

Approved

DPC meeting 11/20

19th November 2020

THE DEVELOPMENT AND PLANNING COMMISSION

Minutes of the 11th Meeting of 2020 of the Development and Planning Commission held
via video conferencing on the 19th November 2020

Present:	Mr P Origo (Chairman) (Town Planner)
	The Hon S Linares (MHYS)(<i>Minister for Housing, Youth and Sport</i>)
	The Hon Dr J Cortes (MESCE) (<i>Minister for Environment, Sustainability, Climate Change & Education</i>)
	Mr H Montado (HM) (<i>Chief Technical Officer</i>)
	Mr G Matto (GM) (<i>Technical Services Department</i>)
	Mrs C Montado (CAM) (Gibraltar Heritage Trust)
	Mr K De Los Santos (KDS) (<i>Land Property Services</i>)
	Dr K Bensusan (KB) (<i>Gibraltar Ornithological & Natural History Society</i>)
	Mr C Viagas (CV)
	Mrs J Howitt (JH) Environmental Safety Group)
	Mr M Cooper (MC) (<i>Rep Commander British Forces, Gibraltar</i>)
	Mr Chris Key (Town Planner)
In Attendance:	Mr P Naughton-Rumbo (DTP) (Town Planner)
	Mrs L Mifsud (Minute Secretary)

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	Mr Christopher Key (CK) (Town Planning Assistant)
	Mr Giovanni Baglietto (GB) (Town Planning Assistant)
Apologies:	The Hon Dr J Garcia (DCM) (Deputy Chief Minister)

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441/20-Approval of Minutes- Approval of Minutes of the 7th meeting of 2020 held on 4th September 2020, the 8th meeting of 2020 held on 17th September 2020, the 9th meeting of 2020 held on 29th October 2020 and the 10th meeting of 2020 held on 30th October 2020 and the 11th Meeting held on the 19th November 2020.

The Chairman apologised as not all the pending minutes were ready. The minutes of 4th September 2020 were approved and the approval of the remaining minutes was carried forward to the next meeting.

Matters Arising

442-/20-F/16860/20G 5 Governor's Lookout Lane, Upper Rock Nature Reserve -- Proposed new scout activity centre and camp site refurbishment.

DTP referred that this application had been deferred from the meeting held on the 17th September due to specifications and items that member's had requested. The Applicant had submitted: the visual assessment, the exact location from where one of the montage was taken, clarification concerning the existing boundaries of the current site, and the ecological study.

The Applicant had introduced a new feature pond outside the lease boundaries of the site. This was requested by the Department of Environment to increase biodiversity

A visual impact assessment had been submitted showing the site is well hidden from close by viewpoints; from distant views, the site is visible from various points with some partial views and others unobstructed.

On the question of extension of boundaries, there is no extension other than the footprint of the HQ building where there is already an agreement with Government to suspend over this land.

The ecological assessment was undertaken and although not the best time of the year to be able to undertake a comprehensive one, the basic findings was that the development would not have any impact on endangered species. Nevertheless, a license from the Minister of Environment is required.

The survey also recommended that the building should have a brown roof and an environmental management plan, including a habitat management to be put in place. Any new trees planted should be oak species.

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In terms of the HQ building's external treatment, the revised version proposed horizontal timber cladding in a lighter colour with a grey painted soffit.

The heritage impact assessment was undertaken, the Heritage Trust and Ministry for Heritage both confirmed they had no objections but clearance from the World Heritage Office was awaited.

DTP recommended that the revised option for the treatment of the HQ building should be accepted as it would fit better into the landscape and reduce the visual impact. It was recommended that the application be approved subject to clearance by the Department of Environment in relation to the pond, any conditions arising from the heritage impact assessment and other standard conditions.

MESCE stated that the pond is a great idea and conditions should be set so that GOHNS together with the Department of Environment are involved; there will also be a need for a license under the Nature Protection Act.

MESCE expressed that he would like the design details of the new fence on the southern perimeter to be discussed and agreed with the Department of Environment together with the Scouts Association in order for it to not to be a highly visually impacted design and obviously to allow gaps for the passage of wild life.

CAM questioned if the archeological watching brief in the area will be included as a condition. **The Chairman** confirmed that subject to approval it would be a condition.

MHYS- welcomed the project as it encourages outdoor pursuits.

JH stated that she has been onsite and the location is quite contained and very encouraging to hear from the Scout leaders that they will encourage having it open for the community.

The Chairman requested if we needed to vote. There being no objections or abstentions the application was unanimously approved. . Unanimous.

Major Developments

443/20 F/17042/20- 44 Town Range -- Proposed construction of a ground plus three storey building for use as a school including rooftop recreational area with partial demolition of structures and retention of existing facades.

CK described the site comprised of a 2-3 storey former military quarters building dating from the 1800s.

In August 2015, the Commission had approved an eight storey residential scheme. Subsequently, in September 2018 a 5-storey office development was approved.

The current proposed scheme was for a private development consisting four to five storeys, retaining the existing façade to be used as a school. The main entrance to the school will be centrally located along the Town Range facade of the building with another entrance in Victualing Lane accessing the proposed nursery. A pavement would be constructed from King Yard Lane to Victualing Office Lane resulting in the loss of 9 parking spaces. A new pedestrian crossing is also proposed. Opposite the site within the small car park under a separate project to be submitted by Government a drop off/pick up point was planned.

A rooftop playground will be provided with perimeter planting whilst other roof areas will be either green/brown roofs with an integrated solar panel array.

All heritage facades will be retained including the arch on the eastern elevation and a stonewall and gate on the northern elevation. With regards to the higher part of the building, which is the modern part of the development this will be set back with terraces, integrated planting which will soften the impact of the building and solar shading used to provide the best climate for educational experience.

At roof level, sites have been identified for bats and swift nests but the final locations are to be agreed with the Department of Environment. In addition to the solar panels and sedum roofs, the applicant is also looking at the introduction of daylight harvesting, heat recovery ventilation equipment, rain water harvesting, LED lighting system, energy efficient lifts and high efficiency heat pumps.

A predicted 'A' Rating is projected. Detailed documents will be presented concerning the facades of the heritage buildings that will be retained during the construction of the development.

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In terms of parking, under the Town Planning Regulations the school would require 14 car parking spaces, with one accessibility space, a minimum of 14 motor cycles spaces and 3 active vehicle charging points. In terms of the proposal, no dedicated parking for the school is to be provided and there will be a loss of parking spaces on the frontage along the Town Range facade

The Commission would need to waive the parking restrictions on the site and in doing this they would need to balance the shortfall and loss of parking against the benefits of the scheme on a site that has been vacant for a long time.

In respect of consultees, the Department of Environment welcomes the sustainability of the project and welcomes the PV panels but will require final details. They will also require final details of the renewable energy performance of the building. They also welcome the landscaping proposal but require detailed plans and the new pavement nonexistent along this side of the road and required a bat and swift survey to be taken prior to the commencement of works.

The World Heritage Office had no objections nor did Technical Services Department.

The Ministry of Heritage has no objections, supports the proposal to the facades of the buildings and the reconditioning of the openings at street level.

The Traffic Commission and the Ministry for Business, Transport and Port require the exact location of the pedestrian crossing and drop off area be submitted and approved by them.

The application has been subject to public participation and has had no objections.

The assessment from the department is that it welcomes the scheme proposed; the school incorporates a sympathetic design and follows the design principals of the office development, which had been previously approved.

It approves the landscape proposals and welcomes that the heritage facades have been retained within the scheme; they welcome the inclusion of green roofs.

In terms of existing windows, the applicant is intending to replace the windows within the facade of the heritage part and it is recommended that timber windows are used.

It is recommended that this application be approved and that the car parking regulations waived. The material of windows to be approved, a separate demolition application for

the buildings not including the façade will be required and the final location of the pedestrian crossing is to be agreed. A bat and swift survey to be carried out before work commences under a construction and management plan to be submitted and an archeological watching brief to be undertaken during demolition excavation and ground works.

JH questioned if the new project carries the equivalent amount of garden/ green area that St Mary's already have.

CK) confirmed that there is enough green area and that the architects have been in discussions throughout the whole design with senior members of staff from St Mary's School together with the Department of Education.

CAM thanked the developers concerning the many approaches they have managed to address before coming to DPC. Although CAM has a small concern regarding the gable, end at the northern end of the building and requested if possible to keep that on along the Victualing Office Lane side.

The Chairman stated that this concern must be taken up with the architects as it wraps the existing building in context with the existing.

KB questioned as to why 14 parking spaces are required in a school, which is located in the center of town and close to bus stops, and how many parking spaces does the school currently have.

The Chairman responded that the Regulations are not site specific and is general for any school in Gibraltar. The Commission could waive the requirements on this occasion due to its location and the emphasis by the Commission to encourage more footfall and cycling within the Town Area.

MESCE stated that they are happy to work with architects in reviewing parking provisions and in looking into the issue concerning the gable ends of the building. They are satisfied to commit to timber windows. Bat and swifts will be provided, including on other buildings in the area, which will provide many more nests than currently exist and stated that the green area within the school will probably be greater than what they already have in the current school.

HM comments on timber windows and questions if there is a need for them to only be timber ones as composite products may achieve the same results.

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The Chairman stated that both have been approved in many schemes, and suggests to agree to have both options available and allow applicant to decide.

CAM concerning the approach taken with other buildings, it is all about finding the window that keeps within the streetscape character.

The application was approved unanimously.

Other Developments

444/20-. F/16179/19- Europa Pass Battery Estate, Europa Road – Proposed installation of entry gate and estate name signage.

DTP-referred the application was for the installation of an entry gate and estate signage.

Within the Estate, there is a public access path which leads to Jacobs Ladder providing access to and from Windmill Hill.

DTP-welcomed Joanna Jadczyk of Planning Vision who represented the Applicant.

Joanna Jadczyk informed that the application for the gates is predominantly put forward due to anti-social behavior and vandalism within the area; she explained that many of these concerns have been reported to Royal Gibraltar Police (RGP). The gate is designed to be non-intrusive and non-aggressive to allow views through the gate enabling a less visual impact; it is a sliding gate allowing vehicle and pedestrian access.

There is an existing public right of way to the entrance of Windmill Hill; the pedestrian access will be unrestricted and in the context of the wider impact with regards to the gate, there is an historical entrance to Europa Pass and this could be reinstated for heritage use and create an access point to the area. However, this does not fall under the remit of this application.

What the applicant seeks to achieve is for the private and public rights to coexist in harmony, the character will not be altered and there will be no interference to the public right of way.

MESCE questioned how the right of way is respected by putting in a gate.

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Joanna Jadczyk confirmed that there is no right of way through the land where the gate will be located; the right of way is accessed from the steps off Europa Road that cannot currently be reached, as the bridge over the road has been lost. The general public would need to contact the Management Company if it wanted to access the site as the land has been leased to the Management Company and belongs to the Estate.

Joanna Jadczyk stated that the additional land was recently sold to the applicant by LPS and that all car parking was supposed to be contained within the fortification walls, however the gate would be installed on the land recently acquired.

GM questioned where the images provided are taken from outside the parking area or within?

Joanna Jadczyk confirmed that they were taken from within the walls.

DTP- requested clarification as to whether prior to the purchase of the additional land any member of the public had the right of way to access Europa Pass.

Joanna Jadczyk - confirmed that there were no physical restrictions but now that the land has been leased, there will be no access.

DTP questioned whether the proposed signage was situated on land within the Management Company's ownership or on public land?

Joanna Jadczyk confirmed that the signage would be placed in public land therefore require LPS approval to do so.

JH- Questioned if there had been discussions with LPS before the purchase of the land with regards to the right of access and the impact on public rights of way.

Joanna Jadczyk stated that the intention has always been for the public right of way to be beside house No 1 and then over Europa Road and down the steps to Europa Road.

MESC questioned on what basis was it always the intention to have the right of way operating in this way.

Joanna Jadczyk responded it was based on the red line boundaries and lease document and looking back at the history of the site the original road was accessed via the historical site where you had the bridge leading to the winding stairs.

CAM pointed out that a resident of the estate had appropriated part of the right of way so currently even if a bridge was reinstated there is no access. **Joanna Jadczyk** confirmed that they are aware that this is a legal matter and is in the hands of the management company and the authorities.

GM asked if there are any CCTV cameras within the estate.

Joanna Jadczyk believes that all footage acquired in respect of crimes have been acquired via CCTV camera.

JH questioned whether the residents could confirm if public entering with vehicles causes most of the vandalism.

Joanna Jadczyk responded that most crimes are committed during late hours at night so it is very difficult to know this.

CAM suggested the possibility of a barrier instead of a gate allowing pedestrian access at all times and related this to Montagu Gardens Estate as an example.

Joanna Jadczyk affirms that there have been many options contemplated, but as it has been very difficult to identify when and how the vandalism occurs they have opted for the gate, she also highlighted the fact that the area is very secluded.

KDS- stated that the road in to the supplemental area that was sold but does not belong to the management company, the landlord agreed to have a gate installed at the top of the road. LPS asks for confirmation of the area where the gate is going to be based.

Joanna Jadczyk confirms that the gate will not be located at the very bottom.

KDS stated that the supplemental area which was sold by landlord was done due to the vandalism within the area. **KDS** also suggested that there concerns concerning the cliff face and damage to some vehicles. **KDS** re- stated that when this was granted on the basis that there was no pedestrian access to the site other than through the garden area of one of the residents. This was along House No1, but understand that at present the owner of House No1 has enclosed the area and this has been done with no permission of the management company.

MESCE stated that then the reason for not having public access is due to having a resident blocking its access.

Joanna Jadczyk concurs with what is being said and states that the matter is being dealt with separately.

DTP continued with the planning report informing that the Ministry of Heritage together with the Heritage Trust have both objected to the applications due to the cutting off of the access to the Europa Pass defensive walls and Jacobs Ladder.

DTP stated there was no objection to the proposed signage.

In terms of the gate, it was clear that concerns have been aired and there is major concern with regards to the cutting off of access to the defensive walls and in future if Windmill Hill was ever to be returned to GOG, the placing of a gate would prevent an access route to this area.

DTP reported that they had suggested to the applicant that they provide a vehicular barrier but allow pedestrian access. Together with CCTV, this would allow for pedestrian access and reduce vandalism within the area. The applicants rejected the idea. **DTP** recommended that the application be deferred to allow the Applicant to reconsider other options, such as the placing of the barrier.

MHYS highlighted that during the last Island Games access was negotiated through this area to access Windmill Hill/Lathbury. It is therefore important not to cut off public access. He was in agreement with a vehicular barrier subject to having public access to Jacobs Ladder. **MHYS** objected to the placing of a gate and stressed the importance of have pedestrian access throughout Gibraltar.

MESCE agreed with **MHYS**, stated that GOG of late promotes public access and protection of rights of way, so gating off is against government policy. **MESCE** stated that unless there can be a change to the proposal such as using barriers and CCTV or some kind of guarantee to public access, he cannot support this proposal.

KDS stated that the issue is that this site was sold to the management company and that at the time it was sold on the basis that the right of way would be connected via the nonexistent bridge. **KDS** stated that there was a proposal to have it reinstated, and for access to Devils Bellow to go through the land, it is reaffirmed that unless the access via

bridge is reinstated there is no pedestrian access at present as it falls under private land belonging to the Management Company of the Estate.

The Chairman asked KDS if the ramp has been sold despite public being able to access the area

KDS stated that no one could access the estate as it is private, but what was allowed was a right of way in future if there was to be a reinstating of the bridge.

The Chairman stated that planners was not consulted on the loss of the land to the public and this was a landlord's decision.

MHYS stated that the right of way contradicts what the management company owns, and the proposed gate will deny the public a right of way.

KDS confirmed that the estate was sold many years ago, and that recently the GOG sold the additional land with no right of way. It was negotiated at the time that the right of way to Devils Bellow would be via a garden area, which is outside the demise of the person who resides there; the problem is that the bridge is non-existent.

The Chairman questioned the difference between walking up the ramp as opposed to a bridge that may be provided in future.

KDS stated that access would only be permissible via Europa Road if the Bridge was reinstated.

DTP Confirmed that from planning point of view they can still decide what kind of barrier can permitted on the land.

The Chairman stated that the application could be either refused or approved as submitted or recommend barriers as other estates have acquired and enable pedestrian access.

MESCE understands all views from residents and the public and suggests the possibility of allowing certain access on certain days for purposes, to satisfy all parties.

KDS reminds the members that the idea initially was to have access via The Buena Vista Home Development through the reinstated Bridge up to Devils Bellow.

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KB understands points raised from heritage point of view but feels that he cannot oppose the proposal and sought to come to a compromise with Management Company to look at heritage of the area.

JH recommended to trial and test the placement of a barrier. **JH** emphasised the fact that one of the access point has been illegally taken over by the owner and it is very important that this be looked into. **JH** stated that the right of way is of great importance and that we have a duty to protect that.

The Chairman asks for votes on application as submitted.

2 Votes in favour

6 votes against.

The Chairman clarified that the proposed gate had been refused but that the signage was unanimously approved.

445/20-F/16849/20-5 Ashbourne Ramp, Buena Vista Estate -- Proposed extension to residence, conversion works to basement and associated ancillary works.

DTP the proposal is to create a basement within the void below ground floor, which is similar to what has been done elsewhere; internal alterations at the ground floor level with an internal staircase accessing the basement below. On the 1st floor level there is a front extension to the property over the carport. The rear elevation is very similar to what has been allowed elsewhere.

There are no comments to report from Consultees and there are no objections from the Management Company, **DTP** explained that the proposal originally submitted was for the front extension to be built over the full extent of the carport. There had been an objection to that and subsequently the scheme was revised so that the extension was built only over part of the carport and now did not project beyond the building line.

DTP stated that there are no objections concerning the internal alterations or the proposed basement. The front extension in this revised scheme is considered more acceptable. The actual design is relatively sympathetic to the existing building and the application was recommended for approval with standard conditions.

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The Chairman- advised members that if this application were approved, the Subcommittee would deal with any future applications with similar front extensions.

The Chairman suggested approval of this application as the staggered orientation along the Ramps that characterises this residential area is still respected, and that it is a good compromise with owners to expand on their residential dwellings.

The application was approved unanimously.

446/20-F/16918/20-Car Park, Forbes Road -- Proposed repainting and redistribution of external parking spaces and the construction of a new sub-station.

DTP the application consists of the re-distribution of the existing car park and the construction of a new electrical substation. Representations and counter representations have been submitted and circulated to members.

The objector and applicant will be addressing the Commission.

The proposal is related to the Forbes development. In terms of the car park, the proposal is mainly to reconfigure the parking into a grid system to improve the circulation of the car parking itself. There are currently 60 spaces and after this development, there will be 58 parking spaces with 2 disabled and additionally 9 m/c bays and bicycle parking.

The substation has been designed following close consultation between the developer and Gibelec (the electrical authority). There will be trenching of cabling from the substation to the Forbes development.

The substation is sited 16 meters from the limit of the rock fall trajectory zone.

Concerning the car park, the Department of Environment required 20% to have active vehicle charging points. The Environmental Agency would impose a condition that any noise from the substation cannot exceed 3 decibels above background levels. The Ministry for Heritage and the World Heritage Office would require Archaeological Watching briefs.

Technical Services Department would recommend for the substation to be sited within the development and the Traffic Commission objects to the loss of the 2 parking spaces.

An objection from the Northview Terrace Management Company (**NTMC**) has also been received.

DTP- invited Jackie Anderson, the representative for the **NTMC**, was welcomed to address the Commission.

Jackie Anderson stated that the residents feel that the substation is extremely close to the flats. Their concerns are mainly based on health implications, which can be caused due to the electromagnetic radiation from the substation as well as the noise, and they feel it could be detrimental to the health of North View Terrace residents. The grounds adjacent to where the substation is going to be developed is a children's play area and has other community use including the use for stores and committee meetings held by the residents meaning that a vast amount of time is spent within the area. Their recommendation as residents is to have it sited at the opposite end of the car park. The general concern of the estate is that they feel that this has been located in this area due to costs. They feel that if car parks are fit for purposes and suitable adjacent to the rock why cannot the substation be developed on the same site.

Paul Passano (PP) -(representing the applicant)- remarked that from the health and safety point of view, the Gibraltar Electrical Authority (GEA) have issued a letter to the Planning Department confirming that the proposed location for the substation was advised by them. The document also confirms that the proposed substation is in line, in terms of location, proximity and size, with other GA substations throughout Gibraltar.

As the GOG utility provider GEA have a duty of care and will ensure that these substations are build fit for purpose. The Environmental Agency has raised no health issues other than the noise Level. **PP** makes it clear that this will be achieved.

The current proposed location has been a result of extensive investigations obviously looking at site availability and due to restrictions concerning the rock falls, any location further south the GEA are not happy to accept. Locations further east are not feasible due to the existence of premises at lower levels. Due to the requirements of GEA with regards to trenching this is the only site where GEA would approve.

GM questioned as to why the Substation cannot be developed within the development.

PP Devils Tower Road was out of the question due to the many constraints and setbacks; the eastern façade, which includes a steep ramp, had severe restrictions in terms of access

for the GEA; the amount of utility services that is required on the ground floor takes up the remaining of the façade.

The trenching needs to be underground meaning that it has to be outside of the building. Future developments in the area will be able to connect to the substation.

The Chairman asked if this substation is for the use of others in the development area in this zone.

PP confirmed that at present the requirement is only for Forbes Development but that it has the capacity to service future developments.

JH questioned whether it is technically possible to incorporate the substation within the car park to represent less of a threat to residents. JH stated that this development is a big project and should be able to afford the best practice in this instance.

PP confirmed that this has been reviewed by GEA and where not happy to construct the substation in that area.

GM questioned the Applicant as to why the substation cannot be built under ground.

PP replied that GEA requirements has to be an over ground building.

DTP continued with the report. - In terms of the car park there are no objections although the objection from the Traffic Commission was noted. However, whilst there will be a reduction of 2 parking spaces the proposed scheme will provide for 2 disabled bays and a dedicated area for both motor cycles and bicycles and therefore on balance it is considered to be acceptable. Reference to the Substation there have been discussions with the applicants with regards to alternative locations and we are aware that the applicants have been in discussion with GEA. The technical requirements of the GEA and, the limitations of the site itself are noted. Most of the east side of the site of the car park area is not feasible due to the units below ground level therefore causing issue with the underground cabling.

The GEA consider the substation to be an important piece of infrastructure and due to the site location and the risk of rock falls the GEA cannot locate it elsewhere.

The proposed site is the one found to be suitable by both the Applicant and the GEA. Due to the objections being raised, we have specifically asked GEA and the Environmental Agency if this proposal complies with any requirement in terms of health safety. We have

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to date received no reply from the Environmental Agency with regards to health and safety, although they have requested a condition on noise. The GEA have confirmed that there are no legal or other regulations that they are aware of in terms of breaching health and safety for the residents.

DTP recommended approval of the application with conditions relating to noise for the substation, an archeological watching brief, and in terms of the car park, to have the 20% vehicle charging points.

The Chairman asked the members for a brown roof to be added just like other substations in the case that the application is approved.

JH stated that there have been other developments constructed along the rock face and safety measures such as rock fall protection have been put into place, therefore **JH** suggested that if the substation were built further away from the residents and could be safeguarded from rock fall, it would be a good compromise.

GM concurred with **JH**, and added that in respect of these substations when a new development arises GEA should identify requirements such as sub stations at the very early stages of the planning process so that they are planned for. **GM** requested this to be adopted as a policy by the Commission.

DTP addressed **JH** in relation to her comments. The reason why reference had been made to other examples of sub stations close to residential property is to demonstrate that it is standard practice that enables us to see that these kind of developments in proximity to residential area, have been approved previously.

With regards to **GM** comments **DTP** agreed and stated that there has to be a more focused approach in the development process with GEA and AquaGib in terms of what their requirements are going to be and therefore enabling developers to take them into account at a much earlier stage of the development process.

The Chairman stated that GEA, Aqua Gib and any authority should link in to any development within the early planning stages.

The Chairman noted that the recommendation was for approval but not all were in favour and asked for a vote.

There were 3 objections and the remainder voted in favour. The application was approved.

447/20-F/16941/20-85B Governor's Street -- Proposed change of use from store (Class B3) to takeaway (Class A3).

DTP informed that this was a full planning application for a change of use from a store to a takeaway. There have been representation and counter representations, which have been circulated to members. On the proposal involves minor internal alterations and conversion into a pizzeria, there are no external alterations at present.

DTP asked Mrs Osborne representing the objectors to address the Commission.

Mrs Osborne stated that Governors Street is a very busy street and that traffic is a major concern meaning that customers and delivery service will be stopping and causing traffic blockages. There are 3 restaurants and 2 takeaways within 30 seconds walk from the proposed pizzeria. Mrs Osborne stated that the presence of a pizzeria is going to change the character of this section of Governors Street which at present is relatively quiet and the establishments already functioning there close at 6 o'clock. The pizzeria on the other hand, will close later and will encourage anti-social behaviour and noise. Another main concern is there is a private alley way just beside the proposed pizzeria, unfortunately due to the high volume of residents living in the area the gate is never closed and they already encounter a lot of anti-social behavior within the said alley way. Mrs Osborne believes that having a pizzeria beside will only add to this problem. They are worried concerning the smell of the pizzeria and the increase of vermin in the area. Finally, Mrs Osborne stated that the Applicant hasn't shown much respect to planning laws as the building has been defaced in the past without any planning permission or landlord's permission.

If approved Mrs Osborne would request opening and closing hours to be imposed and secondly, possibly to address the Traffic Commission for an extension to the continuous red line (no stopping/ waiting) so it reaches the end of the pavement.

The Chairman questioned if Mrs Osborne is representing a collective number of residents within the area.

Mrs Osborne confirmed this. **MHYS-** requested the objector to confirm if it is right to say that the Applicant has already altered an historical building, which the Commission is unaware of.

Mrs Osborne stated she believes so.

The Chairman asks the applicant **Mr M Trinidad** to address the Commission.

Mr Trinidad stated that the building has not been defaced. Mr Trinidad clarified that all he wants to do is to set up a legitimate business and that he has invested in new technology in order to avoid odour issues. , His intention is for the pizzeria to run smoothly without causing any disturbance to the nearby residents.

JH stated that most of the objector's issues raised are policing matters and do not concern planning; her concern is concerning the lighting on the street, and asks the applicant if he can envisage traffic problems.

Mr Trinidad confirmed that there already is a traffic issue but he confirmed that he has no issue with the enforcing of new measure with regards to redlines.

DTP continued with his report. Governor's Street is classified as a secondary shopping street, so the principle of a takeaway is acceptable in policy terms. There is a specific policy for takeaways in the Development Plan, that allows for takeaways in shopping areas subject to certain criteria aimed at minimising adverse effects. In terms of litter, the onus lies on the operator but the Commission may impose conditions that would require a litterbin to be provided within the premises. The area does have a high number of residential units and it was an acknowledged that there is an existing bar opposite and therefore the objectors' concerns concerning noise and traffic were recognized. There was merit on therefore that it would be appropriate to condition the closing hours to 11pm to reduce possible disturbance. In terms of odours, the Applicant is proposing an extraction system to avoid the release of odours and the Environmental Agency is satisfied with this.

In terms of servicing, the delivery companies would need to use existing loading bays and in terms of illegal parking's this is a matter for enforcement and Traffic Commission.

The recommendation is to approve with conditions subject to the Applicant providing litterbins and to keep to the 11pm closing hour.

JH requested for the matter concerning the red zone to be recorded and passed on to the relevant agency.

A vote was taken with the majority in favour and one abstention.

The application was approved.

448/20-F/16957/20-245 Main Street -- Proposed change of use from shop (Class A1) to takeaway (Class A3).

DTP this was a full planning application for a change of use from a shop to a takeaway public representations and counter representations received have been circulated to the members.

DTP reported that there had been a very late representation from the lawyers representing the landlord who claimed they had not been served notice. DTP asked the Chairman if he had heard from them and whether they were wishing to address the Commission.

The Chairman stated that there had been no response from the lawyers so the Commission should continue with its consideration.

DTP reported that the premises is a retail unit selling cold prepackaged food and wants to extend its product to include hot food. No external alterations are proposed and an extraction system which incorporates triple filter to reduce odours with a flue to eaves level is proposed via the light well to the rear of the property.

Apparently, a flue at 1st floor level was installed without planning permission that now the Applicant proposes to extend to the top of the building.

The Chairman welcomed the first objector.

Mr C Dawson who lives directly above the unit is concerned with the impact on neighbours and smells and noise from the flue. He states the he does not consider the floor and ceiling construction between units to qualify compliance with Building Regulations. **MS Katriona Macniven** (another objector) stated she resides on the 3rd floor of the building and is concerned with the smoke smell and the impact the flue will have on the courtyard as this area is currently used by residents for several uses and raises the fact that the courtyard is used for drying of clothes. Concerning the litter issue from takeaways, this is also a problem and none of the current takeaways seems to have a bin and therefore accumulate litter.

Mr Daruis Cotizo (Objector) stated that he resides on the 1st floor as well and his main concern is concerning the flue and the impact the takeaway will have on the residents living within the building.

The Chairman stated that the flue would be taken to the very top of the property and all matters of odours; noise etc. will be subject to compliant with building control and the Building Regulations.

DTP continued with the Planner's report: he referred that the Environmental Agency have no objections and in relation to the extraction, the flue would need to rise above the eaves level of the building. The Environmental Agency have no objections as a triple filter system will be in place and in any event, if it were to cause a nuisance they would take any necessary action. The principle of allowing a change of use to takeaway is acceptable under the Development Plan 2009 s. To address the litter issue a condition could be imposed to provide a litter bin and a restriction on opening hours could be imposed to require it to close at 11 pm.

In terms of noise, the suggestion of limiting the hours would address this issue. The application was recommended for approval with the said conditions.

CAM questioned on how the Commission can guard against business models changing.

DTP stated that it was understood that the reason as to why the business model has changed was due to the Covid issue and other issues as well, but stated that DTP cannot do anything about remodeling business.

KB noted that nuisance issues fall under the remit of the Environmental Agency and if any nuisance is created, they should address concerns to the EA. With regards to planning concerns, the courtyards seems to be used by 8 residents and KB suggested that it might be possible to look into disguising the flue so it doesn't look that unpleasant thus having less of a visual impact.

The Chairman stated that if the Commission approves there is no problem in having the flue encased as a condition in the planning permission.

JH questioned whether the structure of the shop is suitable in terms of containing noise and smells as this had been highlighted by one of the objectors.

The Chairman noted JH's comment.

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A vote was taken on the recommendation to approve the application.

A majority voted in favour with 3 abstentions.

The application was approved.

449/20-F/16972/20-Ocean Spa Plaza, 17 Bayside Road – Proposed conversion of six vacant offices into 10 x one bedroom apartments and one x two bedroom apartment

DTP stated that this is a full planning application for the proposal to convert 6 vacant office units into 10 one-bedroom apartments and 1 x two-bedroom apartment.

The idea is to cater for those who work round the area to use as a base therefore requiring little space. The approved scheme was for office use but the applicant had advised that they had failed to attract occupants after two years of marketing. The concept of the project is quite specific.

DTP explained that most of the alterations are internal and that those external alterations are limited to alterations to the existing curtain walling to introduce windows and doors. In terms of parking spaces, there are 3 existing parking spaces allocated to these office units at present but the developer wishes to encourage sustainable travel and will make electrical scooters available to the tenants.

In addition, there are spaces available from the Ocean Spa development, which would be available.

DTP stated that there are no comments from consultees and no objection from planning regards to the change of use. There are no objections to the external alterations, as it will have minimal impact, although **DTP** recommend that the 3 original parking spaces should be allocated to these units.

The Chairman asked member to vote in favour or against the proposal with the conditions regarding the 3 parking spaces.

The application was approved unanimously subject to the recommended conditions.

Approved

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450/20-O/17023/20-8-10 Bishop Rapallo -- Proposed refurbishment of four storey mixed used building comprising commercial use on the lower two floors and residential above, together with the construction of a two storey extension for residential use.

GB explained that this was a building of traditional character with commercial units at ground level and residential above. The proposal is to maintain the current composition of the existing uses, whilst building 2 new extra storeys at roof level accommodating a one 3-bedroom apartment on each floor, a new lift will be installed within the existing stairwell. The refurbishment will include re-rendering and repainting the existing façades and refurbishing the existing windows and shutters, and internally minor works would be carried out reconfiguring the lay out of the apartments.

A proposal for a projecting balcony on the east elevation although still shown on the drawings had now been omitted.

On the 4th floor there is a wraparound balcony going from the north to the east side of the building set back from the building below and introduces a steel balustrade throughout.

The new flat roof will incorporate a green roof with solar panels.

GB stressed that currently no parking is allocated to the building and none have been proposed.

GB stated that concerning the Consultees feedback, the Department of Environment has recommended the implementation of energy efficient measures throughout the construction and refurbishment process, Zero energy lifts, the submission of a predicted EPC, the undertaking of bat and bird survey and the introduction of swift and bird nests. There are no objections from LPS or Technical Services Department. The Ministry for Heritage have no objections but do have concerns with the cumulative increases height in the area.

GB - reported that this development will act as a catalyst to the policy of regeneration in line with the Development Plan, the setbacks introduced are welcomed as it helps to distinguish the old part of the building from the new extension above. **GB** also welcomed the good alignment and continuity of design; there have been discussions with the applicant concerning the possibility of setting back the top floor further depending on the thickness of the existing walls and the applicant will look at that possibility. **GB** noted that

due to the town centre location, there is no parking and would support the waiving of the parking regulations.

Over all **GB** recommended **approval** subject to the submission of a sustainability statement, a bird and bats survey and the inclusion of bird nests.

CAM was in general agreement with the proposal and with all comments made and welcomed the incremental set back of the two floors, and agreed with the removal of the balcony overlooking Bishop Rapallo's Ramp. However, the steel wrap around balcony should be stepped back so it doesn't over crowd the Lane. **CAM** stated that due to the location of this building fronting an historic square, in this case she considered that the additional storeys should adopt a more traditional external treatment.

JH felt that even though the proposal follows heritage lines it seems to be very white and very clinical, **JH** also felt that there is nothing in front of the building to soften its impact. **JH** confirmed that mature trees were shown on the plans to DPC but in fact only small planters have been created meaning the buildings are in full view and not softened by vegetation.

The Chairman concurred with **JH's** argument concerning the colour schemes and clinical feel of the site. The Chairman stated that this is an outline planning application and therefore can be addressed at the full planning stage.

JH expressed that anything that is presented on plan should reflect what is actually there already.

The Chairman called for voting with the condition that the Applicant review the external design at the next stage.

There was a majority vote in favour with 1 abstention.

The application was approved.

451/20-F/17070/20-Roof Area, Law Courts, Town Range – Proposed 5G radio equipment deployment

DTP Presented the proposal for 5g antennas. **DTP** explained that both this application and the one following are of the same nature and that it had been discussed in previous

meetings that individual applications for site specific antennas would be dealt with by the subcommittee. However, with regards to these two areas there have been site specific objections and also generic objections therefore these applications have been forwarded to the DPC.

DTP explained that depending on the outcome concerning the consideration of the generic objections, it was proposed that other individual applications for 5G antennas would be dealt with by the subcommittee, notwithstanding the generic objections, to avoid having to table 21 applications at DPC.

DTP stated that the proposal is to install 2 new antennas using the existing apparatus on site, one facing north the other south, **DTP** explained that there is a 5G antenna already installed on a site as part of a test project.

The Department of Environment had noted that the output levels fall below the ICNIRP levels, and that monitoring of the performance of the apparatus should be carried out.

DTP Invited objectors to address Commission.

Mrs Kristasen (MK) (objector) - referred to numerous studies linked electromagnetic frequencies with development of cancers. She stated that there was evidence that those who lived within 400 meters of a transmission site were more likely to develop cancer. The nature of these two applications and the other future proposed sites is such that they are in proximity to living things. **MK** stated both types of 5G base station, whether massive MIMO or smart cells, radiate EMF in not negligible amounts and can have an effect on all. The two proposals are above schools and she believes that Gibtelecom have a public responsibility to quantify the potential risk to health.

(MK) Stated that ICNIRP levels should not take precedence over scientific research which to date has been proven questionable. Therefore, **MK** suggested that Gibraltar follow Brussels/Geneva and put these applications on hold until further and more conclusive research is gathered.

(MK) asked Gibtelecom to clarify the nature of these new antennas, and whether they intend to use massive MIMO or smart cells now or in the future. **MK** questioned Gibtelecom on what plans they have in place to measure the potential causal effect of their 5G network and what assurance will they give to the public that they will accept the liability in the case of any negative outcome.

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Mr Jansen Reyes (JR) (The Applicant Gibtelecom) stated that Gibtelecom do not have any specific comments as these counter arguments have been discussed in previous applications regarding the 5G Antennas. With regards small cells and massive memo, **JR** explained that they we will be using massive memo and reiterated that this is not new technology and is already being used. Gibtelecom have no plans to use small cells on the 21 sites, he explained that there is no strategy to use smalls cells other than on particular locations which they will use micro cells in a specific area. **JR** explained that frequency Millimeter waves are to radiate high frequency power and that and now Gibtelecom have no plans to deploy anything of this sort.

JR With regards to the safety, ICNIRP has been assessed by the **WHO** which is an international recognized body, he explained that the GRA rely on these regulations and policies defined by WHO to issue the licenses, therefore ultimately it is the GRA who have the responsibility to say that the power used is safe or not.

JR stated that by virtue of WHO the mobile technology is safe due to the weight of the body of evidence gathered of over 250, 00 studies. **JR** stated that there is no impact on human matter, other than the fact of the rise in temperature and this is something that ICNIRP standardises.

The Chairman advised the Objector to address matters with the GRA as her concerned issues are governed by other bodies.

DTP Acknowledged the fact that there is already an existing antenna in place, but with respect to the existing government policy to keep them way from schools and other sensitive sites, but asked the Applicant reassurance as to why this will be acceptable or not with regards to its location.

JR believed that the policy defined by Department of Environment did permit for sites, which were already within 100 meters of a school or hospital to remain, and this site is one in particular.

The Chairman stated that if this is not the cases then an alternative site has to be found.

GM explained that the sites are having a greater, or doubling of masts, and asked the applicant whether there is a possibility to curtail the number of masts which are going on sites, as his understanding is that 2G, 3G 4G will be kept together with the 5G.

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JR confirmed that they would retain the 2, 3 and 4 G's as they are still in use by public, but that the plan is that by 2022 to phase out the 3G as it will be not financially viable for Gibtelecom to maintain them.

JR explained that they try to use the smallest possible mast to sustain the antennas, and try the upmost not to use metal work but unfortunately they are sometimes left with little choice. They try to combine all technologies within a single antenna but in this particular case because of the leap in technology, it requires a separate antenna.

JH acknowledged the Objector and agrees with concerns raised, and questioned **JR** on the matter of liability with regards to any negative impact it can have.

JR had no comment to make on the issue of liability.

JH- Stated that the Department of Environment measures regarding the real time monitoring must be rolled out as soon as possible as once there is a greater understanding of the EMF levels in our local environment then we will have more peace of mind within our community.

DTP reported that in terms of planning and visual impact, there were no objections to the proposal.

DTP stated that the applicants are working to international standards and that the GRA is the body responsible for overseeing the health and safety impact of this kind of technology.

DTP Reference to the GOG policy, ICNIRP levels have been accepted by GOG although it has been recommended to the applicant to encourage the use of minimal power levels and to use the minimal amount of masts. The applicant has taken on board these recommendations.

DTP Recommendation is to approve the application as submitted

The Chairman- requested a decision to be taken on the planning application.

A vote was taken with the majority in favour and one vote against.

The application was approved.

452/20-F/17143/20-Roof Area, Sunnyside House, Naval Hospital Road -- Proposed 5G radio equipment deployment

DTP referred to the discussion on the previous application and that this proposal was very similar. There were no planning objections. **JH** stated that representations and counter representations concerning this application have been submitted.

The Chairman explained that the objector is the same one and has submitted objections for both applications. The Chairman confirmed that there is another objector who did not want to address the Commission. All written representations had been circulated to members.

JH referred that the concerns regarding the potential effects on the St Joseph School had been withdrawn as it had been confirmed by the Applicant that the beam of the mast would be directed over the school.

JH reiterated the need for the real time monitoring.

The Chairman requested the Commission to confirm if the same voting process is used for both applications

DTP clarified to members that although there are technically objections by virtue of the generic objections, if the Commission agrees, the other 5G applications be dealt with by the Subcommittee other than one or two that have site specific objections in which cases will then be brought to DPC.

The Chairman confirmed that **JH** would be included in the Subcommittee meetings when the applications are considered **JH** questioned if any objections are made on applications will these be forwarded to the Applicants.

The Chairman confirmed this to be the case.

DTP stated that any objections would be passed on directly to Gibtelecom so they may comment.

GM asked if the objectors choose not to address the DPC then should their written representations be disregarded.

Approved

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The Chairman confirmed that members of the public can submit written objections but they do not have to address the Commission verbally. Their written objections cannot be disregarded and must be fully considered by members.

The Chairman requested a decision to be taken on the planning application.

A vote was taken with the majority in favour and one vote against.

The application was approved.

Minor and Other Works- not within scope of delegated powers

453/20-F/13912/16-5C Library Ramp -- Proposed extension at roof level and creation of a new roof terrace area as well as a new external lift shaft and front entrance lobby and a new walled terrace at first floor level above the kitchen.

Consideration of request to renew Planning Permit No. 5686A for a further year.

CAM informed that the Heritage Trust maintained the objection concerning this matter. She noted that at the time the original application was approved the applicant had stated that the works were urgently required. As they have not yet been carried out perhaps, the reasons for the works have changed.

The Chairman stated that unless the applicant comes back with details of any extenuating circumstances the application to extend should be deferred

The extension to this permission was deferred.

454/20- F/16274/19-Buena Vista Estate -- Proposed erection of a carport over existing parking space.

GM asked for clarification on whether this application was being recommended for approval as there are objections to the proposal.

DTP confirmed that the application was recommended for approval. We are aware of the boundary dispute but that this is a private lands matter rather than a planning matter.

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DTP explained that they had tried to get a collective agreement on one design for a carport but this had not been possible. The objection is from the Management Company and relates to the boundary dispute.

GM asked if the design would be standardised, as there might be future applications.

DTP stated that it is up to the Commission to do so although logic would say that this would be the case.

The application was unanimously approved.

455/20-F/16408/19502-503, Block 5, Watergardens -- Proposed alterations to planter

This application was unanimously approved.

456/20-F/16820/20-Unit 312 Governor's Cottage, Dobinson Way -- Proposed demolition of existing single storey warehouse structure and construction of a new two storey industrial office building (workshop & office).

JH commented that a more subdued colour scheme to blend in with the background would be preferable.

The Chairman confirmed that all colour schemes in the area were subject to the agreed scheme decided at the time of the World Heritage Site designation and therefore all applications approved should be based on the approved colour scheme.

This application was unanimously approved.

457/20-F/16891/20-7 Europa Pass Battery, Europa Pass -- Proposed extension to first floor master bedroom and installation of glass curtains.

This application was unanimously approved.

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

458/20-F/16318/19-28/7- Crutchett's Ramp -- Proposed extension and refurbishment of flat, consideration of colour scheme for building to discharge Condition 3 of Planning Permit No. 7267.

Approved

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459/20-2F/16395/19-Unit 7, 59 Governors Street -- Proposed internal alterations and reconfiguration of apartment premises.

460/20-F/16396/19-Unit 8, 59 Governors Street -- Proposed internal alterations and reconfiguration of apartment premises.

461/20-F/16397/19-Unit 9 59 Governors Street -- Proposed internal alterations and reconfiguration of apartment premises.

462/20-F/16525/19-71 Europa Road -- Proposed construction of swimming pool within the existing footprint of the garden and partial removal of boundary fence to allow for new retaining wall with fence to support the new proposed pool.

463/20-F/16756/20-961 Europort, Europort Road -- Proposed refurbishment of entrances to Blocks 7 and 9, Europort, including new draft lobbies with canopy to match design and materials of existing entrance to Atlantic Suites, together with discrete screened smoking areas.

Consideration of proposed colour scheme to discharge Condition 2 of Planning Permission No. 7540.

464/20-F/16854/20G- West Side Comprehensive School, North Mole Road -- Proposed installation of an EMF radio receiver probe on the roof.

GoG Application.

465/20-F/16855/20G- Kingsway House, Alameda Estate, Red Sands Road -- Proposed installation of an EMF radio receiver probe on the roof.

GoG Application.

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466/20-F/16857/20G St Anne's Middle School, Trigger Road -- Proposed installation of an EMF radio receiver probe on the roof.

GoG Application.

467/20-F/16924/20-16 Sea Lavender House, Waterport Terraces -- Proposed installation of four internal and one external air conditioning units.

468/20-F/17010/20-14 Iberis House, West View Park -- Proposed installation of glass curtains.

469/20-F/17019/20-13/3 Line Wall Road -- Proposed internal refurbishment and subdivision of one x three bedroom apartment into two x one bedroom apartments.

470/20-F/17036/20-1305 Imperial Ocean Plaza -- Proposed installation of glass curtains.

471/20-F/17041/20-Unit 1 Lexington, Midtown -- Proposed fit out of vacant commercial unit into a medical clinic.

472/20-F/17047/20-9 Little Genoa -- Proposed single storey extension.

473/20-F/17054/20-The Food Co. Supermarket, Units 1, 2, 3 & 4, The Square, Marina Bay -- Proposed conversion of existing window into new goods access point.

Approved

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474/20-F/17060/20-406 Abyla Lodge, Mons Calpe Mews -- Proposed installation of glass curtains.

475/20-F/17085/20-Flat 21, Quay 29, 34 King's Wharf Queensway -- Proposed installation of glass curtains on balcony.

476/20-F/17102/20-13 Lime Tree Lodge, Montagu Gardens -- Proposed change of external window frames and windows.

477/20-F/17125/20-11 Silver Birch Lodge, Montagu Gardens -- Proposed internal alterations and installation of window in internal lightwell.

478/20-F/17132/20-1103 Imperial Ocean Plaza, Ocean Village -- Proposed installation of glass curtains.

479/20-N/16494/19- Giboil Montague Retail Station, Line Wall Road -- Proposed removal of Strelitzia Nicolai.

Consideration of revised planting scheme as requested by the Department of the Environment.

This was an application which sought to remove a Strelitzia Nicolai of average form, growing in a planter which is showing signs of damage from root action, as was the adjacent wall. It was considered that the damage around the planter could be repaired, however, the wall would likely incur damage following repair and that in view of this the tree should be pruned back and relocated to a more suitable planting area, where it should regenerate quickly and that a more suitable planting scheme, subsequently submitted by the applicant should be planted on site.

480/20-N/17063/20-House 5, 1 South Pavilion Road -- Proposed removal of Robinia pseudacacia.

This was an application to remove a medium-sized Robinia psuedacacia of poor form, with a lot of rot and damage to the trunk and limbs which showed signs of splitting and is considered to be hazardous as the possibility of harm to persons and/or property is high. It was considered that because of the risk of collapse the tree should be removed as soon as possible, and that the tree should be replaced with a suitable alternative such as a Quercus ilex that will eventually become a roadside amenity.

481/20-N/17166/20G-Rosia Road -- Proposed pollarding of Eucalyptus sp.

GoG Application

This was an application to reassess a Eucalyptus sp. with a resistograph due to die-back of branches and a large bracket fungus on the main trunk. It was found that there is significant rot in the main trunk of the tree. Whilst the previous recommendations of pollarding the tree remain, it was further considered that the crown should be reduced drastically given the state of the trunk and that treatment with Mycorrhiza might improve the tree's health and that the tree should be reassessed in six months.

482/20-N/17167/20G-Cumberland Road -- Proposed removal of Eucalyptus camaldulensis.

GoG Application

This was an application to remove a large Eucalyptus camaldulensis that has been pollarded in the past, leans over a road and close to a bus stop and suffers from significant rot throughout the trunk down to the base which constitutes an unacceptable risk. It was considered that the tree should be removed and replaced with two x semi-mature trees that are in keeping with the planting found throughout this area of the South District.

Approved

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483/20-MA/17027/20-Upper Garage of Block 4, Ragged Staff Wharf, Queensway Quay -- Proposed installation of new ducting on upper garage ceiling to extend the kitchen extraction system of two restaurants to the east side of the building.

Consideration of proposed Minor Amendments including:

484/20-MA/17112/20-2- Hospital Ramp -- Proposed construction of four town houses and storage facilities.

Consideration of proposed Minor Amendments including:

- Small infill extension at ground floor level; and
- Change to stair access core at roof level.

485/20-1555/P/012/20-2-8 Cornwall's Lane -- Proposed painting of building façade.

Consideration of colour options for the façade of the building.

486/20-41555/P/014/20-21 Main Street --Proposed painting of building façade.

Consideration of colour options for the façade of the building.

487/20-Any other business

There was no other business.

488/20 - Next meeting

Next meeting to be held on the 17th December 2020.