

## THE DEVELOPMENT AND PLANNING COMMISSION

Minutes of the 12<sup>th</sup> Meeting of 2020 of the Development and Planning Commission held via video conferencing on the 17<sup>th</sup> December 2020

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**Present:**

Mr P Origo (Chairman)  
(Town Planner)

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

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

Mr H Montado (HM)  
(Chief Technical Officer)

Mr G Matto (GM)  
(Technical Services Department)

Mrs C Montado (CAM)  
(Gibraltar Heritage Trust)

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

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

Mrs J Howitt (JH)  
Environmental Safety Group)  
Mr Viv O'Reilly (VO)  
(Rep Commander British Forces, Gibraltar)

**In Attendance:**

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

Mr D Francis  
(Minute Secretary)

Mr Christopher Key (CK)  
(Town Planning Assistant)

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### **Apologies:**

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

Mr C Viagas

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**489/20-Approval of Minutes-Approval of Minutes of the 8<sup>th</sup> meeting of 2020 held on the 17<sup>th</sup> September 2020, the 9<sup>th</sup> meeting of 2020 held on the 29<sup>th</sup> October 2020, the 10<sup>th</sup> meeting of 2020 held on the 30<sup>th</sup> October 2020 and the 11<sup>th</sup> meeting held on the 19<sup>th</sup> November 2020.**

The Chairman referred to the written amendments submitted by JH and proposed that the Minutes of the four meetings be approved with these amendments. The four sets of Minutes were approved as amended.

**Major Developments**

**490/20–O/16527/19- 7B Engineer Road -- Proposed demolition of an existing dwelling/structure and construction of new development of three town houses/mews.**

DTP explained the first item on the Agenda was an outline planning application and said that the Commission had considered and taken decisions on previous schemes. DTP informed the Commission that both the applicant and objector wished to make representations.

DTP reminded the Commission of the previous schemes:

1. An outline planning permission granted in May 2015, for a single five storey high dwelling that included two studio flats within the dwelling and parking for five cars.
2. In February 2020 an application for five dwellings on the site that was deferred by the Commission for a number of reasons:
  - a) The proposal represented a significant break in terms of the character of the area.
  - b) Its high-density development
  - c) Concern with the massing,
  - d) Concern with the amount of floorspace ; and,
  - e) The footprint of the new development pushed further back into the site, which meant there was a large volumes of excavation involved in any development and that this might impact the local habitat adjacent to the protected Upper Rock, which is obviously a very sensitive issue bearing in mind that this is very close to the Nature Reserve.

DTP said the Commission had required the applicant to review the concept completely and to revert to a single dwelling while staying within the approved footprint of the outline application and to try to integrate the development into the landscape.

DTP asked the applicant, Mr Keith Darling (KD) to briefly present the scheme.

KD referred to the drawings shown on screen and explained that the scheme presented tried to simulate the same image or view as the Outline application approved in 2015. KD moved on to the floor plans, and presented comparative plans showing the area of excavation currently proposed compared to the 2015

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scheme. KD said that in 2015 the excavation was calculated to be approximately 3,000 square metres whereas the current scheme proposes an excavation area of 2,200 square metres, which is reduction of about 25%.

KD explained the three houses are separated in order to create a space between them while introducing green aspects and trying to soften the visual impact by sculpturing the building and stepping it back. KD also said they would be introducing green roofs and soft landscaping around it.

KD added that they will be using geothermal and solar panels and hoped to achieve an 'A' plus Energy Efficiency Certification using the appropriate technology and materials. He also said that they have been liaising with the Department of The Environment (DOE) in relation to landscaping and relocation of some trees and confirmed there will be a 75% increase in green areas.

DTP thanked KD for his comments and invited the objector, Mr Edward Davies (ED), to address the Commission.

ED explained that his property is located immediately to the west; downhill from the proposed development situated about five meters west of the boundary fence. ED stressed that his garage is right next to the existing garage to 7B Engineer Road and it provides the only entrance into his property. ED had concerns that all access to this proposed development will need to go through 7B's garage, which is very, very narrow. ED acknowledged that the developer had addressed a number of concerns with the original bid but still had concerns regarding the size of the proposed development, the western wall of the proposed garage as it seems to be about more than five meters high and the west facing windows in the garage which will be immediately over their access path.

ED stated that the proposed garage seems to cross the boundary fence halfway down the path but was concerned that the images shown on screen do not show this proximity, which really suggests that there is a lot more space to the west of the development. ED added that even though the new proposal shows a reduced area of excavation, he was concerned that the development would still entail the removal of an enormous amount of rock, vegetation, and trees, which would have to be removed through a very narrow entrance. ED stated that the trees were very mature trees, which include nettle trees as well as olives and pines and said this goes against the policies for protection of flora and fauna in the areas immediately next to the Nature Reserve.

ED concluded by saying that the development must be done in a manner that respects both the nature of the site, and also the existing homes as he believed the current proposal to still be too intrusive, too large and damaging to the area.

The Chairman informed ED that any claim of encroachment onto his property, has to be determined between with the head lessor, the Government as landlords, the Applicant and themselves, no matter what the decision was on the day.

The Chairman asked the members for their questions to ED.

JC referred to ED's comment about the loss of trees and stated that the assessment that had been submitted by the DOE did not identify a significant number of large trees that would be lost. JC asked ED if he had details of which specific trees could be compromised and he asked ED to state whether he knew this information as a fact.

ED said he had not been associated with the discussions between the DOE and the developer. He added that there is a large Olive tree and a number of pine trees immediately to the north of his garage, which are not shown in the drawings but did not know for a fact that they would be removed.

The Chairman asked KD whether he would like to counter argue the objector.

KD said ED made some very valid points. He said, the scheme that they have is very similar to the one that was consented in 2015 with regard to the wall massing on his perimeter edge and at that time, they did have an initial conversation, and that concern about accessing his property during the works would need to be seriously considered with regard to the aspect of parking. KD also said that in relation to the access road, they would endeavour to mitigate by actually having parking inside the site with a turning circle in the basement so cars can turn around. KD added that regarding the trees and fauna, there are some conifers on the edge which he does not envisage will be affected but this will need to be carefully demarcated and done in coordination with the relevant departments.

JC asked KD to confirm if he could specifically tell the Commission that there are no significant nettle trees, olive trees and pine trees alleged by ED being removed.

KD confirmed that they are not removing any nettle trees. He referred to the drawings shown on screen and highlighted items 1, 2 and 3, which show where the two olive trees will be relocated and the conifer tree removed. KD said the intention is to demarcate the site, through topographical study, mark the corners and then review again before any works are actually undertaken.

There being no further questions the Chairman thanked KD and ED.

DTP moved on to the planning report.

DTP informed the Commission that there was another objector, Mr Reid, who had similar concerns to ED, and was concerned about alleged encroachment onto his land. Mr Reid lives at 1 Humphrey's Bungalows, which is immediately south of the site. He was also concerned about the proximity of the new development to his property which was just over four meters and he had some issues to do with stability of his own land. He had also stated that the design of the new development was not sympathetic. DTP said the counter representations by the applicant were that they believe the boundaries have been incorrectly plotted. DTP

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said that the stability of the land would be a matter to be addressed through the planning process, and in particular with the Technical Services Department (TSD) and Building Control (BC).

DTP summarised the feedback from the consultees.

The DOE undertook a stage one Appropriate Assessment because of its proximity to the Special Area of Conservation. Their conclusion is that the stage two, which is a full assessment, is not required, subject to a Construction Environmental Management Plan being agreed, and that would consider issues such as dust, suppression of light, the actual methodology for piling and issues to do with the green roof. DTP added they would also require the standard conditions in relation to nesting in this case of starlings and sparrows, and bats.

The World Heritage Office (WHO) had concerns about the physical and visual impact on the buffer zone because of the development's proximity to the buffer zone for the World Heritage Site. DTP said they also had concerns about the amount of excavation required and stabilisation issues, which they felt could affect the functions of the buffer zone in relation to wildlife and fauna. In terms of the visual impact, a more formal assessment may be appropriate.

The Ministry for Heritage (MH) would prefer to see a single dwelling on this site of a scale and mass more appropriate to its context and involving much less excavation. DTP said that if permission were granted, MH would require restricted access to the Obelisk in order to be able to visit the site and to carry out recordings to ensure that the Obelisk is not affected during construction. MH also wanted the applicant to check for the existence of a cave, which is believed to exist at the rear of the site and the potential for bats to be located in that cave.

The TSD would require a geotechnical assessment at the full planning application stage.

DTP said the Town Planning Department (TPD) acknowledged that the applicant has made substantive changes to the scheme compared to the previous scheme that was considered that was for the five dwellings. However, the applicant has not followed the recommendations put forward by the Commission at the last meeting, which was that they should revert to a single dwelling on site. DTP said they have addressed the issues of excavation by reducing the amount to be excavated that had been required in this last proposal. They have attempted to break up the massing.

DTP explained that the breaking up of the massing had been achieved by separating the buildings and the inclusion of setbacks. However, in terms of the separation, those gaps are relatively narrow. DTP suspected that when viewed from a distance, the development would appear as one mass rather than three separate masses. DTP said the developer had introduced landscaping into the scheme, which has been in the form of green roofs and other planting, including green walls. The Obelisk remains in situ and would be incorporated into the design. DTP also said that in terms of energy efficiency, the developer is aiming to achieve an 'A' plus in energy performance.

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DTP added that the height is generally acceptable and considered that there will be a relatively small visual impact from nearby views of the site because the site is quite difficult to view from nearby viewpoints. He said in regards to distant views, it was considered that the development would be noticeable. DTP said that if permission were to be granted, it would be extremely important, in terms of the detailing of the colour and materials to be used in this scheme to ensure that it blends into the landscape. DTP noted that the Appropriate Assessment stage one has been undertaken, and there are no issues with that subject to the appropriate mitigation.

DTP finalised by saying that the main issue for the Commission to consider is the fact that the proposal is for three dwellings on this site. DTP said that reference has been made in the design statement, which refers to the fact that the outline permission was for three dwellings. DTP commented that TP's view is that the outline permission was granted for one dwelling and within that dwelling, with no separate access, were two studio apartments, which were just over 30 square meters each.

The Chairman then asked the member for their comments.

KB said that this development is going to result in a greater number of dwellings and a greater massing and GOHNS cannot support the proposal so close to the Nature Reserve in what should be a buffer zone. KB said that they would be objecting.

JH concurred with GOHNS and KB and said that the excavation horrifies her next to the Nature Reserve, and that the Commission is seeing too much of it at the moment. JH said that permission was granted for one dwelling and the developer should stick to that and keep to the footprint. JH stressed that the Nature Reserve and buffer zone area must be protected and confirmed that they would also be objecting.

CAM said that throughout the life of this application they have focused quite heavily on the fate of the Obelisk, which fits within the development. She noted the treatment of it in this latest scheme, which is in line with the original scheme and that visually, the building will swallow it up. However that is what was approved in the original scheme and means that it would be preserved in situ. CAM said that there are too many dwellings trying to be squeezed into the one space.

The Chairman asked members of the Commission to take a vote on the application as submitted.

In Favour	- 2
Abstention	- 0
Refused	- 8

The application was refused by majority vote.

**Other Developments**

**491/20–F/16994/20- Lancashire House, 8 John Snow Close -- Proposed alterations and additions to existing residence to utilise the existing building and add new components to the building.**

DTP said item three is a full planning application at Lancashire House, John Snow Close. DTP said representations have been submitted in respect of this latest proposal, and there has been counter representations submitted by the applicant in response to those. DTP referred to the images shown on screen and explained that the dwelling is currently a two story house from the 20<sup>th</sup> century which was granted outline planning permission in December 2019 for the refurbishment of the property and a two storey rear extension. DTP said that the full application follows on from the approved outline scheme and referred to the images on screen to highlight the very few changes to the main building itself. DTP said there are some minor changes in terms of fenestration and some small changes in the footprint of the building. He said, in terms of the landscaping and effect on trees, there are also no changes as to what was approved at outline stage. DTP confirmed that there is a loss of three trees and the relocation of one tree, and then the proposal is to plant five replacement trees and other substantive planting throughout which has been accepted by the DOE. He said this scheme has adopted light coloured renders, grey stone cladding, grey roofs and they are aiming to achieve an 'A' plus energy efficiency rating. They will also be including PV panels, green roof, solar screening and rainwater harvesting in terms of sustainability. DTP said a swift survey has been undertaken and confirmed that there are no nesting swifts on site. A bat survey is to be undertaken near the time of the actual works. DTP said the positioning and number of swift and starling boxes to be incorporated into the development and the landscaping have already been agreed with the DOE.

DTP said there had previously been an issue to do with the access to the property because of the restricted nature of the access road between the New Aloes site and John Snow house and in particular, an existing double garage that had been constructed at the time of the outline planning permission. DTP said the proposed resolution was conditioned in the outline planning permission and that was for the developer to slightly relocate the garage to increase this pinch point on the access road, and thereby allow adequate access. DTP confirmed that a legal agreement is in place between the owner of John Snow House and Lancashire House, which covers the issue of the garage and providing access. DTP added that the applicant has incorporated the relocation of the garage, along with its details, into the application.

DTP said the garage will be moved westwards giving clearance for access to the Lancashire House site of about 2.95 meters, and they are going to be relocating a carport in order to allow another clearance further up the road. DTP explained that the relocation of the garage would affect one olive tree and the original application had proposed cutting a limb to accommodate the relocation of the garage. The DOE, having assessed the tree, considered that the tree would not survive those kind of works and it would be preferable to remove the tree and replace with two semi mature trees, which should be either Cork or Holm Oaks. The applicant has confirmed that he would be willing to do this. DTP said there are two further trees, which are affected, one in front of the garage on the access road and one near the relocated carport and both would



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need to be removed. The DOE have assessed the trees and have no objections to their replacement with two mature trees.

DTP asked Mr Edward Alison Wright (EAW), who is representing the objector, to address the Commission.

EAW said that the visual impact from Europa Road is somewhat underplayed in this application. He referred to policy GDS2 of the Development Plan and said he thought it is a material change. EAW said this was a modest extension to a home, which appears to be changing in scope and all elements of the application. He added that the mature tree currently helps to disguise the visual impacts of a previous extension and the garage itself and believes that it is something that has to be factored into the account. EAW also said that there would be a negative visual impact on the public as they are traveling and walking down the road, and essentially, the development is putting cars and concrete before trees. EAW stressed that by demolishing the garage and having a parking bay, the development would not require the removal of a mature olive tree, and it would resolve the applicant's issues. EAW stated that it is their opinion that they have not exhausted and explored all options that are reasonable to save this tree and to amend this application. EAW referred to policy ENV12 that states that the DPC is to be satisfied that the development cannot be redesigned to avoid the removal of trees and we respectfully suggest that the application is deferred in order to allow the applicant to meet with the neighbours, including the objector in the early New Year.

The Chairman asked EAW if he was referring to the garage relocation or the actual dwelling, when he mentioned the visual impact.

EAW said he was referring to the garage but also said that removal of the tree takes away some of the shrouding of the extension beyond the property looking north.

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

KB said that he is familiar with the site and believes that the objector could very easily provide a good neighbourly solution that would avoid the need for an extension to the garage or removal of any trees.

EAW said that a meeting has been scheduled for January 2021 to discuss those options.

The Chairman asked EAW why the meeting was scheduled for January rather than before the meeting today, which would have avoided another delay in processing the application?

A discussion ensued in terms of the garage and driveway regarding encroachment between parties. Several points were made regarding failed attempts to meet and resolve the situation. The Chairman made the point that if this situation would have been discussed prior to the DPC meeting, there would not have been a problem or discussion regarding the garage.

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The Chairman invited the applicant, Mr Barry Brindle (BB), to address the Commission.

BB said the only reason they are proposing to move the garage is because the objector will not allow access over the roadway. BB said the objector is claiming his boundary is further west and BB believes he is correct and it is on a part of the road that he is not using. BB informed the Commission that the objector has fitted a bollard to block the use of the road hence the application to move the garage. BB asked the Commission for approval of the application subject to the discussions with the objector. He added that if those discussions are positive, and he allows them access, they would not move the garage as there is no need to. BB said they would sit down and talk to Mr Greg Butcher to see if they can resolve the matter.

The Chairman asked BB what is the measurement of width between the building line of the garage and the bollard.

BB said it was 1.7 metres from the bollard to the wall, which he has constructed. BB said from the tip of the garage to the wall is 2.7m, which is sufficient to allow cars and construction vehicles through.

The Chairman asked the member for any questions to the applicant and moved on to DTP to present the planning report.

DTP said that all feedback from the consultees were relatively standard.

DTP said that in regards to the proposal for the dwelling first, which is obviously the main aspect of this application, it is substantially unchanged from the previous outline permission that was granted, and the TP Department has no planning objections to the latest application. DTP said that in terms of the garage, the relocation of the garage is a direct result of the inability for the two parties to come to any agreement, and was a condition on the outline permission, which the applicant is complying with it.

DTP said that it is not considered that there would be a significant visual impact, and if the applicant is going to be required to plant two new trees in compensation for the loss of the olive tree, that would help screen it as well. DTP suggested that the applicant could consider some low level planting on the top of the retaining wall to help screen views from Europa Road itself.

DTP said there were issues raised by the objector in terms of overlooking from the new development but it is not considered that those would be significant due to the distance of the new property from the boundary, and also the fact that there is existing planting along the boundary to help screen one development from the other.

DTP said the applicants are aiming for an 'A+' rating in terms of energy efficiency. The standard outline planning permission included a condition that they must achieve a 'B' rating. DTP informed the Commission that they might want to consider whether they want to stick with the 'B' or whether they are going to insist on the 'A+'.

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DTP finalised by saying that they recommend approval of the application with all the relevant conditions in terms of replacement of trees, and the other standard conditions put forward by the various consultees.

The Chairman invited members for their comments.

MESCE said he was quite persuaded by the deferral argument. He said this development has been the subject of a great deal of un-neighbourliness in the area but it seems that they have finally agreed to meet. MESCE believed that the reason why they have agreed to meet is the uncertainty where one side may be afraid that the permission will be granted, and the other side may be afraid that the permission will not be granted and that he thinks it is urging them to come together to reach a mutual agreement. MESCE suggested that the Commission defer the application until after they meet and if they come back with something that everybody agrees with, and then it will make the Commission's job much easier. MESCE said he would be in favour of a deferral.

JH said she would also support a deferral. JH said we are losing too many mature trees and in this case, the properties concerned, already have huge footprints and it is unacceptable that further mature trees have to be lost because of ongoing disagreements. JH said she would not support that at all.

KB said he would also rather defer the application.

The Chairman asked the Commission whether any members would like to take a decision as otherwise he would be inclined to defer the application in order to allow the applicant and objector to come to an agreement.

KDS said he would like to take a decision on the day as it is fair for the applicant to submit an application for a scheme that he has outline permission for and all he wants is to gain access. KDS said that he could not envisage the applicant and objector reaching any agreement in January. KDS stated that it was his personal opinion.

The Chairman moved to vote on the deferral of the application.

The application was deferred to the next meeting by majority vote.

DTP suggested that a limit be placed on the deferment and suggested that the application should be considered at next month's meeting and that the two parties have to ensure that they have their meeting before that. DTP believed that it was unfair for the applicant to have his application "kicked into the long grass" for an unknown period of time. Members agreed this suggestion.

The Chairman moved onto item four. DTP informed the Commission that CAM is standing down for this specific application and Mr Keith Farrell (KF) would be standing in for her.

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**492/20–F/17044/20-5 Sandpits, Red Sands Road -- Retrospective application for the change of use from residential to assisted care use and the conversion of the existing garage into a studio-style apartment.**

DTP said this is a full application at a property known as Racquets, and it is a retrospective application for the change of use from a residential property to an assisted care residential use, and the conversion of the existing garage within the property into a studio style apartment. DTP said that there have been a number of objections to the application.

DTP said it is a two storey residential house and as members will know, this is a residential area and the property backs on to the Alameda Gardens and fronts onto Sandpits Road. He said the new use is an assisted care residential accommodation, which is operated by Meddoc Healthcare Limited and from what was understood is that patients who are making a transition from full time care to a reduced care environment, would be housed. DTP said there are currently, within the property, a capacity for four patients, which would increase, to five with the conversion of the garage into a separate studio apartment.

DTP said internally they have a relatively limited amount of work other than the works to the garage, and obviously, there will be internal works associated with that. Externally, there would be the loss of the garage door as existing and introduction of windows into that facade instead.

DTP reminded the objectors that they have three minutes to address the Commission and asked Mrs Stagnetto (TS) to address the Commission with her points.

TS said the property was purchased by Dr Ricard Gandia, as a family home. She said that living opposite she saw all the goings on at the premises until one morning she saw that the property appeared to be housing patients with mental issues and carers who appeared to come and go on shifts. TS understands that there is a need in our community for halfway house facilities for those with mental health issues and made it clear that she do not object to the use of property for the needs of our community.

TS informed the Commission that on the 8<sup>th</sup> May 2020, she wrote to Mr Paul Origo (Chairman), to which he replied that, no application whatsoever had been submitted for a change of use from a single-family household to what would be classified as an assisted residential facility. He added that such use would require the consent of the DPC as it falls under the Town Planning Act.

TS understood that when a new element is introduced to an existing residential area that could impact that environment, a number of reports are required, and therefore fail to understand how Meddoc were able to use their existing license for premises which they clearly did not have a legal right to. TS added that allowing such backdated applications opens the floodgates to abuse of planning and eliminates the possibility (*inaudible*) was designed to ensure not only that the rights of the residents in the area are protected, but also the facility that purports to take care of our citizens can be scrutinised and deemed fit for purpose. TS

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urged the DPC to strongly request from the Minister for planning the Minister for Lands and the Minister for Justice a swift and decisive review of the Planning Act and not approve this application.

The Chairman asked TS that should reports be submitted that the premises are deemed suitable for the use as proposed; would she would in any case, still object?

TS would object to a very useful double garage being converted into a further extension of this facility and believes this is not the right place for it. TS confirmed that she would strongly object.

The Chairman asked the next objector to address the Commission.

Mr and Mrs Leroy said that they are not denying that there is a need for an institution like this. They said they are objecting to the location as this is a residential area within a narrow street with tall buildings on one side where the sound reverberates quite strongly. Mr and Mrs Leroy stressed that their bedrooms are just opposite the property and the noise levels make it impossible to read or study. Mr and Mrs Leroy said the noise of the residents shouting death threats, profanities and insanities make it impossible for their children to study and are very difficult to block out because of their frightful nature.

Mr and Mrs Leroy also object to the garage conversion just on the fact that all the other houses were made to have a garage.

The Chairman asked the next objector to address the Commission.

Mr Mark Truman Davis (MTD) said his first objection is the fact that there was no prior consultation and felt that they should not be rewarded for trying to get through the proposed changes without getting the permissions in the first place. MTD also said that the property is completely unsuitable for assisted living facility and that there are other places within Gibraltar that would be eminently more suitable and not a family home. MTD stressed that within the title deeds of the property, which are the ones that we as residents who have seen it, makes specific note that the property cannot be owned by a company and so this property was bought by Mr Gandia and there was some sort of transfer to Meddoc Limited, and in our view, that is illegal and should not be allowed. TD added that on that basis, DPC should decline this application. MTD echoed Mr and Mrs Leroy's previous comments about the noise and said that the proposal to close up the garage to make another apartment, will impact the road which is already impacted by traffic whenever people are visiting Sandpit Tennis Club, or indeed when there are shift changes from staff at the, at the house.. MTD added that they often have vehicles parked directly outside of the garage, which impacts on people trying to pass by and if the garage is lost, then the staff parking will undoubtedly impact on the road as well. MTD said that it is their understanding that there is a mortgage on this property in the name of Meddoc with RBS NatWest that is in the public domain. MTD said that if the bank had taken the opportunity to look at the title deeds, they would have seen that it expressly forbids the owner to be a company. MTD wished to record in the Minutes that objection letters were sent to six ministers that have responsibility for various issues and only one response was received, which, unfortunately says it all.

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JH asked the objector to confirm which of all the ministers, which he had written to, replied.

MTD confirmed that the only response received was from Minister Isola, who he believed was responsible for Town Planning. MTD said he kindly replied, just to advise that he was no longer involved in Town Planning. MTD confirmed that he wrote to the Chief Minister, Deputy Chief Minister, responsibility for transparency Minister Sacramento, for Health, Minister Balban for Health and Safety and Social Services and Minister Linares for Housing, and no responses were received from any of those.

The Chairman informed MTD that Minister Isola is still the Minister for Planning.

The Chairman asked the fourth objector Mrs Martinez to address the Commission but was experiencing technical difficulties. DTP then moved on to the planning report.

DTP confirmed standard feedback from the consultees and stated that in the TDP's assessment, the loss of the garage cannot be supported. He said it will create an issue of parking in an area where there is restricted parking and is likely to result in congestion in the area, increasing on street parking to the detriment of the area generally. DTP said that it seems quite clear from the level of objections received since this change of use occurred, that it clearly is causing issues with the nearby residents, and in particular, the main issue seems to be noise and disturbance coming from the property in question. DTP said that this is a residential area, and residents are entitled to be able to enjoy their peace and quiet. DTP also said that they consider that an alternative location where there is less impact on surrounding users would be more appropriate and on that basis, the TDP is unable to support this application.

Mr Ashley Kirk (AK) (Gamma Architects) requested to address the Commission. DTP apologised as the applicants had been due to address the Commission. The Chairman invited AK to go ahead. AK said that Mr Ricard Gandia (RG) would start on behalf of the applicants.

RG said he had initially purchased the property as a family home but changed plans to provide sheltered accommodation as he felt that there is a real need in our community. RG emphasised that the people that are currently living in the property, have been discharged from the Ocean Views, and are not any kind of threat to themselves or to the neighbours. RG confirmed that there had been no incidents since they had been living in the property. RG said that the objectors did not want people that have suffered from mental health issues living there. RG said the reality is that the residents that are currently living there are normal people that have been discharged from Ocean Views, and what they need is support to be able to live their normal life like everyone else. RG confirmed that there is no kind of medical treatment at all. He said they are living there with the support from carers from Meddoc and added that they need the support of the community to be able to lead a normal life.

Mr Manolo Peralta (MP), Director of Meddoc, also addressed the Commission. MP said that Dr Gandia is a consultant psychiatrist and he himself has been a psychiatric nurse for 42 years and now retired. MP said

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they both identified the need for a halfway house, which has not been available in Gibraltar and by having this facility we eliminate the issue, which has been ongoing for many years, which is a “revolving door” for patients. MP explained that it means that patients spends months and months in fulltime Ocean View home. He said they get accustomed to being served food, their washing done and they lose all their skills. MP said the purpose of a halfway house is to have carers to motivate them to move on to independent living. He also said that all the patients residing at the property now have Government accommodation, which they will move into, once they are rehabilitated.

MP explained after a conversation with the mental health services at Ocean Views and Coaling Island, it was determined that there was a need for a halfway house and RG kindly offered this house he bought for his family. MP said that after months of consultation with Mr John Collado at LPS, they were then told that this was an issue for the DPC to consider, hence the delay in getting the permits.

MP said that none of the patients living there have cars and patients will not be able to drive there so they will not be able to use the garage. MP added that the staff have been given instructions to park in Alameda Parade in the paying area and attend work by foot. MP said he was greatly surprised by the neighbours complaining about the noise when there have been performances going on in the Alameda open-air theatre, which is just a few meters away, and the noise is tremendous and runs well into the early hours of the morning. MP concluded by saying that as a mental health nurse for so many years, and having worked very hard to try to reduce stigma on psychiatric patients, he believes this is a very sad day for mental health patients because the remarks made by some of the objectors are really gobsmacking. MP said that these patients have been deemed safe to live in the community, and for somebody to say that it is dangerous for kids to walk past the property, is a very strong remark to make. He also said the whole purpose of this project is to integrate these people into society, and therefore, he believes that the location of wherever they are should not be a factor.

MTD wished to interject but the Chairman did not allow an interface discussion between objectors, Applicant and Members.

The Chairman said that he had allowed MP to comment because of the nature of the situation but would have welcomed that his comments had been written beforehand, so that they could be circulated to members of the Commission.

MESCE asked MP if he was concerned in any way about the noise from the open-air theatre affecting or disturbing the patients due to the nature of its proximity.

MP said he was not concerned because Gibraltar is very limited and they have to be tolerant and put up with their surroundings. He said that the patients would probably enjoy listening to the music or whatever is going on in the theatre.

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The Chairman said that from a town planners' perspective, it would have been important for permission to be sought beforehand. The Commission has been through that experience before so hopefully that will not affect the decision itself based on the merits of the case of the application being considered. The Chairman asked the applicants if they will be engaging with the community in the area, not just in this location, but also in others that will follow, so that the public will be aware of the situation and kind of embrace it as opposed to create animosity.

RG said that the main goal of this project would be to integrate these residents back into society. He said they were looking forward to working together with the community to be able to integrate these residents back into the community so they can lead a normal life. MP said that cooperation from the neighbours could also be seen to be part of the rehabilitation program because patients will benefit from it.

The Chairman invited Mrs Martinez to address the Commission now that her technical difficulties had been resolved.

Mrs Martinez guaranteed that cars, mopeds, and every change of shift are constantly using the garage and workers congregate outside. She said it has been used as a double parking on the outside, recreational and a smoking area on what is a very narrow two way stretch of road. She added that the turnout of staff was incredible and that the building is being used as a Covid-19 test centre for all Meddoc staff in Gibraltar without necessary control of public health.

Mrs Martinez claimed that there had been several accidents in the last few months within the premises to which the police attended, resulting in patients being taken to hospital in ambulances. Mrs Martinez added that the patients are not the problem; it is the way in which this business is being carried out those carers have taken the road for themselves.

MP once again said that the garage was not to be used and said that if it is being used, they will put a stop to it immediately. He said that regarding the Covid-19 tests, all our staff and all our patients are covid-19 tested on site, therefore, the Covid-19 tests would have been carried out for the carers working there and those patients residing there, but not anybody else. MP said that they would love to meet with the neighbours amicably and roll out any issues or concerns they might have and sort them out.

KF expressed concern on the retrospective issue of looking for permission for quite a significant change, and although the Chairman has said that it is not particularly unusual that there is retrospective permission for changes of various sorts, he was concerned that this is a very significant change of use. KF added that the idea of having precedents being set repeatedly just enhances the problem for the future of retrospective applications. KF questioned whether the whole process of mental health care is being handled appropriately. He said that the requirement for halfway houses is not a new thing, it should have been in place years ago and suddenly we have a change happening with the supposed ignorance of the process. KF said that a setup like what we are seeing here needs to have been planned for properly and executed in a proper manner rather than this haphazard way.



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JH totally concurred with KF and said she has a lot of sympathy, empathy and support for the need for a robust, strong modern mental care support for everyone and stated that it is not the issue here. JH said that the issue is the way that the planning process has been completely circumvented, the way that this has been led privately, which also has many implications about costs and it has implications about oversight of the way that these services have been delivered. JH said this should have been done thoughtfully and with all aspects considered, the community around engaged too. She said this was not the only location where this could happen. JH commented on the fact that other similar projects are envisaged, suggesting that this type of care is going to be in the hands of the private, in the hands of business, and she does not think that is something that is good for our community. She added that it is expensive, and it raises all sorts of issues.

MESCE said that if it is private, it is likely contracted by the Gibraltar Health Authority, which has its due process in determining whether these people are qualified. He said he happens to know RG and MP and knows that they are very well qualified. MESCE said he needed to comment on the almost “public trial” on whether ministers answer emails or not. He said the objector should not expect every single minister who happens to be copied to give a reply if the Minister for Town Planning has dealt with it, as appears to have been the case.

MESCE said that he thought that this project has been done very badly and thought that Meddoc has not acted in the way that they should have acted, whether it was through omission or through ignorance although he was sure that it was not done deliberately. MESCE said that the planning issue is clearly that this is a retrospective application and retrospective applications they do not like at all. He added that this was not the normal retrospective application and many of the points that the medical representatives have made are actually very true. MESCE said that there is a stigma to mental health and people know he worked for many years to try to do away with that stigma therefore totally supporting the concept.

MESCE thought that the location, close to a garden in a quiet area of Gibraltar is actually a good location and said he could not oppose this application because he knows how much this is needed in the community, and therefore, with some reluctance, but with confidence that he thought we are doing the right thing. MESCE said he is going to support the application.

MHYS said he agreed with the comments made by MESCE and referred to TD’s earlier comment and believed that Minister Albert Isola did respond to the objector on behalf of the other Ministers. MHYS said that he did not agree that it is a significant change of use as this is a residential property and is being used to give residential accommodation to people who are in a halfway house. He added that it is important that people with mental health issues are not stigmatised, or institutionalized. MYHS felt this project had not been adequately handled or prepared and should have gone through the planning first. He added that the fact that things have not been prepared properly should not detract from the principle of the idea, as he believes the idea is a perfect one.

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MHYS supported the idea and is in favour of this happening. He added that he hoped that the community around it would embrace it and support it.

JH said the Ministers have replied to the comments that she raised and they were perfectly entitled to do that. She said her views were not just ideological or opinions as the Commission was talking about the nature of the building and the permission for that building use, which, although it is residential, it is being run by a business and therefore implies other connotations. JH added that the change of use, although residential, would have a very different physical impact on the use of the house, to being a family residence. That is one planning point.

JH also thought that a valid point was that the change of use started happening way back in the year and residents in the area raised concerns, which are being considered now. JH asked why this was being considered now as opposed to earlier on in the year. JH said that the Ministers have said that if the e-mail was addressed to everybody, the one who answers is the main one but she understood that the objector has said that he was told that that Minister was not the Minister for Planning. She added that if that is the answer that the objector received when contacting Government, she thinks they have every right to continue to feel the resentment, worry, and concern that they have in terms of the process that has been followed. JH believed that is why the DPC is here to support and “pull” for the best planning processes. JH stated that many of the concerns that they are raising are planning issues and not ideological, and they are certainly not against improving the state of mental care and support for all of us.

The Chairman said that, as planners, we regret the situation we find ourselves in. Other than issuing a Stoppage Order on the use of the premises because of Covid-19 and the delicate situation of the halfway house this wasn't proceeded with. It would have meant going to Court and pursuing the eviction of its residents without a DPC decision. The planners have to take a balanced view of the situation and allow applicants to express themselves just as we do with other private applications. We allow the applicant to present their views and if the Commission feels, otherwise we take decisions accordingly. The Chairman also said that the Commission has sometimes refused retrospective applications and on other occasions, they have approved retrospective applications because of the merits of the application. The Chairman stated that it is irrelevant to planning whether the applicant is private or public and the planning process is based on the merits of the application, not the nature of the applicants.

The Chairman said that the fact that it has been used over this period of time, maybe allows for a period of reflection for members of the Commission to evaluate what has happened, to evaluate the use and now may be able to take a more informative decision of the situation. The Chairman concluded by saying that we have had views against from the residents immediately opposite, views supporting it by the actual occupants, and members of Commission expressing their views.

The Chairman asked the members of the Commission take a decision on the approval or rejection of the application as submitted as a halfway house for residents to be able to live within the community.

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In Favour        -5  
Abstention      -4  
Against          -

The application was approved by majority vote.

The Chairman invited the Town Planning Assistant, Mr Christopher Key (CK), to address the Commission on Item 5.

**493/20–F/17049/20- Europa Business Centre and Old Power Station, Chimney Corner, Dockyard -- Proposed refurbishment of three areas of the dockyard for use as workshops and storage.**

CK explained that this is a full application for the refurbishment and re-modelling of three warehouses in the dockyard. He said it is an extension of Bassadone Motor’s assets and added that they have been doing works over the last few years, in the dockyard, to establish what they are calling Bassadone Automotive World. CK referred to the drawings shown on screen and briefed the Commission on the warehouse which has already been refurbished and re-modelled, the adjacent warehouse and the headquarters building, which is nearing completion. CK said the proposed work are for the two warehouses in the Europa Business Center and the warehouse, which used to be the old MOD power station.

CK said the access to the site is by the existing access and there are 10 existing car parking spaces on site, which are going to be retained as part of the works. CK said that in general, the scope of works basically involves the restoration of the external facades and the reinstatement of the original features of the external parts of the warehouses, cleaning stonework, reopening previously blocked up openings, replacing the windows of the buildings to match how they were existing but with the detailing and profiles to that which was agreed within the Bassadone Automotive World first phase within that warehouse. CK said these requirements had been previously agreed by the Ministry of Heritage and the Gibraltar Heritage Trust (GHT), and retaining the existing steel work and historical features within the existing warehouses to basically enable the telling of the history.

CK said that in zone 1, they are retaining the existing roof and the photovoltaic panels, which are already installed on the roof, and they are including a new mezzanine level to maximize the use of space inside the unit. He said that in zone 2, they are increasing the size of the existing mezzanine level and are replacing the roof with an insulated roof, which will also include photovoltaic panels and polycarbonate roof lights. CK included that they will also be providing natural ventilation on the ridgelines on each of the pitches of the roof. CK said that in zone 3, which is the old power station, they are changing the roof as per zone 2 with the photovoltaic panels and the polycarbonate roof lights and the ventilation. CK added that they are demolishing one of the outbuildings which does not have any heritage value. They are also providing a carwash facility and reusing the small outbuildings on the outside of the building for office use.

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CK said that the applicant has submitted supporting information such as a detailed sustainability statement and have indicated that they expect to achieve energy performance level 'B' as per Bassadone Automotive World One. They have also provided locations for swift boxes, which have been agreed with at the DOE and they have instructions to carry out bat and bird surveys that will take place at a time closer to the commencement of the development should it be granted consent.

CK said that in terms of feedback from consultees, the DOE have confirmed that they require predictive EPCs as standard and welcome the applicants commitment to make full use of low energy lighting, maximizing natural ventilation, providing the best insulation system and also acknowledge that the challenges that the applicant will face in carrying out the works of this nature in historic buildings. DOE also welcome the use of photovoltaic panels, although they require details of capacity before the installation and require electric vehicle charging points for the car parking spaces in accordance with the regulations. CK added that the DOE confirmed they have agreed to the locations of the swift boxes and that they have confirmed that no works the roof should take place during breeding season.

CK said the Ministry for Heritage have confirmed that they have no significant heritage concerns, and they welcome the applicant's commitment to these sensitive external and internal refurbishment proposals as had occurred in the adjacent site. CK added that they recommend that a pre-renovation photographic record is undertaken before works commence.

CK said that the Traffic Commission have requested that a pavement is provided by the entrance to enable safe use and passage of pedestrians along Queensway and also required the details of sight lines and turning circles to be finalised. CK added that the Director of Civil Aviation, the World Heritage Office and the TSD have confirmed that they have no objections. The application has been subject to public participation and no representations have been received.

CK said that in terms of the TDP's overall assessment, they consider this a sensitive refurbishment and conversion of the buildings and do not have any planning objections to the works that have been proposed. CK said they also welcome that the applicant has liaised closely with the TDP as well as heritage and environment before submitting the proposals, which has meant that any issues have been able to be ironed out well in advance of this meeting. CK said the TDP recommends approval of the application but would require the details of the pavements and turning circle to be submitted for approval prior to permission being issued.

The Chairman asked the members for their questions. There were no questions.

The Chairman moved to approve the application unanimously with the planning recommendations in the report.

There were no abstentions or objections lodged and the application was unanimously approved.

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**494/20–F/17050/20-15b Northview Terrace -- Proposed re-routing of existing kitchen extract vent from east facade to north facade.**

DTP said that this is a full application in respect of rerouting from its eastern facade to the north facade an existing kitchen extract, which serves the current takeaway premises. DTP said that there have been objections to the application and the objectors will be addressing the Commission.

DTP explained that the site is a ground floor unit at North View Terraces and at the moment, the kitchen extract vents out on the to the left of the building fronting on to the site of the Forbes development, which is under construction. The Forbes development will block up the existing vent. The proposal is to relocate it to the front of the building through the fascia shop sign with a grill screening it. DTP said that there had been a previous proposal to site it further towards the right, closer to the main entrance to North View Terraces but there were strong objections from the management company. DTP said that because of the objections, they revised the scheme to locate it within the shop facade.

The Chairman invited the first objector, Mrs Tony Nice (TN) to address the Commission.

TN explained that she is the owner of a property in North View Terraces, which is currently rented to a young family. She said she had concerns about the odours and noise that can emanate from these fans, being dragged into the atrium that is in very close proximity. TN said that she been in the property when those fumes have been pulled into the atrium, and it acts as a chimney effect. TN added that its current location was originally determined to be the most suitable. If it was a problem for the Forbes development, then surely the surveyors should have picked this up and they should have addressed the situation beforehand. She said she saw no reason why it cannot stay where it is, if the Forbes developers had to change their development in order to accommodate it, then that is entirely up to them.

TN urged the TDP to refuse the application, as the impact of it will have on the residents of North View Terraces was inappropriate. TN noted that she tried to obtain a copy of the original application, and advised by the TDP to request a copy from the applicant. She also asked North View Terrace Management and Savills, who are the managing agent for the shop, and did not have the decency of reply.

The Chairman asked the members for any comments for the objector. No questions were asked. The Chairman mentioned that the need to relocate the vent was not coming from the planners but resulted from disagreement between landlords to accommodate the vent where it is. As a result the Commission now needs to consider the applicant's submission for the alternative vent solution, and that is what is being discussed today.

The Chairman invited the next objector Mrs Jackie Anderson (JA) to address the Commission.

JA said that North View Terrace Management consulted with all the residents of the estate, when the proposals were put across, to gauge their opinion. She said almost every single person that returned the

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consultation document, was very much against the relocation to that specific location with the reasons being, the extraction fumes and the smells that it would carry, too close to the entrance of the estate, and the chimney effect. JA said quite a large number of apartments would be affected, not least, the people living directly above the shop, who already do notice smells coming from the existing vent.

JA wanted to put across the fact that the facade of the building, which has to be penetrated in order to install the vent, belongs to the management company. She said the management company had not been approached formerly at all by the holder of the under lease of those premises, who is not the applicant. JA said the applicant rents the property from the lessor and the management company at this point in time, given the location and the disruption that it believes it will cause to other residents, is not at all minded to grant any permission for that facade to be penetrated or the works to be carried out on their property.

JA concluded by stating that the management company is concerned about having the heat, the vent and the ovens all going upwards into apartment number one, and believe that it is just completely unacceptable. She added that the management company believes quite strongly that there are alternative locations for the vent and this is something that that needs to be reviewed and needs to be worked on. JA stated that the management company believes quite strongly that this proposal should not be allowed.

The Chairman asked the members for their comments questions for the objector. No questions were asked.

DTP confirmed that the applicant did not request to address the Commission.

DTP moved on to the planning report and said that there were no specific comments to report on from any of the departments that were consulted. DTP said that the TDP did not have any objection on the design aspect of the vent and stated that this type of installation has been permitted in other facilities elsewhere. DTP said that their view is that there is a very real potential for a nuisance to be caused by extracting in this particular location. DTP referred to earlier comments about the fact that the wind creates a tunnel effect, which brings fumes up the atrium.

DTP said the TDP's particular concern is the proximity to the windows of flat one, which is on the first floor immediately above the property. He said the vent is probably within a metre of the window and felt that there is going to be a nuisance caused by extraction from that particular point. DTP recommended that the application is deferred to allow the applicant to seek an alternative solution to the venting and if an acceptable location is found, then he suggested that the revised design could be dealt with by the Subcommittee, assuming there are no further objections to that.

JH pointed out that in many of these mixed, restaurant type residential situations, the Environment Agency is firmly the driver here who assesses the dispersal of fumes from industrial-type ovens and other equipment. JH said that rather than just defer, it should really, be driven by the Environmental Agency's recommendations, if indeed, venting of any kind from the roadside is possible. JH said that the Environmental Agency should be instrumental in making any other suggestions.

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The Chairman informed the Commission that the Environmental Agency have not objected to the proposal. The Chairman said the reason for recommending deferral is so that the applicant has an opportunity to find alternative solutions, which will meet the Environmental Agency's responsibilities on nuisance to the amenity of the neighbourhood and will not affect the owners of the property as well.

JH said that she was very surprised that the Agency will not have submitted concerns to the TDP, in which case, she will lodge an objection, instead of a deferral because they do not think that the right process has been followed.

MESCE said that the Environmental Agency, which acts independently, has not raised an objection, and as such, he does not know whether that means that, the right procedure has not been followed as suggested by JH. MESCE said that he would support the deferral of the application because it may lead to agreements, which will then presumably be a better solution, which the Environmental Agency, again would not object to. MESCE added that it is better than dealing with it without having given the opportunity for every alternative to be considered. MESCE said he supported the deferral of the application.

The Chairman said that the application has gone through the proper processes. He said the Environmental Agency had been consulted along with other consultees in the normal procedure for takeaways. The Chairman said the landlords were also informed hence the representations heard during the meeting and the fact that the Environmental Agency have not objected is because this type of solution successfully exists elsewhere. The Chairman added that the DPC is trying to be proactive as opposed to reactive in the situation.

JH said that she supported the residents and their objections. JH added that we commonly see flues applied to heavy cooking premises to disperse the emissions elsewhere and that is why she is concerned. She added that she would like to hear more from the Agency about these issues.

The Chairman asked the members of the Commission to allow a deferral so this can be investigated and then report back to the Commission. He added that if there were objections to any alternative solution, the objectors would be heard once again.

The application was deferred.

**495/20–F/17105/20- 201 Peninsular Heights -- Proposed partial enclosure of terrace with conservatory structure and pergola.**

DTP said that this is a full planning application. He said the application is for the partial enclosure of a terrace by a conservatory together with the construction of a pergola. DTP said the apartment in question is a podium level apartment and has perimeter planting, which separates the private terrace from the communal area of the podium.

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DTP said the proposal is to construct a timber pergola on the southwest part of the terrace together with a timber trellis around the edge of it and the second part of the application is the enclosure with a white framed conservatory-type structure located on the northwest corner of the terrace.

DTP said the Technical Services Department had an architectural objection to the pergola in respect to the choice of finish, which they felt was detrimental to the existing architectural features of the property. DTP said there were no other comments to report on from the other departments/ consultees consulted.

DTP said that there are various pergolas existing already and there have been quite a few of the circular balconies on the upper levels of the building enclosed with glass curtains. DTP said that the TDP had no planning objection to the pergola itself, subject to the final colour finish to be agreed. DTP added that there are other existing timber fences on the property, which are darker in colour to this one. DTP said they would be seeking to ensure that it complies with the colourscheme in keeping with the character of the building.

DTP said that in terms of the conservatory, it would be visible from various viewpoints. TDP's concern is that it will be clearly seen as an add-on that is not in keeping with the architectural form and character of this building. DTP considered that it would set a precedent for future similar applications, which could occur throughout the podium area. DTP added that if all those kind of constructions were allowed throughout the podium, they would have a significant detrimental impact on the building. DTP said the TDP consider that if the applicant limited the enclosure to just the circular balcony area below the circular balcony of the first floor apartment, that it would be much more in keeping as it would be seen in the context of the enclosed balconies on the upper levels. DTP added that there would be minimal visual impact in that situation.

DTP recommended that the DPC defer this decision on this application and invite the applicant to revise their proposals in line with that recommendation. DTP added that assuming that they do so, it was suggested that the application be dealt with by the Subcommittee.

The Chairman recommended deferral of the application so that the applicant may consider a reduced scale conservatory.

The application was deferred.

### **496/20–F/17139/20- Albert Risso House Roof, Waterport Terraces – 5G radio equipment deployment.**

DTP said that this is a full application and is another of the 5G applications. DTP said the application is for the installation of two 5G antennas on the roof Albert Risso House, pointing west and east. DTP said the new antennas are to be located on existing masts situated on the roof. Gibtelecom have confirmed that they are within the ICNIRP level thresholds. DTP said the Environmental Safety Group (ESG) has raised objections to this and have requested to address the Commission on this particular application. DTP added that Mr Jensen Reyes (JR) from Gibtelecom is available to answer any questions.



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DTP invited Mr Steven Barea (SB) to address the Commission on behalf of ESG.

SB said that the main ESG objection is that this particular site is quite unique in the sense that it is perhaps the only site in Gibraltar where the residents, opposite the antenna, live about 16 to 17 metres away. SB referred to the presentation that Gibtelecom provided where they give you an exposure reading between 25, 50 and 100 meters. SB said that ESG worked out the exposure levels at 17 meters and it was really somewhere in the region of 91% of the ICNIRP level, which they feel is excessively much.

SB said that perhaps an alternative site that would ensure that any particular residence is at least 50 metres away, which is what happens normally throughout all the other sites in Gibraltar, would be more suitable. SB explained that particular dwellings within the area of the site itself are going to be exposed to continuous scanning thousands of times per second 24 hours a day 7 days a week. SB said the ESG was very strongly concerned.

The Chairman asked SB if alternative potential sites had been suggested to Gibtelecom.

SB said that they had not advised the applicant on alternative sites. SB explained that the new 5G system is quite autonomous and is not one big beam. He explained that the system continuously scans from left to right and up and down completely. SB suggested the relocation of the antenna perhaps to the opposite building, which is Waterport Place, where they will find that the distance to the nearest residence is far more than 50 metres, and is confident the infrastructure of the building, regarding fibre optics, should be up to standard.

The Chairman asked the members of the Commission for their comments for SB. No questions were asked.

The Chairman invited JS to respond.

JR said that Waterport Place was considered around five years back and was not deemed viable for exactly the same reasons. JR said that this relocation would only gain an additional 5 to 10 metres in distance and that in order to provide service to the dwellings that are below, not just the azimuth but the tilt of the antenna would have to be directly pointing at those houses. JR added that they were not really gaining anything from a radio frequency and power mission perspective.

JR said that the ICNIRP levels may be at 90% in theory but said that in practice they are more likely to be at about 40% at its peak. JR added that if SB wants to lobby the Gibraltar Regulatory Authority (GRA) so that they can impose some more stringent measures, then he could happily do that.

The Chairman asked JR that although this was discussed four or five years ago, the members of the Commission may have changed and so a reappraisal of Waterport Place may benefit the discussion. He asked JR to confirm the difference of distance.

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JR said that he believed that the difference of distance was actually less than 20 metres but did not have this as a fact. JR added that he would provide the information post meeting.

The Chairman asked the members for their comments.

GM said that SB presented the argument that according to the figures, which are published by Gibtelecom and because of the proximity of the residences, the ICNIRP levels reach a 90% scenario. GM said that JR claimed that the levels go down to 40%. GM asked for clarification on the matter.

JR said that the figures that are presented are theoretical maximum figures that are calculated in what they call a vacuum. JR explained that if you were propagating signals from the antenna into a vacuum, the maximum amount of power would be 90% of the maximum allowed. JR said that in practice, you have cables, you have connectors, you have air, and there are many other attenuators that decrease the signal. JR further explained that 5G uses a process called time division multiplexing and what happens is that for approximately two thirds of the time, it is transmitting, and for one third of the time it is receiving. JR added that the system would only ever transmit at ultimately 60% of the maximum power.

The Chairman asked JR if Gibtelecom were obliged to present to the GRA continuous data flows on their outputs once in operation.

JR confirmed that in fact, the GRA do perform tests. He said that the frequency of these tests was up to the GRA but believed that they do perform bi-annual tests on every single one of their sites. JR said that once the antennas are emitting, GRA have their own equipment and at no days' notice, they monitor every single one of Gibtelecom's sites without them knowing.

GM asked JR to expand on how the system operates as he was unsure how the ICNIRP levels could be at 40% when SB claims that the system is emitting 24 hours a day.

JR explained that the system is actually emitting on a 24-hour basis, otherwise, mobile phones and telephones would not be able to be used. JR explained that if you look at it in a slightly more granular level, the system is emitting 60% of the time. He said that if you take a second, out of that second, it would be transmitting for 60% of that second and receiving 40% of that second.

KDS asked whether the matters that were being discussed were planning matters, or matters for GRA to consider as he thought they were moving away from the subject.

The Chairman confirmed that it was a planning matter as long it is found to be affecting the amenity of an area for residents. The Chairman said that they were trying to determine if this was the case, in terms of the situation where it is located. . The Chairman said that the controlling mechanism comes from the GRA itself and whether it impinges on standards of radiation or not. DPC needs to determine that all sites have

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been studied and the one chosen is acceptable as suitable location with no adverse negative effects on the neighbourhood.

JH added that although it does seem laborious to keep going over 5G applications, it is a recent evolution of technology and these kind of increases in this technology only come around every few years. JH said that out of the 22 applications submitted, this is the one that they have firm objections to. JH stated that the public have a right to hear the details of what is being considered in this application from the technical people and appreciate why those health concerns exists. JH asked the Chairman whether SB could also answer the questions that GM had asked.

SB wanted to point out that the GRA does conduct their measurements every two years, which means that if there is anything wrong after they have taken the measurements, they will not find out until two years later. SB said that they occasionally do random tests and they go on a yearly basis. SB wished to point out that nobody knows how to properly test 5G. He said it is a big issue in Europe and does not see how Gibraltar has finally found a solution.

DTP made the members of the Commission aware of a comment from the Director of Civil Aviation, because there is a potential for these antennas to interfere with the airport radars. DTP said that there would be a requirement for Gibtelecom to satisfy the airport authorities that this will not interfere with the radar, and if approved, would need to be a condition on the Planning Permission.

The Chairman moved to vote on the application subject to approval and the condition to satisfy the airport authorities.

In favour	- 6
Abstention	- 0
Against	- 3

It was recorded that Minister Cortes had given his apologies and was absent from this part of the meeting.

The applications was approved by majority vote.

### **497/20–F/17172/20-6-8 Hospital Steps – proposed extension to property and associated works.**

DTP said that is a full application for the extension to a property together with associated works. DTP reminded the Commission that there have been previous applications on this site. DTP added that in December 2019, the Commission refused the application which was for a part-one and part-two storey extension with an access through Hospital Hill. He said the application was refused mainly due to the loss of the public panoramic views of the town and the Bay of Gibraltar from this site, the massing of the extension and the fact that the eastern facade was not found to be in keeping with the surrounding area. DTP said that they have had substantial discussions with the applicant and have tried to advise them on

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what they considered would be acceptable. DTP said the applicant had taken on board many of our comments, which has led to the submission of this revised application.

DTP said the revised application is to provide a self-contained, three bedroom dwelling. DTP said that they have addressed their concerns about the height and the massing of the building by proposing to lower the existing floor to ceiling heights and they are proposing to construct an additional storey over the existing floor plate, which would form the second floor of the proposal. DTP added that they would also have vehicle access from Hospital Hill as in the previous case.

DTP said that on the upper floor, at the south end of the property, there would be a second additional storey, with access to a green roof, which is the roof over the second floor extension. He added that on top of the southern end of the building, would be a pitched roof. DTP said that the remainder of the extension is hidden below the height of the existing boundary wall thereby maintaining the public open views across the Bay, which was one of the main concerns with the previous proposal.

DTP said the DOE had its standard conditions and there were no other comments really to report on other than the Ministry for Traffic, which has confirmed that they are concerned with the vehicle access because of the resultant loss of the pickup and drop off point, and would also require technical details of the access in and out of that parking area.

DTP added that the proposed fenestration aligns with that below and incorporated shutters into the scheme.

DTP informed the Commission that the application was subject to public participation with no objections received. There was an objection from an adjacent owner stating that the proposal was encroaching into his property. The objector also felt that it had a negative impact on the character of the existing building, and that the application would result in the loss of the panoramic view and enclosure of what they refer to as a historical plaza at the ex-hospital. DTP reported that the objector also thought the proposal would have an impact on the views of the façade of the ex-hospital.

DTP said the applicant submitted counter representations, confirming that all the proposed extensions were within the lease area and that the objectors building was taller than the proposal, and the fact that they had restricted most of the building to below the parapet wall on Hospital Hill to ensure that the panoramic views were well maintained. DTP said that the TDP have in put a lot of effort into working with the applicant to try to address the concerns that were raised by the DPC. He said the extension is now much more in keeping with the host building in terms of the window proportions, shutters, building alignment and introduction of floor bands. DTP stated that the TDP's view was that the extension does fit into the character of the building and surrounding area and with the majority of the extension being below the boundary wall on Hospital Hill meaning that the public vistas are largely retained.

DTP said that the two storey extension at the southern end is found to be acceptable when you consider its context in terms of the other taller buildings that are in the area already and the visual impact is much less

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than the previous proposals. DTP said that in terms of the new vehicular access, they are still awaiting the comments from the Traffic Commission. DTP said that if the Traffic Commission do have objections in terms of the pickup and drop off, and there is no alternative solution, then they would suggest that the car parking requirement be waived for this proposal. DTP recommended approval of the application subject to clearance from the Traffic Commission, before we issue the permission with a waiver of the car parking, if that cannot be resolved because of any comments from the Traffic Commission.

CAM said that the changes have improved and brought it lower. CAM asked DTP if the owner would be occupying the extension or whether the property is to be subdivided for other use.

DTP said that he believed that it is a member of the family who wants to build the additional story above as his family home, but confirmed that the extension is a standalone and will be a separate dwelling.

GM said he just wanted to endorse DTP's and CAM's comments and noted that this is a marked improvement to the previously submitted schemes.

The Chairman asked the members for further comments. No questions were asked. The Chairman then moved to approve the application unanimously subject to the requirements from the Traffic Commission on the car parking provision.

JH added that although she could see the improvements, given the situation and busy nature of the area, she could not support this encroachment on the landscape. JH said that she would be abstaining.

The Chairman then moved to vote.

In Favour	-7
Abstention	-3
Against	-0

The application was approved by majority vote.

### **498/20—MA/16928/20- The Cornwall's Centre, Bell Lane/Cornwall's Parade -- Proposed extensions and alterations to ground floor commercial units.**

DTP said that this is a minor amendment application to a permission that has already been granted at the Cornwall Centre. DTP explained that reason it is being considered at DPC is because there was one element, which is the introduction of awnings to the first floor level windows, which the Subcommittee did not agree with. DTP said the proposal was for the introduction of awnings on first floor window levels. He said the windows in question are internally bricked up and the applicant in this case wanted to screen them.

DTP said that the Subcommittee's view was that these awnings did not respect the character of the building as at this level. The building has arched windows, which respects the character of the original building that

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used to exist on the site and is an important architectural feature. DTP added that the introduction of these square awnings were not considered appropriate. DTP said that the TDP suggested the use of vinyl to the windows as an alternative but the applicant countered that the windows did not belong to them and they had no right to obscure them.

DTP understood that the applicant went ahead and installed the awnings on the basis of testing to see whether the Commission would approve them. DTP said that the TDP's assessment of the application remains as per the Subcommittee's decision and felt that the awnings do not respect the character of the building, and that they actually destroy that particular feature.

DTP said the Subcommittee remained of the view that these awnings should not be approved, and that the applicant should consider alternative methods. DTP recommended refusal to this element of the application.

The Chairman informed that there is written comment from a member of the Commission, Mr Carl Viagas (CV) who was not present. The Chairman said that CV wrote to all of the members highlighting the problem that the wall on side of the development near the Paparazzi restaurant has caused an obstruction to views of oncoming traffic. The Chairman said CV wished to have this recorded because it has been expressed by the TSD Highways Section that vehicles coming up the hill from Cornwall's Lane, are not able to view into traffic from the north of Cornwall's Parade and a head on collision could materialise. The Chairman added that this is a technical reason to object to the raising of the wall to replace the originally approved railings.

MHYS said those years back, the Paparazzi restaurant were not allowed to raise the wall that is currently raised and there now.

The Chairman made reference to the photos shown on screen and said that the wall, as seen on the screen, which is on the left hand side was built by Paparazzi and was regularised with the approval of a proposed hotel in an application submitted by the owners of the whole building, which is still active. The Chairman said the applicants have the right to continue with the construction of the hotel.

JH said that she shared MHYS's view and that the wall had been refused originally permission. JH added that they constructed it anyway and never took it down.

The Chairman said that the view recorded by the Commission when it considered the hotel application was to approve the plans with the wall as built.

The Chairman asked the members of the Commission if they accepted the Subcommittee's views in which case two items, the wall and the awnings, are refused. No further comments were made.

The application for the wall and awnings was unanimously refused.

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

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

DTP moved on to the remaining items 11, 12, 13 and 14 and advised that they were all recommended for approval.

### **499/20 -- F/16732/20 - Ocean Views, Hillside Centre, Europa Road – Photovoltaic design installation at existing roof level.**

This application was approved.

### **500/20 -- MA/16737/20 - Europarking, Europort Avenue -- Proposed mix use development comprising 337 residential units in three towers with associated retail and commercial space, vehicular access car parking motorcycle and cycle parking amenity areas landscaping and public realm.**

This application was approved.

### **501/20 -- O/16794/20 - The Arches, Castle Road -- Proposed enclosure of existing terraces/balconies with 3 Options:**

1. Bi-fold glass curtains;
2. Vertical awnings to arches; and
3. Awnings to penthouses

CAM said that they had considered the three options provided but would favour not to have glass but rather to keep with awnings as they have with other similar buildings of the period.

DTP noted CAM's comments and said that the TDP's view was that it would not really have much of a visual impact on the property. DTP said the reason they recommended all three options is because some owners may want both awnings and glass curtains and/ or want just an awning and others might just want a glass curtain. DTP said that the third option was specific to the penthouses, which is just a retractable awning.

CAM said that in regards to the penthouses, it was not an issue but other buildings that are of this period and this type maintain their arches. CAM referred to Calpe Barracks, which have material awnings as opposed to introducing the glass curtain or the alternative. CAM added that then, it will stop to function as an exterior space and you will start to get encroachment.

JH concurred with CAM's comments.

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The Chairman moved to take a vote on Item 13 as supported by planners, which meant that all three options are possible for the tenants or owners.

In Favour        -5  
Abstentions    -0  
Against           -4

The application was approved by majority vote.

**502/20 -- 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.**

GM sought clarification on items 12 (MA/16737/20) and 14 (F/16972/20).

DTP said that Items 12 and 14 were the same. He said they were applications for relaxation in relation to the provision of a lobby between a bathroom and living area, which it is understood are currently required under the Building Regulations. DTP said that the Building Control Officer assessed it and the outcome of his assessment was that the current regulations are very antiquated, and that the more modern regulations do allow for the opening up between the bathroom and the living area, if they have adequate means of ventilation of the bathroom area. DTP said the Building Control Officer's recommendation in both cases was to allow the relaxation.

GM asked to clarify that there were no amendments to the external facades of the new buildings.

DTP clarified that this was not the case.

Items, 1both applications were unanimously approved.

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

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

**503/20 -- F/14918/17 - 6-12 Cannon Lane -- Proposed five storey retail/office building comprising open plan retail space at ground and first floor level and office space at second, third & fourth floor levels.**

**504/20 -- F/15003/17 - Flat 6, 244 Main Street -- Proposed internal alterations.**

**505/20 -- F/15257/17 - Unit A George Jaeger House, Glacis Estate -- Proposed change of use from post office to cafeteria and associated internal alterations.**



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506/20 -- F/15611/18 - 3 Boschetti's Steps -- Proposed extension, new swimming pool and refurbishment works to residence.

507/20 -- F/16169/19G - Currey, Pelham and Cheshire House, Acland Avenue, Buena Vista Estate -- Proposed external repairs including roof waterproofing, external wall insulated render system and renewal of balustrades.

508/20 -- F/16724/20 - 48-50 Prince Edward's Road -- Proposed refurbishment of building including construction of two-storey extension.

509/20 -- F/16747/20 - Marble Arc, 7 Cooperage Lane -- Proposed installation of canopies to shopfront.

510/20 -- F/16937/20 - House 2 Calpe Barracks, Calpe Road -- Proposed loft conversion, installation of two skylights, conversion of window to door at ground level to provide a new access doorway to the rear patio and regularization of the existing north boundary wall within patio.

511/20 -- F/16948/20 - House 5, 8 Naval Hospital Hill -- Proposed extension, alterations and refurbishment of property.

512/20 -- F/16995/206 - Carter House, 27 Naval Hospital Road -- Proposed replacement of existing terrace gate.

513/20 -- F/17016/20 - Villa D5 Buena Vista, 40 Europa Road -- Proposed installation of pergola.

514/20 -- F/17059/20 - House 5, 1 South Pavilion Road -- Proposed extension and alterations to residence and patio areas.

515/20 -- F/17083/20 - The Ship, Marina Bay -- Proposed replacement of existing 250x250 extraction duct with new 350x350 extraction duct.

516/20 -- F/17107/20 - Flat 16, 11 Palace Gulley -- Proposed internal refurbishment and single storey extension with access to roof terrace including pergola.

517/20 -- F/17122/20 - Garage Y, Northview Terrace Devil's Tower Road -- Proposed installation of window to garage.

518/20 -- F/17126/201 - The Arches, Hospital Hill -- Proposed enclosure of ground floor patio with glass roof in internal atrium.

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519/20 -- F/17127/20 - 7 The Arches, Hospital Hill -- Proposed enclosure of ground floor patio with glass roof in internal atrium.

520/20 -- F/17145/20 - 16 Lower Castle Road -- Proposed internal refurbishment including installation of door on façade of building.

521/20 -- F/17146/20 - 8 Admiral's Place, Naval Hospital Road -- Proposed installation of sky light over staircase.

522/20 -- F/17150/20 - Unit G7, International Commercial Centre -- Proposed change of use from Class A3 (restaurant) to Class A1 (retail).

523/20 -- F/17154/20 - 108 Peninsular Heights -- Proposed installation of glass curtains.

524/20 -- F/17158/20 - 807 West One, Europort Road -- Proposed installation of glass curtains.

525/20 -- F/17161/20 - 36 Iberis House, West View Park -- Proposed installation of glass curtains.

526/20 -- F/17162/20 - Apt 302, Block 2 Europlaza -- Proposed installation of glass curtains.

527/20 -- F/17171/20 - 10/16 Town Range -- Proposed change of use of storage room to educational use.

528/20 -- F/17174/20 - 7.02 - 7.03 Imperial Ocean Plaza -- Proposed safety improvements to balcony glazing comprising of installation of suspended glass panels above existing handrail glass.

529/20 -- F/17176/20 - 1003 Water Lilly, Ocean Spa Plaza -- Proposed installation of glass curtains.

530/20 -- F/17197/20 - 321 Main Street -- Proposed removal of existing glass external panel and construction of a brick wall to create new enclosure to house an ATM.

531/20 -- D/17131/20 - Pier 3 And 4, Marina Bay Marina -- Proposed demolition of concrete piers 3 and 4 and removal of the steel piles.

532/20 -- A/17163/20 - Unit 2, 3 Ellicott House, 1 Town Range -- Proposed installation of shop sign.

533/20 -- N/16981/20 - Engineer Lane Car Park -- Proposed removal of two dead trees.

*This application sought permission to remove two x small dead trees, the species of which is undetermined, which are leaning and could fall onto the adjacent street. It was considered that the trees should be removed as the maintenance of these trees is difficult in this location and that they should be replaced with a row of large, flowering shrubs such as Nerium oleander, which are considered to be more suitable for this location.*

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### **534/20 -- N/17108/20 - Rosia Court -- Proposed pruning of Jacaranda mimosifolia.**

*This application sought to reduce the crown of a fairly large and mature Jacaranda mimosifolia of good form which upon inspection showed signs of past pruning with a few of the limbs looking weak. It was considered that some of the branches consisted of softer, secondary growth and these were more likely to fall with strong winds and that management of the crown would mitigate against this. In view of this, it was recommended that the crown should be reduced and that a management plan should be instituted so that the tree is pruned regularly.*

### **535/20 -- N/17109/20 - 4 Gardiners Road -- Proposed pollarding of two Wild Olives.**

*This application sought to pollard two x mature Wild Olives of reasonable form that have been pollard repeatedly every two to three years in the past. It was considered that the trees require regular management as part of a maintenance programme and recommended to pollard back to the knuckles of the previous pollards and allow pollarding every two to three years as part of routine management.*

### **536/20 -- MA/17151/20 - 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.**

### **537/20 -- MA/17157/20 - Ex Ready Mix Site, Devil's Tower Road -- Proposed mixed-use multi storey development.**

### **538/20 -- MA/17165/20G - 9A Catalan Bay Road -- Proposed changes to existing boundary wall, construction of new boundary walls and aggregate storage bins.**

### **539/20 -- MA/17182/20 - Substation Line Wall Road (Next To Capurro Garage) -- Temporary substation bypass for upgrade of internal switchgear and transformer.**

### **540/20 -- Any other business**

There was no other business.

### **541/20 -- Next Meeting**

Next meeting to be held on the 28<sup>th</sup> January 2021

The Chairman thanked the members of the Commission for their tolerance in the virtual meetings during the whole year and wished the members a good and safe Christmas and a Happy New Year.