

**Approved**  
DPC meeting 10/20  
30<sup>th</sup> October 2020

**THE DEVELOPMENT AND PLANNING COMMISSION**

Minutes of the 10<sup>th</sup> Meeting of 2020 of the Development and Planning Commission held remotely via video conferencing (due to Covid-19 pandemic) on 30th October 2020.

**PRESENT:**

Mr P Origo (Chairman)  
(Town Planner)

The Hon Mr S Linares (MHYS)  
(Minister for Housing, Youth and Sport)

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

Mr H Montado (HM)  
(Chief Technical Officer)

Mr G Matto (GM)  
(Technical Services Department)

Mr Ian Balestrino (IB)  
(Gibraltar Heritage Trust)

Mr K 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 (VR)  
(Rep Commander British Forces, Gibraltar)

Mr P Naughton-Rumbo  
(Deputy Town Planner)

Mr D Francis  
(Minute Secretary)

**Apologies:**

Mr M Cooper

**427/20 - Approval of Minutes**

There were no items to discuss.

**Major Developments**

There were no items to discuss

**Other Developments**

**428/20 - O/15886/18 --9 Poca Roca, Upper Rock – Proposed demolition of existing structures on the site and construction of dwelling.**

DTP explained the first item is to report to the Commission the outcome of an appeal on this application, which was for a new dwelling at Poca Roca in the Upper Rock Nature Reserve that was refused by the Commission. The Development Appeals Tribunal had upheld the appeal and a copy had been circulated to all the members. DTP said from a planning point of view, they we're very disappointed in the decision. He added that they found it surprising that they seem to have decided on the basis that they consider that there were exceptional circumstances in this case, being the fact that there had been development on the site previously many years ago, and also that the new dwelling was for someone who wanted to move back into the area to live close to their family.

DTP said that in Town Planning's view, that wouldn't normally constitute exceptional circumstances but, that's what the Tribunal has determined and the Tribunal's decision is final. DTP stated the need to progress to issuing an outline planning permission, in line with the Tribunal's decision upon agreement by the members of the Commission.

The Chairman stated, if any person in the membership feels aggrieved about that, the only way we recourse is to ensure to reinforce the policies in the new Gibraltar Development Plan (GDP). The Chairman asked the members to keep in mind that the review of the GDP would commence in the coming year. He also confirmed the Town Planning Department would be issuing the Outline Planning Permission and the Applicant would then need to follow with the full planning application. The Chairman asked DTP to clarify whether the members would be able to comment on the architectural elements of the full planning application.

DTP said the Commission had not raised any objections to the design aspects of the outline application. He added that in the event of a Formal Planning Application being submitted, and with it being more or less similar to what has been approved, then you probably would not have a lot of leeway on the design, perhaps only on minor details.

JH referred to the Chairman's point about tightening the wording in the future GDP and agreed but said a lot of this is interpretation, particularly legalistic interpretation. JH added that as far as the Environmental Safety Group (ESG) were concerned, the decision taken by the DPC and the Town Planners was the absolute correct one and it is always really quite upsetting to see these decisions that take a long time reversed by the appeal board. JH said she is not sure that a change in the development plan is going to necessarily change this.

DTP responded to JH and confirmed that upon review of the GDP the wording of these policies will be reviewed to try and tighten up the definitions and the criteria as much as

possible. DTP was concerned with this decision as it could set a precedent for others, even though the Tribunal suggested it would not. DTP did not necessarily agree with that view because he thought this situation could be repeated in other locations within the Nature Reserve. DTP reiterated that the review of the GDP is the opportunity to try and tighten it up if that's what the Commission and HMGOG want in relation to the Nature Reserve.

The Chairman asked MESCE for his comments.

MESCE explained that this development will still need a license under the Nature Protection Act. MESCE recalled that there was not to be any ecological impact expected from this particular project because it was not on a green area. He added that, as far as precedent goes, he was not as concerned, as any proposed development with construction resulting in the loss of green area, would not stand a chance of getting a license under the Nature Protection Act. MESCE said that when they consider the full planning application, there will have to be very strict conditions as to how the development progresses by way of disturbance to the surrounding area and that there should not be any dumping of materials in natural areas and further conditions. MESCE emphasised that these requirements would have to be ensured when the full planning application is considered.

The Chairman confirmed that the comments would be recorded in the Minutes and will be referred to as part of the policies for the Upper Rock in the proposed next GDP draft.

The Chairman then moved on to item two.

**429/20 - F/16724/20 -- 48-50 Prince Edward's Road -- Proposed refurbishment of property including construction of a two storey extension.**

DTP said this was a Full Planning application at a property at 48 to 50 Prince Edwards Road. It involves the refurbishment of the existing building and the construction of a two storey extension. He referred to the photograph on screen and said that it is a two storey residential property fronting onto Prince Edward road and currently accommodates six apartments. DTP said the main part of the building has a pitched roof comprising metal sheeting, and there is also a small roof terrace.

DTP said that at ground floor level the proposal involved internal alterations to provide a total of three residential units, the first floor also consisted of internal alterations to create two apartments and on the second floor the existing pitched roof is removed and the applicant will construct a new story and this will be the same layout as on the first floor. The third floor again, will be the same layout as the two lower floors and above would be a flat roof.

DTP explained that the architectural treatment is basically to continue the same kind of treatment on the existing building on to the two additional stories and it would have white upvc windows with main entrance door and surrounds to that entrance door to be retained.

DTP ran through the feedback from the Departments;

- a) The Department of the Environment (DOE) required its standard conditions including bird and bat surveys and the provision of nests.
- b) The Ministry for Heritage had no significant concerns. The decorative tiles which exist in the lobby and the staircase should be retained. The Ministry for

Heritage would have liked to see the introduction of timber windows and shutters and to explore the possibility of a pitched roof because of concerns over the general loss of pitched roofs.

- c) The Technical Services Department had objected to an increase in the volume by the addition of stories and they felt that the building should be refurbished. TSD also said there would be a significant increase in the number of residential units, which would add to the load on the existing infrastructure of the Upper Town.

DTP continued to the overall assessment by stating that the design is sympathetic to the existing building. DTP added that they acknowledged the loss of the existing pitched roof but as has been mentioned previously, there is a lot of precedent for this kind of development in the old town. DTP stated that the issue about loss of pitched roofs is another matter that needs to be taken into account in the review of the GDP. In this particular case, a majority of the traditional windows have already been lost and there are only three original windows left out of sixteen on the frontages. DTP informed the Commission that a small number of shutters remained on the building but the applicant would be replacing shutters throughout the building.

DTP recommended approval of the application with conditions relating to agreement of the proposed colour scheme, shutters, casement windows, bat and birds survey nests and then any other standard conditions.

The Chairman sought clarification on the amount of apartments per floor.

DTP confirmed that there would be nine apartments in total.

The Chairman stated that even though it is a new extra floor, it should have the salient features of the old town like quoins or floor bands, the shutters to all floors, a parapet wall which is acceptable and if it is not going to be a terrace, it should be included with solar panelling and a brown roof.

DTP said the applicant has not shown any access to the terrace.

The Chairman said it was south facing from Stanley Building so solar panelling may be beneficial. The Chairman said the shutters need to be in keeping and maybe the introduction of the glazing bars into the windows as opposed to plain aluminium. The Chairman added removal of all obsolete, externally mounted cabling, pipework, etc and re-routing into the inner courtyard should be requirements that need to be conditioned in the permit.

The Chairman asked the Commission for further comments.

CV had no objections to the scheme or the points raised by the Chairman. CV said he was not comfortable in dictating to somebody about imposing solar panels or the brown roof and preferred that it would be a recommendation. CV said site professionals will be able to advise best and sometimes having solar panels in certain areas of Gibraltar, does not achieve the benefit that perhaps better insulation provides, or water collection. CV added that it is

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admirable that we have something which is goes towards an energy efficient building but he would keep away from imposing solar panels on a specific means to achieve that.

DTP agreed with CV's comment and stated that the development will need to reach the minimum energy performance rating, which is still currently a 'B' rating and it should be for the design team to find the best means of achieving that. DTP added that the energy efficiency, and renewables is covered under that requirement.

JH noted that climate change has also been mentioned several times now through these meetings and it is incumbent on every project, large and small, to aim for the highest standards. She said it is definitely worth pushing over and above what the Commission is used to do.

IB referred to the slide shown on the screen and stated that they seemed to be going away from trying to keep pitched roofs. He acknowledged the aforementioned review in regards to new GDP but was unclear about not being willing to discuss the merits or not of trying to include a pitched roof on the building. IB added that he did not see the logic behind taking this new stand on pitched roofs.

The Chairman recalled all decisions to remove pitched roofs were based on the fact that a terrace would be a usable space for the community within the building for drying areas and to be used as a pleasure amenity to the building. The Chairman clarified that the pitched roof has been allowed to be removed when there is an amenity created. He added the alternative is that the Commission does not grant permission for the pitched roof to be removed and the new construction will incorporate a pitch roof which will need to be designed and incorporated into this one too.

The Chairman explained it will have to be a lightweight type because of the nature of the building, which could be susceptible progressive collapse and added they can go through the motions and see if the engineers can allow such a pitched roof, which will incorporate swift nests and bats nests.

IB thanked the Chairman for clarifying the matter.

MESCE understood that if the flat roof were going to be used as an amenity in a place like Gibraltar, which is lacking in flat open areas, then it would possibly, in certain circumstances, sway the argument in his view towards a flat roof as opposed to a pitched roof.

MESCE also said if it is not being used as an amenity, solar panels can go on a pitched roof and even a sedum roof can have a slight gradient to it.

The Chairman questioned that while they are amenable to a planning approval, could a condition be allowed which will state that the Commission recommends a sedum roof if it is going to be flat with roof nests for swifts and bats, with the alternative being a terraced roof for use by the community within the building or replaced by a new pitched roof all together?

MESCE noted the aforementioned comments by JH and CV on solar energy and agreed that the energy efficiency targets have to be met and also agreed that the energy efficiency could perhaps be obtained by means other than solar. MESCE suggested examples like a sedum absorbent roof.

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The Chairman stated that there are also the elements of feeding extra energy back into the grid, should the solar gain be more than required by the building.

MESCE confirmed that this can be done.

DTP asked the Chairman to clarify if, upon introduction of a pitched roof, the impact on the height of the building created by the pitched roof, would be acceptable. DTP suggested that if this were to be the case, the remainder of the application to be considered could be dealt with by the Subcommittee. DTP said they would have to find a way to create a condition to suit the different options discussed, which included the possibility of a brown roof, pitched roof or access to the roof.

The Chairman said the Town Planning Department can reasonably condition it with experience gained from past applications. The Chairman agreed with DTP and said it should be a subcommittee decision, which includes the Heritage Trust, and can also be circulated to members through Round Robin. The Chairman moved to unanimously approve the application.

KB asked in regards to the application before being for a flat roof, is the role of the Commission to accept or reject that application, or alternatively, to redesign it? KB thought it was the former.

CV said he had no objections towards the scheme presented as the applicant had proposed to recycle the building in many ways. CV also agreed with KB and thought the Commission should just take a decision on the application as presented.

The Chairman clarified that as the application is for a flat roof, as a Commission, they can also add conditions on its use. He added that a vote can be taken to decide whether a pitched roof is acceptable or not.

GM also agreed with KB and CV and said that when applicants make a submission, the Commission, is supposed to be judging the submission.

MESCE said although he agreed with the points raised by KB and CV, the Commission could defer the application for further discussion if they felt the real benefit of the project could be improved.

MESCE informed the Chairman that a member of the public had reported that the audio on the online video feed was distorted and inaudible.

The Chairman confirmed, upon inspection by the Mr Hamza Berrak (Town Planning), that the online video feed was both visible and audible.

The Chairman said there would be no problem in voting to approve a flat roof and add that they provide swift nests, etc.

IB said he was of the opinion that all people can apply to change the look of a building for their own design, but surely the Commission has the right to give an opinion on its merits or not. IB added that it was the spirit of the Commission to discuss the design details in proposed developments.

KB responded by saying that the Commission can express our own views and make recommendations to the applicants but ultimately, we should be voting on the scheme that has been presented before us.

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The Chairman, again, moved to a vote to approve the application as submitted.

In Favour – 7

Against – 1

Abstention - 1

The application was approved by majority vote.

MHYS joined the meeting.

**430/20 - F/16764/20 -- House 7, 8 Naval Hospital Hill -- Proposed extension, alterations and refurbishment of residence.**

DTP explained this application is for house seven and eight Naval Hospital Hill and entails extensions and alterations to the existing property. Seven Naval Hospital Hill is one of ten terraced houses on Naval Hospital Hill, which currently have a staggered form in plan view, and they are also staggered vertically as they drop down the hillside.

DTP said there is an internal patio within the centre of the building, which is being enclosed, and there is also an extension of the kitchen and dining room into the existing covered terrace and also extends beyond that onto the open terrace. DTP said that would give access down to the garden area and the terrace would have glazed balustrading around it. He said the existing planter at the front will be lost as has been proposed in other similar applications and the front door will be relocated along with internal alterations at the front of the property. He added that the living room at the rear of the property will be extended to incorporate the existing covered terrace area and further extends beyond the existing building line.

DTP said the next level, which is the upper level, consists of the construction of a new rear balcony over the proposed extensions on the lower levels and mainly just internal alterations, including a skylight on part of the property.

DTP said the feedback from the departments were minimal and standard conditions apply from the DOE regarding bird and bat surveys and nests.

DTP prompted the objector Mr Mark Zammit (MZ) so he could address the Commission to summarize his representations. MZ resides in the adjacent house being six Naval Hospital Road.

DTP referred to the photos shown on screen and clarified which was MZ's house and which was the applicant's house for the benefit of the public.

MZ said the main objection is the wall that is proposed in house seven, that will actually block the west facing side of the building and any extension that goes as far out as the wall in the existing terraces, is going to be two or three levels up, and will block his west facing view and the enjoyment of his amenities. MZ also said it will completely set house five and six backwards.

MZ referred to the GDP, specifically GDS.2 where it refers to design, scale, massing, and height must be appropriate and in context with the adjacent building. MZ also said the development

would have a negative impact on house number six and believed that the proposal has to be sympathetic to the adjacent building. He added that it would be unacceptable that the local amenity in the terms of visual impact, significant loss of privacy, and issues on overlooking would affect house number six.

MZ also made reference to GDS.4, particularly to recreational and amenity values with the reason being that at the moment, he has enjoyment of amenity that actually allows him to see the west facing side of the bay.

MZ added he has invested in this property, like his neighbour has invested in his property and he wants him to enjoy his property also. He suggested if the wall could be aligned with his property.

The Chairman asked the members of the Commission for their questions to the objector.

The Chairman asked MZ about his earlier mentioned plans to propose a ground floor extension and asked him to expand on the matter so that the Commission can see if they are amenable to what you are proposing?

MZ said at the moment what was proposed was to square off and that would be the extent of whatever the building would be. He confirmed elevations would not go higher.

KDS explained that what was agreed by Land Property Services (LPS) when putting the lease in place, by all the residents, was to square off the areas which are not rectangular and for them to have the right as the management company to come back, make a proposal to extend or to do whatever they wanted. KDS explained that LPS had recommended consulting an architect in order to try and come together, which is uniformly acceptable to the landlord.

. KDS had informed the tenants that the only area that construction would be allowed was in the terraced areas and those who did not have a rectangular terrace could basically just extend it to make it the same as their neighbours.

The Chairman thanked KDS for his comments and information to the Commission.

DTP asked MZ for some clarification by trying to explain where the loss of privacy would be specifically in relation to the proposed extension.

A discussion ensued as DTP and MZ referred to the drawings shown on screen. MZ made the point regarding the proposed balcony probably being able to look into his property and DTP thought that the balcony would be in-line with his property.

The Chairman asked MZ whether an extension aligned to his wall would be amenable to him?

MZ thought it was more acceptable than the current proposal.

The Chairman said the point would be discussed further along the meeting and invited the applicant Mr Kieron Becerra (KBE) to express his views.

KBE presented those present in his boardroom. Mr Stephen Martinez (SM) and Mr Oscar Becerra (OB).

KBE thanked the Commission for giving him the opportunity to address them and said he would be sticking to facts. KBE said It is the objector who is encroaching and overlooking into his property from that west facing terrace, which he mentions, and is invading his privacy.

KBE confirmed KDS aforementioned comments regarding the terraces and allowed for those who had even numbers to square it off and for those who already had the squared off terraces, both would be allowed to extend it. KBE pointed out that there was definitely going to be a no right to light section in the lease and they were given the opportunity to back out at that point from purchasing their properties.

KBE also confirmed that his proposal does not go as far as three levels as the objector stated. He said it is only two levels, the top level being a terrace, which does not go one meter beyond what is his current building. It is only 35 centimetres beyond.

KBE stated he met the objector to try and find a compromise, but found that what he was asking for was unreasonable as he was not willing to lose that west facing view. KBE pointed out that the objector having received planning permission in the last meeting, will now once he eventually does that squaring off, enjoy an extra two and a half meters of west facing views. KBE finished by stating five of the neighbours have already received planning permission, one of which is the objector. Four of the other plans that have been submitted and received planning permission and are very similar to his proposal. KBE asked that the Commission viewed his application favourably.

SM noted that part of the issue with the west facing wall is that everywhere that this has been proposed, on the recommendations of yourselves on other projects, the privacy wall would have had to be erected anyway because that privacy wall, is not only load bearing but is the norm. It is always done so as to protect the privacy from both parties.

The Chairman asked SM if as an architect he would be able to align the building with MZ.

A discussion ensued with the main points being that house seven is one full floor below. The second floor, the impact is about half a meter in front of the existing building line and two meters which would be bricked up as a privacy wall. The limit set by LPS for all properties was three metres.

DTP asked KBE whether he would consider having his glass balustrade exactly in line with the adjacent property, even though your extension may project by 35 centimetres. He concluded that if this were to be the case, there would not really be any loss of privacy unless you actually hang off your balcony and look around the wall. DTP asked if that would be a potential solution.

KBE said he had no issue with that.

DTP moved on to finish the Town Planning assessment.

In terms of the changes to the front elevations, the Town Planning Department had no objections to the changes being proposed, which were the alterations to the entrance door and the removal of the planter subject to that being compensated for by some form of vertical planting.

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DTP said the Commission is aware similar extensions have been allowed and the main impact on house number six will be the obstruction of his views to the west. He added the loss of private views is not really a planning matter for the Commission to consider.

DTP said the terraces of number seven would be at the lower level than number six so there would not really be any issue of loss of privacy and having just had the discussion now with the applicant in relation to the loss of privacy on the balcony area, we would suggest that that the balustrade is finished it is exactly in line with the adjacent property to avoid loss of privacy at that level.

DTP recommended approval of the application with conditions on the landscaping at the front, standard conditions relating to birds and bat surveys and nests. DTP clarified that, as part of this application, they are also approving the change of use of the vegetated area to the rear which the applicant has purchased. So that would be a change of use to allow it to be used as a residential curtilage. DTP made clear that it does not permit the construction of any structure on the curtilage that that would need to be dealt with as a separate application.

JH wondered whether the objector has any right to make any further comment about the overall assessment of today. JH also mentioned that with these very extensive renovations that are taking place to transform this estate, there has not been any mention by way of renewable energy. JH said the south district is a perfect spot to capture free solar energy and would like to know whether it is implied by energy certification and would really like that emphasized as part of the investment by these new residents of the area. JH was concerned about the green space and the evolution of this site from one of our open green spaces to privately owned land, with the implications of future loss of it.

In response to JH the Chairman said all these individual houses will have to comply with the energy performance certificates and their extensions, which include extra habitable areas will have to be compliant. The DOE with Building Control will assess if they meet the minimum of the B rating.

The Chairman added that all applicants are eligible to apply for solar panels. Through HMGOG and through the DPC, the solar panels can be approved and are eligible for tax relief. The benefits of installing solar panels being solar energy gain, tax relief and if there is any surplus in their own submission, it will go into the grid which will benefit their electricity bills.

The Chairman said that presently the Commission have approved the use of the garden as part of their curtilage for residential purposes but the Commission has a subsequent right, upon discussion of the garden areas, to decide what can be done within them.

The Chairman explained that it is normal practice that they approach as objectors and the applicant has a right to respond.

MHYS agreed with JH's previous comment and also thought the objector should have a right of response. He explained that since the deputy planner had suggested a change and compromise regarding the balustrade, it would be advisable if the objector can just indicate whether that satisfied him.

The Chairman asked MZ whether he agreed with the proposed solution.

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MZ agreed that this was acceptable and thanked the Commission for the opportunity.

MHYS suggested that the whole balcony be moved back the 35 centimetres instead of just the balustrade. He said that it would make both floors parallel and would align both properties. MHYS said he also had concerns about the garden and the green areas to the front of the property.

The Chairman concurred with MHYS and moved to vote on the application with the whole extension aligned with the adjacent property.

CV echoed his previous comments and said that they should vote on the application as presented and not attempt to redesign it.

The Chairman explained the Commission was allowed to be flexible on these decisions. He added it was productive in the sense that they are allowing an extension under agreement by both parties therefore being productive for the applicant, as opposed to redesigning, and having to go through the whole process of DPC.

CV asked if MZ submits an application and is then allowed to go forward, would it be by the same amount?

A discussion ensued regarding encroachment and the design of the buildings. The main comments to note were;

MHYS said decisions that were to be taken were for house number seven. He also suggested that there was already slight encroachment between houses six and seven. MHYS was also concerned about the possibility of setting a precedent.

KDS said there is no encroachment.

CV was not really convinced by the privacy issue being sorted out by moving in those 30 centimetres. He was inclined to favour the application as had been presented to the Commission.

JH added that having been on site, it was obvious that it was a quite a complex story about to unfold, because unless everybody was carrying out exactly the same project and was identically affected, it was going to unleash all sorts of problems. The estate has been designed to maximize amenity, quality of life, and the individual projects are setting about making changes. JH said we are changing the original design and so we are right to question those changes if we do not think that they are ultimately the most sensible.

The Chairman suggested the members vote on the application as presented and if it were to be refused, vote on the application as suggested by MHYS. The Chairman invited the members to vote on approving the application as submitted.

In Favour - 6

Against - 3

Abstentions - 1

The application was approved as submitted by majority vote.

**431/20 - F/16996/20 -- House 8, 8 Naval Hospital Hill -- Proposed extension, alterations and refurbishment of property.**

DTP explained that the proposal consisted of various internal and external alterations and the change of use of the garden land to become residential curtilage. The applicant OB has proposed constructing a basement under the existing property with access to the garden area, including an internal staircase.

DTP said, on the lower level, the internal gets incorporated into the dwelling itself and the rear terrace, which is an L shape at the moment, is squared off.

On the entry level at the front, the relocation of the main entrance door to the property and the removal of the planter. On the upper level larger windows compared to the current ones.

At the rear lower level, the terrace becomes enclosed and on the upper level an open terrace. There also skylights to both aspects of the roof which are shown on the roof plan.

DTP briefed the Commission on the comments from departments. The DOE would require a bird and bat survey and incorporation of nests, as for the rest, standard conditions that would normally apply. DTP added the application was subject to public participation and we did have an objection from the owner of property number nine, which lies immediately adjacent to this property. This had been previously circulated to members. The objections related to the loss of the line of sight from the objectors property, the loss of sunlight, and the fact that they felt that it was an overbearing extension. DTP said the objector claimed that there is some encroachment on the party wall and it impedes access to their garden. Finally the objector had some concerns about raising the roof height, which is a section of roof in the centre of the building, where it lies adjacent to the objector's property.

DTP presented the counter representations by the applicant which referred to the fact that there had been previous agreements, which have been mentioned in our previous discussion. They state that there are no encroachments and no effect on daylight and there is no right to a view. Access to the gardens would need to be from each owner's demise.

DTP confirmed that the objector did not wish to address the Commission.

The Chairman asked OB whether he wished to address the Commission.

OB confirmed that everything was well explained in the submission and as the objector did not wish to make any further comments, was happy to continue with no further comment.

DTP summarised and said there are no objections in terms of the alterations to the front elevation, including the relocation of the front entrance, the windows and the landscaping. There are no objections at the rear as similar extensions have been approved elsewhere and the loss of light to number nine, would not be expected to be significant. DTP explained that any issues of encroaching would be a matter between the parties, and it is not for the Commission to be involved. Any issues about party walls would need to be agreed between the two parties. DTP said they did not consider that there will be a significant effect on the

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property regarding loss of light and recommended approval of the application with conditions covering the points already raised.

GM wanted to bring to the attention of the Commission that there is a disparity of opinion throughout all the estate. He added it was the reason for his earlier abstention and said they either go initially and have consistency, or go and have no consistency.

HM acknowledged that GM had a valid point and referred to a counter representation, which was circulated, where they were trying to agree amongst themselves.

A long discussion ensued regarding the history of previously submitted outline applications related to the property.

JH reminded the Commission that there has been no mention about the sheer volume of glass that we are now going to see in another green area. JH said the applicants should be conditioned in regards to possible bird strikes and the need to treat glass.

The Chairman confirmed that it would be a condition in the permit as per all applications. He added that the Commission took a decision when they were discussing house number one which was a full glass submission.

The Chairman moved to vote on the application as submitted.

In Favour – 8

Against – 0

Abstentions - 2

KB asked to include a condition regarding the glass and that they use bird friendly glass

The Chairman confirmed that it would be a condition in the permissions throughout the whole site. The application was approved by majority with two abstentions.

**432/20 - F/16765/20 -- 56 Catalan Bay -- Proposed extension and conversion of dwelling.**

DTP briefed the Commission on the full application for the extension and conversion of the existing dwelling at 56 Catalan Bay. DTP referred to the photographs shown on screen and noted that the building is in need of refurbishment.

DTP explained that there are a number of flats on the ground floor which are not part of this application. On the first floor of the property, there will be internal alterations and the removal of an existing lean-to type structure on the existing balcony. They will also be replacing windows and introducing shutters. DTP said the second floor currently consist of an open terrace that will be incorporated into the building as part of a single storey extension with windows on the front elevation and on the third floor, a part story on this part of the structure, which provides internal access onto the terrace which has a pergola over part of it.

DTP continued to the comments from consultees. The DOE had standard comments on bird and bat surveys, nests and solar panels. DTP said there are no other objections or comments

from any of the other consultees. The application was subject to public participation and there were no comments as a result of that.

DTP reported that the proposed refurbishment of the building was welcomed. The design is generally in keeping with the character of the building and they particularly welcome the introduction of the shutters to the building. DTP considered that the increase in height is acceptable in the context of its surrounding and recommended approval of the application with conditions on repainting of the building on completion and the standard conditions on birds and bats, solar panels, etc.

KDS referred to the condition on repainting the building and asked whether this also covered the ground floor.

The Chairman confirmed that this was correct.

The Chairman asked the members if they had any objections and if not, to approve the application unanimously.

The application was unanimously approved.

**433/20 - O/16907/20 -- 13 Genoa House, Catalan Bay Village -- Proposed extension to property over adjacent toilet block.**

DTP briefed the Commission on the outline application at 13 Genoa House. DTP said it is an extension to an existing property over an adjacent toilet block which is related to the social club and referred to the photographs on screen. He explained the applicant occupies the first floor of the building, which abuts the toilet block and what she is proposing is to create a new opening in her own property, to build a single storey extension over the toilet block. The extension would be at the same height as main social club building.

DTP advised that there was an objection from the Ministry for Housing. The reasons for the objections are the disruption caused by the construction of this storey, encroachment onto views and also the fact that alterations to the flat and the building layout did not have landlord's permission. DTP said that LPS would also need to approve or consent to building over the toilet block.

The application was subject to public participation and no objections were made. DTP said that the planning assessment is that the existing apartment building and the toilet block are very functional in terms of their design and do not have any particular architectural merit and the extension being proposed, in design terms, is similar to the existing building onto which it is being constructed. DTP said this extension would have minimal visual impact

DTP said that the Housing Department have objected to the application on the grounds that the landlord has not granted permission for alterations to their building but that this is matter between the parties and nor for the DPC.. In terms of construction disturbance, all the normal controls will be in place to control those kinds of issues. DTP added that any loss of private views was not a planning matter and recommended approval of the application with the standard conditions.

The Chairman asked the members for their comments.

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MHYS said the objection from the housing is that the applicant has to seek permission which the Housing Department will not grant and it is also related to the precedent that it creates on a policy that the Housing Department is currently completely changing. MHYS said the policy of the housing department is very clear, they will not allow their properties to be extended on to or over anything. MHYS added that the applicant would also have to seek consent from the social club and said that even if the application were approved, the Housing Department would deny the applicant the permit to finalize the construction.

The Chairman asked KDS whether the land or the extension was leased to the social club. KDS confirmed this was correct.

IB stated that he could not understand the logic behind voting in favour of the application with the Housing Department being the landlord and having a policy that forbids extensions on Government properties. IB said the Commission would be going against the owner of the properties plan for the use of the property.

The Chairman stated that the applicant is a private leasehold within the housing estate and they have the right to submit an application subject to landlord's consent, but the planning process is not subject to landlords' consent. The Chairman informed the Commission that the applicant did serve the section 22 on the club, who have not objected to the application.

The Chairman said that for all intents and purposes, the Minister has rightly informed the Commission of the housing policy. The Chairman stated that as far as DPC goes, this is an application by private citizens with their own private household, which will, if approved, have to go through the motions of getting an extension to the lease through LPS as part of the landlord's consent.

The Chairman explained that the Commission will look at the planning side of the application, which is the extension and how it fits into the landscape.

KDS said even though it is a privately owned flat, the estate belongs to the Government. He said you can own a house but not the walls to the house.

The Chairman understood the point made and emphasized that Commission needs to consider the proposed extension to the house on its planning merits. He confirmed the applicant would still require landlord's consent.

MHYS questioned why the DPC would consider the application without landlords consent prior to submission. A discussion ensued and important comments to note were;

The Chairman explained the planning process is not subject to landlord's consent and has been so for the past 60 years so any citizen in Gibraltar has the right to apply. The government or the lease holder or the Freeholder will decide where they give them the right to proceed with the planning permission or not.

DTP it is an underlying principle of planning to only look at the planning merits of a case and any other ownership rights are a matter between the parties.

MHYS this situation could pose a problem for the Housing Department as the application goes against Government Housing Policy.

GM Planning law and recent historical precedents has never prevented an individual from submitting an application on a site, which does not belong to them.

MHYS suggested the law is wrongly drafted.

The Chairman –referred that two years ago the law was re-enacted and passed by Parliament.

IB He thought it was unfair for the applicant to go through the whole process of the application only to be turned down quickly by lack of landlord's consent.

The Chairman said the applicants are well informed of the situation during the planning process.

The Discussion concluded.

JH mentioned it was good to hear the housing policy that is coming through and we know that town acts and development plans move very, very slowly. In this case it is about housing policy but when we talk about, climate change policies, and how they influence and have to influence planning, these cannot wait to be implemented fully until town acts or development plans are reviewed, because they take too long. The laws have to be changed much faster to reflect the times that we're living in.

The Chairman moved to take a decision on a voting situation for the application, which means that he will follow the planning recommendations by Town Planning Department to approve the application. He asked all those in favour of the application as submitted to raise the virtual hands.

In Favour – 5

Against – 2

Abstention - 2

The application was approved by majority of vote and the applicant would now need to seek permission from the landlord.

The Chairman called for a 15 minute break.

The meeting resumed at 12:00.

**434/20 - F/17033/20G -- Wellington Front, Romney Huts Car Park, 1 Queensway Road -- Proposed new public park.**

DTP explained this was a Government application for full planning permission in respect of what is known as Romney Huts carpark and the proposal is to convert this into a new urban park. DTP said the proposal is to completely remove the carpark convert it into a new park which would comprise a mix of lawns, new trees, relaxation areas, paved areas, ornamental planting, landscape features and an adult fitness zone. DTP made reference to the images on screen regarding the circulation through the park and how it would generally be in a north south direction, a planting strip adjacent to Queensway and the relocation of the existing refuse bin store at the north end.

DTP said, in terms of feedback from departments;

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The DOE carried out a tree assessment because there would be some loss of trees, but that would be compensated for by substantial additional planting. They had no objections.

The Ministry for Heritage would need to monitor any excavations.

The TSD noted the loss of parking, and the Ministry for Traffic recommended that the bike racks on the south end of the park should be extended. They also pointed out that the loading bays as currently designed may conflict with the bus stop and that they would need further tracking information to ensure that the buses can easily access the bus stop. The Ministry for Traffic also recommended that there should be at least shared space for cycling through the park.

The traffic commission noted that there will be loss of zone parking, pay and display parking and two disabled spaces and question where the replacements for those would be. DTP said they had no information on that particular aspect.

DTP said that they welcome the creation of an urban park in terms of providing new open space for the public to enjoy. This will greatly assist in the appreciation of the setting of the listed walls. DTP said there is a significant loss of parking, including disabled spaces. There is a loss of 10 trees but overall is outweighed by the additional planting that's incorporated into the design of this scheme. DTP recommended approval of the application with conditions relating to the lighting scheme to be agreed and the design of the loading bay and bus stop to be agreed and additional references to the extension of the bicycle parking.

IB informed the Commission that they had a site meeting with the project managers and there seems to be an issue with the water that runs down from the top of Wellington Front. There was a suggestion by the project managers to install down pipes to stop the water coming down the wall, but was rejected by both the Ministry for Heritage and the GHT. IB said they suggested that they try to repair the broken gargoyles which make the water run down the walls, and that a method statement on the removal of vegetation currently growing on the walls should be agreed. ,

JH said it is great to see these green parks fill up our parking spaces and believes HMGOG should re facilitate parking especially as some these are also permit holder use and it will have implications for them. JH questioned the number of trees to be removed as it seemed excessive. JH also wondered about the stance on dog access and supported the idea for the introduction of a cycle lane.

MESCE clarified the situation with the trees and confirmed the large Eucalyptus are all staying, he said there are two small ones that are in poor condition, which have been assessed and will be removed. MESCE also stated that the pepper trees would be moved to another location in order to keep the design complimentary with a park.

The Chairman commented on the lack of playing areas for children from the age of five to twelve, where they want to kick around a ball, run around, skip, etc. The Chairman said that these parks are all very controlled environments where you cannot do much damage to the landscaping and as a citizen with grandchildren, he finds that they want to kick around a ball, but there is nowhere to do so. He added that there are too many rules and regulations, and therefore, recommended the Government that they look seriously at amenities for the primary school age children. The Chairman also said relaxing zones need to be fitted on the city walls

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above, where ball playing will not be acceptable and an opportunity is missed here where kids can have a freedom of movement as opposed to too many controls.

MESCE did not agree on a number of counts. Firstly, the location of a play park opposite the Anglican Cathedral at the moment. MESCE said children love running around on the grass and rolling about on the grass as he can observe from his office in the Department of Education overlooking Commonwealth Park and children use it all the time and absolutely love it and they don't need swings and roundabouts. MESCE confirmed that there is an area of that nature which is already being constructed in Midtown Park.

MHYS wished to add that there are many places like Hargreaves and other playing areas for football and basketball which are underused. He welcomed that it is not a sports playground and more of an adventure green area. So it should be more welcomed rather than having a kick about area. MHYS stated that we did not need any more small playgrounds of that nature until we see that the demand is there.

The Chairman moved to approve the application with the conditions recommended by planners and IB.

The application was unanimously approved and will be granted planning permission with IB's conditions.

**435/20 - MA/16905/20 -- Police Station, 120 Irish Town -- Proposed renovation and extension of the existing building for use as commercial office space and a public access gallery related to the history of the local police force, with a separate commercial area at ground floor level.**

Consideration of Proposed Minor Amendments including:

- Retrospective omission of skylight at first floor level;
- Proposed introduction of a 1.5m tall planter with artificial plants on first floor terrace to provide screening and address residential amenity concerns of adjacent property;
- Retrospective omission of plant and ac equipment at third floor terrace level;
- Retrospective omission of skylight at roof level;
- Retrospective omission and realignment of windows facing internal courtyard; and
- Proposed introduction of opaque glass to three x sets of 3 windows on first to third floor levels of building facing adjacent property to address residential amenity concerns of adjacent property.

DTP explained that this was a minor amendment application and consisted of minor changes to an existing permission. DTP said there are a number of minor amendments incorporated in this application, which have already been approved by the subcommittee. DTP explained there was one item that the subcommittee does not have the delegated powers to approve and that relates to proposed signage because the proposal is technically contrary to the planning policy.

The building in question is the old police station and what is being considering here is a proposed signage for the completed project, which will be occupied by Deloitte.

DTP said the applicant has presented a number of options for consideration and referred to the images on screen. The logo is a mounted logo, which is fixed directly to the building facade. DTP explained that option one is to be fixed to the left hand side of the Town Range facade. Option two is basically the same thing, but to the right hand side and the sign is white. DTP said the third and fourth was a tray mounted option and consisted of letters attached to tray and that is attached to the facade. DTP said that options five and six consisted of a base plate which is attached at the parapet level with post-mounted characters.

The Ministry of Heritage commented that options five and six which are the ones on the above the parapet wall and would not affect the external façade.

The TSD objected to all the options and they felt that the architectural prominence of this building would be affected by applying this type of signage.

DTP moved to the planning assessment and stated that they consider the individual lettering as the preferred option, which is in line with the development plan policy as well. DTP felt the tray-mounted option is too boxy and not sympathetic to the character of the building and the area, and the same applied to the parapet signage. The Subcommittee recommended either options one or two, which is either the black or the white, DTP added that the reason that the subcommittee was not able to make the final decision on this is because there is a policy in the GDP that limits advertising to below the first floor level of the window sills.

DTP explained that the Commission does occasionally allow an exception to the policy where it is a corporate type headquarter where there is a single user of a whole building, which would be the case here. DTP said subcommittee would recommend the individual lettering options one or two.

The Chairman asked the members of the Commission if they were in agreement with the subcommittee to approve options one and two, white or black will be the colouring to the lettering.

GM asked the Chairman whether there would be a discussion on whether to approve the left or the right signage.

DTP stated that the subcommittee's preference was to the right of the building as they felt the sign would sit better and be more visible.

IB asked whether they were voting solely on the colour or on the positioning as well.

The Chairman confirmed that they were considering both

JH stated that if they just vote yes or no in regards to location, they are voting yes or no on the colour. JH said she would personally just prefer the white but off white so that it blends in and match the stone colour.

The Chairman moved to vote to allow the signage on the right hand side.

The vote to allow the signage as proposed was unanimously approved.

The Chairman the moved to take a vote on the colour of the signage.

The Commission voted by majority on the white sign.

**436/20 - MA/16968/20 -- 92 Devil's Tower Road -- Proposed construction of a multi-storey residential development including ancillary and commercial accommodation and automated car-parking system.**

Consideration of Proposed Minor Amendments including:

- additional staircase and ventilation to rear parking volumes;
- internal updates to core and basement layouts;
- minor internal alterations to ground, first and twentieth floor levels;
- updated cladding to ground and first floor levels updated to allow drainage to be concealed;
- proposed product for digital signage at ground floor level; and
- porous mesh to terraces replaced with structural clear gazed balustrade.

DTP explained that this application was another minor amendment and is in relation to the E1 development. DTP said that due to fire requirements there is the introduction of a new emergency staircase to the carpark area at the back of the property and is not very visually prominent.

DTP said that at the back of the property the rock fall protection measures had been changed from an embankment to a sacrificial wall, and also the introduction of louvers into the carpark areas which was a fire requirement. DTP added that as this area is not highly visible and there were no objections.

DTP said that internally, they originally had two stair cores serving the full height of the building but that this has been reduced to one from ground upwards, which means that there are consequent internal changes on all the floor levels. DTP explained there are internal changes at the basement level, which have arisen as a result of the underlying rock conditions, which meant that when they excavated, there were certain areas where the bedrock was shallower than in other areas. DTP said the upshot of that is that they moved the swimming pool in the basement from one side of the building to the other with consequent internal alterations and again had no concerns with that.

At ground floor level, a few minor changes to metre cupboards and air conditioning units, which will be screened, and other very minor internal alterations and refuse bin area, which again, there were no objections. DTP pointed out that this has all been considered by subcommittee, but there were just some external changes, which it was felt the Commission would want to see before final approval was given.

DTP said on the lower level facade as a result of some drainage issues, the developers had to provide a down pipe from the upper levels to ground level and to achieve that, they have extended the vertical fins down to ground level and hidden the drain pipes within that which we feel is a good solution.

In terms of the signage, they are now proposing behind the glass curtains, signage, which is made up of LED digital displays and the applicant has said that as far as they were aware this

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will be the first time it is been used in Gibraltar. DTP added that were no objections to these changes. DTP said there was a proposal to reduce wind effect on the perimeter of the balconies, which has now been changed to a glass balustrade and still keeping same kind of planting.

JH said one of the things that were selling it was the ground floor, open, welcome, user friendly public feel, and the building does not give that impression. JH said the building now looks quite harsh and understood why the subcommittee referred it back. JH also noted the change in the back end properties of the rock fall control slope because of the ventilation requirement. JH wondered whether it had been reviewed, in terms of its impact or ability to withstand rock falls.

DTP said these changes have gone through the TSD and they are happy with what is being proposed. DTP said it is just a different methodology in the way that they are protecting the building.

JH acknowledged that the application had been fully assessed and that it is recorded in the minutes.

The Chairman moved to take a decision on the amendments.

In Favour – 8

Against – 0

Abstention - 1

The amendments were approved by majority vote except for one abstention.

### **Minor and Other Works– not within scope of delegated powers**

The Chairman moved on to ask for comments on items 10, 11 and 12. The Chairman brought to the attention of the Commission that there was an objection to item 10 entirely relating to the fact that it was contrary to the lease terms. This is not a matter for the Commission but rather a private matter.

The members of the Commission had no objections and the applications were unanimously approved.

**437/20 - F/16862/20 -- 3 Clifton Mews, The Cliftons Europa Road -- Proposed alterations and renovation to existing 3 storey town house.**

This application was approved.

**438/20 - F/16919/20 -- 4 Engineer Battery, 32a Rosia Road -- Proposed alterations to property including the installation of skylights.**

This application was approved.

**439/20 - F/16971/20 -- 4 Trafalgar Heights, 50 Europa Road -- Proposed installation of glass curtains.**

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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.**

There were no items.

**440/20 Any other business**

There was no other business.