencken they pioneered the introduction of contemporary architect-designed project housing in the 1960s. Graeme Gunn received many awards for his architectural designs. Ellis Stones, together with Edna Walling (1898-1973), was an important pioneer of contemporary garden design in Victoria, if not Australia. Stones and Walling are said to have kept alive the tradition of Australian landscape architecture. Stones' style of landscaping was characterised by a complete assimilation and mastery of Australian native materials and an authentic Australian character and Winter Park is considered to be one of his finest works.

Winter Park is of aesthetic significance for its outstanding landscape and architectural design qualities where low profile buildings (having recycled bricks and stained timber joinery) and red brick paving, tea-tree fences and recycled brick walls are integrated into the grassy woodland including indigenous trees (in particular, *Eucalyptus cephalocarpa*). The aesthetic significance also derives from the central parkland planting, and the naturalistic landscape design using rocks, timber edges and seats, and planting of predominantly Australian natives.

- 13 The Executive Director submitted that the works proposed would be in direct conflict with the identified heritage values of the complex. According to the Executive Director, the place is not only a significant piece of urban design, but also a time capsule of 1970s housing materials and design features.
- 14 The Executive Director argued that Colorbond sheeting is not consistent with existing materials used on site and will have a detrimental impact on the aesthetic and architectural contribution of the building and site. Mr McDonald refuted the idea that introducing Colorbond will be detrimental in this way. He argued that the roof of 6 Timber Ridge is virtually out of sight from the west and only visible from non-public areas to the east. He also argued that steel roofing is used on many other buildings within the place.
- 15 The Executive Director argued that a Colorbond roof on only part of a dwelling will negatively affect its appearance. It was also argued that as the lower roof of 6 Timber Ridge is attached to the carport and to the carport of 8 Timber Ridge, 6 and 8 are viewed as one large structure. Mr McDonald refuted the claim that two roofing materials on one dwelling was inappropriate and used as an example the Doncaster State School, the 1880s part of which is slated and the later addition which has a steel roof.

- 16 The Executive Director submitted that the proposed changes are not sympathetic to Graeme Gunn's original design. It was put to the Committee that although some minor alterations and extensions have been made to the buildings within the place since their construction, there have been no major intrusions and the essential elements of the original design are still readily apparent. Mr McDonald submitted that so much has been altered from the original design that to make reference to it is academic.
- 17 The Executive Director acknowledged that there are four houses within the Winter Park cluster with low-pitched metal roofs and advised that these were in place at the time of registration. In the Executive Director's view, this increases the contributory significance of 6 Timber Ridge as it is a rare example within the cluster which displays its original materials.
- 18 Manningham City Council submitted that the proposal is likely to detract from the heritage value of the place. Ms Willys Keeble, the Council's heritage advisor, submitted that the cultural significance of the complex depends upon the design integrity of each housing unit remaining intact and on the uniform colour and materials of the exteriors.
- 19 She argued that the east facing slope of the upper tiled roof of 6 Timber Ridge is a prominent feature when viewed from the open space between the High Street and Timber Ridge sections of the complex. Replacement of this roof with steel would probably detract from the architectural and visual integrity of the building and thus the overall significance of the place.
- 20 In Mr McDonald's view, the significance of the place is due to the placement of units around the central paved or grassed areas. He noted that it is a pioneer cluster title subdivision, predating the *Cluster Titles Act 1974* and influencing subdivision legislation. In his view, the place's significance depends less on than uniformity of external colours and materials than on site layout.
- 21 In terms of the appropriateness of Colorbond, Mr McDonald pointed out that the product was invented in 1966, prior to the place's construction. He argued that a Colorbond roof in tray deck steel to match the other roof profiles in the place will add to the architectural and visual integrity of 6 Timber Ridge, especially when compared with the existing sagging and lichen-marred tile roofs and the rusting metal roofs of other houses in the place.

s.73(1)(b) the extent to which the application, if refused, would affect the reasonable or economic use of the registered place or registered object, or cause undue financial hardship to the owner in relation to that place or object

Reasonable use

- 22 Mr McDonald submitted that problems with the current roof, including water ingress and poor insulation, affect the reasonable use of the place.
- 23 The existing roof materials are Wunderlich 'Modern French' terracotta tiles installed over aluminium foil sarking. The sarking is draped over timber battens which are nailed through the lining board ceiling to the top of exposed rafters. According to Mr McDonald, the sarking has been damaged over time. It has been pierced for electrical wiring of lights and there is a poorly made join where the roof was extended over a balcony by a previous owner.

- 24 Mr McDonald submitted that during moderate rainfall, the roof leaks into three rooms on the west side of the dwelling, particularly where the extension begins and there is a gap in the sarking. The roof's pitch of 15 degrees is the minimum recommended for those covered with tiles and Mr McDonald submitted that the existing weather proofing is likely to deteriorate in the future.
- 25 According to Mr McDonald, the upstairs rooms become around 10 degrees warmer than those downstairs during hot weather. He argued that the lighter colour of a Colorbond roof would lower the build up of heat inside the house. He also argued that proper insulation cannot be placed under the tiles due to the close spacing of battens. Mr McDonald submitted that if insulation is not installed, the upstairs part of the house will become unusable without intensive use of airconditioning.

Undue financial hardship to the owner in relation to the place

- 26 Mr McDonald submitted that he had investigated an alternative to the Colorbond roofing proposed. In 2008 he received a quote of over \$14,000 to lift and clean the tiles. He advised that this process would need to be repeated every two years.
- 27 Mr McDonald has also received quotations between \$11,500 and \$17,700 to remove the tiles and install insulation and a Colorbond roof.
- 28 According to Mr McDonald, if the permit is refused, more expenditure on airconditioning will be required to mitigate high interior temperatures during hot weather.
- 29 The Executive Director was not convinced that the above matters constituted 'undue' financial hardship and submitted that the permit should not be issued on this basis.

s.73(1)(f) any matters relating to the protection and conservation of the place or object

- 30 In the Executive Director's view, all efforts to retain original fabric should be exhausted prior to considering alternative options. It was submitted that more superior types of sarking now on the market may assist in the retention of the tile roof.
- 31 The Executive Director held that it is not the roofing material itself that is causing leaks. As has been submitted by Mr McDonald, alternations by a previous owner have not been designed well and the original gutter design of 6 Timber Ridge appears to be compromised by the enclosing of the deck.

Discussion and reasons

- 32 In determining whether to issue Permit P19635 or uphold the Executive Director's decision to refuse the application, the Committee is required to take into consideration the matters outlined at s.73(1) and (1A) of the Heritage Act.
- 33 As noted in the summary of issues at paragraphs 9 and 10 above, the Committee considers the relevant matters in this case to be:
- the effects on the cultural heritage significance of the place;
 - the impact of refusal on the reasonable use of the place;
 - whether refusal would cause undue financial hardship to the owner of the place; and

- the protection and conservation of the place.

Effect on the cultural heritage significance of the place

- 34 The adopted statement of significance for a registered place is the starting point for understanding significance (see paragraph 12). The Committee notes Mr McDonald's submission that the significance of Winter Park is in its layout, and not in the materials used.
- 35 The place has been included in the Register for a number of reasons, including its aesthetic significance. In identifying the aesthetic values of the place, the statement of significance says 'Winter Park is of aesthetic significance for its outstanding landscape and architectural design qualities where low profile buildings (having recycled bricks and stained timber joinery) and red brick paving, tea-tree fences and recycled brick walls'.
- 36 The Committee has formed the view that the roofing materials, in particular the terracotta tile roofing used on a number of dwellings in Winter Park is also a significant element of the architectural design quality of the place. The Committee also considers it significant that the tile roofs of 6 and 8 Timber Ridge are in clear view from the open space between High Street and Timber Ridge.
- 37 The Committee notes Mr McDonald's use of the Doncaster State School as an example of a place where two different roof materials are appropriate on one building. In the Committee's view, this is not a valid comparison as the two parts of the building are several decades apart in age. The Committee was not convinced that it would be appropriate to have two different roofing materials on one dwelling within Winter Park.
- 38 For the above reasons, the Committee finds that the replacement of terracotta tiles with steel roofing at 6 Timber Ridge will have a detrimental affect on the cultural heritage significance, in particular the aesthetic values, of Winter Park.

Impact upon the reasonable use of the place

- 39 The Committee also considered the impact refusal of the application may have on the reasonable use of the place. The Committee has had regard to the Heritage Victoria and Heritage Council of Victoria Policy Guideline 'Matters to be considered in determining a permit application under section 73(1)(B) of the Heritage Act 1995'.
- 40 The Committee has noted Mr McDonald's submissions about water ingress and overheating caused by poor insulation and considers that these issues are likely to continue to impact upon the reasonable use of the place if the permit is refused.

Undue financial hardship to the owner if the permit application is refused

- 41 The Committee was not convinced that the owner of the place will suffer undue financial hardship if the permit application is refused. The quotes for a steel replacement roof and retention of the tile roof are roughly comparable (exclusive of any ongoing costs) and the Committee is of the view that other reasonable roofing alternatives have not been fully explored.

The protection and conservation of the place.

- 42 The Committee has considered the protection and conservation of the place. It is likely that the fabric of the place is at risk of damage from water ingress at times of moderate to heavy rainfall. The Committee is of the opinion that rectification of the underlying cause of the leaks will limit decay of fabric and assist in the protection and conservation of the place.
- 43 On 1 July 2010, the Heritage Council adopted *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance* (1999) as a document for guiding best practice heritage management in Victoria. As the explanatory notes to the Burra Charter state, ‘when change is being considered, a range of options should be explored to seek the option which minimises the reduction of cultural significance’. In the Committee’s view, a range of options has not been sufficiently explored. Furthermore, the Committee is not convinced that the option applied for in Permit application P19635 is one which minimises the reduction of cultural significance.

CONCLUSION

- 44 After considering the appeal and conducting a hearing, pursuant to Section 76(4)(b) of the *Heritage Act 1995* the Heritage Council determines to confirm the decision of the Executive Director and refuse to issue the permit.
- 45 The Heritage Act requires the Committee to balance the considerations at s.73(1) and (1A) of the Heritage Act when considering a permit appeal. In this case, that means balancing potential damage to the cultural heritage value of the place against the extent to which the application, if refused, would affect the ‘reasonable use’ of the place while also considering the protection and conservation of the place. The Committee was not convinced that the owner will suffer any undue financial hardship if the application is refused.
- 46 The Committee accepts that refusal of this permit application will mean that the reasonable use of the place will continue to be impacted upon during spells of hot weather and moderate to heavy rainfall. In the Committee’s view, these impacts are outweighed by the damage to the values of the place that will be caused if the proposed works were undertaken. The Committee also considers that the applicant has failed to fully explore other less damaging options that are available. For these reasons, the Committee has refused to issue the permit.
- 50 The Committee continues to recommend that a Conservation Management Plan (‘CMP’) for the place be prepared to assist with future changes proposed to individual dwellings and shared areas. A CMP should give owners clear guidance on appropriate repairs and alterations, such as ways of insulating, and how best to manage maintenance issues peculiar to the place.

ATTACHMENT 1

73. Matters to be considered in determining applications

- (1) In determining an application for a permit, the Executive Director must consider-
- (a) the extent to which the application, if approved, would affect the cultural heritage significance of the registered place or registered object; and
 - (ab) if the application relates to a listed place or to a registered place or registered object in a World Heritage Environs Area, the extent to which the application, if approved, would affect -
 - (i) the world heritage values of the listed place; or
 - (ii) any relevant Approved World Heritage Strategy Plan; and
 - (b) the extent to which the application, if refused, would affect the reasonable or economic use of the registered place or registered object, or cause undue financial hardship to the owner in relation to that place or object; and
 - (c) any submissions made under section 69; and
 - (d) any decision of the Heritage Council under section 72 which has been received; and
 - (e) if the applicant is a public authority, the extent to which the application, if refused, would unreasonably detrimentally affect the ability of the public authority to carry out a statutory duty specified in the application; and
 - (f) any matters relating to the protection and conservation of the place or object that the Executive Director considers relevant.
- (1A) In determining an application for a permit, the Executive Director may consider-
- (a) the extent to which the application, if approved, would affect the cultural heritage significance of any adjacent or neighbouring property that is -
 - (i) subject to a heritage requirement or control in the relevant planning scheme; or
 - (ii) included in the Heritage Register; and
 - (b) any other relevant matter.