

APPROVED
DPC meeting 2/12
10/2/12

THE DEVELOPMENT AND PLANNING COMMISSION

Minutes of the 2nd meeting of 2012 of the Development and Planning Commission held at the Charles Hunt room, John Mackintosh Hall, on 10th February 2012 at 10.00 am.

Present: The 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 G Matto (GM)
 (*Senior Architect*)

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

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

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

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

 Mr C Viagas (CV)
 (*Heritage & Conservation Officer*)

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

In Attendance: Mr P Naughton-Rumbo (Executive Officer) (DTP)
 (*Deputy Town Planner*)

 Mr E Francis
 (*Secretary*)

Apologies Mr J Purser (JP)
 (*Defence Land Agent, Rep Commander British Forces*)

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61/12 - Approval of the Minutes of the 1st DPC meeting held on 25th January 2012.

The Commission approved the Minutes of the 1st meeting of 2012 held on 25th January 2012 subject to the following amendment (in bold) to Minute 9/12:

09/12 - BA11845 Demolition - Buena Vista Barracks, Europa Road – Proposed demolition of buildings (Phase 1)

DTP explained that this application was an amendment to the approved scheme to demolish an additional wall in order to improve access to the site. The Heritage Trust had viewed the wall and had no objections **as that particular section of the wall had been rebuilt in the past**. The applicant had undertaken to salvage the stone which would be used elsewhere on the site.

The Chairman suggested that the use of the salvaged stone be included as a condition. The Commission agreed to this and approved the application.

JH asked how it was ascertained that the conditions were implemented.

DTP explained that this was done by liaising with Building Inspectors and the Town Planners are also continuously abreast of all applications and compliance with the conditions

Matters Arising

62/12 - BA11816-CP1248, Maida Vale, Engineer Road – Proposed 8 residential units.

DTP reminded the Commission that at the last meeting the Commission had approved the application subject to the EIA and AA screening exercises concluding that there would be no significant effects.

DTP informed the Commission that the Department of the Environment was still completing the screening process.

It was agreed that once the screening was completed the draft permit was to be circulated to the members for approval by round robin.

63/12 - BA11870 - Mumtaz, 20 Cornwall's Lane – Proposed retractable awning

This application was carried forward as the applicant had as yet not submitted further information, which had been requested by the Commission, as to why the awning was required.

64/12 - BA11903 - CP1365A M H Bland Warehouse, North Mole Road – Proposed extension and refurbishment following outline permission.

DTP informed the Commission that the applicant had submitted revised plans which no longer included a disabled ramp as this was being replaced by a stair lift and he confirmed that the extension did not impede access to the jetty. He also advised that the proposed ramps on the north side had been removed, whilst the ramp on the south side was no longer proposed as a permanent structure but rather a portable ramp as existing at present.

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DTP added that he needed to establish whether this extension would interfere with the safety aspect of the tank farm which was being proposed for construction in the nearby area.

The Commission approved this application subject to the clarification that there was no impingement on the exclusion zone of the tank farm.

65/12 -Ref-1196 - Aping About. 9/11 Corral Road – Application for tables and chairs.

DTP reported to the Commission that the Highways Department was not recommending this application as it was concerned with the tables/chairs being in such close proximity to the road which is a heavily used arterial road that is frequently congested. The highways had pointed out that the railings had been fitted on request from the applicant to ensure safety of the children and not as an anticipation for the area to be used for tables & chairs or for people to congregate.

The Commission refused this application.

Other Developments

66/12 - BA11867 - 3/5 Charles V Ramp – Proposed additional storey. Full application following grant of outline permission.

DTP explained that the applicant had been conditioned in the outline permit to set back the proposed storey a distance of 2m from the building to the north. This had been done.

DTP informed the Commission that an objection had been submitted by Mr M Maloney who resides in the adjoining property.

Mr Maloney was welcomed and invited to address the Commission.

Mr Maloney read out a statement. His objections related to loss of light, air quality, views, privacy, residential amenities, character, over development, need, construction, infrastructure, height, encroachment onto his land, leasehold and the 2m gap.

DCM asked whether the possibility of there not being landlords consent had any implications on the planning process.

DTP explained that landlords consent was not a planning consideration. He added that even if a planning permit was approved the project would not be able to proceed until landlords consent had been granted.

The Chairman pointed out that Mr Maloney had alleged that the proposed additional storey encroached into his property. If this was so the applicant would have to revise and address this issue.

MOE asked that if landlords consent was still in doubt was not the DPC wasting it's time on applications which might then not be allowed to proceed.

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DTP explained that as landlords consent was not a planning issue, the Commission had to consider applications irrespective of landlords consent.

CV said that he was comfortable with this application as the proposed additional storey would not be seen from the street and would not be detrimental to the character of the building.

CAM agreed with CV as the additional storey would not have a negative impact on the building from a heritage point of view.

Mr Leslie Gaduzo, from AKS who is the applicant's architect, was present at the meeting and informed the Commission that if there was any encroachment issues this would be revised and addressed.

DTP said that the applicant maintained that the building was within his leased area. JH asked whether loss of privacy was a planning consideration.

DTP explained that this was a planning consideration although the thresholds were different to those in UK due to Gibraltar's size and topography.

MOE suggested that as the applicant was willing to revise the plans if it were established that there was encroachment, the applicant and objector should meet to ascertain this.

The Commission agreed and instructed the Town Planner to request that the applicant and objector meet to progress this matter.

67/12 - BA11891- Outline - 1C/1 Maida Vale, Engineer Road – Proposed Outline application refurbishment & extension to terraced house.

DTP explained that there was an objection from the adjoining tenant, Mr Harrison.

Mr Harrison was welcomed and invited to address the Commission.

Mr Harrison explained that the proposed extension would have a negative impact on his property as the proposed building will be approx 6m in height and situated in front of his kitchen window and will box in his rear patio. Mr Harrison added that he had no problem with the applicant extending his property vertically as this would not affect him as much as having the property extended towards the rear.

Mr Summerfield, the applicant, was welcomed and invited to address the Commission.

Mr Summerfield explained that the patio referred to by Mr Harrison is located at the rear of the property and hardly used as due to its location near the rock face it hardly gets any direct sunlight.

MG said that there is a retaining wall situated in the area of the proposed extension. He stated that should the proposal impede access to the wall then he would have to object to this application.

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Mr Summerfield claimed that this wall had been built by the developer of his property.

The Chairman pointed out that Technical Services Department had objected on the same grounds

GM asked whether clarification could be sought as to who had actually built the wall.

This application was deferred pending clarification on the responsibility of maintenance of the retaining wall.

CV said that already the Commission had heard two claims of right to light he enquired as to the Commissions policy on this matter.

GM felt that a layman's interpretation might differ to that of the actual technical interpretation.

The Chairman explained that the Commission had to look at it on the grounds of there being a loss of amenity as opposed to rights of light.

JMC explained that entitlement of right to light can only be acquired by prescription or grant however he felt that if it was obvious, that such a right existed DPC would have to give it consideration.

68/12 - BA10013 - Tradewinds, Bayside Road – Proposed alterations to rear delivery access for commercial units.

DTP explained that the applicant was now proposing a scheme which would encompass a loading bay in their area and allow access for delivery either through the garage or from the boardwalk.

The Commission approved the application.

69/12 - BA10977 - 32 Parliament Lane – Proposed 3rd floor extension to create 3 apartments.

DTP explained that the applicant was requesting the Commission to waive the condition to replicate the lower floor windows on the grounds that due to the fall of the roof and building regulation requirements the height of the new storey is lower than anticipated therefore if the size of the window were increased it would lie too close to the floor slab and would look odd on elevation.

The Commission agreed to waive the condition.

70/12 - BA11256 - 45 Engineer Lane – Submission of traffic management details by applicant to justify reconsideration for the proposed garages.

DTP explained that the applicant had submitted a traffic management plan which included the control of the traffic lights in the area to allow the safe exiting of the garage. This traffic management plan had been approved by the highways authorities.

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The Chairman explained that there were two issues for the Commission to consider, the impact on the façade and the traffic management proposal.

The Commission refused this revised submission to incorporate garages on the basis that it would detract from the character of the area and streetscape and that it was not appropriate for the traffic signaling to be interrupted by the future occupiers of the property. The Commission was also of the opinion that the new occupants could apply for a space at the nearby multi storey car park under construction.

71/12 - BA11338 - 6 Admiral's Place – Proposed conservatory.

DTP advised that these were unauthorised works that had been discovered. He reminded the Commission that similar skylights had been granted planning permits in the estate even though to date they had not been constructed.

The Commission approved this application subject to them keeping to the uniformity with the other skylights.

72/12 - BA11435 - Unit 15, New Harbours - Application to retain window.

DTP explained that the applicant was requesting the Commission to reconsider its decision to refuse permission to retain the un-authorized window. The applicant had referred to other examples in the area. DTP reported that these had been viewed but that they were not the same as the unauthorised windows in that they were of the standard height. It was agreed that the applicant need not provide the full number of windows as originally approved but would need to keep to the same proportions as those above and same alignment

73/12 - BA11517 - La Rotunda, Winston Churchill Avenue – Proposed refurbishment of supermarket.

The Commission approved this application to extend the supermarket into Units 16 B & C.

74/12 - BA11608 - 30A Bakewell House, Devil's Tower Road – Proposed revised relocation of shop door to side elevation.

The Commission approved this application.

75/12 - BA11699 - CP1136/7 House 7, 1 South Pavilion Road – Proposed conversion of grassed area to terraced area incorporating tub/spa.

DTP informed the Commission that the applicant had now submitted the revised scheme which addressed the issues raised by the Commission. The chairman informed that another resident had written in requesting that the other residents be allowed to check and make representations should it be necessary before the revised scheme was considered.

The Commission agreed to defer this application to enable the other residents to review the revised plans.

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76/12 - BA11710 - 2 Engineer Road – Proposed chimney flue and revised extension to permitted conservatory.

DTP explained that the applicant was claiming that the flue had to be located on the outside due to problems faced trying to direct it internally.

The Commission approved the extension to the conservatory but refused the flue and instructed that this should be removed on the grounds that it was out of character with the building.

77/12 - BA11797 - 4/5 Poca Roca, Signal Station Road – Proposed replacement windows and alterations to façade. Amendments to approved scheme to include new terrace, alterations to fenestration and CCTV & externally mounted solar powered heater.

DTP informed the Commission that Mr Estella had made a written submission as he was unable to attend in person. The letter was read out to the Commission. His concerns related to the pipework, windows and CCTV cameras,

Mr Tavares, the applicant was welcomed and invited to address the Commission.

Mr Tavares claimed that the pipe-work had always been located in the alleyway which its ownership is the subject of a dispute with his neighbor, Mr Estella. He also said that his CCTV's were not directed to Mr Estella's property. Mr Tavares stated that all he wanted was to be able to refurbish the property in order to sell it and move elsewhere.

Mr Tavares also claimed that Mr Estella had erected a wall, without planning permission blocking access to Mr Tavares's rear garden.

The Commission considered this application and approved the proposed replacement windows on the basis that there were already two windows in this elevation as proposed and matters would not be made any worse and the applicant was simply removing a (unsafe) brick pier from between the two windows to convert it into a single window. The Commission did not consider that the CCTV cameras unduly invaded the neighbour's privacy. It therefore approved the CCTV cameras, the new terrace and the externally mounted solar water heater.

78/12 - BA11812 Outline - 63 Europa Road – Proposed detached house.

DTP explained that the tenants of this building were proposing to construct a house on part of their property in order to raise funds to undertake major refurbishment on the building. DTP added that due to the proximity of the cliff face and the SCI site above this property, the Department of the Environment had requested that an ecological survey be undertaken by the applicant. DTP reported that the survey had been completed and was being assessed by the Department of Environment. Technical Services Department had also requested that a geotechnical survey be carried out. DTP explained that this could be included as a condition.

KB declared an interest and said he would abstain as he is involved with the ecological survey and is also a member of the Nature Conservancy Council which might have to consider this application in the event that it is referred to them.

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MOE asked if the Commission was in a position to take a decision taking into account the fact that there was still survey's to be carried out.

DTP explained that the geotechnical survey is normally requested after the granting of the outline permit.

GM pointed out that the plans showed steps leading onto the road on which there is no pavement. This would require the construction of a pavement on the public highway.

JMC highlighted that there is no pavement along this stretch of road.

The Chairman said that the Highways Section would need to be consulted on this matter.

CM said that she was concerned with setting a precedent whereby a green area is sacrificed for the refurbishment of a building.

DTP said that the site was inspected with GONHS and it was noted that it was not a true green area. He added that most of the green area would be retained.

JMC said that the Commission has to be careful and obtain a guarantee that the profit from this project will ensure that the full refurbishment program is undertaken.

Mr L Gaduzo, architect for the applicants, asked to address the Commission.

GM asked Mr Gaduzo what the implications to the design would be if the stairs onto the road were removed. Mr Gaduzo responded that the stairs could be shifted towards a southerly direction which could be a much safer option.

The Commission approved this application. The Chairman said that the draft permit with the relevant conditions would be circulated for approval via round-robin.

79/12 - BA11861 - 10 Lord Napier Mews, 4 Rodger's Road - Proposed pool & works to terrace.

The Commission approved this application subject to the replanting of existing trees as has been the norm in the approved plans for swimming pools at Lord Napier Mews..

80/12 - BA11872 - Bayview, 16 Devil's Gap Road - Proposed replacement of timber fence with boundary wall.

The Commission approved the request to replace the timber with the boundary wall subject to this being rendered and painted.

81/12 - BA11876 – Outline - John Snow House, 35 Europa Road – Proposed double garage

DTP explained that a photomontage had been requested for the proposed double garage at John Snow House and this had been submitted by the applicant. He added that objections had been submitted highlighting and that these:

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1. The proposed garage being constructed over the public steps access from Europa Road. DTP added that the applicant was proposing to divert the steps so access would still be maintained.
2. The loss of trees. DTP pointed out that from the plans and as confirmed by the applicant there was no loss of trees as part of the submissions.
3. Encroachment into the turning circles for the garages of the New Aloes. DTP pointed out that the garages for the New Aloes had been designed so that access would not be adversely affected by other future development along the access road. The location of the new garage was not considered to affect this issue.

Mr Labrador, the applicant, asked to address the Commission.

Mr Labrador explained that the scheme would have minimal impact on the area as only a little piece of the garden would be affected. He undertook to realign the steps and confirmed that there would be no loss of trees.

The Chairman asked Mr Labrador why he had to encroach on the steps and not keep to his property.

Mr Labrador explained that if he kept to his property this would be more visible from the street. He said that he had previously submitted an application on that design but had withdrawn for the same reason.

JMC pointed out that landlord's consent was still required.

The Chairman stated that this was not a planning matter.

JMC reiterated that although the Chairman was correct the reality was different in so far as many applicants thought that works could commence once planning was approved.

The Chairman reported that the permit states clearly that works cannot commence without a Planning Permit Planning Building Consent and if they did a stoppage order can be issued.

The Commission approved the application subject to the realigning of the steps.

82/12 - BA11940 – Outline - Lancashire House, 37 Europa Road – Proposed car parking deck.

DTP explained that objections had been received to this proposed car parking deck on the grounds that this would result in loss of views & trees and insufficient turning area.

KB said that that it appears that there are plans to accommodate trees. Clarification should be sought as to how this is to be done.

CM pointed out that instead of demolishing the garage owned by the owner and located at the entrance to the ramp these could be used.

JMC responded that the garage at Lancashire Hse are too small and have never been used.

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MG added that there are plans to widen the road in this area. He questioned the need to check whether the retaining wall is a GOG responsibility and if so this responsibility would have to be passed onto the tenant.

The Commission refused this application on the grounds of loss of naturally growing open space and shrubbery and the unsightly visual impact of the car deck from Europa Road

83/12 - BA11883 - 113/114 Both Worlds, Sir Herbert Miles Rd – Proposed conservatory.

DTP explained that similar enclosures of this nature had been approved in other areas of this Both Worlds.

The Commission approved this application.

84/12 - BA11905 - 111 Endeavour, Both Worlds – Proposed balcony enclosure.

DTP explained that enclosures of this nature had been approved in other units of this property.

The Commission approved this application.

85/12 - BA11884 - 123/3 Main Street – Proposed change of use from shop to tattoo & piercing studio.

The Commission approved this application subject to the sign being limited to the area of the doorway being the shop opening. The Commission also approved the side panels.

86/12 - BA11885 - 260/262 Main Street – Proposed internal subdivision of ground floor and alterations to windows.

The Commission approved the conversion of the existing door on the Main Street façade into a window subject to this reflecting the exact proportions of the existing window. The opening up a new door in a previously blocked up opening was also permitted. On the Cathedral Square façade, the window nearest Main Street was permitted to be extended downwards as this was previously a larger opening but the remaining window on Cathedral Square was to remain as existing.

87/12 - BA11886 – Outline - 1B, Engineer Road – Proposed extension of existing 2 storey house into 4 storey house.

The Commission approved this application. The objections received from the adjoining resident were not accepted on the following grounds: the Commission did not agree

1. The Commission did not agree to “Loss of Privacy” because the plans proved that the configurations of the proposed windows do not face directly into their property. The proposed development seems to be located on the north-west corner of the site, approximately 6.5m from the boundary of the adjoining property. The applicant had confirmed that the development would be lower than the complainants.
2. The Commission did not agree to loss of “Natural Light” caused by the proximity and height of the proposed development. The Commission accepted the counter-

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- representations that no evidence had been submitted to justify the claim (eg the submission of sun path analysis etc)
3. The Commission accepted the counter-representations that the proposed chimney is above the required height of the tallest part of the development and its situation approximately 9.6m from the boundary and 10.7m from the adjoining property. should not give rise to toxic emissions and smells. In the event that there would be then enforcement under the Building Regulations would be necessary.

88/12 - BA11893 - FP 667 (Pt) 11 Convent Place – proposed conversion of commercial premises into a nursery/pre-school.

DTP mentioned that the objections received were from other nurseries and did not raise planning considerations but rather the issue of competition.

Highways had stated that they the dropping off area would need to be considered by them.

The Commission approved this application subject to the tiles on the façade being removed and the wall be re-rendered and returned to an appropriately repainted rendered finish as per the other ground floor units and subject to no adverse comments being received from the Traffic Commission.

89/12 - BA11911 - 3/1 Central Pavilion Road – Proposed 3 storey extension to dwelling.

DTP explained that there were no objections to this proposal. He added that 3 young fruit trees planted by the applicant were being lost. KB added that he had undertaken the tree survey and it had determined that the trees were in a very bad state.

MOE suggested that the applicant be conditioned to there being no further loss to the garden and that the remaining garden be enhanced.

CM said that the heritage value of the building was in its vernacular architecture. The Trust was not happy with the proposed modern design as it did not blend in with the historic surroundings and architecture of Loquat House, St Stephens, The Elms and New Mole House and therefore could not approve.

The Commission recorded her concerns but approved this application on the grounds that it considered that the new architecture was welcoming.

Prior to considering three applications from Eazitel, a letter previously circulated to members by JH was discussed. JH expressed concerns about the health impacts of mobile phone antennae and asked for information on the protocols in place.

DTP explained that the Gibraltar Regulatory Authority as part of its procedures considered Health & Safety issues to international standards. He added that the GRA had informed him that prior to commissioning all equipment is tested by the GRA and subsequent random testing without prior notice is carried out.

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DTP said that because of Gibraltar's topography power levels are well below international level.

90/12 - BA11930 - Car Parks, Devil's Tower Road – Proposed antennae and dishes for Eazitelecom.

DCM declared an interest and did not participate in the consideration of this application as he is Chairman of Gibtelecom.

DTP said that there were no planning objections or visual impact to this application.

The Commission approved this application.

91/12 - BA11931 - Sunrise View House, Eastern Beach Road – Proposed antennae and dishes for Eazitelecom.

DCM declared an interest and did not participate in the consideration of this application as he is Chairman of Gibtelecom.

JH objected on the grounds that this would be erected in a residential area.

MG requested that the applicant be conditioned not to proceed until the proposed demolition in this area had been carried out.

GM said that the applicant has had other applications and these had been done in a more sympathetic manner to this current application without there being a visual impact.

The Commission deferred this application pending a site visit as it was felt that there could be other less intrusive locations in the area.

92/12 - BA11933 - The Sails, Queensway Quay - Proposed antennae and dishes for Eazitelecom.

DCM declared an interest and did not participate in the consideration of this application as he is Chairman of Gibtelecom.

JH objected on the grounds that this would be erected in a residential area.

The Commission approved this application on the grounds of no visual impact.

MOE apologised and left the meeting as he had another meeting to attend to.

93/12 - BA11924 - GibOil Yacht Petrol Terminal, Waterport Wharf – Proposed refurbishment and extension to shop.

DTP said that the Port Authority had commented that there required to be a physical separation between the landside and seaside.

The Commission carried forward this application pending submission of revised plans that would address the Port's comments.

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94/12 - BA11929 - 9/11 Corral Road – Proposed change of use from offices to play centre as extension to the Aping About play centre.

DTP said that there were no planning objections to this application.

The Commission approved this application.

95/12 - BA11934 - 11 South Barrack Road – Proposed garage access opening.

The Commission approved this application subject to Traffic Commission approval.

96/12 - BA11938 - CP1228 3 Clifton’s Mews, Europa Road – Proposed pergola

The Commission approved the revised submission for this application.

97/12 - BA11944 – Outline - 26/27 Devil’s Tower Road – Proposed new commercial warehouse.

DTP informed the Commission that Technical Services had requested that a geotechnical survey be carried out.

The Commission considered that in this case, due to the potential risks involved, that the applicant should arrange for the geotechnical assessment to be carried out first and then it would consider the application further.

98/12 - BA11946 – Demolition - Buena Vista Barracks, 40 Europa Road – Proposed demolition of selected buildings within Phase 2.

DTP explained that this part of the site currently only had the benefit of outline planning permission. The applicant required to demolish the buildings at this stage to be able to undertake ground condition surveys. The Commission approved this application.

99/12 - BA11947 - 2002 Garden Mews, Ocean Village – Proposed conversion of two apartments into one.

DTP informed the Commission that they were still discussing the proposed fire escape with the City Fire Brigade.

This application was carried forward.

100/12 - BA11949 - 25 City Mill Lane – Proposed confectionary & chocolate making unit & shop

The Commission approved this application.

101/12 - BA11960 - Tommy Hilfiger, Library Street – Proposed disabled ramp.

The Commission approved this application.

Minor Works – not within scope of delegated powers

102/12 -Ref-1195 - DLSS/IT rear Car Park – Proposed removal of Eucalyptus tree.

The Commission approved this application.

103/12 - BA11923 - Unit G 4C ICC Proposed change of use shop to restaurant.

The Commission approved this application.

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104/12 - BA11957 - 6 Tilbury Court, Harbour Views – Proposed conversion of two flats into one.

The Commission approved this application.

105/12 - BA11967 - 79 Prince Edward's Road – Proposed new air conditioning unit and replacement windows.

The Commission approved this application.

Any Other Business

106/12 – BA11948 – 44 Irish Town: Proposed signage for new mini market store

The Commission approved the sign with the shop name. It did not approve the slogan.

The Commission confirmed that the delegated powers granted to the sub-committee in respect of signs allowed for it to grant permission with conditions to strike out unsatisfactory aspects of the proposal.

107/12 – BA11991 – 165 Main Street: Proposed signage and retiling of shopfront facade

The Commission approved the removal of the cladding subject to any replacing being on a like for like basis.

The Commission confirmed that the delegated powers granted to the sub-committee included the power to approve applications where external changes were involved provided it involved only alterations on a like for like basis.

108/12 – Ref 1198/002/12 – 304A Main Street: Proposed signage/ banner

This application was rejected by the Commission on the grounds that it was out of character and would set a precedent for similar applications.

109/12 - Royal Naval Hospital – Blocking of Arches

CM informed the Commission that she had visited the site with CV. The Heritage Trust would like the arches retained and glazing used instead of being bricked up.

CV explained that the arches would be retained and would be visible from the inside. This area is to be used as a fire escape so any alteration to what has been designed would have significant cost implications.

110/12 – Next Meeting

The Commission agreed to next meet on 23rd February 2012 at 09:30 hrs.