

*Approved*  
*DPC meeting 11/16*  
*22 November 2016*

**THE DEVELOPMENT AND PLANNING COMMISSION**

Minutes of the 11<sup>th</sup> Meeting of 2016 of the Development and Planning Commission held at the Charles Hunt Room, John Mackintosh Hall, on 22<sup>nd</sup> November 2016 at 9.30 am.

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**Present:**

Mr P Origo (Chairman)  
(Town Planner)

The Hon Dr. J Cortes (MEHEC)  
(Minister for the Education, Heritage, Environment &  
Climate Change)

The Hon S Linares (MCMYS)  
(Minister for Culture, the Media, Youth and Sports)

Mr H Montado  
(Chief Technical Officer)

Mr G Matto (GM)  
(Technical Services Department)

Mr I Ballestrino (IB)  
(Gibraltar Heritage Trust)

Mr K Santos (KS)- (non-voting member)  
(Land Property Services)

Dr K Bensusan (KB)  
(Gibraltar Ornithological & Natural History Society)

Mrs J Howitt (JH)  
(Environmental Safety Group)

Mr M Cooper (MC)  
(Rep Commander British Forces, Gibraltar)

Mr C Viagas (CV)

**In Attendance:**

Mr P Naughton-Rumbo (DTP)  
(Deputy Town Planner)

Mrs. Miriam Brittenden  
(Minute Secretary)

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**Apologies:**

The Hon Dr J Garcia  
(Deputy Chief Minister)

Mr J Collado  
(Land Property Services)

**Approval of Minutes**

**829/16 – Approval of Minutes of the 10<sup>th</sup> meeting of 2016 held on 25<sup>th</sup> October 2016**

The Commission approved the Minutes of the 10<sup>th</sup> DPC meeting of 2016 held on 25<sup>th</sup> October 2016.

**Matters Arising**

**830/16 – F/14448/16 - Admiralty Tunnel, 77 Queensway - Proposed installation of additional server centres with cooling equipment inside tunnel complex.**  
*(Reconsideration of application following clearance from MOD)*

DTP briefed the Commission on this Application which had been deferred from the last meeting as the MOD had raised issues with the heat emanating from the development that may affect existing salt water pipes that are located within the vent. The Application was for the creation of two new server rooms within the premises at Admiralty Tunnel.

DTP stated that since the last meeting the MOD had now confirmed in writing that it had no objection to the proposal. On this basis DTP recommended approval of the proposal.

MEHEC commented that the DoE does not object to this Application on the basis that there will be no release of hot air within the tunnel and cave system. He pointed out that this was different to another pending application by the same applicant where heat was to be released into the tunnel and cave system and to which there were objections. The approval of the current application was not to be seen as a precedent for approving the pending application.

KB added that GONHS were extremely worried on the raising temperature within the rock and stated that the temperature had already increased by one degree, which could have a detrimental effect on living organisms within the rock. He added that the caves should be constantly monitored and this should be funded by the developers.

The Application was unanimously approved by the Commission with a specific condition requiring the developer to monitor air temperature within the tunnel/cave system.

**Major Developments**

**831/16 – F/14499/16 - Detached Mole – Proposed oil transshipment operation comprising supply vessel (as existing) and installation of pipework on the detached mole.**

DTP briefed the Commission and said that this Application was for works on the Detached Mole. This followed Outline permission for the oil transshipment operation to supply vessels on site and the installation of pipework on the Detached Mole.

He added that the proposal had been subject to an Environmental Impact Assessment at outline stage and the full Application had addressed the points raised in the Environmental Statement.

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The proposal was for the berthing of the vessel, which has the capacity to store between 100,000-150,000 m<sup>3</sup> of fuel. The scheme also includes the placement of four pontoons and to reposition the vessel a further 60m to the north along the mole (as requested by the Port Authority for operational reasons); and a land based network constructed on the Mole itself to transfer the fuel oil from the supply vessel to the loading positions, connected to the vessels to be refueled.

DTP added that this development was being carried out to meet the needs of bunkering in Gibraltar and would allow for the supply of two vessels at the same time. The proposed pipework would be installed against the seawall on its East side, to connect with the supply vessel and would also provide a loading position for the vessels being refueled. He added that all the proposed structures could be removed and would not affect the Mole structure.

He stated that the supply vessel would be refueled on average once a month and would be using renewable energy sources for electricity and pumping. They had also submitted supporting documentation for Health and Safety measures which would also incorporate drip trays to catch any waste oil during transfers.

DTP added that the Applicant had produced a Construction, Environmental and Management Plan, an Operational Environmental Management Plan (OEMP), and other relevant supporting documentation to demonstrate compliance with the conditions imposed by the Commission.

The consultations received from the Consultees were follows:

MOD confirmed that they had not objections.

DoE were satisfied with the proposals, but had sought further reassurances over the noise levels. The Applicant confirmed that the OEMP addressed this issue but that they did not expect an increase in noise levels over the existing levels and that there would be no substantial increase in vessel movements.

Environmental Agency commented that a parallel permitting systems under the COMAHH regime would be carried out.

TSD raised concerns over possible negative effect on the stability of the Mole stability and would require written reassurance from the applicant that the mole's stability would not be affected. .

The MoH pointed out that there are original stone steps, together with some later concrete steps, which lead up to the Mole and they would need to be removed as they were located along the route proposed for the pipeline. MoH would want the steps to be reinstated after the pipeline was laid. The Applicant had responded that they would need full access to the pipeline at all times for health and safety reasons and had suggested that they could dismantle and store the steps and on cessation of operations they could be re-instated..

ESG raised concerns over the increased noise specifically from the use of boilers on the barges. The Applicant had confirmed that there would be no change to the current situation. ESG also enquired about possible pollution whilst cleaning and maintaining the pipeline. The Applicant confirmed that there would be regular cleaning and any residual oil or vapor would run through the main vessel's vapor recovery system. There would be no emissions and they had provided relevant details on the submitted documentation.

In summary DTP said that there were no major changes to the Outline Application other than the relocation of the vessel and the applicant had confirmed that the findings of the original

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Environmental Impact Assessment would not be affected by the relocation of the vessel. He added that other than the issue of the steps, the Department had no objection to the proposed scheme.

JH commented that there were many concerns on the EIA as regards the potential for fumes to affect the frontline residential developments. She further highlighted that matters of potential air pollutants, light impact and air quality/odour be included in the mitigation plan under the Construction Management Plan.

The Chairman replied that the relevant Authorities would have to ensure compliance with all mitigation measures in the construction and operations phases.

MEHEC stated that the project needed a Heritage Licence which would ensure that the stairs were safely removed and stored in a secure location\*. The MoH and the GHD would agree with the Applicant on the adequate procedure to ensure the stairs are stored adequately and would be funded by the developer.

IB proposed that the steps be incorporated on another location along the Mole. MEHEC suggested that the GHT and the MoH meet with the Applicant on site to address this issue prior to approving the Heritage License.

The Application was approved subject to and the conditions proposed and that the applicant would need to obtain a Heritage license.

\* **Note:** at the subsequent meeting of the Commission held on 16 December 2016, DTP clarified that the mole was not in actual fact a listed monument and a Heritage License was not therefore required prior to the removal of the existing steps located at the far side of the Mole to allow the pipe to be laid. He stated that the issue with the dismantling and storage of the steps could be a condition in the permit.

### **Other Developments**

#### **831/16 – BA13206 - Buena Vista Barracks 40 Europa Road - Proposed construction of 11 dwellings and conversion of the existing Buena Vista Stone Barracks into one or two dwellings, along with associated infrastructure.**

DTP briefed the Commission on this full application granted in October 2014 for the conversion of the Stone Block into a single dwelling or 2 separate dwellings. The Applicant had now submitted revised plans complying with previous conditions imposed by the Commission and these included new proposals:

- The building was to be converted into a single dwelling, following from the previous proposal.
- Proposed new roof structure with a single skylight in the center of the roof.
- The incorporation of a 2.65x30x5.8m, glazed structure, set back by 1m with an incline on the northern side. On the southern side they proposed to incorporate solar panels.
- Minor internal alterations.
- The re-roofing of the existing roof top clock enclosure.
- Incorporate an external spiral staircase for access to the first floor.
- Replace an existing balustrade to comply with current building regulations.

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DTP explained that the Applicant also proposed a natural pool, Jacuzzi, garden features and pergolas, which were not included in the current Application.

He added that other than the standard comments received by the Consultees, the TSD suggested that the projecting element on the roof be reconsidered to minimise the effect to the esthetics of the building. MoH had no objections other than the proposed window scheme should be on a like-for-like basis.

DTP commented that the roof structure was similar to the original in terms of the scale and height and was set back from the building elevations. He added that the overall scheme had maintained the main integrity of the stone building and features. The roof structure had been agreed to in the original Application and recommended approval of the proposed scheme.

The Architect for the Applicant, Mr. A Brion from AKS addressed the Commission and confirmed that the pool and landscape would be subject to future consideration and was not part of the current proposal.

MEHEC stated that the proposed pool and landscaped land were located in an area of great natural interest and were not approved, unless full details were received. He also commented that he did not agree with the privatisation of the Stone Block, which was agreed by the previous administration, and the subsequent removal of public access to the area. He added that other buildings forming part of this development had ruined the look of the cliff view from the South and was concerned that the proposed roof structure would worsen this impact.

The Chairman interjected that the construction was as submitted and the Applicant was not digressing from approved plans.

MEHEC commented that the final development did not look like it was originally approved and the current look of the building was not satisfactory in his view.

DTP added that the structure had a similar height as previously approved. The information received from the Applicant was that the projecting area had an enclosed stair core and a Living room for the Applicant's aged parents, who would be residing in the first floor.

DTP added that the proposal was for an angled, steel-framed glazed conservatory extension and the roof would be glazed. .

The Commission concurred with the comments received and recommended that the Applicant resubmit the proposal in line with the single dwelling option approved in the Outline Application scheme. The Application was deferred pending resubmission.

**832/16 - F/13799/15 - 2c Mediterranean Terrace, Library Ramp - Proposed alterations to the first floor and attic conversion.**

DTP stated that this Application was a Full Application for alterations to the roof scape; the Commission had considered previous schemes in December 2015 and March 2016 and refused these on the basis that the proposed dormers were out of character, over bearing and did not comply with Development Plan policy.

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The submitted revised plan was for a smaller scheme to provide roof access from the attic area. The proposal consisted of the demolition of the existing unsightly structure and to rebuild a new smaller structure, which would be set back and integrated into the roof. The Applicant had provided 2 colour options to blend with the existing colour scheme. DTP also added for information purposes, that the roof was not original and were concrete roof tiles.

He added that the proposal also included the provision of 2 skylights on the west elevation and that the new proposal was more sympathetic to the general building design. He also added that the Commission needed to take a view on the proposed skylights as it would set precedence for similar situations. He recommended the approval of the proposed skylight as it was less visible and recommended the proposed terracotta color option.

MCMYS commented that there were two issues; one was the proposed roof structure and the other, the skylight which needed approval. He suggested that the skylight be rejected to prevent a precedent being set.

The Chairman summarised by saying that the proposed roof structure in terracotta should be approved and added that the proposed skylight on the west elevation should be rejected. The Commission concurred with the Chairman's summary.

The Commission approved the proposed roof structure, in terracotta and rejected the west facing skylight. The Applicant was advised that skylights on the east elevation would be considered if the Applicant was to re-apply.

**833/16 – F/14408/16 – 23 Rosia Court, 21-23 Rosia Road - Proposed loft conversion and two storey rear extension with terrace**

DTP commented that this was a full Planning Application for a loft conversion, rear extension and a roof terrace. He commented that these properties were ex-MOD buildings that had been tendered for sale some years ago. He stated that loft conversions and extensions at the back of the building have been permitted in various other cases.

DTP stated that the proposal was for internal works; remove the roof to the existing single storey rear extension to add a new storey with a terrace over, create a new bathroom, and convert the loft area into a residential accommodation. The proposal also included the introduction of a new window on the west elevation and to reposition an existing window, and two skylights in the North face to serve the loft area.

DTP commented that they had not received any objections from consultees and added that the proposed change to the fenestration on the west elevation was acceptable, as it aligned with the existing fenestration. The proposed relocation of the existing window and introduction of a new window to serve the loft was in line with what had been permitted in past Applications.

DTP added that there were no objections for permitting north facing skylights in the roof and stated that the Applicant needed to check whether the roof had been encapsulated if so, the works had to be done to strict standards as the roofs were asbestos. He added that no objections had been received from the neighbours and recommended approval of the proposed scheme.

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JH commented that the Commission needed to ensure that all future proposals match the approved design.

The Chairman commented that if the scheme was approved, they would insist that the materials, colour scheme, type of fenestration, roof lights and rear extensions were consistent throughout the development.

IB commented that the proposed new window should match the original window with an arched window frame. The Chairman stated that previously approved windows within the development do not have the arched frame and that they would be departing from previously approved schemes.

The Commission approved this Application unanimously subject to comments made.

**834/16 – F/14495/16 – 30a Europa Flats, Europa Road - Proposed alterations and two storey extension to existing dwelling, installation of pitched roof with dormer windows and skylights and proposed construction of new terrace and swimming pool in the grounds of the property**

DTP briefed the Commission and stated that this was a Full Application. He stated that this property is one of three identical ex-MOD buildings that were put out to tender in October 2015. It was the first application received but others were expected

DTP stated that the department met with the Applicant and raised concerns over the introduction of the terrace to the front of the first floor and the pitched roof proposal. As a result of this the Applicant had submitted revised plans.

The revised plans had retained the pitched roof but incorporated a set back and introduced skylights and dormer windows to the scheme. The first floor terrace was retained in the revised proposal and also introduced a sedum roof and solar panels to the roof of the extension. Together with the internal alterations, there was also a two storey extension proposed to the rear and west. DTP pointed out that the windows to the proposed extension differed from the character of the original windows which had rounded heads. The Applicant also proposed a boundary fence, and a swimming pool but no further details had been received.

Mr. S Martinez ARC Designs), Architect for the proposed scheme, addressed the Commission. Mr. Martinez stated that the proposal was a developing scheme and they had adjusted the design based on the comments received from the planners. He added that the pitched roof extension was constructed from slate tiles to reflect other buildings in the area.

Mr. Martinez stated that property only had 72m<sup>2</sup> of residential footprint and the idea was to fill the void areas within the property and add extra residential space to the property. He added that the rooms were very small and the proposed attic extension would provide a future family expansion room and a terraced feature.

He added that the proposed ground floor extension would consist of filling in the void areas at the rear and stated that the existing natural feature would remain untouched. The proposed terrace would have traditional cast iron columns and a glass frontage to minimize the impact on the

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building. The proposed dormer window would provide access to the terrace, typical of the properties in the area.

MEHEC asked whether the Architect could provide a photomontage as the plans provided were not very clear. Mr. Martinez did not have any available but added that he was happy to work with any comments received from the Commission.

Mr. Martinez added that they would be happy to change the window designs to match the existing and the proposed boundary wall would be of timber fencing. He finalised by stating that they had approached the neighbours but they remain undecided, so no comments to the proposed scheme were received.

The Chairman noted that the additional extension would be a total of 182m<sup>2</sup> and welcomed the Commission's questions to the Architect.

JH asked whether there would be any proposal for landscaping and Mr. Martinez stated that there would be proposals in the future, which would take on board the Commission's recommendations. JH stated that the landscape proposals would be a critical part of this development as the proposed plans were transformational and cumbersome.

IB asked the Architect if the proposed glazed balustrade could be changed to railings, which he believed to be more in-keeping with the overall building design. The Architect stated that he would be happy to take any recommendations provided by the Commission.

DTP stated that the MoH had objected to the proposal stating that this was a late 19<sup>th</sup>/early 20<sup>th</sup> Century British period building and they considered the proposal would obliterate the original design. The side extension and the new terrace would be out of character. The pool would require an archeological watching brief and recommend that the Applicant redesign the entire conceptual design.

DTP added that this Application was subject to public participation and no comments had been received. He added that in terms of the Planner's assessment, the pitch roof, dormers and first floor terrace were considered to be out of character. In their view, the proposal would affect the architectural cohesiveness of the three buildings. If approved, the proposal would set a precedent for other proposals in the future.

He stated that the department felt that the proposed side extension should be set back 1m from the boundary wall. He also commented that the windows in the proposed extension should match the original existing windows and recommended that revised plans are submitted before approving the Application.

MCMYS recommended that the owners of the three properties meet and submit a joint proposal for a uniform design and propose a design in keeping with the character of the area. He stated that the buildings were to be listed in the near future and the Commission needed to take extra caution when approving this Application.

The Chairman stated that in hindsight, the tender process should provide the tenderers information as to whether an extension would be allowed and provide design recommendations to

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the applicants. He also stated that the tender applicants were notified that any alterations to the building would be subject to approval from the DPC.

CV interjected and did not agree with creating a traditional extension in the style of the existing building and suggested that a modern extension could also be acceptable. He agreed that a more holistic view should be taken for the three buildings in the area.

IB stated that the main features of the property should be retained.

DTP asked the Commission to clarify their recommendations to advise the Applicant appropriately. The recommendations were:

- The proposed 1<sup>st</sup> floor terrace extension was not approved;
- The addition of a pitched roof was not acceptable;
- The side extension should be pulled back by 1m from the boundary wall;
- The eastern façade should be re-designed to address concerns with the massing and design.

The Commission agreed with the recommendations and did not approve the Application as submitted. They recommended that the Applicant come back with alternative proposal and propose a more sensitive design.

***11.20 Break - Meeting resumed at 11.30***

**835/16 - O/14545/16 - Vacant Open Flat Roof Area above Vaults No.10 to No.15 Chatham Counterguard, Fish Market Lane - Proposed reopening of access to roof in Vault No. 12 Chatham Counterguard and installation of pergolas, tables and chairs and hard and soft landscaping on unused open rooftop terrace above Vaults No. 10 to No. 15 Chatham Counterguard**

DTP stated that this was an Outline Planning Application for the reopening of the existing spiral staircase which accesses the roof area, within vault 12, belonging to the Applicants' bar and restaurant, 'My Wines'. The proposal also included the use of the roof area (over the vaults 10 to 15) to be used for organised and special events. The scheme included the installation of a glass bio-climatic pergola, tables and chairs, hard and soft landscaping and bar counter, chill out area, glass panels on the openings of the existing cannons and provision of a small parapet wall and a glass balustrade on the east side for safety measures. The Applicant was also proposing to include touristic information panels.

He added that the Application had been subject to public participation and had received three objections from owners. DTP referred Members to copies of these objections that had been circulated to them together with a further 4 letters of objection and the applicant's counter representations. The Applicant and representatives of the objectors had requested to address the Commission.

The Commission welcomed Mr. D Dumas QC and Mr. Martinez, who represented the objectors, from four unit lessees in Chatham Counterguard vaults. The objectors were; three lessees from vaults directly located under the proposed scheme, ('Wrightec Limited' - vault unit 13), 'Casa Brachetto' (vault unit 9) and La Bodeguilla vault unit 10) and the fourth objector was from 'The Jazz Café', (vault unit 4).

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Mr. Dumas stated that their main concerns centered on problems with water ingress (which had affected unit vaults in the past), heritage considerations and possible nuisance and concern of the impact from extra clients to the existing facilities. He also stated that the only access to the roof area was through a spiral staircase, within unit 12, and they were concerned that the current access/exit did not accommodate the standards required in case of fire and emergency.

Mr. Dumas stated that the Chatham Counterguard scheme was a good successful example of a regulated area and was subject to strict control so as to protect the heritage value. He added that permission was given to the businesses to install uniform canopies along the front, which catered for a protected tables and chairs area.

He added that the Application proposed was for private and organised events, such as weddings and corporate events and the objectors believed that this was an overambitious, overdevelopment which was outside the purpose of the Chatham Counterguard scheme. He added that the lessees from vault unit 10, 'The Bodeguilla' had approached a Government official representative over the use of the roof area and were told that this area could not be used.

He also added that that the use of the entire roof area could possibly take a few hundred people and this could also cause noise nuisance and lead to a risk of bad reputation for the area.

Mr. Dumas stated that the proposal was not within the Development Plan Policy and Pg. 7, which stated that the long term aim for the city walls was to preserve and enhance the appearance by seeking removal of existing buildings and structures, and prevent new developments on or adjacent to the historical walls, and this proposal would be contrary to this policy.

In summary, Mr. Dumas stated that in the objector's view, the development would negatively affect the character of the area by over development, put further strain on the limited toilet facilities the use of the roof area, including the hosing down and cleaning of the roof area and could cause water ingress to business directly below.

He finalised by stating that the lessees of adjacent units generally work together and was taken by surprise by this proposal, as none had been consulted prior to the submission of the proposal.

MEHEC stated that as one of the Applicants is married to his niece he would not consider it appropriate for him to comment on this proposal.

CV asked the objector whether they would reconsider the objections, if the development was curtailed to the Applicant's unit footprint area. Mr. Dumas replied that possible effect from fewer people accessing the area would address the health and safety concerns, but not the other objections, which would still stand.

The Commission welcomed the Applicants Mr. G Saunders, Mr. T Hernandez and the Architect for the scheme, Mr. F Trico.

Mr. Trico addressed the Commission and stated that his clients business 'My Wines' had enjoyed success over the last couple of years and due to lack of space they were proposing the use of the roof area. In the past the Applicants had applied for the use of the pavement directly opposite their business and this proposal was refused.

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He stated that the only roof access was through a spiral stair located within their vault, unit 12 and the Applicants had considered the use for the roof space, which in their opinion was a shame that it was not in use. He said that the Applicants understood that the proposal went against the Development Plan, but considered the roof area was a wasted space.

He considered that the space had extraordinary view of the vicinity and would be an ideal location for organised tours and historical talks considering the historical links to the area. He added that the proposed pergola was sympathetic to the monument, which has been setback and lightweight materials would be used.

Mr. Trico addressed issues raised by the objectors by stating that the water ingress was never a problem at roof level and added that the Applicants would assume responsibility for the maintenance and upkeep of the waterproofing and were willing to re-waterproof the area.

Regarding health and safety concerns raised he stated that they had held discussions with the relevant authorities and because it was a terraced area, there were no issues raised. He added that the Applicant had proposed a second alternative emergency escape over the city wall, which would access a metal ladder leading through to the Monte Cristo building's fire escape route.

Over the possible noise nuisance, he stated that it should be pointed out that under Section 19, the Application went out to public participation and no objections regarding noise had been received. He added that the area had organised many public events including live music, attracting many visitors and had never received any noise nuisance complaints.

Mr. Trico also highlighted that the intention was not to over develop the area with built up areas and clarified that the entire footprint of the roof would not be used. The proposed structure was limited to above units 11 and 12 and the remaining area was for gathering and mingling to bring life to an unused area.

On the matter of the limited toilet facilities, Mr. Trico understood that the Government was currently addressing this issue by providing extra toilet facilities, possibly, by reconvertng the bin-store area. The Applicants were also looking at the possibility of providing toilet facilities within vault 12.

The Chairman welcomed comments from the Commission.

MC asked the Applicant, whether disabled access would be provided to the first floor to which Mr. Trico stated that the access would be limited to abled body access.

DTP asked the Applicant to clarify the tourism side of the proposal and whether this could be done with the current facilities and to clarify the alternative means of escape via the city wall.

Mr. Trico said that the means of escape would be through the top of the city wall on to the garage entrance to the 'Monte Cristo' building. DTP questioned whether the access was safe as if it was to be along the top of the walls there would nothing to prevent people falling off the wall. Mr. Trico stated that the Fire Authorities did not have an issue with the use of this route in the event of an emergency.

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The Applicant, Mr. Hernandez added that they already organise wine tastings with historical talks and walking tours, but considered that due to the popularity of these events the use of the city walls would cater for larger groups.

The Chairman asked the Applicant whether they could provide the amenities on the roof area without live music and structures. Mr. Hernandez stated that without the shade or shelter it would limit the use of the area and the proposed scheme would not be viable.

Commission did not have any more questions for the Applicants.

DTP stated that the Consultation comments received were as follows: The Heritage Trust objected to the erection of structures and the placing of items on the city walls and highlighted that the scheme was contrary to the Development Plan, and encroached historical City Walls. They stated that there was already an active use of the area and considered that the proposal would over intensify the use of the City Walls and would detract from the historical content of the whole area. Any external structures were detrimental to the historical walls and the proposed decking and structures would affect the water proofing and cause water ingress and damage to the monument.

LPS stated that the use of the roof area had been considered in the past and would wait to hear the views of the Commission.

TSD had pointed out that the numbers of covers had significantly increased and questioned the impact of the proposal over the communal amenities.

MoH supported the proposal but added that the Commission should ensure that any proposals do not damage the original stone.

DTP briefed the Commission on a further 4 letters of objections from the Public Participation process. These included concerns for security, accessibility to the air condition plant for the vaults, the layout would prevent access for maintenance of the Chatham Counterguard Works, Other comments received were in relation to unfair competition and the possible noise and disturbance to nearby residential areas.

DTP added that the Planning Policy OTC 5, of the Development Plan, essentially sought the removal of existing structures from the City Walls to return the original character of the walls and this proposal would be contrary to this objective. He added that in their view, the proposed structure would have detrimental effect on the character and appearance of the listed monument and the policy had been consistently followed by the DPC in seeking the removal of structures from the city walls.

He stated that the Commission had already allowed external canopies to provide additional tables and chairs area and shelter for the clients of the vaults which in itself were a compromise. The department considered that the impact of the proposal would lead to the proliferation of structures and be detrimental to the general views and gun emplacements. He also added that the approval of the proposal would lead to a precedent for similar proposals on the City Walls, and in view of all the points, they recommended the refusal of the Application.

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MCMYS commented that he would need to check with the department whether the MoH is in favour of the proposal. He added that from his perspective the City Walls should be clear but also supported the sensitive use of the City Walls. He also highlighted that he had concerns over the heritage and accessibility of the area as it did not provide disability access. He further expressed concerns over traffic control and limited toilet facilities and questioned how this was going to be mitigated.

CV stated that he agreed with the points raised by both the Applicants and the Objectors and mentioned that when the original project commenced the general overview was to allow access to the roof area, for this reason the spiral staircase access was left as a timber deck to leave the option to open up the area in the future. In his view he would be in favour of a more sensitive structure as long as it was not intrusive and would favour the use of the roof area.

He added that in terms of the water proofing, the liability could be transferred to the new user and in respect of the toilets issue, the plans to provide extra toilet facilities in the area could address this issue.

JH commented that the area was successfully converted, was an asset to Gibraltar and she was apprehensive over the increased volumes of people in the area, which could result in health and safety issues. She also highlighted that the proposal could negatively affect the overall aesthetics of the area and could also be considered as unfair competition and a contravention of the Development Plan.

The Chairman commented that it had to be decided whether the city walls were to be accessible or not. He added that the Applicant has the only access to the roof area, but regrettably it did not allow for disabled access. He mentioned that there were possible solutions for the structure if allowed, and the Commission could ask the Applicants to propose a more sensitive scheme.

IB read the Heritage Trust's comments; they agreed with the spirit of the Development Plan and added that to secure the upkeep of historical structures they needed to be kept in active use. However, he stated that this proposal would serve to detract from the historical content of the site.

CV suggested limiting the use and the numbers allowed to access the area.

The Chairman suggested to defer the Application and asked the Applicants to provide a new proposal with a more sensitive scheme which was more in keeping with the general look of the area and limit the space proposed.

The Applicant interjected that they had also discussed the possibility of introducing a lift access within one of their vaults to address the disabled access issue.

The Commission agreed with the comments made and invited the Applicant to re-apply with a more sensitive scheme that could be more acceptable, the Application was deferred.

**836/16 - O/14529/16 - Dolphin Restaurant, Camp Bay - Proposed demolition of the existing building and the construction of a seven storey building on the site to accommodate restaurants, parking and 13 apartments with associated amenities including swimming pool.**

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DTP briefed the Commission on this Outline Planning Application. The proposal included the demolition of the existing building and construction of a contemporary, mixed use seven storey block which would be 18m high. The proposed scheme would accommodate 2 restaurants, tuck shop and stores for the catering business and beach goers on the ground floor.

He added that on the first floor they were providing 20 car parking spaces, of which, 5 were for public use. The main circulation core and the entrance to the garage would be accessed from Keightley Way and also included a plant room area, to serve the swimming pool.

The second floor of the proposal would have 3x3 bedroom flats, with west facing balconies and a communal external area which would accommodate a swimming pool. On the third and fourth floors a similar layout of 3x3 bedroom flats were proposed and on the fifth and sixth floors, which were set back, two three-bedroom flats per floor were proposed. The proposal also included the incorporation of swift boxes, green roof, water harvesting, planting and a living green wall to partially screen the development from the south and planting to the terraced levels.

DTP commented on the history of the site and said that permission was granted in January 2015 for an external area to be enclosed and a small kitchen extension was approved and highlighted that as part of the approval the Commission insisted on clear access for public use.

DTP reported that the Development Plan Policy limits developments within the Camp Bay area to those related to tourist, leisure or recreational facilities and subject to being sympathetic to the sensitive setting. He also highlighted that other general policies in the Development Plan would be applicable to this proposal.

He stated that the department had received objections and subsequent counter representations, copies of which had been circulated to members. One of the objectors, Mr. A Neale, had requested to address the Commission. Mr Neale was welcomed to meeting.

Mr. Neale said that his main objections were, on what he believed to be based on the bigger picture, in terms of Planning and Building throughout Gibraltar. He stated that space in Gibraltar was at a premium and although the development of areas created jobs and opportunities, he asked the Commission to consider the long term benefits and enjoyment of the local population. He stated that the Upper Rock Nature Reserve is rightfully protected, but however, considered that flat and open spaces that are being used by the general public and add to the quality of life of Gibraltarians should also be protected.

He summarised his objections, which were as follows:

- The layout and siting both in it and in relation to adjoining spaces were inappropriate and unsympathetic to the appearance usage and character of the environment.
- The area was a public beach with parks and a local meeting point and all the areas should be accessible to the public.
- The placing of apartments in this area could remove local accessibility, as the apartment's owners' rights would take priority over the general public.
- The route along Rosia area to the Lighthouse is popular for walkers and cyclists, and the apartments would make the route busier and more congested than it already is.

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He added that allowing this development would set precedents and more developments would consider the use of this location. He asked the Commission to consider the legacy left for the enjoyment of Camp Bay.

He also added that he believed that the area from Parsons Lodge through to Little Bay should be considered as a Heritage Area and the development would not be in-keeping with the area's heritage. He added that the Camp Bay area was formed during the Second World War and the Government should be emphasizing these features and not building over them.

Mr. Neale finalised by asking the Commission to ensure that the wonderful walks and seaside views from Parsons Lodge through to the Lighthouse should be protected for Gibraltar's future generations.

The commission thanked Mr. Neale and welcomed Mr. O'Reilly, the Architect for the proposed scheme to address the Commission.

Mr. O'Reilly stated that the proposal set to enhance the area and would incorporate two restaurants, tuck shop and a storage facility for beach goers. He stated the development sits on the footprint of the existing Dolphin's Restaurant building and added that the Applicant had reviewed the objections and sympathize with the comments made, but believes that it is a general fear of change and loss of amenities which are not the intentions of the Applicant.

He added that they were not aware of the right of way on the existing area and they would be happy to sit and discuss to address possible solutions to the Committees proposals.

Mr. O'Reilly stated that the general form of the building was designed with a Maritime theme with a ship like structure which was inspired from the marine environment. He added that the building sits behind the seating area and there would not be any concerns over the overshadowing of the public area.

He mentioned that they were conscious for the privacy of the residents and they had introduced a living green wall to screen the amenities from the public. He also added that the ramp and steps access to the beach would remain accessible and highlighted that they would be open for discussions with the Commission's proposals and suggestions.

Mr. O'Reilly went onto explain the proposed scheme would be constructed on a concrete structure and they are proposing to enhance and soften the concrete element by providing green and timber features.

He added that the proposal in no way intended to prevent the use to the public accessed area and although there was fear that this development would set a precedent for further developments in the area, it was up to the Commission to reject any future development.

He further stated that the development would provide 13 car parking spaces which would not have any impact on traffic in the area. They believed that the development would not be significantly affecting the amenities to the public and loss of view.

The Chairman asked the Architect on the sustainability of the green wall. Mr. O'Reilly stated that they would need to discuss this issue with the landscape architect and ensure this was maintained.

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The idea was to plant indigenous plants to the area, collect rain water and create a water irrigation system.

CV stated that the building was significantly large and asked the Architect how construction materials would be delivered to the area, as the adjacent tunnels were very small and narrow. Mr. O'Reilly stated that it was intended to carry out works out of season, through winter and the silent hours and complete internal works during the summer months. They estimated the works to take 12 months to ensure there was minimal impact to the general public.

DTP confirmed there were a total of 11 objection letters and a petition with 810 signatures, of which, 244 also included comments.

The main areas of concern were:

- The precedent for further residential developments within the area.
- The area should remain unchanged as a public amenity.
- Concern that in allowing a private residential building, resident's rights would take priority over those of beach goers in the context of public usage. For example, BBQs in the evening which might generate nuisance complaints from residents of the building.
- Technical safety of piling near tunnels and cliffs.
- Possible loss of parking
- The site should have been put out to tender.

In addition, departmental comments received by the Commission were the following:

MoH objected to the proposal and considered that this area should remain an open area as approval of the proposal would only serve to stimulate future development in the area.

Ministry of Tourism and Equality had made clear that any developments should not prevent disabled access to the beach and any new building should be accessible.

TSD objected and considered the development excessive. They also commented that the footprint for the proposed building also included an area currently held by way of tables and chairs licence. Geotechnical studies and assurances that existing Government retaining walls would not be affected were also necessary.

The Traffic Commission considered that there would be a possible loss of parking spaces and indicated that it was not clear how the 5 public parking spaces would be managed. They had also requested details on the access arrangements and any pavement and turning circles. The proposed vehicular access was also considered to be located too close to the tunnel exit and would need to be moved further south.

DTP briefed the Commission on the Planning assessment and highlighted that there was a strict policy in the GDP restricting development and required to retain Camp Bay as an area of recreational, leisure and tourism importance. The proposed residential element was therefore contrary to the Development Policy.

He added that there no other no material considerations had been put forward that would outweigh the policy objection. Approval would represent a significant shift from the current

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approved policy and the Commission should take a more holistic view of the area through the plan making process, not on ad-hoc development proposals. He finalised by stating that the proposal would set a precedent in the future.

He stated that there were also concerns in terms of the excessive scale and massing. The proposal was not considered sympathetic to the area; no disabled parking spaces have been provided and there were concerns with potential adverse effects on the historic walls which run from Parsons Lodge to Buena Vista Barracks. He stated that having considered these aspects together with the public views he would recommend that the Application was refused.

The Commission agreed unanimously and the Application was refused.

**837/16 – F/14539/16G - 4a Ark Royal, Laguna Estate - Proposed change of use of an existing ground floor vacant retail unit into a takeaway.**

DTP briefed the Commission on this Government Application which was for the proposed change of use of a vacant ground floor retail unit, at Ark Royal House, to convert to a takeaway business.

He stated that the Government needed to re-provide an existing takeaway from within Laguna Estate. The existing takeaway would need to be demolished to provide space for the installation of a lift as part of the improvement works to Laguna Estate.

The proposal included a sitting area within the premises, kitchen space at the rear of the building and the installation a ventilation duct in the courtyard of Ark Royal House.

DTP added that the Application had been subject to public participation and had received objections from tenants of Ark Royal House. Their concerns were in summary:

- No other take away in Laguna Estate was situated directly beneath flats
- Noise and disturbance.
- The proposed seating area would encourage people to stay late and consequently disturb residents.
- Inappropriate location for the chimney
- Odour nuisance.

DTP explained that in 1999, a takeaway had been proposed in this location and was refused, mainly due to objections received by the Housing Department. As regards the current application, he added that no objections were received from consultees including the Housing Department, who in fact were leading on the application.

He further added that the Development Plan stated that permission should only be granted where there are no significant adverse effects to the character, appearance of the building nor to the amenities of the nearby residents and no unacceptable traffic, car parking and safety elements affected. DTP understood the residents' concerns over the possible noise disturbance and proposed to condition the opening hours to 12 midnight.

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In terms of the odour, the proposed a chimney to roof level would address this issue. Regarding a possible precedent, other residential areas such as Varyl Begg, Glacis Estate and Ocean Heights currently have takeaways and the proposed take away could be considered a service for residents.

DTP stated that subject to the appropriate conditions, he recommended approval of the scheme.

The Commission agreed that there were no objections to the application subject to condition limiting opening hours and that the flue is installed as proposed.

**838/16 - F/14541/16 - 1 Little Genoa and car parking space for 9 Little Genoa - Proposed extension of residential dwelling over car parking space and associated works.**

DTP stated that this Application proposed an extension of the dwelling over an open car parking space providing a garage at ground level and living accommodation over. On the first floor the proposed extension would extend to the front façade of the building and internal alterations were also proposed. He added that the scheme did not obstruct the existing bin stores or the electricity meters located on the site.

DTP explained that a window was proposed in the north elevation of the extension which would have obscure glass. The window was located approximately at 2m distance, between the proposed extension and the facade of the building to the north. He stated that there would have to be an agreement between the landlords for this issue, as it could potentially be an encroaching window.

He stated that the extension would incorporate a terraced area, which would be accessed by a skylight access, a parapet wall with steel balustrade except the east elevation which had a glass balustrade.

DTP stated that other than the standard comments received; the TSD had no objections to the proposal but recommended and stipulated that the garage doors needed to be set back at least 4.8m from the inside of the footpath to prevent cars blocking the footpath.

The proposal had been subject to Public Participation and they had received a letter of objection from the Management Company of the adjacent property, 'La Terrazza'. They indicated that they would prefer no windows on northern elevation of the extension and expressed concerns over loss of light to their windows on the south elevation.

DTP commented that the proposal was generally considered to be sympathetic to the scale, massing and detailing and suggested that the false roof detail was not necessary and recommended the removal of these features. For uniformity purposes, the glass balustrade on the east elevation should be substituted with a metal railing and the estate name sign, located outside the property should be relocated.

DTP recommended approval of the scheme subject to TSD conditions and the north window proposed being agreed by both parties.

The Commission agreed with comments made and approved the proposal, subject to the removal of the false roofs and substitution of the glass balustrade for railings.

**839/16 - D/14611/16 - WT Station, Devil's Tower Road - Proposed demolition of ex MOD structures, boundary wall and internal MOD structures**

DTP commented that this Application was for the proposed demolition of existing rock fall canopies, removal of existing structures within the tunnel system at WT Station and the removal of part of an external boundary wall to Devil's Tower Road.

He added that the proposal was for the preliminary works for wine vaults within the tunnel, which had outline permission and the Full Application was expected to be submitted shortly.

He commented that within the tunnel system they proposed the removal of internal asbestos sheeting, obsolete services and soft strip the area of materials, including doors, windows, partitions and independent structures, although there was some concern over structures that would need to be retained.

DTP commented that they had not received any comments from the Consultees yet and added that the normal policy in respect of demolition of buildings is to not allow it until a full application has been approved for the redevelopment of the site. However, in this case, demolition of the structures would not result in the blighting of the site which is the rationale for this procedural decision by the Commission.

There were no objections to the application but the removal of internal structures should be subject to the MoH and GHT identifying which structures are to be retained.

The Chairman commented that the removal of the boundary wall to be replaced by a timber hoarding was not advised, given that the Full Application had not been approved and the existing boundary wall would be stronger than hoarding.

Mr. W Davis (Architect) and Ms. T Lee (Applicant) were welcomed to address the Commission. Mr. Davis stated that they needed clearance of the internal structures to be able to fully assess the protection works required and the Geotechnical Assessment.

He added that the purpose was to strip back the area and return it to its natural look; the current Application proposal was intended to buy time. He added that parts of the boundary wall would be removed to create a laydown area and the parts that would remain would require the diversion of existing services.

The Chairman interjected that they were preempting the Planning Application which had not been approved and stated that the current wall was secure. The area was prone to high winds and the proposed timber replacement could potentially be a cause for concern. There was no advantage to the replacement as hoarding fees and maintenance of it would be required.

Ms. Lee stated that the comments received were constructive and fair and they would take the Commissions comments on board.

The Application was approved subject to the MoH and GHT identifying with the applicant the internal structures that could be removed; and the demolition of the boundary wall would be limited to the widening of the existing access only, if necessary.

**MINOR WORKS – note within the scope of delegated powers**

All applications within this section are recommended for approval unless otherwise stated –  
The Commission approved the following applications

**840/16 – F/14093/16 – 100 Both Worlds, Sir Herbert Miles Road -- Consideration of amendments to approved plans for the installation of glass curtains.**

**841/16 – F/14497/16 – 10 North Pavilion Road -- Proposed extension to existing dwelling.**

**842/16 – F/14538/16 – 62-64 Irish Town - Proposed office extension to fourth floor and roof level.**

**843/16 – F/14540/16 – 20 Line Wall Road -- Proposed refurbishment of existing car showroom and associated areas.**

DTP commented that the Chairman had questioned whether the Applicant should provide a pavement on the western side of Line Wall Road as none existed at present.

The Chairman added that Highways Department would need to check whether there is a possibility to provide a pavement at this location. He also recommended that if possible, the Applicant should fund the pavement provision.

DTP commented that if members were envisaging that the pavement be built within the application site that this would be difficult as the actual structure is not being demolished and therefore there would be no room for a pavement. The Chairman confirmed that the intention should be for a pavement to be provided on the highway, if possible, and that this should be paid for by the applicant.

**844/16 – F/14555/16 – 23 Seashell House, Beach View Terraces -- Proposed installation of pergola in garden.**

**845/16 – F/14576/16 – 118 Rosia Plaza, Rosia Parade -- Proposed enclosure of terrace with frameless glass curtains, installation of uPVC windows and installation of awning to terrace.**

**846/16 – F/14601/16 – Four Corners, Winston Churchill Avenue - Proposed construction of 11 x three storey apartment blocks comprising of 6 flats per block.**

JH commented whether the Commission was going to receive any details regarding this Application.

The Chairman stated that the masterplan had previously been circulated and undertook to email this to Members again.

MEHEC made the point that this development had been agreed under the previous administration and was not submitted to the Commission at that time.

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**Applications granted permission by subcommittee under delegated powers (For Information Only)**

The Commission noted the following Applications and agreed with the approval granted by the Sub-committee.

**847/16 - BA13198 - 9/7 Naval Hospital Hill -- Consideration of revised plans with regards to the re-alignment of the approved external stairs to accommodate new technical room, bathroom and BBQ area and including new stainless steel handrail.**

**848/16 - BA13599 - 12 Catalan Gardens, Sir Herbert Miles Road -- Consideration of revised plans for extended terrace at first floor level.**

**849/16 - BA13761 - Unit 1, 1 South Pavilion Road -- Proposed alterations to interior of residence**

**850/16 - BA13777 -14 Eurotowers, Europort Road - Consideration of 'As Built' drawings.**

**851/16 - F/13997/16 - Elkington House, 2 South Barrack Ramp - Consideration of revised plans for the proposed change of approved colour scheme.**

**852/16 - F/14111/16 - 8 Governor's Lane -- Consideration of revised plans for an extension in the height of the lift shaft to access terrace/roof level.**

**853/16 - F/14318/16 - 1 North Pavilion Road -- Reconsideration of installation of timber fencing on the left hand side on the front elevation of the building.**

**854/16 - F/14321/16 - 5 Castle Street -- Consideration of revised plans seeking removal of existing window, enlargement of entrance door and installation of glazed door and security gate.**

**855/16 - F/14336/16 - 505 Seagull Lodge, Mons Calpe Mews -- Proposed internal alterations.**

**856/16 - F/14413/16 - 4 Seashell House, Beach View Terraces -- Retrospective application for the installation of timber fencing to podium patio.**

**857/16 - F/14420/16 - Flat 12, 20/22 George's Lane -- Consideration of revised plans to convert a two bedroom apartment into a three bedroom apartment (as opposed to sub-division of apartment from 1 2-bed apartment to 2 1-bed apartments).**

**858/16 - F/14439/16 - Swimming Pool & Gardens, Europa Mews, Europa Road -- Proposed replacement of existing fence with new parapet wall and glazed fence.**

**859/16 - F/14456/16 - 1 Calpe Barracks, Calpe Road -- Proposed construction of a pergola, perimeter wall (bricks and mortar) and entrance gate (wood).**

**860/16 - F/14483/16 - Proposed amalgamation of properties and associated internal and external alterations.**

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**861/16 - Any other business**

No other Business

**862/16 - Next Meeting**

The next meeting will be held on 16<sup>th</sup> December 2016