

RESOURCE CONSENT APPLICATION LUC -2019-250

26 Centre Road, Ocean Grove

L M A McGinty and S A Dicey

Hearing Date: 1 April 2020

Statement of Applicant for Hearing

Introduction

- 1 My name is Sally Dicey. My husband – Lloyd McGinty – and I own and occupy the property at 26 Centre Road. We are the applicants in the matter before you.
- 2 We have owned and occupied this property for about 11 years, and in that time have done substantial work to improve it, including a substantial renovation of the existing house, landscaping and amenity and bio-diversity planting.

Background and nature of this statement

- 3 I am a resource management planning consultant with over 15 years' experience in a variety of roles, including as an environmental planner for the Royal Forest and Bird Protection Society of New Zealand Inc, a Resource Management Planner with MWH NZ (now Stantec) as a policy planner with the Dunedin City Council, (2012 – 2015). I am currently a consultant planner working with McKeague Consultancy Ltd, with a primary focus on water related planning matters.
- 4 I hold a Bachelor of Law Honours degree and a Masters of Regional and Resource Planning from the University of Otago.
- 5 As I am the applicant in this matter, I am unable to provide independent expert planning evidence. I want to acknowledge this, and to emphasis that I am here in my capacity as the applicant. I have tried to be as objective as possible and have relied on my experience in preparing this statement.

Scope of this statement

- 6 I have kept this statement focused on matters of potential contention that have been raised in the submission by our neighbour Chris Valentine, or by Mr Riddle, a consultant planner acting as the Council's recommending officer.
- 7 I am in general agreement with Mr Riddle's report and appreciate the thoroughness of this report.
- 8 References to the 'shared boundary' in this statement refer to the boundary between our property at 26 Centre Road and the property of Mr Valentine at 40 Centre Road.

Submission of Mr Valentine

- 9 We consulted with Mr Valentine on numerous occasions over a period of a year or more about our proposal, and as a result of our discussions he highlighted a number of his concerns to us – these appear to be reflected in Mr Valentine's submission.
- 10 In an attempt to address the concern's outlined by Mr Valentine, we offered or agreed to a number of condition and amendments to the application. These were sent to Mr Riddle in an email dated 18 October 2019 (attached to this statement), in an email dated 19 Oct 2019 to Mr Valentine (also attached).
- 11 We still stand by those amendments – we made them in good faith and were intended to address the concerns of Mr Valentine:

- a) Access was originally going to be along our boundary with Mr Valentine, as this is an existing 'farm track' we use to access the area behind our house. Parking was going to be behind or next to the unit.

We changed access and parking to the existing gravel area (as shown in the image in the emails below), to address concerns of Mr Valentine's that vehicles on a driveway directly adjacent and parallel to our shared boundary could potentially disturb horses that might be in his stables that are located directly on our shared

boundary.

- b) To further limit noise and the potential for reverse sensitivity:
 - i. We moved the location of the proposed unit so it was slightly further setback from our shared boundary. The relevant page of the updated plan is included with this statement. The updated site plan on p3 supersedes the site plan (p3) that accompanied the application, and also other measurements provided in the text of the application document. Hopefully this addresses Mr Valentine's questions about lack of clarity relating to setback distances and measurements in the application.
 - ii. We provided further detail about the bund, including the height of the bund and plantings on top of the bund. We have had good success with planting on existing bunds on our property.
 - iii. We offered a condition preventing outdoor amenity space between the unit and our shared boundary – to prevent use of this space we would plant shrubs between the unit and the bund.

12 As to particular concerns raised by Mr Valentine:

- a) Effect of proposed activity on horses, especially loud noises:

We can get very noisy activity along our stretch of Centre Road – we seem to be located along a favourite stretch for people to accelerate up the hill. We also have several neighbours with vintage cars and motorbikes, which can be noisy at times.

We can also carry out a range of noisy activities ourselves close to the boundary (and we have 3 kids and their assorted friends playing all over the property), including lawnmowing, weed-eating, and we have been known to have some outdoor gatherings – to which we have often invited our resident neighbours. Because of the lack of shoulder and parking along Centre Road, our neighbours from across the road have also used our driveway for parking when they

have parties. These activities essentially create an existing normal baseline in terms of noise, as they are associated with our residential activity and the road and are within noise limits set out in the district plan. With the proposed conditions I do not anticipate the proposal to worsen this.

We also live permanently on site and have a family and try to be mindful of our neighbours. We will not be allowing any parties to be hosted by guests using the unit for visitor accommodation.

- b) Reverse sensitivity – we are also keen to establish chickens and maybe at some stage a few sheep or pigs on our property. We can smell the pig farm on Centre Road occasionally, can hear our neighbour across the road use a tractor and can hear stock from our house. We have never complained about these factors and would anticipate visitors who choose to stay in an area such as this to equally appreciate the area.

From our perspective the proposed activity will not result in the creation of reverse sensitivity effects with any permitted rural activities, including those mentioned by Mr Valentine.

- c) Impact on property rights – we have no desire to limit Mr Valentine's use of his property. We are proposing to set the unit 17.5 metres away from our shared boundary, and the existing dwelling on 40 Centre Road is approximately 40 metres from our shared boundary. Like our property, 40 Centre Road is an existing undersized rural lot, and so the construction of a new dwelling relies on existing use rights.

Under the RMA, these rights only exist if there is no change to the character, intensity and scale of that existing use. Mr Valentine's biggest challenge in terms of property rights may be the retention of these existing use rights if he chooses to build a new house in a new location on the property. We certainly have no intention of objecting to any house on 40 Centre Road on the basis of a 15 to 20 metre setback from our shared boundary line. We also have no intention of selling our property.

We are also limited by dimensions of our property as it is too narrow to enable 40 metre setbacks (as required by the current District Plan) from side boundaries.

From our perspective the inclusion of the bund and the plantings, and the conditions around use of outdoor areas achieve more than an extra 2.5 metre of setback from the boundary (as would be required under the 2GP).

Mr Valentine mentions that might have other options for locating the proposed unit, including by building a retaining wall – just for the sake of clarity – I think he is referring to an existing cut located adjacent to the red line in the image below.

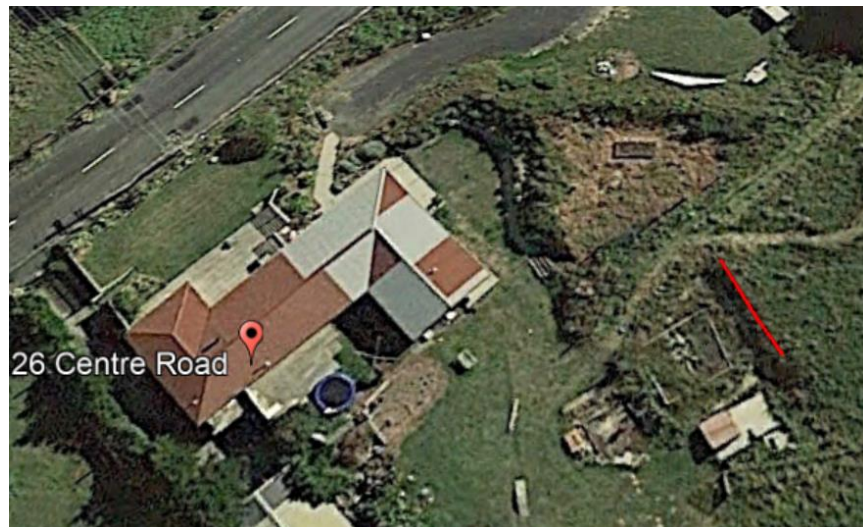


Figure 1. location of cutting that Mr Valentine refers to in relation to construction of a retaining wall.

This can be seen in the photo below (again see the red line, which tracks the top of the cutting).



Figure 2. Looking north-east towards the 'cut' and towards our shared boundary with Mr Valentine

We are cautious about moving the unit any closer to this cutting, as it may create foundation engineering issues, as quite some expense. Our hope was that the bund, plantings and 'no outdoor amenity space' between the unit and the shared boundary with Mr Valentine would mitigate our proximity to the shared boundary.

In all other respects we consider the location of the unit to be reasonable and appropriate. We refer to the report by Mr Riddle on this matter [67] and agree with his comments.

Recommending Report

Reverse Sensitivity

13 At [61] Mr Riddle states:

"Visitor accommodation has the potential to generate reverse sensitivity effects if not managed correctly. From the application provided, it is unclear how the applicant would manage this activity, particularly around noise, hours of operation and the use of outdoor living spaces by guests."

14 To address these issues we have amended the location of the unit so it sits further from the boundary. We have also offered to screen the activity with the bund and plantings on the bund, and to ensure there is no outdoor use of space by occupants between the unit and the shared boundary. We also live on site and would be monitoring use of the unit –

this is our home, not some unit to which we have no emotional attachment, and so we will not allow it to be abused.

15 I am not sure 'hours of operation' applies to this activity, as use of the unit can occur overnight.

16 Mr Riddle also notes at [61] that we have not specified the total number of days of the year visitor accommodation will be carried out for. That is because we were not sure ourselves. We are happy to accept the condition suggested by Mr Riddle.

Biodiversity Planting

17 Mr Riddle queries [64 and 65] how we will carry on with our biodiversity planting if we are no longer associated with the Council's biodiversity funding. The end of funding does not signal the end of the project – as is clear from the quote from our report "we look forward to continuing to plant in this area".

18 Since we completed that project we have planted hundreds more plants, which we have purchased from Tomahawk Smaills Beachcare Trust or raised ourselves. We have plans to complete more planting this winter, and to carry on planting. We are also considering extending our planting area to capture most of the lower area of our property. Further applications to the biodiversity fund are likely to support this in the future.

19 I acknowledge Mr Riddle's analysis in relation to Policy 16.2.1.4 and agree that at some point we will reach an equilibrium with planting. However, I imagine that is 10 to 20 years away (based on progress to date), and that plant releasing (weeding), trapping, pest plant species management and understory development will keep us busy for a long time after that. Any extra labour we can get to help with this work would be fantastic, as time is a major limiting factor for us.

Earthworks

20 Mr Riddle also questions whether the bund will be within earthwork rules. We had always intended that the bund would be designed to ensure it complies with permitted activity earthwork rules. During our consultation with Mr Valentine we offered to make the bund 1.5m high (refer emails

below). The height dictates the width at the base of the bund to ensure compliance with batter gradients – i.e. at 1.5m high and with a 1 to 2 ratio, it would need to be 6m wide. This means it will be setback from the shared boundary by about 8m. The bund was intended to be approximately 12m to 14m long, up to nearly double the length of the unit on its north eastern elevation (i.e. the elevation facing the shared boundary).

- 21 All aspects of this design complied with the existing District Plan includes the following thresholds:

Table 17.5

Zone/area	Site size	Change in ground level	Volume of excavation and fill
Rural Zone	≤10ha	2.0m	200m ³
	>10ha	2.0m	20m ³ /ha. Total volume of permitted earthworks may be carried out at any location within the site.

- 22 Under the 2GP rules earthworks associated with the bund:
- must be setback a distance at least equal to the maximum height of the fill, as measured from the toe of the fill (Rule 8A.5.4),
 - must have a maximum fill batter gradient of a 1m rise over 2m of distance (8A.5.3),
 - cannot change finished ground level by more than 2m (8A.5.1.3), and
 - cannot exceed 30m³ per 100m² of site (8A.5.1.5) for all zones (except those to which an overlay applies). The approximate size of our property outside the landscape overlay is 3,500m². This means our threshold for this part of the property would be 1,050m³ (3,500/100 x 30).
- 23 At 12 m long x 1.5m high and the necessary 6m wide my simple calculations are that the proposed dimensions will result in about 55m³ of earthworks, or 63m³ if 14 m long.
- 24 Ideally we would like to make the batter slope slighter steeper, so that the bund can have a minimum width of 4m, and does not take up quite so much space. As the bund will be planted out and setback by 8m from the

shared boundary, and is located on relatively flat land, we consider this would have negligible risk of failure or erosion. While this means we would not comply with the permitted activity earthworks rules, it may be possible to address this through this consent process. If it can't be addressed through this process, we will comply with the 1:2 batter slope requirement in the 2GP.

Proposed Conditions

25 Mr Riddle proposes a number of conditions for the proposed activity. I only have comments on the following conditions – with my additions in underlined text.

26 Condition 5 – to ensure this condition has a broad enough ambit I suggest adding the following words:

“5.Regarding the use of outdoor space: 1. The use of any outdoor areas is prohibited by paying guests between the hours of 10.00pm to 8.00am, unless arriving to or leaving the unit. “

27 Condition 9. – I have suggested a change to ensure this condition does not inadvertently capture gathering or parties that we may have as part of our normal residential activity on site:

“9. Large gatherings of non-tenants or parties associated with use of the unit authorised by this consent are strictly prohibited. This condition does not affect activities carried out by the occupants of the primary residential dwelling on site.”

28 I am not sure what management plan Advice Note 1 refers to, and so request that this be deleted. This advice note is currently proposed as follows:

“Advice Note 1.The management plan may be updated from time to time, this shall be certified by Council’s Planning and Development department prior to implementation and shall demonstrate the management techniques that will be used to ensure conditions (116 - 120) are met, and shall include the contact details of the property manager available for any complaints”

Conclusion

- 29 From our perspective our proposed mitigation measures, combined with the conditions of consent suggested by Mr Riddle (and agreed to by us) address the concerns of Mr Valentine to the point that any adverse effects will be minimal.

Dated this 16th day of March 2020

A handwritten signature in black ink, appearing to read 'Sally Dicey', with a long vertical line extending downwards from the end of the signature.

Sally Dicey

From: Sally Dicey

Sent: Friday, 18 October 2019 7:37 AM

To: Riddle, Callum <Callum.Riddle@wsp.com>

Subject: RE: LUC-2019-250 - Request for Written Approval Update

Hi Callum

We were previously asked to get written approval from our neighbour, Chris Valentine, at 40 Centre Road for this application. I have been unable to obtain this from Chris. Please could you proceed to limited notification of this application and notify Chris?

Based on discussions with Chris I would also like to formally amend the application as follows:

1. Amend the setbacks on sheet no. 3 of the prelim house plans (Appendix B) so that the unit would be setback by 17.5m from the boundary with 40 Centre Road and 40m from Centre Road (instead of 15.5m and 42m respectively).
2. We offer and agree to a condition specifying that the primary vehicle access and parking will be the existing gravelled parking area that is located between the proposed unit and Centre Road, as shown on aerial photos of the site. This area is indicated by the blue polygon in the image below.



3. We offer and agree to a condition that the proposed bund which is identified in the application (Appendix B, Sheet 3) to screen to a height of 3m, with the bund being no less than 1.5 high.
4. We offer and agree to a condition that there be no amenity space between the proposed unit and the boundary with 40 Centre Road i.e. to north east of unit.

Please let me know if you need any more from me.

Thanks so much,

Sally

From: Sally Dicey
Sent: Saturday, 19 October 2019 4:41 AM
To: Chris Valentine <c.d.v@hotmail.com>
Subject: 26 Centre Road - progressing application

Hi Chris

I asked the DCC about proceeding towards limited notification as I had not heard back from you. I've tried calling a few times but have had no luck (my number comes up as a slightly strange number at the moment as we are routing our calls through an app while overseas).

As you can see below the limited notification process incurs extra fees (the deposit of \$5,000 below is additional to what we have already paid to lodge the application). Hearing fees are likely to be more again.

Our previous discussions seem to have been really positive, in that we have agreed to amendments that hopefully go some way to addressing your concerns. Please could you indicate whether you are at all likely to provide written approval, or whether you won't be? We would simply like to know this before incurring the extra costs associated with the limited notification process. Please do not take this as any form of pressure – we are really just seeking clarity from you so we know whether to proceed down the pathway of limited notification or not. It would be a bit of a waste to do so if you are actually happy to provide written approval.

Based on our discussions to date we formally amend the application as follows. If I have any of this wrong, or have missed out anything, please let me know, but as soon as possible:

1. Amend the setbacks on sheet no. 3 of the prelim house plans (Appendix B) so that the unit would be setback by 17.5m from the boundary with 40 Centre Road and 40m from Centre Road (instead of 15.5m and 42m respectively).

2. We offer and agree to a condition specifying that the primary vehicle access and parking will be the existing gravelled parking area that is located between the proposed unit and Centre Road, as shown on aerial photos of the site. This area is indicated by the blue polygon in the image below.



3. We offer and agree to a condition that the proposed bund which is identified in the application (Appendix B, Sheet 3) to screen to a height of 3m, with the bund being no less than 1.5 high. (If you want the width of the base of the bund specified here that is fine, although I am not sure this is necessary as the height seems to automatically denote the width of the base i.e the higher you go the wider the base has to become?)
4. We offer and agree to a condition that there be no amenity space between the proposed unit and the boundary with 40 Centre Road i.e. to north east of unit.

Thanks so much for your time on this,

Kind regards

Sally