

MINUTES

TITLE: Environment and Planning Sub-Committee
DATE: Friday 18 February 2005
TIME: 1.30 pm
VENUE: Golden Bay Service Centre, Commercial Street, Takaka.

PRESENT: Crs E M O'Regan (Chair), S J Borlase and N Riley.

IN ATTENDANCE: Consents Manager (J Hodson), Consent Planner (L Davidson),
Consent Planner (N Lewis), Administration Officer (B D Moore)

1. DODSON AND HERON, GLENVIEW ROAD, TAKAKA – DWELLINGS AND BRICKMAKING – APPLICATION RM040816

1.1 Presentation of Application

The applicant sought consent to erect a second dwelling and also upgrade the barn on this property to be used as a third dwelling. The applicant sought retrospective consent to allow an implement shed to remain closer than 10 metres to the road boundary at Glenview Road. Consent was also sought to make and sell adobe bricks within that shed.

The subject site is 4.73 hectares in the rural 1 zone in Glenview Road.

1.2 Presentation of Application

Mr M Potter tabled and read evidence in support of the application. He advised that one neighbouring property owner had been granted consent for a third dwelling for tourist accommodation purposes and a second neighbouring property owner had been granted consent to a second dwelling for accommodating guests and both applications were granted on a non-notified basis with the applicants, Dodsons, providing their written approval. The evidence said that if the neighbours had not been notified through this consent process they would be unaware if the barn building was converted to a dwelling. An engineer, Mr R Walker, believes that the proposed aerated wastewater treatment system will meet the discharge criteria for the special domestic wastewater area.

Mr Potter said that the effects of upgrading the barn building to a dwelling are not contrary to the policies and objectives of the TRMP or Resource Management Act. The applicant did not consider that enlarging the existing sleepout is a satisfactory option. The evidence said that the subject title has an area of 4.7 hectares and productive value of the land is severely restricted. The proposed setbacks for the two new dwellings are in accordance with the rural 1 zone and will provide effective separation. Required services can be provided and a volunteered covenant will prevent future land fragmentation. The evidence considered that the proposed two new dwellings will allow for the most efficient use of this land such as small scale animal raising, orcharding and perma culture.

The evidence made it clear that there was no intention to use any consent granted, for further dwellings, as leverage for future subdivision.

Mr Potter spoke of how this consent would provide two further dwellings for young families and help to maintain the social and cultural wellbeing of the community. The evidence concluded that the proposed activities are no more than minor and not contrary to the relevant objectives and policies of the plan. The hearing was advised that the adobe bricks would be made indoors and comprise about three house lots per year. The process would involve about 50 m³ of raw materials per year.

1.3 Presentation of Submissions

Miss S Hornibrooke spoke of the application saying that there is a real need for this kind of support of housing in this community.

J Kooistra was concerned about the noise and proposed days and hours of work for the adobe brick making proposal. The submission suggested that this be limited to operating on Monday to Friday.

Ms M Polglase spoke in support of the application and spoke of the positive social aspects of the application including economics, social, cultural and wellbeing matters. She said that there should be some flexibility and also consistency in granting of similar planning consents.

Mr S Charmers said that the proposed conditions of consent met his concerns. He spoke on behalf of Mr K Edmondson who was concerned that the proposal may affect the value and the usage of his property. Mr Charmers said that the present septic tank effluent runs through the duck pond, pig pen and then goes through the roadside stormwater drain and smells badly.

1.4 Staff Report

Mr Davidson said that the shed is located less than 5 m from the boundary and cut into the bank and, if in recessive colours, would be satisfactory. He said the effects of proposed rural industrial activity are probably less than the permitted baseline. However, this needs noise control and the hours of operation should be firmly controlled. He stated that his recommendation for the hours of operation be amended to Monday to Friday, 9.00 am to 5.00 pm excluding public holidays.

Mr Davidson said he was concerned about the potential for future land fragmentation by subdivision should consent be granted to the second dwelling and conversion of the barn for a third dwelling. He explained the differences between the subject application and neighbouring properties where additional dwellings had been granted consent. He said that the subject property is in a rural area where additional residential activity should not take place. The barn building is in an open exposed site.

Mr Davidson recommended the use of a bond of agreement concerning the proposed new dwelling and barn conversion. He was concerned about the potential cumulative effect of a grant of consent. He said he was concerned that it would be difficult to decline a subdivision application in future, when nothing will change on the ground as a result of a grant of consent of a future subdivision. He said that the Environment Court is likely to grant consent to a subdivision application once those uses are established on site.

Cr O'Regan said that if the Committee seeks legal advice on this proposal that the information will be circulated to all parties. Mr Davidson said that he would be happy with a proposal to form one access to the subject site instead of multiple accesses.

1.5 Right of Reply

Mr Potter explained the noise control standards in the rural 1 zone saying that the subject application will be below that limit. He said that the applicant accepted that only one driveway was allowed onto the property. He said conversion and extension of the sleepout was not a suitable option. He advised that existing septic tank system will be abandoned as it is not working correctly.

Mrs B Dodson said that it had been hard to find alternative accommodation for the members of her family and she would like to see them settled. Mr Potter said that he would be happy to work with Land Information NZ and Mr Davidson on potential legal restraints to future subdivision.

Cr O'Regan directed that the Committee would allow a legal proposal to be produced and circulated to all parties and that this is to occur prior to or no later than Friday 25 February 2005.

Cr O'Regan said that the question to be answered is, "what sort of instrument can be registered on the title, to preclude subdivision by the applicant and subsequent owners for a specified time."

Cr O'Regan adjourned the hearing at 3.55 pm.

**Moved Crs O'Regan / Borlase
EP05/02/17**

THAT the public be excluded from the following part of the proceedings of this meeting namely:

Dodson and Heron

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

Subject	Reasons	Grounds
Dodson and Heron	Consideration of a planning application.	A right of appeal lies to the Environment Court against the final decision of Council.

CARRIED

**Moved Crs Riley / O'Regan
EP05/02/18**

THAT for the purposes of discussing the application of Dodson and Heron as an "In Committee" item, the Manager Consents be authorised to be in attendance as advisor.

CARRIED

**Moved Crs O'Regan / Riley
EP05/02/19**

THAT the public meeting be resumed and that the business transacted during the time the public was excluded adopted and that the following resolutions be confirmed in open meeting.

CARRIED

2. DODSON AND HERON, GLENVIEW ROAD, TAKAKA – DWELLINGS AND BRICKMAKING – APPLICATION RM040816

**Moved Crs O'Regan / Riley
EP05/02/20**

THAT pursuant to Sections 104 and 104B of the Resource Management Act 1991, Council grants consent for B Dodson and D Heron for Activities 2, 3 and 4 subject to the following conditions and for the following reasons.

THAT pursuant to Sections 104 and 104B of the Resource Management Act 1991, Council declines consent for B Dodson and D Heron for Activity 1 for the following reasons.

CONDITIONS:

Adobe Brick Manufacturing Operation

1. General

The implement shed shall be finished in non reflective recessive colours that blend with the natural environment.

2. Landscaping

The area of land to the north east and north west of the implement shed shall be landscaped to soften the appearance of the building when viewed from Glenview Road.

3. Access

Access to the shed and storage area for materials shall be finished to an all-weather metalled surface.

Access from Glenview Road shall be upgraded to accommodate heavy vehicles as follows:

- Sealed from the edge of the existing road seal edge for a minimum of 10 metres,
- In all other respects the access shall be in accordance with Schedule 16.2 C of the Tasman Resource Management Plan.

4. Storage of Materials

All raw materials and adobe bricks shall be stored in a position where they are screened from Glenview Road.

5. Hours of Operation

The use of the pug mill to manufacture adobe bricks shall be limited to 0800 hours until 1730 hours Monday to Saturday noon inclusive, and excluding any public holiday.

6. Noise

All equipment associated with the manufacture of adobe bricks shall be operated in a manner that it does not produce a noise level exceeding 55 dBA, measured at the notional boundary of any dwelling in the Glenview Road area.

7. Sedimentation and Contamination Prevention / Management

The area used to store materials and to manufacture adobe bricks shall be drained to a settling pond before it discharges to any watercourse. This shall be constructed prior to the activity commencing. The pond shall be maintained on an on-going basis to ensure there is no discharge of sediment to any watercourse.

8. Review

The conditions of the land use consent to manufacture adobe bricks may be reviewed by Council in accordance with Section 128 of the Resource Management Act 1991 within a period of one month after six months of the consent becoming operational and thereafter at intervals of twelve months, for the purpose of;

- Dealing with any adverse effect on the environment arising from the exercise of the application;
- Requiring the applicant to adopt the best practicable option to remove or reduce any adverse effect on the environment.

Conversion of Existing Barn / Studio into a Second Dwelling

9. General

The barn conversion shall be undertaken in accordance with the information and details supplied as part of the application unless otherwise dictated by the conditions of this consent.

10. Wastewater Disposal

The consent holder shall connect the domestic wastewater from the existing dwelling and the proposed second dwelling to a new wastewater treatment and disposal system. The new system shall be designed in accordance with the principles contained within the report by Richard Walker which was part of the application.

Note that this condition was volunteered by the applicant as it was acknowledged that there were problems with the existing wastewater disposal system.

11. Colours and Finishes

The second dwelling shall be finished in non reflective recessive colours that blend with the natural environment.

12. Access

The existing access shall be sealed from the edge of the road seal for at least 10 metres inside the property boundary.

13. Covenant to Prevent Future Subdivision of Land

Prior to the occupation of the second dwelling, the consent holder shall enter into a covenant with the Council, which shall be registered against the title of the property whereby the consent holder will not apply for a subdivision consent unless the rules in the District Plan are changed to allow this to occur as a controlled activity. Preparation of the covenant and its registration shall be at the consent holders' expense.

Note that this condition was offered by the applicant as a means of dealing with the issue of fragmentation of land.

ADVICE NOTES:

1. Development Contribution

The Consent Holder is advised that the Council will require the payment of a development contribution in accordance with the Council's Development Contribution Policy under the Local Government Act, 2002 for the development which is the subject of this resource consent.

The Development Contribution Policy is presented in the Long Term Council Community Plan (LTCCP) and the amount to be paid will be in accordance with the requirements which are current at the time the relevant development contribution is paid in full. A 5% discount is available if the payment is made prior to the uplifting of the building consent.

2. Lapsing

Pursuant to Section 125 of the Resource Management Act (1991), this resource consent lapses on the expiry of five years after the date of commencement of this consent unless the consent is given effect or other criteria contained within Section 125 are met.

3. Change of Conditions

The consent holder may apply to change the conditions of the resource consent (except for duration) if circumstances change pursuant to Section 127 of the Resource Management Act 1991.

4. Charges

The consent holder shall pay to the Council any administrative charge fixed in accordance with Section 36(1) of the Resource Management Act (1991) and any additional charge required pursuant to Section 36(3) of the Resource Management Act (1991), payable in respect of this consent.

REASONS FOR THE DECISION:

The land is zoned Rural 1 under the Proposed Tasman Resource Management Plan. The application for three dwellings on one title of this size falls to be considered as a Discretionary Activity despite the fact that Rule 17.4.6 (a) states that no more than two dwellings may be located on a site as a Discretionary Activity. This is because of the effect of Section 77C(1)(b) of the Resource Management Act 1991 which was part of the amendments to the Act in 2003. Before that amendment, the application would have fallen to be considered as a Non-Complying Activity.

The aspects of the application relating to the adobe brick manufacture and the location of the implement shed also fall to be considered as a discretionary activity.

The application has been considered subject to Part 2 of the Act i.e. the purpose and principles of sustainable management of natural and physical resources, and Section 104 and 104B which requires the Committee to have regard to:

- a) any actual and potential effects on the environment of allowing the activity and
- b) the relevant provisions of:
 - Regional Policy Statement
 - Plan or Proposed Plan
 - Any other matter considered relevant and reasonably necessary to determine the application.

The Committee noted that 21 submissions were received, 17 in support and four in opposition to various parts of the proposal. The submissions opposition raised the following concerns:

- Noise from brick making activity
- Concern that the approval of the additional dwellings may result in later application for subdivision, loss of rural amenity and open space
- Potential adverse effects from wastewater disposal
- Water supply concerns

The subject site is in an area of varied rural land uses ranging from grazing, crops, and other productive uses plus there is some tourist related activities in the area and small home occupation type businesses.

The Committee noted the desire of the applicants to build a second and third dwelling on the property to accommodate family members. The adobe brick manufacturing business is to be undertaken by one of the family members within the existing implement shed.

The increase in the number of dwellings on the property is a significant issue that the District Plan does not make provision for, necessitating the need for this resource application. Additional dwellings have the potential to create immediate and “downstream” effects on the rural environment. The Committee considered that there would be limited adverse effects in terms of loss of productive land, loss of open space and rural character and other visual effects associated with the application to convert the existing barn into a second dwelling. The Committee was also aware of the beneficial effects in terms of improving the management of domestic wastewater disposal associated with the existing dwelling on land which has drainage constraints. The Committee accepted the offer made by the applicants with regards to entering into a covenant with the Council which would be entered on the title and would state that no subdivision of the land would be sought. The Committee considered that this would be a useful reminder of the intention of the applicants at the time the consent was granted.

However, after careful consideration, the Committee concluded that the proposal to construct a new third dwelling on the property would create significant effects which could not be avoided, remedied or mitigated. It was considered that the third dwelling would be unacceptable in terms of density of dwellings and out of character with the surrounding pattern of development. The Committee noted the advice of the staff reporting officer regarding possible alternatives to provide accommodation for the additional family member(s) in a small subsidiary dwelling attached to the existing house. This option would be a controlled activity in the Tasman Resource Management Plan and remains as a possibility to be considered by the applicants.

The issues relating to the siting of the implement shed and the rural industrial activity are regarded as being of less overall impact, but they also create some identified effects that require mitigation. These are dealt with by way of conditions. The Committee was particularly concerned that adequate measures are taken to ensure stormwater contamination does not occur associated with the adobe brick manufacturing. The Committee considered that there was scope to improve the land management practices on site in order to enhance the stream water quality.

In summary, the Committee concluded that the application to convert the existing barn into a dwelling and carry out the adobe brick manufacturing business from the existing implement shed (in its current location) was acceptable and consistent with the policies and objectives of the Rural zone, but that the construction of a third dwelling on the site as proposed would create unacceptable effects which could not be avoided, remedied or mitigated and would not be consistent with the policies and objectives relating to the protection of rural character and amenity, open space and productive values and would not be consistent with the purpose of the Act.

CARRIED

Confirmed:

Chair: