

Approved

DPC meeting 12/19
21st November 2019

THE DEVELOPMENT AND PLANNING COMMISSION

Minutes of the 12th Meeting of 2019 of the Development and Planning Commission held at the Charles Hunt Room, John Mackintosh Hall, on 21st November 2019 at 9.30 am.

Present:

Mr P Origo (Chairman)
(Town Planner)

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

The Hon Dr J Cortes (MESC)
(Minister for Environment, Sustainability and Climate Change)

Mr H Montado (HM)
(Chief Technical Officer)

Mr G Matto (GM)
(Technical Services Department)

Mrs C Montado (CAM)
(Gibraltar Heritage Trust)

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

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

Mr C Viagas (CV)

Mrs J Howitt (JH)
(Environmental Safety Group)

Mr Viv O'Reilly
(Rep Commander British Forces, Gibraltar)

In Attendance:

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

Mr. R Borge
(Minute Secretary)

Apologies:

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580/19 – Approval of Minutes

The Minutes for the 11th meeting held on 30th October 2019 were approved.

Matters Arising

None

Major Developments

581/19 – 0/15664/18 - Rialto Cinema, 24 Turnbull's Lane – Proposed demolition of existing buildings and construction of an eight-storey block of 58 apartments.

This item was deferred at the request of the applicant.

582/19 – 0/16281/19 - 47 Line Wall Road and 15 and 17 College Lane -- Proposed demolition of existing buildings with the exception of the College Lane facades of 15 and 17 and construction of a seven storey block of 24 apartments.

This item was deferred at the request of the applicant.

Other Developments

583/19 – F/15402/18 – Waterport Terraces Housing Estate, North Mole Road – Proposed installation of access gates.

This application to install security gates around Waterport Terraces Housing Estate had previously been approved but had to be revised, as the drawings submitted did not indicate the location of an apartment's kitchen window. During installation, the applicant had realised that one of the access gates would be in front of a window and subsequently moved the gate further back. Objections were received from Mr Craig Farrell (CF) who resides at 3 Buttercup House. Town Planning Department had met with both the applicant and the objector in an attempt to reach a compromise.

CF was invited to address the Commission in order to express his objections. He explained that he had not become aware of the plans for the gate in front of his property until it was being installed. He had called the committee and they had both agreed that the placement of the gate did make his property vulnerable. On 20th May 2019, Brian Francis & Associates (BFA) had been called for a meeting, five days later the committee member CF had spoken to resigned and was subsequently informed that the gate would not be moved. CF explained that the gate had been installed outside his kitchen window, which is outside the main entrance to the building. He mentioned that he had continuously tried to discuss his issue with the committee. He further explained that he had allowed BFA into his property numerous times in order to allow necessary works to be undertaken to the internal light wells. The gate was in operation since 28th October and he claimed the gate was very noisy as it bangs shut.

MESC asked CF whether he had any suggestions for an alternative location.

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CF replied that he had suggested the gate be placed at the bottom of the stairs that it leads to, and had asked the resident of the maisonette whether they would have an issue with the gate being placed next to their home. He claimed that they responded that it would not be an issue for them. The committee then informed him this would be a fire hazard. He had also suggested the gate be installed by the podium.

Mr John Goodman (JG), the Chairman of the Waterport Terraces committee, and Mr Richard Codali (RC) were asked to address the Commission to explain their counter representations.

JG began by stating that it has taken two years to arrange for the gates to be implemented within the estate and all projects are explained at their annual general meetings. He explained that the gate has been installed within a communal area and that the committee had invested in improving the security of the estate due to illegal activities and persons sleeping in some of the lobbies. JG also mentioned that there are seven entrances to the estate and CCTV had been installed around the estate and a Security Guard was also present to make the estate safer. He also stated that newsletters and minutes for meetings were available for residents' perusal. JG explained that the current location was the best for the gate as if it were placed at the bottom of the stairs extra fencing would be necessary and would result in the estate resembling a prison.

MESC asked JG whether he recognised that the gate was noisy.

JG replied that it sounded like a gate, but later admitted that if that was the alleged gate then it was in fact noisy.

RC commented that if CF's issue was the noise then they could investigate how to mitigate it.

MESC asked them both whether there were any alternative locations where to place the gate.

RC responded that they had various meetings with the architect and he explained that they required 1.2 meters on the landing. RC explained that this Buttercup House in particular was at a disadvantage. If the gate was moved further into the podium the entrance to Buttercup House would not be secure and therefore anyone would have access to the entire estate.

DTP reported to the Commission that CF's concerns were valid planning concerns but that from a purely planning perspective the current location of the gate was less visually intrusive than an alternative location at the bottom of the steps where it would be highly DTP noted that the management company had offered to take measures to mitigate the objector's concerns. There were no objections to the actual physical appearance of the gate in this location and that the application has been made to regularise the discrepancy in its exact location. DTP commented that with goodwill on both sides it would appear that the issues could be addressed.

DTP stated that if the DPC did not object to the location of the gate as installed the application could be approved with conditions requiring the implementation of appropriate mitigation measures.

MESC commented that adding mitigation measures were a logical solution but wanted to be satisfied once they were installed, adding he was not in favour of gated communities.

DCM commented that this application should be deferred and the Commission could consider

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approval once the mitigation measures were in place.

The Commission agreed unanimously to defer the application in order to allow the applicant to install appropriate noise mitigation measures and to reconsider the application once this has been carried out. .

584/19 – F/16364/19 – 12 Willis’s Road – Proposed extension, redevelopment and refurbishment of building as well as construction of a new parking deck and associated amenities.

This three-storey property had gone out to tender and the applicant wished to construct an additional storey and roof terrace. They also wished to refurbish the building to create fifteen apartments. On the ground floor there would be three one-bedroom apartments and a terrace on the west side of the building. There would also be an internal courtyard on the east and a bicycle storage area. Internal alterations would be made on the first floor to create three one-bedroom apartments and a two-bedroom apartment. Car and two motorbike parking spaces would be provided. Balconies would also be constructed on this level. The configuration would be continued on the second floor. The applicant wished to remove the pitched roof and construct a new storey with a roof terrace above and the stair core extended up to the roof terrace level. A pitched roof would be installed over the stair core. A pergola and a Jacuzzi would be included in the roof terrace. PV panels would also be installed.

DTP reported that according to submissions by the applicant no evidence had been found of Swift nests and a Bat survey was commissioned for December. Nest locations needed to be agreed with Department of Environment, Heritage and Climate Change (DoEHCC).

The following comments were received from consultees:

- DoEHCC – Made standard comments and welcomed the inclusion of PV Panels. They also recommended a green/brown roof.
- Gibraltar Heritage Trust (GHT) – Noted the loss of the boundary wall but was mitigated by regeneration of the building.
- Traffic Commission (TC) – No objection to the proposed off-street parallel parking within the property subject to compliance with highways requirements.

No comments had been received during public participation.

DTP explained that there were minor concerns with the north elevation of the stair core that was considered to present a significant blank frontage. DTP suggested the introduction of floor bands to this elevation. The applicant would only be able to provide two car parking spaces due to the restrictive area. DTP recommended approval with conditions on reaching an agreement of floor bands, landscaping details, installation of electric vehicle charging points, swift nest locations and the completion of a bat survey.

KB asked when the survey was carried out, as it was unlikely that there would not be any Swifts at this location.

The Chairman stated that the roof would not be removed until the report was received.

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MESC asked what the predicted energy rating was, adding that his support for any application would be determined by its predicted energy rating, especially as HMGOG had called a Climate Emergency.

The Chairman replied that this was part of the application process but would need to be verified by DoEHCC and Building Control Department.

DTP added that Town Planning asks all applicants to submit it at Full Planning Stage but that legally it is required before construction starts.

Stephen Martinez (SM), who was the agent for the applicant, explained to the Commission that they were complying with all regulations and three quarters of the building already existed. They would be including insulation and the top floor would comply with any regulations imposed.

MESC stated that he would welcome developers to submit a predicted energy rating for all future applications. If this were a new building, he would not support the application. He added that car-charging points should be installed and Swift nests should be incorporated into the roof at design stage. MESC also recommended a green wall for the stair core.

This application was unanimously approved by the Commission subject to the above conditions.

585/19 – F/16376/19 – 86-92 The Riviera Promenade, Catalan Bay – Proposed change of use of vacant units (Class A3) to residential units (Class C3) together with the refurbishment and extension of the external public promenade.

This application was for a change of use from retail units to residential. These units face the main promenade and beach at Catalan Bay and were originally part of the Little Genoa development. There would be eleven new residential units.

Unit A is on the main promenade and would undergo internal reconfigurations and reconfigure the staircase leading to the upper area. The applicant also wanted to introduce patios with pergolas. The retaining wall would also be altered. Three of these units would have a mezzanine level.

Six residential units would be created at Unit B with patios being created on the existing walkway. The applicant also proposed creating a new cantilevered walkway over part of the beach. Five of these units would have a mezzanine level. The fenestration would be similar to those that are currently in place.

The following comments were received from consultees:

- DoEHCC: Felt this application could lead to pressure to close public areas.
- GHT: There were no heritage issues but did not support the loss of part of the public walkway.
- Ministry for Heritage (MfH): Required an AWB and photographic record.
- Technical Services Department (TSD): Commented on the loss of parking.
- Ministry for Transport (MfT): Commented that there was no parking being provided.

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- Gibraltar Tourist Board: Loss of leisure facilities.

DTP reported that both of these units had been closed for some time and the patio area for residential units 1-5 would encroach onto the public area. Enclosing the patios would also make the public walkway look cluttered. He added that the staircase should be reconfigured to maintain two metres at the pinch point. DTP explained that there were no objections to the cantilevered walkway subject to it remaining open to the public. In this context, he commented that this should be reinforced by an appropriate condition on the lease when the Government agrees the lease terms.

DTP recommended that the application should be redesigned to omit the patios to units 1-5 and replace with either very narrow patio (maximum 1m in width) or planters; revise the stair configuration or revise the retaining all to widen the pinch point referred to. Subject to these changes the application could be acceptable with conditions the public walkway remaining available to the public and that a colourscheme would need to be agreed that harmonises the units rather than the current disparate colour scheme.

MESC commented that he had concerns on the encroachment on the promenade and that of the cantilevered walkway on public amenities.

Francis Trico (FT), John Victor (JV) and Timothy Benson (TB) were asked to address the Commission.

FT explained that the retail units were vacant and there had been no interest from businesses in taking these over due to the very seasonal nature of this area where they were only profitable during the summer months and therefore a change of use was necessary.

JH observed how the area would see increased development because decisions had been taken in the past to allow non-viable developments and lessons should be learnt.

MESC asked them whether they had approached the Catalan Bay Village Council to inform them of this development.

JV replied that he had spoken to some of the residents around the area who did not express any objections.

The Chairman noted that this application had gone through the Section 19 process and any one could have expressed their objections. No objections were received for this application.

MESC commented that there was a legal requirement – which was followed, but there was also good form and therefore the Council should have been informed.

TB commented that Chestertons had been marketing these units for commercial use and had not received any enquiries for this area of Catalan Bay.

The Chairman asked the reasoning behind the inclusion of patios as these do not currently exist and did not form part of the ownership of the property.

FT replied that the patios would make these properties more economically viable and would

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increase security.

The Chairman noted that many residences in Gibraltar have their door directly on to the roadway and front patios was not usual for Gibraltar.

DCM commented that he understood the problems with the commercial units only being busy during the summer months and the change of use, but should stay within the applicants own footprint. He felt that this development would be improving the area in some aspects but were also encroaching on a public amenity. DCM also stated that the applicants should have engaged with the Catalan Bay Village Council.

CAM asked whether these properties would be sold as residences or marketed as holiday rentals.

JV replied that they were possibly to sell.

DCM stated that even if the Commission was minded to approve the change of use the applicants should still engage with the Catalan Bay Village Council.

DTP explained that he had recommended approval subject to the condition to remove the patios but the Commission needed to take a view on what their red lines were.

After some discussion, FT approached the Commission to ask to defer this application in order to allow them to meet with the Council and redesign their proposals.

586/19 – F/16379/19 – Morrisons Supermarket, Westside Road – Proposed installation of a “pod” unit within the existing car park.

This application was to install a single storey “pod” within Morrisons’ car park. This unit would result in the loss of four parking bays. There would still be 439 parking spaces available. The unit could possibly house a laundry, key-cutter or dry-cleaning drop off point.

The unit could possibly be made of timber but at the time, there had not been any confirmation on what materials would be used for construction. DTP commented that any A/C units should be incorporated into the design.

The Chairman commented that this unit should have been incorporated within the supermarket’s restructure.

After some discussion the Commission voted on this application as follows:

In favour – 3

Against – 4

Abstentions – 4

This application was refused due to there being a loss of parking, inappropriate location and out of character.

587/19 – F/16398/19 – 8 Alectoris Lane – Proposed construction of a warehouse.

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This site is within the Lathbury Barracks Industrial Park. This application had previously been approved but the planning permit had expired. The applicant was seeking approval to construct a three-storey warehouse to store oil waste.

When previously considered there were concerns with processing waste oil and the previous permission had specifically excluded any permission for processing and it was only to be used for storage. A landscaped bank would be formed to the west of the building. Since the last submission, there had been a change in the proposed cladding with the ground floor comprising brick/stone and the upper levels clad with metal sheeting. There were some minor changes to the fenestration.

Previously, there had also been a condition for the building to be screened by a line of trees. This had now been omitted and an embankment had been included. PV panels would now be incorporated and there had been some minor internal reconfiguration since the previous submission. Access to this site would be from road leading to the prison.

The following comments had been received from consultees:

- DoEHCC – 5% of the area should be landscaped.
- GHT – There may be a potential visual impact on World Heritage site.
- TC - Further details required on junction arrangements.

The application had been subject to public participation and no comments had been received.

DTP recommended approval subject to the use being limited to storage use only, that the tree screen previously proposed be re-instated as part of the scheme, the road/parking surface should be permeable and an AWB would be required.

KB recommended that north facing Swift nests should be installed at the same height as the wall opposite.

MESC asked for Starling nest boxes to also be installed.

JH commented that ESG had objected to the original application and continued to object. She mentioned that this site was a hotspot for refuse and had been part of ESG's Clean-up campaign. She added that this site should not be an industrial estate but rather form part of the Nature Reserve buffer zone.

KB agreed with JH's comments and added that three nests would not be enough as there was a large colony of Swifts in the area A total of 12-15 nests would be necessary

MESC commented that he was not happy about the situation but understood that it was regrettably necessary.

DTP pointed out that the previous application had been approved and this area had been earmarked as an industrial area as part of the Gibraltar Development Plan 2009.

The Commission voted on this application as follows:

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In favour: 8
Against: 1
Abstentions: 2

This application was approved.

At 11:50am, MESC left the meeting due to prior engagements.

Minor and other Works – not within scope of delegated powers.

588/19 – F/16362/19 – 49-51 Engineer Lane – Proposed, extension, conversion and refurbishment works to building.

The Commission approved this application.

589/19 – F/16441/19G – Bellevue, Rulander, Sylvaner, Reisling, Malvasia & Merlot House, Vineyards Estate – Proposed installation of new render system to existing building facades.

The Commission approved this application.

590/19 – F/16451/19 – Roof Area, Law Courts – Proposed installation of two new (one east facing & one south facing) mobile telephone antennae for new 5G network.

591/19 – F/16485/19 – Haven Building, John Mackintosh Square – Proposed installation of two new (one east facing & one south facing) mobile telephone antennae for new 5G network.

Both of these applications were considered together due to their similarity.

JH declared that ESG had issued a public statement concerning the roll out of 5G and had met with HMGOG to express their concerns. She mentioned that they had received concerns from members of the public. No targeted tests had been carried out on the impact of 5G and was asking for there to be a moratorium on 5G as other countries had done. She noted that when 3G and 4G were being developed there was a lot of transparency.

JH also mentioned that there are medical concerns that the data is outdated and when this issue has been discussed with HMGOG, they were told that discussions would continue. ESG believed that it was up to the industry to prove how safe 5G is, not NGO's. She added that a member from ESG followed this issue rigorously and their concerns were genuine.

CV commented that as a Commission, they were only minded to consider the placement of the antenna, and its safety was a concern for the Gibraltar Regulatory Authority (GRA).

DCM said that although MESC was now absent due to other commitments he had been involved in discussions and that and after some debate it was decided that antennas should not be placed on residences or schools. He also felt GibTelecom were making an important statement by placing an antenna on their own building.

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JH commented that ESG had submitted reports from reputable sources and would like to have a public debate on this issue.

Jansen Reyes (JR) who was representing Gibtelecom addressed the Commission. He mentioned that to the best of their knowledge there was a lot of misinformation being shared by certain sources who was creating hysteria concerning 5G. The frequencies used in this pilot scheme were the same as 4G in UK. He explained how 5G would work, that antennas have micro antennas, and therefore the power used would be reduced. JR mentioned that they would be using the same location for antennas but may need 2-3 extra antennas in the upper town.

The Chairman asked for the master plan be brought forward to be reminded where the locations of the antenna are, especially as the locations of schools in Gibraltar had changed.

JH stated that concerns were not only raised by NGO's globally but by persons from different professions such as scientists, medical professionals and politicians.

JR stated that Gibtelecom abided by all guidelines from DoEHCC and GRA and were planning for an appropriate balance of locations and coverage. Antennas would not be placed within 100 metres from schools or hospitals.

The Chairman said that Town Planning would write to the applicants to bring forward their master plan and reassess the locations as the townscape had changed.

JH declared that on behalf of ESG she would have to object to both of these applications. She also asked JR if he would agree to attend a public debate on this issue to allow those concerned to access more information from the industry – JR agreed.

The Commission voted as follows:

In favour: 8

Against: 1

Abstentions: 1

The Commission approved both these applications.

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

592/19 - F/15959/18 - 212/216 Main Street - Proposed refurbishment and fit-out of commercial premises.

Consideration of signage details to discharge Condition 7 of Planning Permit No. 6982A.

593/19 - F/16349/19 - 3 Shrine Walk, Europa Walks Estate -- Proposed internal alterations.

594/19 - F/16410/19 - Flat 3, 13 College Lane - Proposed refurbishment of building including installation of new windows and associated alterations to façade, change of existing roof and internal alterations to property.

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595/19 - F/16442/19 - Upper Ground Floor, Serveries, Bayside & Westside School, - Proposed minor alterations to existing serveries for provision of hot school lunches.

596/19 - F/16446/19 - Unit 1 Candytuft House, Waterport Terraces - Proposed change of location of main entrance door.

597/19 - F/16448/19 - Dusk Entrance, Dusk Bar, Ocean Village - Proposed replacement entrance structure.

598/19 - F/16456/19G - St. Bernard's Hospital, Harbour Views Road - Proposed erection of a temporary enclosure to house an oxygen production plant within the area between the existing ramp and the bin stores.

GoG Project

599/19 - F/16459/19G - 12 Botanic Gardens, Red Sands Road - Proposed construction of new accessible toilet adjacent to existing toilet block.

GoG Project

600/19 - F/16460/19 - 88 Irish Town - Proposed change of use from office (Class A2) to takeaway (Class A3).

601/19 - F/16461/19 - Unit 18 Governor's Cottage Industrial Park Dobinson Way - Proposed alterations and single storey extension to unit 18 Governor's Cottage camp.

602/19 - F/16463/19 - 96 Main Street - Retrospective application for shop refurbishment including installation of signage and addition of access ramp.

603/19 - F/16473/19 2B Elliott's Battery, Elliott's Close - Retrospective application for enclosure of covered terrace by placing windows over parapet walls.

604/19 - F/16474/19 Casemates Square - Proposed installation of a public drinking fountain.

605/19 - D/16400/19 Waterworks - Demolition of a storage shed comprised of wooden flooring, metal sidewalls and roof sheeting covering supported by steel beams.

606/19 - N/16432/19 New Aloes, Europa Road - Proposed removal of Olea Europaea.

This tree application sought to remove an Olea Europaea of average form, but with a strong lean and showing some signs of having moved recently. A bracket currently supports the tree but this will not ensure stability and the tree leans over a children's pool. It was considered that tree should be removed and replaced with two x semi-mature Holms Oaks, which will enhance the woodland and the wildlife value of the site.

607/19 - N/16466/19G 47C Europa Road - Proposed removal of Olea Europaea.

GoG Project

This application sought to remove a large and almost dead Olea Europaea located in a suburban setting

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and close to a Conservation Area. It was considered that the tree's condition is irreversible and that it should be removed and replaced with a semi-mature and large tree that is native to the Mediterranean and which has wildlife value, such as an evergreen oak species, Holm Oak or Sweet Bay.

608/19 - MA/16450/19 - Europarking, Europort Avenue - Proposed mix use development comprising 366 residential units in three towers with associated retail and commercial space, vehicular access, car parking, motorcycle parking, amenity areas, landscaping.

Consideration of minor amendment to convert 2 x one bedroom apartments into 1 x 2-bedroom apartment on the 10th, 13th, 17th and 18th floors in residential Block D reducing the total number of apartments in development to 337 following previously approved amendments.

609/19 - Any other business.

None

610/19 - Next Meeting

The next meeting will be held on 12th December 2019.