

THE DEVELOPMENT AND PLANNING COMMISSION

MINUTES

Minutes for the 7th meeting of 2024 held remotely via video conferencing on 23rd May 2024 at 9.30am

Present:

Mr P Naughton-Rumbo (Chairman)
(Town Planner)

The Hon Leslie Bruzon (MICS)
(Minister for Industrial Relations, Civil Contingencies and Sport)

Mr H Montado (HM)
(Chief Technical Officer)

Mr G Matto (GM)
(Technical Services Department)

Mrs C Montado (CAM)
(Gibraltar Heritage Trust)

Mr A Brittenden (AB)
(Land Property Services)

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

Mr C Viagas (CV)

Mrs J Howitt (JH)
(Environmental Safety Group)

Mr C Freeland (CF)
(Rep Commander British Forces, Gibraltar)

In attendance:

Mr C Key (CK)
(Deputy Town Planner)

Mr J Neale
(Minute Secretary)

Apologies:

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

The Hon Dr J Cortes (MEEC)
(Minister for Education, the Environment and Climate Change)

Mr K De Los Santos (KDS)
(Land Property Services)

Approval of Minutes

197/24 – Approval of Minutes of the 6th meeting of 2024 held on 25th April 2024

The draft minutes of the 6th meeting held on 25th April 2024 were approved.

Matters Arising

198/24 – F/19084/24 – 9 Devils Tower Road, 5 Lady Williams Close -- Proposed twelfth floor extension over part of the building footprint.

The Chairman advised that the applicant and objectors were present at the meeting.

CK reminded members that this item was deferred at the last meeting, as Members required clarification of the use of the apart hotel. Since the meeting, discussions have been held with the applicant to clarify the use and the applicant would address the Commission on the matter.

The Chairman invited the applicant to address the Commission.

Steven Matinez (SM), on behalf of the applicant, advised that the condition of the sale of the property is in accordance with the apart hotel requirements, and advised that this has now been confirmed by lawyers.

Mr. J Holliday, on behalf of the applicant, stated that he believes that the issues that were raised occurred due to a lack of clarity. The business model has not changed since its inception and the development is an aparthotel consisting of fully serviced apartments with concierge, laundry, housekeeping and room services, amongst others. The units are sold to investors, and it is not an owner/ occupier business model, and is in fact, quite a common business model in hospitality. JH confirmed that this would mean that the owners are investors are not owners/ occupiers.

Following a query from the Chairman, Mr Holliday confirmed that investors would not be allowed to make any alterations to the property as part of the agreement. This would be managed by the managing agents.

There were no other questions from members.

CK reminded members that the TPD recommendations for this application were provided during the last DPC and this was for approval with conditions. CK stated that the roof extension is smaller than the footprint of the original building and is mainly concentrated towards the southern end. Conditions would be applied, including any aeronautical issues which may arise from the installation of PV panels as well as standard and relevant conditions applied as part of the Planning Permission for wider development.

The Chairman invited comments from Members.

JH felt that the use was still somewhat unclear and had concerns regarding how the use classification will be regulated.

Mr Holliday responded to JH's concerns by advising that the business model is based on short-term lettings which would be more commercially attractive to potential investors.

GM commented that the use classification is only one concern, and that the DPC should be primarily concerned with the impact on the area of Devil's Tower Road caused by the proposed extension, more so than its use classification. His primary concern was regarding the extra floor, and that this should be the point of discussion.

CK advised that the extension which is being considered is mainly on the southern side and features a setback of 2.5m as well as an increase in height of 3m. This would be a modest increase in height and size and would therefore cause minimal visual impact.

GM highlighted that he felt that there is an opportunity for further building of additional apartments in the future.

CK advised that this area is currently proposed to be used as a green roof and that if any applications were to be made for an extension here, then the Commission would need to consider the loss of the green roof.

SM advised that they were already at the current height limit for extension, and therefore there could be no further height extensions.

GM acknowledged the responses and accepted the explanation provided.

A vote was taken on whether to approve the application in line with the TPD recommendations:

In Favour: 7

Against: 4

Abstension: 0

The application was approved by majority vote.

Major Developments

None.

Other Developments

199/24 – F/18715/23 – 5 Straits View Terrace, Europa Point -- Proposed extension and subdivision of building into two residential units.

CK provided a description of the site and surroundings as well as a description of the proposal and that the site is located adjacent to the Nature Reserve.

The Chairman invited Mr J Vella (JV), an objector, to address the Commission.

JV confirmed that he did not object to the build as such, but to aspects that affected his property. JV was concerned that his roof storm drain gullies, which were original, would be

affected and did not want them altered. He stated there were also numerous issues regarding encroachment and requested modifications to be made.

There being no questions for JV the Chairman invited the applicant to respond.

Mr Stephen Martinez (SM), on behalf of the applicant, clarified that the gullies referred to were water pipes that are in fact encroaching on his client's property. SM confirmed that that they would be willing to negotiate with the objector to find a viable and suitable solution for all parties.

The Chairman summarized SM's comments for the benefit of the Commission and noted that the applicant is committed to resolving the drainage issue.

CK reported on consultee feedback confirming that the DoE requested that the applicant install PV Panels and a green or sedum roof within the development, as well as other standard requirements and that refuse requirements were to be reviewed and agreed with the cleansing superintendent. CK also confirmed that the GHT had originally had concerns regarding the architectural merit of the original scheme and that plans should be redesigned, however, no further comments had been received on the revised scheme.

CK commented that the application is considered to be an improvement on the existing building and that the TPD had no objections to the revised design acknowledging that the applicant has taken on board, and addressed, concerns and feedback. CK informed Members that the TPD acknowledged that this area had been subject to poor planning in the past as well as numerous unauthorized works and considers that the proposal is considered to be an improvement in terms of design. CK noted that comments received from the DoE whereby the inclusion of a green sedum roof and PV panels was requested has been acknowledged and would be conditioned and that glass balustrades would require anti-bird collision measures and would also be conditioned to details being submitted.

KB advised that he vote against it on the basis of the impact on the landscape, as this area is part of the Nature Reserve and has significant landscape value, and therefore the proposed increase in massing would be unacceptable.

JH advised that she agreed with KB's comments and highlighted the potential need for a license due to this being part of the nature reserve. The Chairman reconfirmed that the site was not in the Nature Reserve, but directly adjacent to it.

MICS advised that he agreed with JH and KB and would request a deferral and site meeting, as he felt not enough information was available in order to make a decision.

CAM acknowledged that the design has been slightly improved from the original, however, considered that the new design poses cumulative harm to the area and would, therefore, not be able to support the proposal as it would create too significant of an impact on the landscaping.

The Chairman asked members if they would wish to have a site visit and it was agreed to do so.

The application was deferred to allow a Members site visit to take place.

200/24 – O/18850/23 – 66-68 Devil's Tower Road -- Proposed extension, alterations and redevelopment of building with addition of new storage units.

CK provided a description of the site and surroundings as well as a summary of the proposal that involved a three-storey extension above the existing building. He noted that the TPD and the GHT had concerns with the original design which featured an overhang over Devil's Tower Road, however, this had been revised and the proposed top storey now features a setback. The design of the checkered grey scale cladding was revised and now featured more contrast.

CK reported that MoT and TSD had initial concerns with loading and unloading bays and that as a result, plans had been submitted to regularize loading bays along Garrod Road and that these both consultees as well as the Traffic Commission (TC) had considered the proposals to be satisfactory.

CK confirmed there were no objections to the principle, scale or height of the proposal and that whilst changes had been made, further work was required to the design of the exterior finish of the building as the proposed finish is not currently present anywhere else in the area and would be considered detrimental. CK stressed that as this is an outline application, it can be addressed moving forward on the full application. CK confirmed that the application was recommended for approval subject to various design changes, waiving the car parking regulations with final details to be submitted in support of the full application, as well as being subject to other standard conditions.

The Chairman highlighted that the recommendation was for approval for the height, scale and massing of the application.

The Commission unanimously approved the application in line with the TPD recommendations.

201/24 – F/19087/24 – Ground Floor Car Park, Forbes 1848, Devil's Tower Road -- Proposed alterations including a change of use from public car park to car showroom (sui generis).

CK reported that the ground floor car park had been intended to be used as a public car park but had not been so used and that this application was to change the use to a car showroom.

CK reported that the TC had objected to the loss of public parking which was sought to be retained in the original development. CK also informed the Commission that the MoT noted the difficulties with managing a public car park within a private development and that they consider that the proposed car showroom use would allow for better control and less volume of vehicles entering/exiting the site compared to a car park which would be to the benefit of the safety of pedestrians, cyclists and road users in the area.

CK acknowledged the objection from the TC and noted that the TPD consider that whilst the proposed loss of public parking is unfortunate, past experience has shown that it is difficult to manage public parking within a private development. CK confirmed that the TPD had no in principle objections with the change of use and that the TPD acknowledges and agrees with comments from MoT. CK confirmed that the TPD recommendation is for approval subject to

the Commission waiving the car parking regulations for the proposed development and standard conditions including a condition for signage details to be submitted for approval.

JH considered that the loss of public parking was a shame, and noted the issue with the existing roundabout which would create greater risk. JH highlighted that further efforts should be made for the provision of public parking in the area due to previous commitments made to residents in the area.

GM completely agreed with the comments made by JH and highlighted that increased commercial uses in the area would put further strain on the already existing parking issues in the area.

CAM also agreed with JH's & GM's comments and advised that the loss of public parking may create an issue in the future regarding parking space availability.

The Chairman called for vote on the TPD recommendation to approve the application.

In favour: 6

Against: 3

Abstention: 1

The application was approved in line with the TPD recommendations by majority vote.

202/24 – F/19109/24 – 5/1 North Pavilion -- Retrospective application for replacement of two x windows and two x shutters and a rear entrance door.

CK provided a description of site and surroundings as well as a summary of the retrospective works, whereby the existing three storey building, which had been split into two, had been subject to some minor changes including replacement of some windows and shutters on the front and rear elevations. CK noted that the existing façade features variations in style, form and colour, and, therefore, lacks uniformity as can be seen in the other properties in the surrounding areas.

The Chairman invited Mr Jordan Perez (JP), an objector, to address the Commission.

JP thanked the Commission for the opportunity to make representations, however, stated that he believed that this is not a matter for the DPC as this is a breach of contract and is currently in the hands of the lawyers. JP also requested that the determination of the application be deferred until the legal matters are resolved.

There being no questions for JP the Chairman invited the applicant, Mr J Borge (JB) to address the Commission.

JB thanked the Commission and advised that there was a verbal agreement with regards to the design of the building, and efforts were made to ensure that the design and aesthetic matched those in the surrounding area as well as those of the objector. JB highlighted that the objector did not obtain planning permission for the changes made to their windows and shutters, which the applicant feels do not match either side of the building, and, therefore, cannot request that

the windows installed match theirs. JB apologized for not applying for planning permission in the first place.

JP denied the applicants claims regarding not have obtained planning permission for the replacement/ change of the existing windows or shutters to be changed to white, as at the time of purchasing the property, the shutters were already white and, therefore, no changes were made.

CK advised that through the submission of photos, TPD have been able to determine the timeline and occurrence of events and had no technical objections to the application being determined by the Commission.

CK reported that the breach of contract issue is not a relevant planning consideration and would need to be resolved between the applicant and objector. CK confirmed that the had no objections to the works which have been undertaken on the rear elevation, as there are numerous types of windows and shutters in the area and therefore there is no uniformity and noted that the rear elevation is not in clear public view. Regarding the front elevation, CK confirmed that had this application had been made prior to the installation of the windows and shutters, it would have been requested that the proposed shutters should match the existing, and if so, would have been recommended for approval and confirmed that the TPD recommend that the application is approved subject to the repainting of the grey shutters to white.

CAM understood why the TPD was dealing with the application in this manner, however, stressed that it was a shame and a missed opportunity as applications such as these should be used as an opportunity to recover some of the building's lost heritage and improve on the building's appearance as well as the surrounding area.

The Chairman confirmed that the recommendation was to approve with a condition that the shutters are to be repainted white. The application was approved unanimously.

203/24 – F/19128/24 – World War II Tunnels, Gibraltar Nature Reserve -- Proposed refurbishment and upgrades to visitor experience at hay's levels to include an exhibition, multipurpose events space, retail space and bar.

CK described the proposed development that included the refurbishment and upgrading of the visitor experience and a new exhibition featuring an original Spitfire fighter plane, multi-purpose event space, shop and bar and catering facilities for events.

CK reported that following concerns from the TC, the external seating area proposed on the roadside that formed part of the original proposal had been omitted due to risks associated with potential conflict with vehicles in the area.

CK confirmed that the final design of the mural is to be revised in order to ensure that the best visual impact is achieved.

CK provided further details and description of the proposal to the Commission confirming that the proposal had been subject to public participation and that no representations had been received.

CK confirmed that the applicant had submitted several technical reports and studies including a Traffic Management Plan, Dust Plan, Macaque Management Plan and a Geotechnical Report.

CK confirmed that the GTB was in favor of the proposal, that the DoE have reviewed and cleared the Traffic Management Plan, Dust Plan, Macaque Management Plan, and have requested that final ventilation details be submitted for review and approval prior to works commencing, and that site inspections should be held once works have been done. CK confirmed that the DOE had also advised that the applicant would require a license to carry out works within the Nature Reserve.

CK confirmed that the MfH fully supports the proposal and considers that the site would be enhanced to such an extent that it would transform it into a main tourist point of interest and that the TSD had reviewed and agreed with the findings with the Geotechnical Report, and confirmed that specific rock stabilization interventions would need to take place prior to the commencement of works, and that the applicant would be required to carry out annual technical inspections, as well as more rigorous technical inspections.

CK stated that the TPD supports the development proposal, and it generally complies with relevant policies, as well as recognised the benefits associated with this application which have been previously mentioned. CK informed the Commission that dialogue between the TPD, consultees and the applicant has helped address technical issues such as geotechnical, traffic management and macaque management and will inform conditions and confirmed that other outstanding issues such as final ventilation details can also be conditioned.

CK advised that whilst there are no objections with the inclusion of a mural, the final design of this should be agreed with TPD and other relevant departments to produce a suitable and aesthetically pleasing design which is harmonious to the surrounding environment and setting/context.

CV stated that he felt that this was a fantastic application and was in favor of the development and provided suggestions for the redesign of the mural and commented that careful consideration will be required to ensure requirements such as fire regulations are sensitively handled.

JH agreed with CV comments and that it is a fantastic project which highlights Gibraltar's Heritage.

MICS advised that he agrees with JH's comments and feels that this is a fantastic project.

CAM advised that the Trust had been in contact with the applicant and that they are fully in favor of the proposal and are excited to see this completed.

JH enquired if there was a timeline.

The applicant (Mr. Wright) replied that they have hopes for this to be mostly completed by October this year. Mr Wright advised that the reason for the consultation with all the relevant departments was to ensure that the information and heritage already present be presented in the most beautiful way possible.

The application was approved unanimously.

Minor and Other Works– not within scope of delegated powers

(All applications within this section are recommended for approval unless otherwise stated).

204/24 – F/16409/19 – 11 Shrine Walk, Europa Walks Estate -- Proposed extension and internal and external alterations to property.

This application was approved.

205/24 – F/18714/23 – Blocks 4, 5 and 6 Watergardens, Waterport Wharf -- Proposed remedial maintenance works including the application of new rendered façades of building as well as façade repairs, balcony repairs and waterproofing.

JH enquired about the method by which works would be carried out due to the high pedestrian traffic in the area.

The Chairman commented that this may be done from either the podium or a cradle system, however, there is a condition in the tables and chairs licenses which includes their removal should it be required for any works.

This application was approved.

206/24 – F/18873/23 – 21 Willis's Passage -- Proposed extension to residence and associated alterations.

This application was approved.

207/24 – F/19036/24 – Blocks 1, 2 and 3 Watergardens, Waterport Road -- Proposed remedial maintenance works and the application of new rendered facades of building and commercial units as well as façade repairs, balcony repairs and waterproofing.

This application was approved.

208/24 – F/19135/24 – 1-3, 13A Palace Gully -- Proposed refurbishment and extension of properties.

This application was approved.

209/24 – F/19145/24 – 10 East Walk, Europa Walks Estate -- Proposed extension to property and patio, and minor alterations.

This application was approved.

210/24 – F/19162/24G – 12 St Bernard's Hospital, Harbour Views Road -- Proposed refurbishment of spaces into a new catheterization laboratory with ancillary plant.

GoG Application

This application was approved.

Applications Granted by Sub Committee under delegated powers (For Information Only)

NB: In most cases approvals will have been granted subject to conditions.

211/24 – F/15392/18 – 7c Engineer Road, Gibraltar -- Proposed construction of a new detached villa.

Request to renew Planning Permit No.7969

212/24 – F/18793/23 – 12 - 14 Hospital Ramp -- Proposed alterations and addition of terrace to both flats and the conversion of part of ground floor of 14 Hospital Ramp into a garage.

Consideration of revised plans relating to changes to stair access cores and introduction of parapet wall following DPC decision.

213/24 – F/18864/23 – 18 South Walk, Europa Walks Estate -- Part retrospective application for internal alterations, replacement front door and replacement first floor west facing windows.

214/24 – F/18980/23 – 16/2b Main Street -- Proposed minor alterations and refurbishment and decontrol of apartment premises.

215/24 – F/18981/23 – 16/3 Main Street -- Proposed minor alterations and refurbishment and decontrol of apartment premises.

216/24 – F/18984/23 – 16/2c Main Street -- Proposed minor alterations and refurbishment and decontrol of apartment premises.

217/24 – F/18993/23 – Flat A, 2 Mediterranean Terrace -- Proposed construction of an aluminum pergola with glass curtains in the ground floor private patio.

218/24 – F/19039/24 – 14/15 The Island Queensway Quay -- Proposed internal works and refurbishment of west elevation.

219/24 – F/19048/24 – 124-128 Main Street -- Proposed alterations to the shop-front and replacement of door to stairs.

220/24 – F/19049/24 – 12/1 Parliament Lane -- Proposed refurbishment works to apartment premises including change of windows.

221/24 – F/19069/24 – 31 Vancouver Court, Harbour Views, Harbour -- Retrospective internal alterations and replacement of windows.

222/24 – F/19074/24 – 49 Cormorant Wharf, Queensway -- Proposed installation of glass curtains.

223/24 – F/19080/24 – 5c Elliot's Battery, Europa Road -- Proposed internal alterations and replacement windows.

224/24 – F/19085/24 – 12-13 Europa Mews -- Proposed refurbishment of existing house and rear extension at ground floor level.

225/24 – F/19106/24 – Units 9 and 10 Portland House, Glacis Road -- Proposed amalgamation of units.

226/24 – F/19118/24 – 17c Elliott's Battery, Elliott's Close -- Proposed installation of air conditioning unit.

227/24 – F/19119/24 – 1604 Grand Ocean Plaza, Ocean Village Avenue -- Proposed installation of glass curtains.

228/24 – F/19131/24 – 9B Glacis Road -- Proposed change of use from vacant unit (Class A3) to storage (Class B3) including internal works and minor external works.

229/24 – F/19155/24 – Marks & Spencer, 215-B Main Street -- Proposed installation of external lift in retail premises to provide access to premises.

230/24 – F/19176/24 – 6-12 Cannon Lane -- Proposed change of use of ground and first floor level from retail (Class A1) to financial and professional services (Class A2).

231/24 – A/19043/24 – 5 Convent Place -- Proposed installation of shop sign.

232/24 – MA/17613/21 – House 5,8 Naval Hospital Hill -- Proposed extension, alterations and refurbishment of property.

Consideration of minor amendments including:

- *minor changes in south elevation window dimensions.*
- *external A/C compressor unit placement; and*
- *internal alterations.*

233/24 – Any other business

No other business was raised by Members.

The meeting concluded and the next meeting was confirmed for 27th June 2024.

Chris Key

Secretary to the

Development and Planning Commission