

Approved
DPC meeting 12/13
24/10/13

THE DEVELOPMENT AND PLANNING COMMISSION

Minutes of the 12th Meeting of 2013 of the Development and Planning Commission held at the Charles Hunt Room, John Mackintosh Hall, on 24th October 2013 at 09.30 am.

- Present:**
- Mr P Origo (Chairman)
(Town Planner)

 - The Hon Dr J Garcia (DCM)
(Deputy Chief Minister)

 - The Hon Dr J Cortes (MEH)
(Minister for Environment & Health)

 - Mr M Gil (MG)
(Chief Technical Officer)

 - Mr G Matto (GM)
(Senior Architect)

 - Mrs C Montado (CAM)
(Gibraltar Heritage Trust)

 - Mr J Collado (JC)
(Land Property Services Ltd)

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

 - Mr C Viagas (CV)
(Heritage & Cultural Agency)

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

 - Mr J Mason (JM)
(Rep Commander British Forces, Gibraltar)
- In Attendance:**
- Mr P Naughton-Rumbo (DTP)
(Deputy Town Planner)

 - Miss K Lima
(Minute Secretary)
- Apologies:**
- None

Approval of Minutes

520/13 – Approval of Minutes of the 11th meeting of 2013, held on 5th September 2013

The Commission approved the Minutes of the 11th meeting of 2013 held on 5th September 2013 subject to the following amendments (in bold):

Minute 469/13 (page 14) – 2nd paragraph

MEH asked why the pedestrian access onto the road cannot be retained but just not used. DTP said that he had discussed this with the applicant but that they preferred to block it up and open another entrance. **The Commission required the existing pedestrian entrance to be retained even if a new one is to be created in order to maintain the character of the original openings onto South Pavilion Road.**

Minute 478/13 (page 18)

DTP said that the proposal is to replace the existing timber shutter with aluminium ones of the same colour. He advised the Commission that policy is to replace timber with timber and that this policy has been applied quite consistently to date. DTP said that objections have been received from the Ministry for Heritage **and Heritage Trust.**

Matters Arising

521/13 – BA12577 – 60 Devil’s Tower Road – Proposed 4 storey building comprising ground floor retails plus industrial storage and 3 floors car parking/lock-up garages/stores (Option A)

DTP reminded the Commission that this application is for demolition of the current building and construction of a 4 storey building which will include retail, storage and car parking. DTP said that at the previous meeting various issues were raised and the Commission requested further information on the provision of a turning circle for lorries and the loading and unloading area.

DTP said that the applicant had confirmed that a lorry would have to reverse out of the site but that this is the current situation and has been so for the past 20 years. With regards to loading/unloading, DTP said that the DPC were concerned that this would block access to the rear of the site. He said that plans provided by the applicant suggest that there would be a space of 5m for access even with a parked lorry and unloading operations taking place. He said that the applicant has suggested that if a parking regime is implemented, so that parking is not allowed on the side of the access road, access would not be obstructed. DTP also said that another concern was that the designated customer parking would be used as a storage area. However, he said that the applicant had confirmed that the area will be used as parking only as there will be 395m² of storage area provided within the new premises. One final concern raised was that the area between the building and the rear boundary line would not be wide enough for two way traffic. DTP said that it had been confirmed that there will be a space of 4m which would be sufficient.

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DTP also reminded the Commission that there had been representations from the users of the unit at the rear of the site. However, he said that the applicant is in line with planning policy and that it would be HMGOG's responsibility as Landlord to implement a traffic control plan.

JC said that he found it difficult to understand how they will manage to include everything in such a reduced space considering what they currently have on site. He said that the proposed floor area is smaller than what they have at present and that it will be difficult to police the parking situation; obstruction and access issues will be difficult to solve.

The applicant who was in the audience told the Commission that he would dare to say that they will have more storage in the proposed building than what they have now, as it is double height and will fit approximately 5m in height of racking. Regarding the parking situation, the applicant said that at present the Highway Enforcement Officers regularly patrol the Devil's Tower Road area and that if this area is included in their patrol zone, parking would be controlled.

DCM asked whether the area is a public highway. The applicant said that it is a public access road as it is used to access units at the rear of the site but that it is not designated as public highway.

The applicant also said that at present when the trailers are loading/unloading, there is still access for small lorries. He said that they usually have 2 trailers a day.

DTP said that the Highways Section has not raised any concerns as this area is outside their domain.

JC suggested a site visit for appreciation of what exists at present and to consider access issues.

The Chairman said that at the previous meeting the Commission seemed in favour of the development on planning grounds and that it was a question of policing access/parking issues.

DCM asked whether the Traffic Commission had commented on this application. The Chairman said that they had highlighted that access to the public highway should not be impaired. The Traffic Commission had not commented on the lorries having to reverse out of the site.

CAM highlighted that there will be an increase in traffic in the area with the new housing estate proposed at the Aerial Farm.

The Chairman said that the DPC can include a condition in the permit that they cannot reverse out of the site. GM asked whether there is a precedent of this not having been allowed elsewhere. JH said that allowing them to reverse is dangerous.

MEH asked whether the issue of the lorries reversing onto the road is a planning issue. The Chairman said that it is a planning issue and that he would recommend including this as a condition in the permit.

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The applicant told the Commission that they have been reversing out of their site for over 20 years without an incident and that this practice will continue regardless of whether the development goes ahead or not. He said that it is actually less dangerous now that the road has been converted into a dual carriageway.

The Commission also discussed the possibility of reducing the size of the building to provide a turning circle for lorries but the applicant said that the development would not be viable if he were required to do this as he would lose storage area.

The Commission agreed to arrange a site meeting before the 11th November.

522/13 – BA12589 – 13, 15, 17 New Passage – Proposed refurbishment and replacement of existing pitched roof with extension/terrace

DTP said that this item was deferred at the previous meeting pending comments from the Housing Department. He said that they have not objected. The Commission therefore, approved this application.

523/13 – BA12618 – 40 Europa Road, Buena Vista Barracks – Proposed construction of new house

DTP told the Commission that this application refers to the cliff top house. He said that the proposal is for the construction of a house terraced into the slope, with green roofs. DTP said that the DPC had previously requested a holistic plan of the whole development and that this has been provided by the developer. He added that the DPC also requested information on geotechnical surveys and on any possible effect on the cave below the site.

DTP reminded the Commission that when outline planning was granted, the proposal for this house was refused on the basis that there would be a detrimental effect on the setting of the listed monument, loss of open space and impact on a site of ecological value. He also said that the original proposal included a dwelling and the heritage walk along the eastside but that the walk has been put to one side by the developer at the moment.

The Commission welcomed Mr Stuart Lightbody on behalf of the developer.

Mr Lightbody advised the Commission that numerous studies have been conducted on the global stability of the rock face in the area and on the effect on the cave underneath the site. He said that a Lidar Survey of the cliff has been carried out which included a non intrusive survey of the caves underneath.

Mr Lightbody said that surveys show that the cliff is stable. He said that any changes in stresses as a result of excavation and the construction of the house would be minor. He said that it would not impact on the global stability and on the underground caves. He also said that they have identified the need to ensure that the foundations of the battery to the north and the stone block to the east are not affected, and that further investigations are necessary in this respect.

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The Chairman asked which material covers the top of the cliff at present. Mr Lightbody said that it seems to be Limestone scree and that this may have been deposited here to form an access road.

DTP said that the Ministry for Heritage had commented in July 2013 saying that they had no objections subject to there being no adverse effect on the battery/historical structures and features, and subject to an archeological watching brief being carried out and a full excavation should anything be found. They also said that flora/fauna species should be protected. However, MEH advised the Commission that he had subsequently received a different view from the Ministry for Heritage who reject the application and suggest that no further proposals for a cliff top house should be submitted. He said that the Ministry for Heritage believes that there is no guarantee that Devil's Fall Cave and the stability of the cliff will not be affected. He said that they have recommended refusal on the basis that there is no guarantee that the cliff and caves will not be affected and because further intrusive works will be required.

MEH also recalled that when the cliff top house was first presented to the DPC it was refused. He said that the ecological impact was also one of the main reasons for refusal and that the Department of Environment does not approve of the proposal either.

CAM said that the Heritage Trust would refuse the application due to its impact on the stone block and due to the requirement for further intrusive works.

JH said that the development is affecting the whole area and that the inclusion of the cliff top house will have further implications. She said that she did not support the proposal.

DCM said that he had attended the site visit and that he was not certain that he would be able to support this proposal. He said that he was not in favour of the proposal for heritage, environmental and density reasons.

No comments of support were expressed by the Commission and there was a unanimous decision to refuse this application for reasons of heritage, environment, massing, cliff stability and effect on caves.

524/13 – BA12640 – 94 The Anchorage, Rosia Road – Proposed glass curtains to terrace

DTP reminded the Commission that the original application for a framed glass curtain system was rejected in July 2013 but that the Commission had indicated that in-principle a frameless system would be acceptable. He said that subsequently the applicant submitted a revised design using a frameless system but that this was refused as the Commission felt that it would create a solid appearance and there would be too much glazing on this side of the building. He said that the applicant is requesting that the DPC reconsider their previous decision.

CV suggested that clear glazing might not create such a solid appearance and that this could be imposed as a condition of the permit.

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The applicant, Mr Terry English, explained that his proposal for a framed system was refused but that there was an in principal approval for a frameless system. He said that there are already frameless systems on other balconies.

The Commission took a vote on this application with the following result:

8 in favour

2 against

0 abstentions

The Commission approved a clear glass curtain frameless system.

525/13 – BA12643 – 40 Europa Road – Proposed alterations to entrance including pavements/bus stop and bin store

DTP informed the Commission that this application was referred by the Subcommittee as a unanimous decision could not be reached. He said that the proposal is to relocate the boundary wall inwards to allow the provision of a pavement without reducing the current road width. He said that the proposal is to dismantle the original wall and rebuild it using the salvaged materials.

CAM said that the area is characterized by this wall and asked whether it would be possible to move the footpath to the other side of the wall. DTP said that the wall would then be within the development site and that additionally there is an existing tree which means that the footpath would have to go round this encroaching further into the site. He said that this had been proposed to the developer who was not keen on the idea.

MEH concurred with CAM's suggestion. KB also said that he agreed that the footpath could be on the other side of the wall if the wall is being moved back into the development site anyway.

The architect explained that by moving the wall back they will accommodate the road width requested by TSD. He said that if they have to construct the pavement on the inside, they would have to make another boundary wall between this and the properties and pedestrians would be walking between two walls. He said that if they rebuild the wall they would use the same stones and this wall would serve as the boundary wall for the houses.

CV said that 1.2m width is the usual measurement in other roads but that perhaps this condition could be relaxed in this area. He said that 0.8m would suffice.

The Chairman said that he was not in favour of keeping the wall as it had very limited historical value. CAM said that the Heritage Trust's concern is of loss of character and that if it is to be demolished they should be conditioned to using the same stones.

The Commission approved this application subject to careful dismantling and re-use of the existing material in construction of the new wall.

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526/13 – BA12720 – Windmill Hill Road, Windmill Hill – Proposed office/watchtower (GOG Project)

The photomontage of the original design for this application was considered via Round Robin and the majority responded that the massing of the development ought to be reconsidered and reduced.

DTP told the Commission that a revised scheme has been submitted and received on the day of the meeting, in which the mass has been redistributed by using more of the footprint of the site. He said that the height of the tower remains the same but that part of the proposed car park area has been redesigned as office space.

MEH said that he would prefer if the design was tweaked even further and a final photo montage provided. MEH also said that the building should have a green roof.

DCM said that the revised design is a huge improvement and that it was evident that DPC recommendations had been taken on board.

KB said that he did not agree and thought that the improvement was marginal. He also said that he questioned whether this is the best possible use for this site.

CAM said that the Heritage Trust is concerned about the effect that this development might have on the listed monument and said that other areas should be considered for parking. The Chairman said that no details on parking have been provided but that space is needed for official cars.

JH said that she thought that the development was for administration use and that with technology it might not be necessary to have a watchtower. DCM said that a watchtower already exists on site and that expert recommendations are that the Port Authority should have a fully operational watchtower.

CAM said that any impact on the integrity of a listed monument under the Heritage Act would mean that the appropriate permits may not be issued.

This item was deferred as the Commission requested a photomontage of the revised scheme and further information on parking. MEH undertook to meet with the architect to review the design further.

527/13 – BA12732 – Royal Naval Hospital, Europa Road – Proposed refurbishment of Block G (mental health stores), construction of new Block H (stores) and new dementia gardens (GOG project)

DTP said that after a Members' site visit the consensus was that whilst regrettable, the loss of the tree would be acceptable considering the overall benefits to make the garden accessible to all users.

The Commission raised no objections to the application.

528/13 – BA12734 – 1C North Mole – Proposed replacement of existing damaged sullage storage tanks

DTP reminded the Commission that the proposal is to replace two existing tanks which are used to store waste oil water which is then transported by land or sea. He said that it is a requirement for the port to have a waste storage facility. DTP said that the result of the screening for whether an EIA is necessary was circulated to members prior to the meeting and that comments had been received from the Environmental Safety Group (ESG) through JH. He said that one issue raised at the last meeting was whether there would be any prejudicial effect on the proposed power station on this proposal. DTP stated that he was not aware of any study having been carried out with regards to the possible impact on the proposed power station.

The Chairman said that it is not a statutory requirement to carry out an EIA on sullage plants. He said that nevertheless this has been screened and the relevant authorities have been consulted. He said that in summary none have indicated a requirement for an EIA but that all had commented on the need to improve the practice of storage of sullage. He added that even though he is not obliged to distribute his report he has done so and that comments have been received from the ESG. The Chairman also said that this activity is already occurring within a controlled environment and that his view was not shared by the ESG. He also said that a screening direction is now pending from DCM.

JH said that the ESG finds it surprising that the Chairman does not consider that an EIA is required. She said that hazardous waste should not be stored beside cruise liners especially when there has already been an accident. She said that hazardous waste should immediately constitute an EIA. JH added that the ESG will have to wait for the Minister's view on this and that his decision will determine the next steps taken by the ESG.

MEH said that treatment is not being contemplated, that it is only storage. He said that this is currently being done on barges and that he is in favour of bringing this activity onto land as it might be a potential risk at sea. He added that the applicants are now questioning the reply from cruise liners. DTP said that the Ministry for the Port are in the process of seeking the views of the Cruise Liner industry.

JH said that the Department of Environment classes this material as hazardous waste and that in view that the Government promotes considering all environmental aspects, this should be screened. She said that an EIA would look at all aspects and that it would then be possible to properly examine this.

The Chairman said that the screening has been done and that even if an EIA is carried out it might not change the view. He said that all comments received, as well as views expressed by members of the DPC will be recorded for the Minister to take into account in his decision.

JH again highlighted that the material is hazardous waste and that an EIA should be carried out because the site is multiuse. She said that this is not just an industrial area and urged that the best decisions are taken going forward.

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JC asked whether other locations had been considered. JH said that she was glad that JC had raised this as when the accident happened this was one of the issues raised. She said that she understands that it is a legal requirement to collect the waste from ships but that an EIA would look at the activity and location.

MEH assured that even if an EIA is not carried out, HMGOG will look into all of the issues raised.

JH said that an EIA will make the process completely public. The Chairman said that this process has been public. DCM told JH that the ESG has had the opportunity to make their comments public either in the press or at DPC meetings.

The Chairman said that it is up to DCM to make the final decision and that his decision should be available by the next meeting. A decision from the Ministry for the Port should also be forthcoming.

Major Developments

529/13 – BA12531 – Leisure Island, Ocean Village – Proposed floating hotel, structural works and associated works – (GOG Project)

DTP reminded the Commission that at a previous meeting various recommendations were made including limiting vehicular access, minimising the extent of land reclamation, reducing the size of or removing the service ramp and the introduction of measures to control vehicular access.

DTP advised the Commission that the revised plan reduces land reclamation. However, vehicular access remains up to the entrance of the hotel and the service ramp has not been removed or reduced in size. DTP said that from a planning point of view he was not certain whether the service ramp is necessary and suggested that a hoist system might be better and so avoid the need for a substantial ramp structure. He said that a security barrier has been included in the plans to control access. From a planning perspective, DTP said that there have previously been access issues and recommended that the security point is located by Bayside Road to control all access to the area.

DTP also told the Commission that the refuse area has been relocated as having it beside the boardwalk was not desirable. He also said that he was concerned that the proposal to construct a bridge linking Marina Bay to the new pier would be a hindrance to wheelchair users and pushchairs. He recommended that access at this point is reviewed and suggested that perhaps an external lift could be incorporated to provide access on and off the bridge.

Some members raised concerns at the small print on the plan which stated that Ocean Village would have the right to reinstall the old pier as it is today. They said that this should be clarified. DTP said that this was not so much a planning issue but rather a landlord issue. The Chairman said that the DPC could recommend that Government looks into this. MG said that this area is water at present and that the landlord is at liberty whether to accept the statement or not.

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JH said that at the last meeting it was requested that the plan include more water and that these areas be improved. DCM said that he had met with residents on various occasions and that most of their recommendations have been met. He said that the car park has been removed from the plans and that access areas will be on stilts. He said that there will be water circulation in various areas.

JH also asked what will be done in terms of traffic control and whether perhaps the security company might not want to manage the traffic of the area in general. The Chairman said that the Commission could recommend that the security company should control traffic in the whole area and not just traffic for the hotel.

With regards to the service ramp, DCM said that it was his understanding that the ramp would be between the ship and the casino and therefore, not visible. DTP said that the plans show that it will be on the main access for guests arriving at the hotel. The architect who was in the audience, confirmed that a scissor lift is being considered and therefore there would be no service ramp

An audience member, Mr Mark Isola who said that he was acting on behalf of the residents of Tradewinds, told the Commission that residents had been told that they would be consulted on the revised plans. He said that they were not happy with the area in front of Bruno's Restaurant being reclaimed and with the location of the refuse bins. The Chairman said that the reclamation has been removed from the plans and that the refuse bin has also been relocated. Answering claims that plans have not been made public, the Chairman said that the plans were not online because they had been received the evening before the meeting but that these would be made available.

DCM said that there have been extensive consultations with residents and that their comments have been taken on board. He said that the reclamation has now been removed and that access will be on stilts and water for marina use has been reintroduced to the scheme following consultation between HMGOG and residents. DCM also said that the plans have been submitted to the DPC for guidance and advice.

Mr Isola said that he could not understand why if plans had been submitted at the last minute, further public input was not being allowed.

DTP said that individuals are still able to direct their comments to HMGOG after seeing the plans. The Chairman said that residents can write to the Department of Town Planning and that their comments will be forwarded to HMGOG.

530/13 – BA12776 – Aerial Farm, Devil's Tower Road – Proposed residential development (GOG Project)

BA12806 – Aerial Farm, Devil's Tower Road – Proposed 3 storey car park (GOG Project)

DTP reminded the Commission that at a previous meeting concerns were raised that the proposed development would create a dead frontage on Devil's Tower Road. He said that an Aeronautical Study and an Archeological Watching Brief had also been recommended.

The Commission welcomed the architect Mr Dominic Harvey.

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Mr Harvey told the Commission that the proposal is for a residential development and an additional car park. He said that two blocks of 15 storeys will be constructed. There will be 564 apartments each with their private car parking space, storage and drying area. Each building will have its own entrance and the car park will be accessible from the common area and lifts. The car park will have roller shutters and CCTV will be installed throughout the development. The podium area will include planting, seating and a play area. Mr Harvey also said that rain water harvesting, LED lighting and low level wind turbines for lighting will also be included.

With regards to the car park, Mr Harvey said that construction will consist of concrete columns and slabs, and that there will be 440 parking spaces in total.

JH requested a photo montage. Mr Harvey said that he could provide this.

DTP reminded the Commission that previous concerns raised such as the impact of the façade had been improved and the car park has been reduced from 3 storeys to 2. A retail unit has also been included in block 2.

DTP told the Commission that the Director of Civil Aviation is awaiting the results of the Aeronautical Study before being able to comment. He also said that the Heritage Trust and the Ministry for Heritage have requested an Archeological Watching Brief. DTP also said that the Department of Environment had referred to their standard conditions in terms of energy performance of buildings.

From a planning perspective DTP said that the proposed entrance to the car park would involve traffic having to travel part way along the beach front and suggested that if the entrance were located further eastwards it would avoid the need for cars to travel along the beach front.

DTP also said that the façade will be colour rendered and that the Civil Aviation and MOD would need to comment on lighting.

JH said that the façade looks harsh and is not aesthetic. CV concurred saying that it is a massive structure and that he would prefer more glazing as it will be seen against the backdrop of the rock and will be next to the beach.

CAM asked whether the car park would affect the pillbox on the southern end of the site. MG said that this would not be affected.

Other Developments

531/13 – Ref 1198/019/13 – Vaults 1&2 King’s Bastion, Line Wall Road – Royal Gibraltar Regiment, proposed advertisements

DTP informed the Commission that the Subcommittee was concerned with the proliferation of signs and the possible precedent that this could create. He said that they did not object to the sign over the doorway or the projecting sign but were concerned with the side banners and the temporary recruitment banner.

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CV told the Commission that there is a standard design for signs within King's Bastion. DTP asked CV to provide a copy of the design guide. CV said that there are some signs already on-site but that he could provide DTP with a photo.

The Commission only approved a perspex sign as per the design to be provided by CV. It was also suggested that portable free standing signs could be used.

532/13 – Ref 1198/041/13 – Gibraltar Bus Company, Bus Depot – Proposed sign opposite former air terminal

DTP told the Commission that the Subcommittee recommended refusal on the basis that large scale bill board advertising was not considered to be in-keeping and that such a decision was consistent with previous decisions to refuse similar proposals. The Commission refused this application.

533/13 – BA10717 – 57 Devil's Tower Road – Proposed customer parking, service yard, workshop and reception

DTP told the Commission that revised plans had been submitted for this application following approval of planning permission for a showroom with a glazed frontage. He said that the amended designs are for a parking area covered by a lightweight structure with stretch vinyl awnings.

The Commission approved this application.

534/13 – BA11988 – 33B Europa Road – Proposed pathway and entrance

DTP advised that the DPC previously approved the footpath but refused the application for a carport. He said that the Development Appeals Tribunal (DAT) had confirmed the decision on the footpath and concurred with the DPC on the carport.

DTP told the Commission that details on the footpath have been submitted as requested. He said that the footpath will be finished with a tiled surface and a 2m timber fence will be installed along the length of the path. DTP also said that the design includes a concrete slab with steps at the entrance and that the gates replaced on a like for like basis.

DTP said that there are no objections to the details of the scheme on planning grounds but that there is no apparent need for the concrete slab area as the DPC had only agreed to a simple footpath.

The applicant's lawyer, who was in the audience, told the Commission that the DAT had already taken a decision and granted permission for a footpath, based on these plans. He said that it was now a matter for these plans to be in compliance with building regulations and that it is not a matter to be reconsidered by the DPC. He read out a letter which the applicants had received from DAT.

The Chairman said that the plans are being presented to the DPC because permission was granted subject to construction details being presented for approval.

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MEH said that the appeals board considers the appeal but that they cannot allow anything that has not been seen by the DPC. If the plans presented to them are different to what was presented to the DPC, the approval cannot be valid.

The applicant's lawyer insisted that this matter should not be considered again by the DPC. He said that if the DPC reviews their decision, his client can also review their position.

The Chairman also read the letter from the DAT which stated that permission was granted subject to manner and form of construction and submission to the DPC. He said that the Commission is considering the form and manner of the footpath.

DCM said that he agreed with DTP in that the Commission granted permission for a 1.5m wide footpath connecting to the hill and that there is no need for a platform or steps.

JC said that the applicants have already constructed a 4m wide footpath without permission and that he did not understand why the footpath turns back into the garden.

The Chairman said that a stoppage order was issued for the construction of the footpath. He said that the agreement was to allow 1.5m with the exception of trees which have to be circumvented and that this is not what the applicant has done. He also said that the gate does not need to be 1.5m wide.

JH asked whether the occupier of Bella Vista Cottage is aware of the proposal. The Chairman said that the occupier objected to the proposal as there would be encroachment onto their land and due to security concerns. The Chairman said that this however, is a land matter.

JH asked what level of enforcement there will be to ensure that the applicant complies with DPC approval. The Chairman said that enforcement would be up to the Town Planning Department.

GM said that the DPC previously conveyed verbal advice but that this has been interpreted by the applicant and that the plan submitted was a misrepresentation of what the DPC had said.

DTP said that if the decision is to only approve the gate and the path, and not the platform and steps as shown on the plans, it would not be unreasonable to request that the applicant submits revised plans which the permit would then make reference to. The Commission concurred.

The Commission approved the details of the footpath; 1.5 m wide, extending from the applicant's house to the existing gate on the northern boundary. The Commission refused the application for a platform and steps as submitted in drawing number A8212010-101 amendment B, dated October 2013. The applicant is to provide a revised plan to the DPC prior to issuing of the permit.

535/13 – BA12035 – Roof Terraces, Sails 1 and 2, Ocean Village – Proposed conversion of terrace Sail 1 into restaurant and Sail 2 into yacht related office
BA12765 – Roof Terraces, Sail 3, Ocean Village – Proposed conversion of terrace bar areas for office accommodation

DTP asked the Commission to consider the above applications simultaneously.

DTP reminded the Commission that planning permission was granted in respect of BA12035 in June 2013. He said that permission was granted to convert Sail 1 into a restaurant and Sail 2 into an office related to marina activities. The proposal for stair access was not approved. DTP said that the applicant has submitted a revision to the concept of the development and is requesting permission to change the use of Sail 1 to office and the removal of the condition that Sail 2 has to be used by an office related to marina activities only.

DTP also told the Commission that the applicant is proposing to link the three premises using elevated bridges. He said that a timber construction as seen elsewhere in Ocean Village is being proposed. DTP also said that a spiral staircase already exists to access one of the sails and that another staircase will be constructed to access the others. With regards to Sail 3, the proposal is to construct a single storey extension.

DTP said that a letter from the applicants was circulated to members prior to the meeting, in which they explained that their request for a change of use is due to the lack of office space in Gibraltar. He also said that a supporting letter from the potential occupier was also distributed, in which they explained that they need to expand their business and will be employing 40 to 50 people. The applicant has also explained that they have been unable to attract interest for a restaurant on Sail 1 as restaurants did not consider it to be ‘front line’ and that they have been unable to attract a marina related user for the other unit due to the current downturn in the marina sector

DTP told the Commission that the owner of Ivy’s Restaurant has objected on the basis that the proposed staircase will obstruct the view of their business and the openness of the marina views. He also said that the developers have commented on this objection saying that they would provide additional signage for the objector and address their concerns. The objector who was present at the meeting confirmed that he maintained the objection.

From a planning point of view, DTP said that this proposal will have a visual impact on the open marina environment and will add to the general visual clutter.

The Chairman said that there is no guarantee that the same business will occupy the three units so the bridge might become superfluous in the future.

JC said that the DPC had previously allowed the change of use to office as it was for a particular use but that these units were never intended for office use.

MEH said that he did not object to the change of use as it will create employment and bring people into the area, which will be beneficial for the businesses.

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JH said that previously concerns had been raised on privacy of the maisonettes. The Chairman said that for that reason the parts facing the maisonettes are wall spaces and the staircases were not approved. DTP added that this was one of the reasons for DPC refusing the original design for the staircase to the units as it would have resulted in a greater loss of privacy to the residents of the maisonettes.

The Commission took a vote on the change of use of Sails 1 and 2 with the following result:

7 in favour
0 against
3 abstentions

The Commission took a vote on the construction of an additional floor on Sail 3 for office use with the following result:

7 in favour
2 against
1 abstention

The Commission also took a vote on the construction of bridges and stairs with the following result:

0 in favour
10 against
0 abstentions

The Commission approved the change of use of Sails 1 and 2, and the conversion of Sail 3 for office use. The access bridges and stairs were not approved due to the detrimental visual impact on the open marina environment.

536/13 – BA12180 – 44 Cornwall’s Lane – Proposed cafeteria/restaurant

DTP advised the Commission that following approval for refurbishment of the premises including the provision of an external tables and chairs paved area with bollards; the applicant has actually constructed a parapet wall with glazed screen which was not what was approved.

The Chairman said that according to the applicant what was approved could not be done because of problems with drainage and the gradient of the area. He said that the applicant had been asked to stop works. He added that the tables and chairs are in keeping with the permit as the land is licenced for their use; the only difference is the wall.

Representations have been received from residents of Gavino’s Dwelling who are having problems exiting their premises with their vehicles. The Chairman said that this could be solved by moving the motorcycle bay slightly sideways. He said that approval had previously been given for this area to be cordoned off and there were no representations.

GM said that the issue is that plans are often not a true illustration of what is then constructed and in this case the DPC is now confronted with a wall. He said that the approved design would have still permitted pedestrians to traverse the area unlike what has actually been constructed

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JH said that this area is public highway and that building without a permit should incur some type of penalty.

MG said that he disagreed with the application and that it should not have been permitted.

The Commission refused this application and requested that the applicant removes the wall; only a platform for the tables and chairs was approved.

537/13 – BA12211 – No 6 Convent Place – Proposed office extension (GOG Project)

DTP reminded the Commission that this application was considered previously and that revised designs have been submitted as requested. He explained that the revised plans are for an extension which will have office suites on the ground floor and a car park on the upper level with a new exit from the rear of the building. On the remaining current car park at podium level, a 3 storey building will be constructed for office use. There will also be a roof terrace along the whole building. DTP also said that more glazing has been introduced to reduce massing and that the section between the ex-Department of Education building and the new extension has been recessed.

MEH said that swift nests and energy efficient measures should be introduced.

In general the Commission agreed that the revised design was an improvement on the original.

538/13 – BA12312 – 2 Ashbourne Ramp, Buena Vista Estate – proposed conversion work and refurbishment

DTP provided photos of a wooden fence constructed by the applicant which was not in line with what was approved by the Commission. He said that the Subcommittee has recommended refusal.

The Commission refused this application and asked that the applicant conforms to the policy for this estate.

539/13 – BA12552 – 18 Cemetery Road – Proposed construction of warehouse

DTP informed the Commission that this application was for the construction of a warehouse which would involve demolition of part of the workers' hostel. He said that the warehouse will be 11 metres high and be a steel clad construction. Vehicular access will be from the side road and a loading/unloading area will be provided. DTP also said that the proposal is to cut off the side road by constructing a wall for security reasons.

DTP said that the Traffic Commission has asked that all street parking is reprovided but would prefer that the loading/unloading bay and staff parking is provided within the premises. DTP said that the applicant is proposing to reprovide parking but that the location which has been proposed would affect the current motorcycle bay. DTP also told the Commission that the Highways Department has not commented on whether they agree with the road being cut off. He added that the loading area is apparently not included in the applicant's lease but that they already make use of this area for this purpose.

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JC said that the original intention was that part of the hostel would be demolished and the road straightened by the applicant. He confirmed that the loading bay is not in their lease but that they would be allowed to use this area for loading/unloading during the day and that cars would be allowed to park at night.

JH highlighted that the area is very chaotic and that perhaps it would be beneficial to have an overall plan for the area. The Chairman agreed saying that he found that the development was suiting one occupier but that there are no details of Government's plan for the whole site.

JC said that this is the agreement between the applicant and HMGOG once the hostel has been demolished.

DCM said that the previous administration sold the right of access and use of these premises to the applicant. JC said that they have rights, not actual ownership.

The Commission agreed that the proposal was acceptable apart from the wall to block of the road and subject to the parking issue being solved.

540/13 – BA12681 – King's Bastion Leisure Centre, Queensway – Proposed installation of vinyl awning to upper terrace and aluminum framed structure to esplanade

DTP advised that this application was refused previously on the basis that it was affecting a listed monument. The applicant was asked to remove the structures but has requested the opportunity to address the Commission.

The Commission welcomed the applicant who explained that the aluminum framed structure has been installed on the esplanade as they were unable to use umbrellas during bad weather as this was dangerous for clients. He said that he obtained the landlord's permission prior to installation and that the structure is free standing as requested by the landlord. With regards to the vinyl awning on the upper terrace, the applicant also said that he had obtained landlord's permission prior to installation. He said that the landlord's only condition was that it should be a removable structure and that it should not affect the bastion; he said that they have complied with this. The applicant also told the Commission that he has had two site visits with the Chairman and Mr Darren Fa and that Mr Fa's only concern was that the bastion should not be affected. He added that the canopy makes the area more usable and that reservations for functions have increased since it was installed.

DCM asked whether the canopy is removed after every event. The applicant said that it is removable but that on a logistical front it would not be viable to mount and dismount every weekend.

CAM said that the Heritage Trust's view is that this is a listed monument and that he would require a license. She said that the Trust welcomes the use of the bastion as a community asset but that they could have considered other ways of attaching the canopy without having to make holes on the bastion.

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The applicant said that he understood the Heritage Trust's point of view but that he thought that he had done everything that was required.

MEH said that one of the beauties of this site was that it was open but said that he understood that it would not be usable in adverse weather. He said that in his opinion the one on the upper terrace was less obtrusive than the structure on the lower terrace; the latter he said has more of a negative impact on the bastion. The Chairman disagreed saying that he thought that the lower one was less visually intrusive.

JH highlighted that the process has again been ignored in this case.

The Chairman said that the problem is that tenants are often not informed that they occupy listed buildings. He said that in this case the landlord did not properly inform his tenant.

JC said that the DPC could have advised the applicant but that now that the structures have been set up, they are almost being imposed on the Commission.

CV said that he would have welcomed being able to provide direction on this. He said that he would have been more inclined to use the promenade area above Line Wall Road. CV also said that he hoped that the waterproofing has not been perforated and that they were complying with fire strategies.

DTP informed the Commission that he had received a letter from the Ministry for Heritage objecting particularly to the structure on the esplanade on the grounds that it is inelegant and obscures the monument.

MEH said that landlord permission is not enough but that he did not think that there had been a deliberate omission by the applicant and that they genuinely thought that they had the necessary permission. He said that considering that they have already been installed, he would recommend approval, even though in other circumstances he would not.

The Chairman said that he would recommend a similar structure to the one on the lower terrace for the upper terrace. GM said that he did not agree due to the permanency of the structure. He said that the monument is being compromised when it was exposed for the benefit of the community and appreciation.

CAM said that many of these structures are starting to appear in front of listed monuments/buildings.

The Commission took a vote on the aluminum framed structure on the esplanade and it was a unanimous decision to refuse the application.

MEH asked whether the Commission was refusing any kind of structure. The Chairman said that the applicant is always free to present other proposals. However, DTP said that the Commission should not encourage the applicant to submit other proposals if they do not want to see any structures in front of the bastion.

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With regards to the awning on the upper terrace, JH said that a marquee type structure would look more aesthetic.

MEH said that he did not object to the vinyl awning which has been used. DCM concurred with MEH but said that a marquee type structure would also be appropriate.

CAM said that had the application gone through the usual planning process, the applicant probably would have ended up with a tent over the terrace but the form and the way it has been attached to the monument would have been studied to avoid drilling the monument as much as possible. For this reason, she said that the Heritage Trust did not object in principle to the tent but rather the way in which it has been installed and the visual impact it has.

The Commission asked the applicant to revert with a more acceptable marquee type structure.

541/13 – BA12694 – 9 Poca Roca, Upper Rock – Proposed alterations/replacement of former dwelling

DTP told the Commission that this application is to demolish the existing property and reconstruct extending into an area where a dwelling has already been demolished.

DTP said that there is one Eucalyptus tree on site which would have to be removed but that it appears to have been self-seeded and the Department of Environment has not made any specific comments on the loss of the tree. DTP said that they have only commented on their standard energy performance and dust conditions.

DTP said that from a planning perspective the issue is that the site is within the nature reserve where the planning policy on new dwellings is very restrictive. The policy would normally only allow for a replacement dwelling of no more than 20% of the volume of the existing and which is no higher. He explained that the aim of the policy is to avoid any increase in the number of households living within the nature reserve but allowing some limited replacement or extension of existing dwellings. In this case there would be no increase in households as the applicant resides in the adjacent property. The volume of the proposed house would be greater than the policy limit but when the volume of the previously demolished house is taken in to account then there would be no significant increase. DTP stated that factors for the Commission to take into account included that there would be no increase in households, there will not be an increase in building height and that the area has been previously built on. DTP also said that there were originally two houses on the site and that there will be minimal visual impact due to the location of the site

KB said that the Eucalyptus tree is an invasive species and that the fact that it had self-seeded was worrying. He recommended that two semi mature stone pine trees are planted instead. MEH concurred.

The Commission approved this application subject to the above recommendations.

542/13 – BA12738 – 27, 29, 31, 35 & 37 Castle Ramp – Proposed enlargements and improvement to existing dwellings

CV declared an interest in this application.

DTP told the Commission that planning application was granted in 2006 and expired in March 2009. He said that the previous application had included a garage door but this was not approved. DTP advised that the applicant is applying for permission for effectively the same scheme as previously involving the refurbishment of the buildings, rationalization of the upper storey with a new extension to the terrace of one of the buildings. DTP said that the garage door has not been removed from the design and that it is not in keeping with the traditional features of these buildings. He said that this has also been pointed out by the Heritage Trust.

The Commission approved this application with the exception of the proposed garage-style door and instead the existing ground floor windows are to be maintained and restored.

543/13 – BA12742 – La Rotunda, 4-16 Winston Churchill Avenue – Proposed front extension and change of use of 1st floor to cafeteria

DTP explained that there will be minor changes to the supermarket entrance and that a lift will be provided for access to the proposed cafeteria on the 1st floor from the lobby. Access to an external terrace on the first floor will also be provided. DTP also said that the Director of Civil Aviation requires a Reflectivity Study, a Foreign Object Damage Plan and a Bird Management Plan.

The Commission approved this application subject to compliance with the requirements of the Director of Civil Aviation.

544/13 – BA12748 - 2/8 Ansaldo's Passage – Proposed change of use to guest house, refurbishment and extension

DTP advised the Commission that the abovementioned property was purchased via tender and that the purchaser is proposing to refurbish the building and convert it into a guest house with 9 bedrooms and a two bedroom apartment on the upper floor for himself. The proposal also includes a café which will be open to the public. DTP said that the existing light well will be retained but glazed over and the existing extension will be extended to allow space to create the owner's apartment.

DTP said that representations have been received from a neighbour whose property overlooks the area where the upper extension would be constructed and that these had been circulated to members. DTP said that the objector, Mr Eveson, has requested the opportunity to address the Commission.

Mr Eveson told the Commission that he encourages refurbishment of the upper town area but that his property abuts the applicant's property and that his kitchen and dining room window face west and would be affected by the extension. Mr Eveson said that the extension would remove the view from his living area. He said that the proposed extension is not appropriate in terms of

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massing and height of the adjacent buildings and that it is not in keeping with the character of the upper town area. Mr Eveson said that the value of his property will be reduced and that he is restricted to sell for the next 8 years. He said that he would not appreciate having his views removed and then the other property being resold without restrictions in the future.

MEH asked Mr Eveson whether he had discussed his concerns with the developer and whether they could come to some type of agreement. Mr Eveson said that they had met but that they were not able to resolve matters.

The Chairman thanked Mr Eveson.

The Commission also welcomed Rebecca Faller and Ruth Massias on behalf of the applicant.

Ms Faller said that letters and designs had been submitted to the DPC. She said that to make the project viable, the owner needs to create an extension on the top floor. She said that the applicant has at all times taken the neighbours into account but that one risk of living in the upper town area is that someone could build in front of your property. She said that they met on site with Mr Eveson but that although they tried compromising he said that he did not want the roof extension to be built. Ms Faller said that the applicant needs to comply with Government's requirements and that he would not be able to invest if the guest house has to be removed or made smaller in order to have enough space for the owner to live in the property.

Ms Massias also explained that they are taking the neighbours into consideration by not constructing a parapet wall all along the extension. She said that the pitched roof will be reconstructed slightly lower to form a flat roof roughly at the height of the middle of the current pitched roof.

The Chairman said that it was important to mention that rights to views are not a planning concern.

MEH said that as a concept he thought that the proposal was brilliant. He said that it is in keeping with what HMGOG wants to encourage in this area.

DTP said that the Ministry for Heritage commented that they had insufficient information on how this development will affect the streetscape and character of the area. He said that they were concerned with the number of modern changes which were occurring throughout the town area and that they had recommended deferral pending further information.

The Heritage Trust had also commented saying that the windows and shutters should be refurbished and that the internal patios should be retained. They were concerned with access to the property and on the possible towering effect of the south facing elevation; they recommended setting back this elevation. DTP also said that the Heritage Trust thought that the balcony overhang was out of character and that it should be set in and that the architectural treatment should be considered.

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The Chairman asked the Commission whether they accepted the objector's comments and whether the extension should be redesigned.

GM said that it might be beneficial to consider the lowering of the floor to ceiling height.

MEH said that this is the first instance in which the DPC gives so much consideration to the loss of views, although he sympathized with the objector. MEH said that he would encourage mediation between the applicant and the objector.

From a planning perspective, DTP said that the applicant is not conditioned to take into account objections on the basis of loss of views but encouraged dialogue between the two parties.

The Commission approved the application as submitted.

545/13 – Next meeting

The meeting was adjourned until Friday 8th November at 9:30am.