

*Approved*  
*DPC meeting 10/16*  
*25<sup>th</sup> October 2016*

**THE DEVELOPMENT AND PLANNING COMMISSION**

Minutes of the 10<sup>th</sup> Meeting of 2016 of the Development and Planning Commission held at the Charles Hunt Room, John Mackintosh Hall, on 25<sup>th</sup> October 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 C Russo (CR)  
*(Land Property Services)*

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

Mrs J Howitt (JH)  
*(Environmental Safety Group)*

Mr W Gavito (WG)  
*(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)

Mrs D Smith  
(Gibraltar Heritage Trust)

**Approval of Minutes**

**752/16 – Approval of Minutes of the 9<sup>th</sup> meeting of 2016 held on 28<sup>th</sup> September 2016**

The Commission approved the Minutes of the 9<sup>th</sup> DPC meeting of 2016 held on 28<sup>th</sup> September 2016, subject to corrections received from ESG.

**Matters Arising**

**753/16 – F/14294/16 – Aerial Farm South Plot, Devil's Tower Road - Proposed re-levelling of existing site and construction of two new warehouse/garage units and external parking area. (GoG Project)**

DTP briefed the Commission on this Application which had previously been considered in July 2016, the Commission had deferred the Application for the following reasons:

- Rock fall protection measures details had not been provided;
- The proposed extent of hard-surfacing of land was excessive;
- The architectural treatment of the building and the boundary screening proposed was not acceptable as the site was located on a prominent site.

DTP briefed the Commission on the proposals, highlighting that that site was prone to rock falls and an assessment had been carried out. The project was designed to fall within the safety parameters. He added that the proposal was for 2 plots, which would accommodate parking for mini buses and the workshop with essential facilities for the site.

The changes proposed were to set back the buildings from Devil's Tower Road approximately by one metre. The toilet facilities and associated facilities for unit B, which were located externally, were now incorporated within the building. The buildings had been reduced in height by ½ metre and the proposed colour scheme was a combination of oyster white and light ivory to help blend into the surrounding area.

He stated that no details from the rock fall protection measures had yet been submitted, once received, these would need to be assessed. If the Commission approved the application, he recommended that these details be provided when the design is finalised.

DTP added that it was also proposed to include landscaping comprising planters along the boundary wall to provide a softer appearance to the wall and the planting of a number of large trees to help screen the building from Devils Tower Road. The Applicant also proposed to incorporate a small pond towards the back of the site and confirmed that only 50% of the site would be covered with hard surfaces.

DTP reported that the MOD highlighted that there is a water pipe that runs through the site which needs to be buried and also stated that the Applicant would need to liaise with the owners of the adjacent sites to carry out the works as the same water pipe runs through their property. The MOD also commented that there was a communications pit located within the site which needed

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to be retained and the MOD would require 24/7 access. The current proposal shows a fence over this pit so this would need to be amended accordingly.

The Director of Civil Aviation commented on the water feature, saying that the proposed pond would attract birds to the area and was concerned with the possible effect of increased movement of birds over the runway. The Director would require the submission of a Bird Management Plan, which would need to be approved by the Airport Authorities.

DTP commented that the size of the Applicant's proposed warehouse size was dictated by the re-provisioning requirements from their existing site. The proposed incorporation of toilet facilities into the warehouse was welcomed as it would create a more uniform and a better proportioned building. He added that the re-routing of the water pipe would need to take account of the proposed tree planting. He added that there had been consultations with the DOE with regards to this issue and that it had been agreed that the proposed trees should not be affected provided the pipe was buried at least one metre below ground level.

DTP mentioned that due to the harsh microclimate, the department had concerns on the viability of the proposed planters on the boundary wall and had reservations over who would maintain these. He commented that overall, the department did not have any objections to the revised scheme and recommended that the Commission approve the scheme subject to the landscaping being substantial to act as a screen to the buildings and that the details be agreed with the DOE. Specifically, the species type and height of trees to be planted. It was also proposed that the servicing area should not be concreted and instead suggested the use of a permeable surfacing, to keep a more natural state.

DTP also recommend that the water pipe be buried to at least a metre for the plants and trees to survive and details of the rock protection measures to be submitted when the design is finalised.

The Commission agreed with the comments made and that these should form the Commission's recommendations.

### **Other Developments**

#### **754/16 - F/14134/16 - Villa Bernadette, 23 South Barrack Road - Proposed carport to residence.**

DTP briefed the Commission on this full application which consisted of demolishing a section of the boundary wall and providing a carport with a horizontal sliding gate, in a private residence located opposite the GBC studios in South Barrack Road.

DTP added that the proposal would result in the loss of two on-street car parking spaces and that the property was of heritage interest, being a building of typical colonial architecture, with balconies, verandahs and railings. The proposal included reducing the length of the on-street parking spaces in front of the site but the Traffic Commission had rejected this. The Traffic Commission also opposed the loss of on-street parking and considered that the applicant had not demonstrated that adequate turning circles were possible to make the proposal feasible. It had also commented that the parking bay provided within the site did not meet the width standards required for a car parking space.

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DTP added that other than the standard requirements, the DOE had requested to meet on site to assess the impact to the existing two trees. The Applicant confirmed that the trees would be retained.

The Heritage Trust had objected to the proposal arguing that it would negatively alter the character and appearance of the traditional building, which was being placed on the tentative list for listing in the future.

DTP summarised that there were objections from the Traffic Commission on reducing the length of the existing on-street parking spaces, the proposed new space did not meet minimum requirements and that that Development Plan had a presumption against the net loss of public on-street car parking. Additionally, it was considered that the proposal would have a negative impact on the character of the building. On this basis it was recommended that the application should be refused.

The Commission concurred with the comments made and unanimously refused the Application.

**755/16 - O/14374/16 - 2 Hospital Ramp - Proposed redevelopment of existing property for the construction of a new block of 9 residential apartments on three floors over a new parking garage all to bear on an existing ARP shelter to be converted into storage cubicles.**

DTP stated that this was an outline Application which was seeking approval for the redevelopment of an existing property with the construction of a new block, which would contain 9 residential apartments on three floors and car parking provision on the ground level. He added that there had been objections to the proposal together with counter representations.

DTP briefed the Commission on the Application, which was last considered in March 2016. The original proposal was refused for a number of reasons, including that the proposal was contrary to the Development Plan policy in relation to scale, massing and height. It had also been considered an over bearing and over prominent building with very bland architectural treatment. The Commission had also expressed concern over the proposed lift shaft.

The original proposal consisted of the demolition of the existing four residential single-storey units and the construction of a four-storey building of around 12m in height over an existing air-raid shelter. He added that when viewed from the north the ARP shelter was the equivalent of about 2-3 storeys in height with the new 4 storey building sitting above this.

DTP briefed the Commission on the new proposal which was the following:

- The use of the air-raid shelter for storage purposes.
- The ground floor parking would also incorporate 9 motorcycle parking spaces.
- The proposal of a green-roof over part of the car parking area.
- There would be an increase of just over 2m to the building height, which would result in a total height of 14.8m.
- Sash windows and shutters incorporated to the façade.
- Wrought Iron balconies and horizontal banding and a slate roof had also been incorporated into the overall design.
- Arched balconies to provide access to the property.

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DTP welcomed the Applicants' representatives, Mr. Ellul and Ms. Armstrong to address the Commission.

Mr. Ellul stated that when the application was made, drawings were submitted to the Government which provided details of the height of the proposed building, density and occupation. The scheme would also incorporate parking facilities on the ground floor. He said that the Government accepted the proposal based on the purchase price offered and the proposed building.

Mr. Ellul considered that the objection received from Mr. O Smith should be disregarded by the Commission on the grounds that he was conflicted alleging that Mr. Smith had also submitted a bid for the plot. He added that Mr. Smith had proposed similar drawings which had not been accepted and for this reason he believed that Mr. Owen's objection was conflicting.

Mr. Ellul informed the Commission of his counter representations following Mr. Smiths' objections in respect of the height of the proposed building. Mr. Smith had described the proposal as having three floors. Mr. Ellul considered this was excessive and stated that it would be one floor; as the height should be considered from the street level upwards.

He added that the proposed design was similar to the buildings in the surrounding area and stated that the most prominent buildings were the new school and the Police Barracks. He stated that the building opposite, belonging to the other objector, Mr. Apap, was the same height as the design he was proposing.

Mr. Ellul further stated that Mr. Apap's objections were based on height and loss of views to the Bay, further adding that there were no laws protecting views in Gibraltar and objections on such grounds had no legal weight. He commented that Mr. Smith owns the property on the west of the proposed building and he would lose rock views with the construction of the proposed building.

Mr. Ellul finished by stating that this was an outline Application and he would be willing to work closely with the Commission and make the necessary changes suggested by them. He made reference to Section 2.10 of the Development Plan, which refers to tall buildings in the old town, where buildings are traditionally of 3 to 4 storeys in height. To preserve the old town, future developments should be of a similar scale. Mr. Ellul considered that the building proposed fell within the scale and guidelines and the drawings were approved with the submission of the tender.

Mrs. Armstrong commented on the proposal and stated that the aesthetical side of the proposal has been changed to address comments made by the Commission and they were open to working with the Commission. She added that they had approached other architects to provide alternative designs.

She further added that as an estate agent, she was conscious of the high demand for properties in the Upper Town area. She stated that the proposal was for 9 apartments with car parking facilities and would incorporate solar paneling and lifts to the scheme. The overall design was consistent with the design and character of the old town.

Ms. Armstrong also believed the proposal to be consistent with the original tender proposals. The tender was granted on the basis of four storeys, which had not be changed and considered that the

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air raid shelter was underground and should not be included in the buildings height. The proposal included car and motorbike parking, a podium and lift facilities. She further considered that the proposal would be an asset to the old town area and asked that the Commission seriously consider this proposal.

Mr. Ellul interjected that they had invested significantly to purchase the plot, to demolish the existing buildings and develop the site. In order for the project to be viable, nothing less than 9 flats would justify the investment, anything less would not be commercially viable.

Ms. Armstrong added that LPS accepted the tender based on the original project proposed and the construction of 9 apartments was the only viable option to justify the premium. She further stated that if the volume of residential space was not approved they would have to go back to LPS and reconsider.

CR commented that there was a clear commercial aspect and their bid would be based on the likely profit they would make. He further stated that H M Government, as landlords, had approved the tender, but it had been approved subject to planning consideration and approval. H M Government did not take decisions on planning issues of proposed projects and it was up to the DPC to confirm whether the project was acceptable or not according to planning guidelines.

Mr. Ellul accepted the comments made by CR.

The Chairman commented that despite the comments received and the Commission's concern and subsequent refusal on the ground of scale and massing of the development; the proposed scale and mass of the design had not changed and highlighted that this proposal was for a prominent building, on a prominent site.

KB highlighted that the height of the new proposal had now been increased by a further 2 metres.

In responding to the Chairman's reference to prominent site, Ms. Armstrong stated that the existing derelict properties had a negative impact on the old town. She added that the new proposal would blend in with the surrounding buildings and asked to show other possible proposed designs.

The Chairman did not accept the tabling of any new proposals at this stage, stating that the public would not have had a chance to see and comment on such alternatives.

There being no further questions the Chairman thanked Mr Ellul and Ms Armstrong.

The next objector, Mr. Apap was welcomed and asked to address the Commission. He stated that he was representing another 50 objections, which he collected door-to-door around the area. A further 12 objections had been submitted via the TPBC website. He added that an online survey for the original proposal, collected 400 complaints and 70 signatures collected door-to-door. He considered that the new proposal remained the same in terms of scale, mass and the height had been increased; with the only exception being that they had added windows and shutters to the design. Mr. Apap approached the original signatories to confirm whether individuals had changed their minds following the new proposals and made a new door-to-door survey and confirmed none had changed their minds.

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Mr. Apap stated that he had been teaching building construction and design for more than 37 years and assured those present that the proportions of the building proposed were not representative of the actual buildings height. He further believed that the public was being misled by the photomontages presented, which did not provide a true reflection of the scale and mass of the building design. He further stated that irrespective of whether the developer had done this consciously or not, it was misleading the public and the Commission.

He added that the Applicant's design for the north elevation view as per the proposal did not represent the true dimensions of the proposed building. The building, as depicted in the drawings presented to the Commission appeared shorter and narrower and did not reflect the true proportions, which would be much taller and more imposing.

Mr. Apap stated that his objections were not based on loss of view, but rather on the excessive scale and massing of the proposal and he is one of the hundreds of objectors to the proposal. He added that the proposal was for a four storey building, which according to his calculations would be higher and much more imposing. He also stated that the air-raid shelter was above the ground; which added approximately two to three stories extra in height, depending from where the measurements were made.

He added that developers come and go and most have no links or affinity with the area in question and all they want is to maximize their profits. He further added that other applicants for the tender had proposed redevelopment of the properties but were not commercially inclined. He asked the Commission to consider the people living in the area and future generations, who would be lumbered with a huge scale and massive building in the site.

Mr. Apap also added that there would be a 100% increase of traffic flow in the area which would pose a safety risk for the school children attending the nearby school.

He ended by saying that the residents of the area would wish the redevelopment of the abandoned and dilapidated building but asked that the Commission insist on a much lower height and mass on the site.

The Commission thanked Mr Apap.

The next objector Ms. D Andrew was welcomed to address the Commission.

Ms. Andrew, a resident of the area, concurred with the comments and representations made by Mr. Apap. She mentioned that one of the issues not being considered was that there were very old houses in the area, some up to 300 years old, like hers. She added that the residents have had to endure the redevelopment of the nearby school, the new hotel and the Police Barracks redevelopment and was concerned that the works could be damaging the foundations.

She stated that there were so many developments in the area that this was causing health problems to the residents, which would also be at the cost of the H M Government Health Service.

Ms. Andrew also highlighted that many tourists visit the upper town, taking pictures of the area. She said she had heard many tourists say that Gibraltar was turning into a metropolis, whilst suggesting that the old town should be retained. She added that tourism was one of the most important industries and with 'Brexit', we should be thinking of our future. Should the Applicant



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be allowed to construct the building, this would be a loss for the people of Gibraltar, the tourism industry and a loss to the investment for our children's future for the profit of major developers.

Ms. Andrew said she had been approached by many local residents and considered that should this development proceed, it would be at a loss of votes for the current Government. She urged HMGoG to consider this issue seriously and maintain Gibraltar's tourism industry, including the Barbary Macaques, which in her view were not being looked after properly as the water holes were always empty.

She finalized by stating that Gibraltar was being converted into a metropolis and her son had been forced to move away from Waterport Terraces due to the pollution, which affected her grandson.

The Chairman argued that this site was an example of HMGoG's plan for urban regeneration and why it was being scrutinized. He further added that the consequences of development were present no matter where you were in Gibraltar. As regards pollution and dust control, this could be addressed via the Environmental Department.

Ms. Andrew agreed and asked the Commission to ensure that the site was regenerated and beautified for the benefit of the tourism industry.

The Commission thanked Ms Andrew.

The Chairman commented that there was a legal challenge to the next objector; Mr. Smith who was welcomed to address the Commission to counter argue the legal challenge.

Mr. Smith had been at the Gibraltar Court and was unable to hear the Applicants counter objections. He added that he had tendered for this site, but did not think this precluded him from objecting as his main reason was to ensure minimal disruption to the neighbouring properties and to ensure the development was in keeping with the spirit of the upper town characteristics and the Planning Guide. His proposal was a low density development with minimal profit margin. The Chairman advised Mr. Smith that any legal matters arising would be subject to him obtaining legal advice.

Mr. Smith stated that he was unsure on what legal grounds he was prevented from objecting as there was a right to a fair hearing from all the objectors.

Mr. Smith commented that in his view, the Applicant had put forward for consideration a series of drawings and slides that were misleading and could misguide the true impact of the building on the area. He considered that the DPC should take very seriously that the Applicant had undermined the function of the Commission and should consider rejecting the submission on the basis that it is inaccurate and misleading.

The Chairman asked the Commission on whether they agreed to continue hearing Mr. Smith's comments; the Commission agreed unanimously.

Mr. Smith continued by concurring with Mr. Apap's comments and agreed that the images were clearly squashed, manipulated and failed to comply with the Commission's requirements as regards height and massing.

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He added that the proposal would be adjacent to his property and was concerned that the development would have an impact on his property. He further added that he had resided in the property for 7 to 10 years, was very happy living in the old town and had a natural affiliation to the redevelopment of the old town.

Mr. Smith stated that he believed that the old town had a special nature that needed to be respected. His objections were as follows:

- The quality and building specifications were not contained in any detail in the Application.
- The massing and scale was not addressed, which was the principal objection in the Commission's previous refusal.
- The building would be in breach of the skyline, when viewed on the northern and southern view.
- It would obscure part of the upper town view.

He also stated his personal objections, which were as follows:

- Issues with privacy, worsened by the change to 9 dwellings, when previously 3.
- The density.
- The Applicant had not indicated dust control measures, which was a tender condition in place due to the proximity of neighbouring buildings.

Mr. Smith added that the Application was contrary to the Town Planning Guide and failed to consider this in the proposal. He added that this site was earmarked for special consideration and the Guide specified this area as unique, which although run down in some areas, it was an attractive open space. It was a main thoroughfare, close to the shopping routes and an upper town tourist route. For these reasons, the building profile was objectionable and further stated that clearly the Applicant was concerned about the height of the building proposed and had manipulated the drawings presented to the Commission.

He also commented that the Applicant was asking the Commission to 'forgive' them for their commercial mistake. Mr. Smith stated the Applicant had put in a tender price and added that there was an expressed tender condition; point 12, which required the applicant to obtain planning permission and it was the Applicant's responsibility to make the project work.

On the grounds stated above, Mr. Smith asked the Commission to reject this Application, as it would otherwise be at the expense of the residents of the upper town area and contrary to the Development Plan.

DTP briefed the Commission of the planning report which covered all the points raised by the various objectors and confirmed that 30 official objection letters were received, including one petition with 57 signatures opposing the application.

DTP confirmed that the Commission received feedback from various departments consulted and pointed out that the Heritage Trust objected to the height of the building as it was not in keeping with the surrounding area. It also considered the lift shaft to be just an add-on and represented an over development of the site.

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Ministry for Heritage had been unable to comment in detail regarding the proposal to re-use the ARP shelter as stores due to the lack of details submitted. They requested additional information on the car parking spaces and services in order to assess the impact to the integrity of the shelter.

TSD raised architectural concerns to the overall volume of the building, stating that when viewed up close, its mass was overpowering and did not well in its context.

Traffic Commission raised no objections to the proposal.

DTP commented that when viewed from the north side of the ARP shelter, he considered it a significantly tall building even before any works took place.

He also mentioned that since refusal in March, the applicant had not addressed the fundamental concerns, which were the scale, height and massing of the building and was concerned with the increased height on the revised plans. He put it to the members that decisions should not be based on the photomontage as these showed discrepancies and instead to look at the more accurate elevation plans. DTP confirmed that in principal they had no objections to the redevelopment of the site, subject to a sensitive scheme.

He also highlighted that the proposed scheme was contrary to the Development Plan policy in relation to the scale, height and massing. The proposal was also considered overbearing, particularly on the northern elevation, which did not fit well within the old town location.

DTP added that the any development should consider the possibility of 1 to 2 storeys, set back proposals and starting from the north end for the lower levels. If the Applicant is to reconsider the scheme DTP suggested that the Commission may wish to indicate whether it would be willing to waive the car parking requirements which would assist in reducing the overall volume.

DTP clarified that the issue of the tender was a separate matter between the tenderer and HMGoG and not a matter for Planning Consideration nor the Commission. DTP recommended refusal of the scheme for the reasons discussed

CR commented that LPS as agents for HMGoG, act on the decisions taken by the landlord. As properties are put out to tender, one of the conditions set is the requirement for the Applicant to obtain Planning Permission. Whether HMGoG should deal with the DPC before going for tender was another matter.

The Chairman commented that there was a misconception that because HMGoG accept tenders, the expectation was that the submitted plans would be approved by the DPC. He confirmed that the DPC had no obligation to accept the proposals submitted.

CR commented that successful tenderers have 8 to 10 weeks to contact the Planner and relevant parties to ensure they can proceed through the planning process.

MCMYS stated that this reinforced the DPC as a public forum, independent from HMGoG. This situation emphasized the requirement on persons interested in submitting a tender to ensure they make planning enquiries before confirming their tender.

IB expressed his contentment with the NGOs as many developers were approaching them in the initial stages, which saved money and time. He further added that the revised proposal had

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changed for the worse and highlighted that the developers should consider what was pre-required by the Commission.

MCMYS stated that as former Minister for Heritage, it was important to understand that there was a Ministry for Heritage and an officer would be willing to help and work with developers before they started planning and submitted plans to the Commission.

He further highlighted that the hill was currently being used for cars and this should not be allowed. The Chairman agreed to consult with the relevant authorities to ensure that the ramps were removed.

The Chairman stated that the mass and scale of the proposal was very dense for the area. In comparison, the new school was a dense proposal, but sensitively designed. He added that the site was very prominent and it was up to the Applicant to propose an adequate height, which was more acceptable and asked the Commission to take a decision.

The Commission unanimously refused the application based on the policy of the Development Plan and the other considerations discussed..

11.20 Break - Meeting resumed at 11.45

**756/16 - O/14425/16 - 22/2 College Lane - Proposed construction of a new enclosure to access an existing roof terrace and the construction of a new studio apartment with covered terrace.**

DTP informed the Commission that this Application intended to remove an existing stair enclosure and create a small studio apartment with a covered terrace on the roof. An objector had requested to address the Commission.

The Commission welcomed Mr. Everest, the resident of the adjacent property. Mr. Everest stated that he had lived in the adjacent property for 10 years and had purchased the home for the reason that it was on the top floor and had no neighbours, above or on either side.

His main concern was on the increase of noise levels and considered that the proposal would devalue his property. He also added that from a building point of view, College Lane was a very narrow lane and it would be impossible to get any building materials to the area. He was also concerned with dust during the works and the working times as the works would take place adjacent to his son's bedroom.

He further stated that he was concerned at the lack of consultation and representations to the Management Company and him.

Mr. Everest also added that they had improved and regularly maintained their property and expressed their concern that the proposal would impact their property's structure.

The Chairman pointed out that the objector's rooftop property was an example of what the applicant was proposing. Mr. Everest stated that his property was constructed in 1976, to which the Chairman commented that its construction might have also inconvenienced the neighbours.

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CR commented that the adjacent terrace seemed to be used regularly and asked whether noise affected him. Mr. Everest stated that the terrace was mainly used during the summer months, during the daytime and his main concerns were noise during construction and the impact to his property.

The Chairman referred to the matter of the walls between the neighbours and suggested he get lawyers to confirm ownership of the wall which would be adjacent to the proposed extension. The Commission would not interfere with this issue.

The Commission had no more question for the objector and so thanked Mr. Everest.

The Commission welcomed Mr. Valcarce, the Architect of the scheme, who addressed the Commission on behalf of his clients.

Mr. Valcarce confirmed their intention to follow all the planning regulations including dust and noise control. The proposed extension would be of a lightweight construction. The boundary walls would be new and should any neighbours' walls be affected; they would carry out necessary repairs as standard practice in construction. They would liaise with the Highways Department for the use of College Lane for the delivery of building materials.

DTP briefed the Commission stating that the proposal was for a modern extension on a traditional vernacular building, to replace an unsightly existing building. It would be set back from the building which would have minimal visual impact.

He commented that the department had sympathy with the objector's comments and stated that the Applicant would have to submit a statutory dust management plan for the approval. As regards noise, Planning Permission would impose noise conditions which would normally be from 8am to 8pm, Mon to Sat. The building had to comply with building regulations which included issues such as noise and insulation.

DTP recommended approval of the scheme from a planning perspective. He further recommended that either solar panels or a green roof be considered on the full application together with the standard condition on the incorporation of swift boxes.

The Commission approved the scheme unanimously.

**757/16 - F/14437/16 - G26 Europa Business Centre, Queensway - Proposed erection of building to be used as a warehouse and associated usage**

DTP briefed the Commission on this Application by saying that the proposal was to erect a building in front of the Europa Business Centre (EBC) for a transport company. The existing land was an open storage site within a gated area, which had containers and parking facilities and 4 trees.

The proposal was to construct a warehouse to occupy the majority of the site, with a capacity of 316m<sup>2</sup> of floor space and just under 12m in height. On the ground floor there would be 4 external car parking spaces, internally there would be space for 4 cabs, a double height storage area, and a

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mezzanine on the northern end of the warehouse. The access would be located off Dockyard Road and the proposal included a landscaped area where the existing trees are located.

The roof would comprise three double pitched roofs with the inclusion of solar panels on one of the roofs. They proposed blockwork on the lower part of the warehouse and aluminium cladding to the rest of the exterior.

DTP mentioned that a previous application in 2002 was refused due to the negative effects on the EBC which was a heritage building. The Commission felt at the time that the area should be used for parking provision and not built up.

He briefed the Commission on the comments received; TSD expressed concern that the trees within the area would be negatively affected by the construction. Highways commented that the site lines would have to be approved by them and the Traffic Commission approved the proposal subject to the technical requirements of the Highways Authority being met by the Applicant. They further recommended the inclusion of a pavement to the front of the building.

DTP confirmed that no comments have been received from members of the public. He stated that the main issues were the principle of the use of the site and the design of the building. He added that the site was untidy and unsightly and this proposal would tidy the area.

In terms of the visual impact, the building would impact on the heritage building and asked the members to be aware that there could be more applications similar to this proposal. The proposed building was in keeping with the general usage of the area. He added that the department had concerns over the height proposed and felt that the proposed building was excessive and a lower building would be less impacting.

DTP also mentioned that the height should be limited to the height of the canopies in front of the EBC building and suggested a flat roof rather than the pitched roof. He also stated that it was considered that the horizontal banding was an excessive detailing and suggested that a simpler treatment of the façade would better match the area.

He also expressed concerns on the following proposals:

- The proposed vehicular access would open directly to Dockyard Road and the Commission would have to consider that if the building was to become a standard storage warehouse in the future, there would not be an allocated area within the site for loading and unloading. This could result in the blocking of Dockyard Road and lead to traffic problems.
- The Commission needed to consider that this proposal would set a precedent for future proposals.

DTP suggested that the Commission defer this application and await revised plans. The suggestions were as follows:

- Cap the height of the building to the height of the canopies that exist in front of the EBC
- Incorporation of a flat roof
- Remove the horizontal banding
- Confirmation of the use of the warehouse
- Tree protection measures

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MCMYS suggested that the entrance be changed to the inner side of the building, facing the EBC, rather than on to the main road as suggested. DTP said that there was limited space in the area to allow for this.

MEHEC agreed that the proposal would tidy up the area and proposed changes to the proposed wall beside the trees to make more space for the already existing trees in the area. He also suggested the possibility of introducing solar panels and a change to the entrance.

CJ also agreed that the proposal would make the area look better and also commented that the proposed roof design resonated that of the EBC. The Chairman added that the Applicant would have 2 options, the flat roof option to match the pump room and the proposal that would match the EBC's design; both were workable.

The Commission concurred with comments made and deferred the Application for further architectural specifications.

**758/16 - O/14469/16 - 5 Mount Pleasant, 25 South Barrack Road - Proposed open air car port/parking facility to provide two car parking spaces and the installation of a DDA compliant ramp**

DTP briefed the Commission on this Application explaining that the proposal was to provide a new carport providing two car parking spaces and a disabled ramp. In 2006 a similar application was refused and in 2015 a further two Applications were submitted. An application for the subdivision of the property had been approved but a proposal for two car parking spaces on site was refused on the basis of the loss of on-street parking. The other Application which was for the provision for one car parking space had also been refused on the same grounds.

DTP explained that the current proposal involved the demolition of part of the boundary wall to create a carport facility, erect a pergola over the parking spaces and provide a disabled ramp providing access to the house. He added that the members had been circulated supporting information together with medical evidence confirming the person was reliant on a wheelchair and was of ill health.

DTP added that the proposal would result in the loss of one on-street parking space and the Applicant proposed two onsite car parking spaces. He added that the rationale of the Application was the condition of the Applicant who required disabled access from his property.

Other than the standard comments the Commission had received no objections to the proposals.

DTP summarised the policy in the Development Plan confirming a presumption against providing private parking spaces if there was a net loss of on-street car parking. In this case, the proposal complied with the policy as they proposed two parking spaces against the loss of one public parking space.

He commented that although medical conditions can be considered they were not a deciding factor in the approval of an Application. He further pointed out that even if a disabled space were to be provided in the area, it would be difficult and uncomfortable for the Applicant to be able to

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utilise it. Based on all relevant considerations it was recommended that the application be approved.

The Commission approved the Application.

**759/16 –F/14520/16 – 6 Straits View Terrace, Europa Point - Proposed construction of two new flats**

DTP explained this is a full Application which proposed the construction of two new apartment flats within the curtilage of an existing dwelling. The proposed location was below the new University at Europa Point and followed an outline permission granted in January 2016. He added that the Applicant's now adult children would be the residents of the proposed flats.

DTP commented that the outline permission had required the Applicant to reconsider the design. There has been no change to the design as previously submitted. The proposal was for an L-shaped building 2 storeys high to accommodate 2x 3 bedroom flats accessed by an external staircase. They had also indicated they would be providing solar panels and swift boxes.

DTP added that the proposal also incorporated windows on the north and east elevations. Car parking requirements would be provided within the area allocated for residents, on which they had 3 spaces licensed out by HMGoG.

DTP stated that no specific comments had been received from Consultees other than standard ones. The Department had recommended considering a roof terrace, but the applicant disagreed citing issues of privacy. DTP further stated that although the standard design was not great, given the location, it would only be viewed by residents of the area and from above. He nevertheless recommended a roof treatment to improve appearance.

He commented that there was a mismatch of building designs in the area and the Commission needed to be aware that it lay on a special area of nature and marine conservation with ecological importance. He recommended approval of the scheme and a green roof, so when viewed from above, it would enhance the ecological value.

MEHEC's main concern was during the construction stage given that in the past, rubble had been dumped in the area. He suggested that the Applicant ensured that rubble was disposed of adequately and no areas of natural vegetation be used for storage of building materials. He suggested an Environment Management Plan be implemented.

KB argued that because the proposal fell within the nature reserve they needed to ensure it adhered to the conservation policy. The building should not exceed the current footprint and should not be larger than 40% than the original existing building. He enquired whether the proposal kept to this and if it did not, asked the Commission to explain why the policy would be waived in this particular instance.

DTP agreed to confirm this issue to the members and the Commission. The Commission approved the Application subject to clarification on the issue of the Nature Reserve policy strict conditions, regarding rubble removal and transportation of building materials which would not be permitted to be stored on any unbuilt area.



**760/16 -F/14550/16G – King’s Wharf Roundabout - Proposed installation of monument to women on existing roundabout.**

DTP confirmed this was a Government Application to erect a ‘monument to women’ on the roundabout at Kings Wharf.

This had been the subject of a competition and the winning entry would be erected upon the roundabout. This involved a circular plinth to be constructed on the roundabout of just under 5m in diameter and a metal structure of 2.7m height constructed on the plinth. The sculpture represented a woman holding up the rock and incorporating cut-outs which would cause the shadows to change depending on the time of the day, creating a dynamic effect.

There were no objections to the proposal.

The Commission unanimously agreed the proposal.

**761/16 -A/14417/16 – Abacus Financial Services, 5 Crutchett's Ramp - Proposed installation of office signage.**

DTP commented that this is an application for an advertisement which would normally be considered by the Sub-Committee. The proposal sought to erect a sign on the façade at second floor level of a newly refurbished building.

The Sub-Committee noted that that the Development Plan restricted upper floor signage on the façade of the building so that it was only permissible if positioned lower than the window sill of the first floor of the building. This was to avoid the proliferation of signage on upper levels on buildings of multiple occupations. The sub committee had therefore only approved signage if it was in compliance with this policy.

The Applicant had reverted requesting that the Commission reconsider their proposal to place the signage on the middle of the second floor of the façade; on the grounds that the building was occupied by the same company as their corporate headquarters. DTP added that although the fourth floor was occupied by a separate user, this floor was set back from the main building.

DTP explained that the Department felt there was justification for relaxation of the Planning Policy as the frontage of the building belonged to the same user. The occupiers had also confirmed that they would undertake to remove the sign should they vacate the property in the future. Given that the building was not in multiple occupation it was unlikely that there would be proliferation of signs and recommended approval of the scheme.

The Commission agreed to relax the policy and approved the proposal on exceptional consideration and recommended that the sign be located on mid-section of the second floor.

**762/16 -N/14554/16G – Four Corners, Winston Churchill Avenue - Proposed relocation of 23 Palm Trees, removal of 45 trees and planting of 45 new trees in compensation**

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DTP confirmed that this was a Government project for the relocation of 23 palm trees, the removal of 45 other trees located within the Four Corners site at Winston Churchill Avenue and the subsequent replanting of 45 new trees.

He explained that this Application related to the Project Euston, the relocation of the MOD properties to this estate. The proposal was consequent to this project and the requirement to accommodate redevelopment within the site. The trees would coincide with the areas that need to be redeveloped.

The Dept. of the Environment, upon consultation had confirmed that a ratio of 40%/30% of Holm Oak/London Pine/Stone Pine was acceptable as these trees would minimize bird nesting and would address the issue of proximity to the Airfield.

The DOE had not provided the Department with an assessment due to the project's enormity but they had been in discussion with the MOD over the plan. The Director of Civil Aviation, whilst preferring no trees in the area due to the risk of bird strike, was satisfied with one to one re-provisioning of trees.

DTP said that on this basis, they would recommend approval of the scheme.

MEHEC commented that this project was approved by the previous administration and therefore there had been no involvement from the DOE in the planning process. Should this project be proposed now, in his tenure as Minister of the Environment, he would have certainly redesigned the project to retain some of the trees. He could not agree with the assessment that trees would affect aircraft; if anything, which would make gulls, which are the real danger, more likely in the area.

He added that this was a UK mindset, translated to Gibraltar, which local experts know to be totally irrelevant to Gibraltar as there are no massive flocks of starlings or cranes coming to Gibraltar. He also asked the Commission to ensure that full mature trees were planted to replace the existing trees.

KB clarified that the Department's involvement had been limited to recommending trees that would thrive in the area and less likely to attract bird roosting on them. In the long-run, the tree-scape would be improved by the planting of the trees recommended, within the constraints already agreed.

MCMYS & KB recommended the policy of replacing one tree with two trees and stated that if the Commission considered this acceptable they should record that the Application was accepted on this policy basis.

KB asked that the Application be approved on the terms that the trees are replanted elsewhere only in this particular instance, due to air safety concerns and not because it was acceptable to replant trees elsewhere.

The Chairman would recommend the comments made to ensure that these were included in the Application's conditions; together with the replanting of 2 trees for 1 policy onsite or in this case only, on MOD land elsewhere.

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The Commission agreed that the proposal was acceptable subject to a recommendation that two mature trees should be planted for every one lost and that the second tree to be planted on MOD land

**763/16 -F/13897/15 - 9 South Pavilion Road - Proposed conversion of rough plot of land into garden area**

DTP explained that this Application referred to part of the communal area of South Pavilion Road. The original Application was for the terracing and landscaping of the area, which was approved by the Commission. The proposal provided for the retention of an Olive tree in the centre of the site. The olive tree was subsequently removed by the Applicant without consent from the DPC.

The Applicant alleged that the tree was diseased and despite his efforts to save it, he was unable to and subsequently removed the tree.

The Department had asked for some kind of documentary evidence that the tree had been diseased but the applicant had been unable to provide this. The Department recommended they replant a new tree on the same location of at least 3m height.

KB asked whether there would be legal proceedings as this was in contravention of the Trees Act. DTP stated that the replanting of the tree would be a compensation measure rather than legal proceedings.

The Commission did not agree with the recommendations and asked the Department to initiate legal proceedings for contravention of the Trees Act. The Chairman stated that legal proceedings would be initiated as requested by the Commission.

**764/16 -F/14421/16G - Public Highway, Tank Ramp - Retrospective application for the installation of a disabled ramp**

DTP commented that this was a retrospective Application for the installation of a ramp on the highway, specifically to address the needs of a disabled resident. He added that there is a small encroachment onto the public highway, but there was no loss of parking and the Traffic Department had approved the project.

The Chairman commented that should the resident leave the residence the ramp should be removed.

The Commission did not object to the retrospective Application.

**765/16 -F/14443/16 - 7 Chusan House, Varyl Begg Estate - Retrospective application for the installation of two air conditioning units**

DTP commented that this was a retrospective Application for the installation of two air-conditioning units. He added that one of the units was installed on the façade beside an enclosed balcony and the other was located beside an open balcony. He added that the Housing Department was consulted and their comment was that the air-conditioning should be screened.

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The Departments' suggestion was that the unit on the façade beside the open balcony should be relocated within the balcony and the other should be not be approved.

The Chairman commented that the owner is in breach of the Planning Act and as landlord, the unit should be removed. The Commission concurred with the department's recommendations.

**766/16 - REF 1196 - Crown Pharmacy, 4 Casemates Square - Proposed external tables and chairs**

DTP told the Commission that there had been a history of complaints from the Crown Pharmacy arguing that tables and chairs located on either side of the neighbouring premises encroached onto the front of his shop causing issues of visibility.

He added that the Applicant was applying for a seating area and tables and chairs licence. The department had advised the Applicant that licences are only granted for catering establishments. The Applicant subsequently submitted an application for a change of use for the pharmacy to allow a coffee machine to be installed outside the shop.

DTP reported that the Department did not consider this a valid Planning Application as it did not constitute a material change of use.

He also commented that tables and chairs licences were not granted unless the business was for catering. The Department's view was that if this application was approved it would set a precedent.

DTP added that the Department sympathised with the Applicant and confirmed that at the last DPC meeting, side panels were approved to address the issue of tables and chairs encroaching beyond their allocations and considered that these measures would address the issue. Consequently he recommended refusal of this Application.

MCMYS commented that there had been an abuse of encroaching tables and chairs on the square and recommended that the new screens be implemented as soon as possible. He also recommended that the establishments have it clear that when they need to store the tables and chairs, they have sufficient space behind their premises to be able to store these to clear the square.

The Commission noted the comments and refused the Application.

**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**

**767/16 - F/14448/16 - Admiralty Tunnel, 77 Queensway - Proposed installation of additional server centres with cooling equipment inside tunnel complex**

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DTP reported that this Application was for internal alterations to create two new server rooms and the provision of cooling plant. The heat would be extracted through an existing vent at Sandpits. The DOE was aware of this and did not have any objections.

WG commented that the heat could damage the salt water pipes that are located in the area, DTP stated that the MOD had been consulted and had not raised any objections regarding this Application. WG maintained that the proposal could impact the MOD's water pipes in the shaft.

Based on WG's concerns the Application was deferred to seek clarification on the issue.

**768/16 – F/14448/16G - South West Corner, Four Corners, Winston Churchill Avenue – Proposed construction of 3 x three storey apartment blocks comprising 6 flats per block**

The Commission approved the application.

**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.

**769/16 – BA13126 - 13 Chicardo's Passage - Consideration of revised plans to provide a single pitched roof and details of shutters.**

**770/16 – BA13514 - 4 – 10 Police Barrack's Lane - Consideration of request to extend validity of Outline Planning Permit for four townhouses for an additional year**

**771/16 – BA13619 - 2 Rosia Cottages Rosia Road -- Retrospective consideration for request to demolish perimeter wall to enable construction works to commence and rebuilding of wall in same location once works are completed and consideration of installation of sky lights.**

**772/16 – F/13845/16 - 26 John Mackintosh Square -- Consideration of 'as built' drawing including details of signage.**

**773/16 – F/13845/16 - Flat 17, Ground Floor, Rocio House -- Consideration of revised proposals for the conversion of a window to door as requested by the Commission.**

**774/16 – F/13919/16 - Piccadilly Bar, Rosia Road -- Proposed replacement of existing awnings with new fixed roof with vertical roller fabric sides.**

**775/16 – F13397/16 - Elkington House, 2 South Barrack Ramp -- Consideration of revised plans for amendments to approved staircase and roof terrace as well as consideration of roof tile sample and colour scheme.**

**776/16 – F/14275/16 – 5/7A Charles V Ramp -- Consideration of minor amendments to approved plans for the construction of a new swimming pool.**

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777/16 - F14275/16 - 203 Peninsular Heights, Harbour Views Road -- Consideration of amended plans to install timber fencing around patio wall.

778/16 - F14312/16 - 24 Road To The Lines -- Consideration of revised plans to comply with fire regulations and complaints of neighbour.

779/16 - F/14328/16 - 105 Ocean Heights -- Proposed internal alterations including installation of mezzanine floor.

780/16 - F/14433/16 - 716 Seashell House, Beach View Terraces -- Proposed internal alterations.

781/16 - F/14438/16 - 4/11 Bado's Passage -- Retrospective application for installation of shed on roof terrace.

782/16 - F/14440/16 - Unit 37/A/2 Engineer Lane -- Proposed fit-out of premises including installation of new mezzanine level for new catering/takeaway/restaurant premises.

783/16 - F/14449/16 - 19, 20, 22, 24 & 26 Seashell House, Beach View Terraces -- Proposed installation of timber fences on podium patios.

784/16 - F/14450/16 - 6 Seagull Lodge, Mons Calpe Mews -- Proposed internal alterations.

785/16 - F/14455/16 - 135 Main Street -- Request to consider original drawings with no planters on first floor cornice.

786/16 - F/14457/16 - 340 Water Gardens, Waterport Wharf -- Proposed internal alterations.

787/16 - F/14461/16 - 141 Peninsular Heights, Harbour Views Road -- Retrospective application for the installation of a wooden pergola build on terrace.

788/16 - F/14464/16 - 140 Peninsular Heights, Harbour Views Road -- Retrospective application for the installation of a wooden pergola build on terrace.

789/16 - F/14467/16 - The Elliott Hotel, 2 Governors Parade -- Proposed refurbishment of the hotel including all rooms, corridors, roof top and façade.

790/16 - F/14468/16 - 286 Main Street -- Refurbishment and conversion of shop to hair & beauty salon including installation of new shopfront and advertisements.

791/16 - F/14471/16 - Unit 18 Glacis Road, Royal Ocean Plaza, Ocean Village -- Proposed subdivision of existing commercial premises into two and the installation of air conditioning units.

792/16 - F/14472/16 - Retail Unit, Mons Calpe Mews - Proposed fit-out of vacant retail unit.

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793/16 - F/14474/16 - 106 Seashell House, Beach View Terraces -- Proposed installation of glass curtains.

794/16 - F/14476/16 - 3 Gowland's Ramp -- Proposed replacement of existing parapet wall with glass balustrading.

795/16 - F/14479/16 - Flat 15b Elliott's Battery, Elliott's Close -- Proposed enclosure of existing balcony and installation of window.

796/16 - F/14480/16 - Leanse Place, 50 Town Range -- Proposed refurbishment of entrance hall to building.

797/16 - F/14482/16 - 4 Cumberland Place, Cumberland Steps -- Proposed internal alterations.

798/16 - F/14484/16 - 741 Europort, Europort Road -- Proposed internal alterations.

799/16 - F/14485/16G - Rear of A&E Block 1, St. Bernard's Hospital Harbour Views Road -- Proposed construction of entrance canopy and installation of illuminated signage.

800/16 - F/14487/16 - 207 Barbary View, Royal Ocean Plaza, Ocean Village -- Proposed installation of glass curtains.

801/16 - F/14488/16 - Coviran Supermarket, 17a Devil's Tower Road -- Proposed redecoration of existing metallic sheeting and metal doors to Devil's Tower Road façade and removal of existing glazed ceramic tiling and rendering in beige/magnolia external render.

802/16 - F/14490/16 - 1106 Royal Ocean Plaza, Ocean Village, Ocean Village Avenue -- Retrospective application for internal alterations.

803/16 - F/14492/16 - Unit 101 World Trade Centre, 6 Bayside Road -- Proposed internal fit-out restaurant.

804/16 - F/14494/16 - Dusk Bar, Leisure Island, Ocean Village -- Proposed minor extension to male toilets to enable the installation of four additional urinals.

805/16 - F/14496/16 - Laguna Estate -- Proposed installation of telecommunication cabinet and construction of plinth and manhole and laying ducts (approx. 3m).

806/16 - F/14498/16 - 2/1 Cumberland Steps -- Proposed conversion of basement into self-contained apartment with beautified external communal access.

807/16 - F/14500/16 - 508 Viking Lodge, Mons Calpe Mews -- Proposed internal alterations.

808/16 - F/14501/16 - 406 Abyla Lodge, Mons Calpe Mews -- Proposed internal alterations and installation of glass curtains (N.B. Only internal alterations approved).

809/16 - F/14502/16 - 203 Mayflower, Both Worlds Sir Herbert Miles Road -- Proposed internal alterations.

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810/16 - F/14503/16 - World Trade Centre, 6 Bayside Road -- Proposed installation of Gibtelecom data centre situated at first floor, proposed installation of electrical sub-station at ground floor and installation of seven sets of air condensing units on the flat new space accessed at 6th floor.

811/16 - F/14505/16 - Eurosuites 4.3.01 and 4.3.02, Eurotowers -- Proposed internal alterations.

812/16 - F/14508/16 - 707 Viking Lodge, Mons Calpe Mews -- Proposed internal alterations and installation of air conditioning unit.

813/16 - F/14510/16 - 4 Collingwood Tower, Brympton -- Proposed internal alterations.

814/16 - F/14511/16 - 807 Sand Dune House, Beach View Terraces -- Proposed installation of glass curtains.

815/16 - F/14512/16 - 119 Seashell House, Beach View Terraces -- Proposed installation of glass curtains.

816/16 - F/14513/16 - 210 Peninsular Heights, Harbour Views Road -- Proposed installation of glass curtains.

817/16 - F/14516/16 - 8 Grafton House, Ordnance Wharf, Queensway -- Proposed installation of glass curtains.

818/16 - F/14518/16 - 11 St Peters Close, Sir Herbert Miles Road -- Proposed installation of glass curtains.

819/16 - F/14521/16 - 405 Viking Lodge, Mons Calpe Mews -- Proposed internal alterations and installation of glass curtains (N.B. Only internal alterations approved).

820/16 - F/14522/16 - 7 St Christopher's Court -- Proposed internal alterations and conversion of door to window.

821/16 - F/14528/16 - 8A/10 Bishop Rapallo's Ramp -- Proposed refurbishment of retail unit.

822/16 - D/14491/16G - Asset No. 0451 Squash Court, Four Corners, Winston Churchill Avenue -- Proposed demolition of single storey squash court.

823/16 - A/14544/16G - Various Locations -- Placement of promotional interactive boards for the Gibunco Gibraltar International Literary Festival.

824/16 - N/14373/16 - Calpe Rowing Club, 6 Europort Road -- Removal of four Italian Cypress trees and replacement with row of seven Mexican Fan Palms

Previously the DOE recommended that the four Italian Cypress trees to be removed should be replaced with four or more Pencil Cypress Trees. The DOE have since undertaken a



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reassessment and now recommend that the Italian Cypress Trees should be replaced with a row of seven Mexican Fan Palms on the basis that they would be far more suited to the planter and the site.

**825/16 - N/14509/16 - SG Hambros Bank -- Proposed pollarding of three trees to original pollard point in front of offices and proposed crown reduction of tree other trees in front of car park.**

These are mature and attractive trees that have suffered from suboptimal pruning practices. It has therefore been recommended to pollard the trees and then maintain them through careful pruning in order to provide a single, merged canopy.

**826/16 - N/14534/16 - Bishop Fitzgerald School, Europort Avenue -- Proposed removal of two Ficus trees and an Araucariadue tree**

These are three trees that have been planted in small and narrow planters that are completely unsuitable for the species. It is considered that the trees will eventually either destroy the planters or topple over, and either way, it is considered to constitute a safety hazard, and as such it is recommended to remove and replace with small shrubs.

**827/16 - REF 1196 - La Chacuterie, John Mackintosh Square -- Consideration of request for tables and chairs.**

**828/16 - Any other business**

No other Business

**829/16 - Next Meeting**

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