

Minutes of the Executive Council in Planning Meeting held on Tuesday 23 July 2024 at
9:30am in the Council Chamber

Present: His Excellency the Governor (Mr N J Phillips CBE)
The Hon Chief Minister/Minister Education, Skills & Employment (Mrs J D Thomas)
The Hon Acting Attorney General (Mr Simon Dykes)
The Hon Minister Treasury & Economic Development (Mr M A Brooks)
The Hon Minister Health & Social Care (Mr M D Henry)
The Hon Minister Environment, Natural Resources & Planning (Ms C L Scipio)
The Hon Minister Safety, Security & Home Affairs (Mr J R Ellick)

In attendance: Mrs Wendy Benjamin – for minute taking purposes
The Financial Secretary (Mr D L Richards)
Chief Secretary (Mrs S O'Bey)
Head of Governor's Office (Mrs T Harris)
Press Media Officer (Mrs J Drabble)
Chief Planning Officer (Ms P Coyle)
Planning Officer (Mr S Williams)

Overseas: The Hon Attorney General (Mr D F Ballantyne)
Secretary to Executive Council (Mrs Natasha Bargo)

OPEN SESSION

9.1 Welcome

The Governor welcomed all present at the meeting which included 2 members of the public.

The Chief Planning Officer, Ms Patricia Coyle and Planning Officer, Mr Shane Williams, were present at the start of the meeting in readiness for Item 2 and Item 3 of the agenda: Amendments to Rupert's Container Handling Facilities (approval 2020/41), Lower Rupert's, Rupert's Valley (ECIP Memo 01/2024) and Retrospective Application for Installation of Fence at St Helena Coffee Shop (ECIP Memo 02/2024), respectively.

9.2 Declarations of Conflict of Interest

There were no declarations of interest.

9.3 Amendment to Rupert's Container Handling Facilities (ECIP Memo 01/2024)

The Minister for Environment, Natural Resources & Planning (ENRP) introduced and gave a brief overview of the background to the Rupert's Container Facilities. This had been referred to Executive Council by the Land Planning and Development Control Authority (LDCA) previously and approved under Planning Reference 2020/41. It had been referred by the Chief Planning Officer in June 2022 as the proposed development was within 50 metres of the sea. The previous application was not originally signed for permanent use and the modifications that were planned were to make these facilities permanent.

The Minister for ENRP then thanked and introduced the Chief Planning Officer (CPO) and initiated introductions to all members. Following this the CPO and Planning Officer (PO) were invited to present to Members, the modifications that were planned.

The key changes were outlined in detail through the presentation and in documentation shared with members titled 01-2024 Planning Officer's Report – Container Handling Facilities.

In summary, the proposed changes intended to make the facilities fit for purpose to cater for permanent operations rather than the current practice of working the area for 14 days per month and to cater for the increase in staff from 19 persons to 34. To facilitate this, changes to the internal layout and number of windows in the buildings were proposed. There would be no increase to the floor area. The PO acknowledged that there would be an increase in the requirement for parking spaces, however a Transport Strategy had been developed to cater for this. In addition, there was also a question from the public but this related to operations and did not impact on any planning concerns. The PO highlighted some conditions that had been set but these had been discharged.

The PO indicated that the Land Planning and Development Control Authority (LDCA) did not have any concerns in regards to the planned modifications and had approved the project. Concerns had been shared by the St Helena Fire and Rescue Service in relation to fire safety and there was a concern shared in regards to the number of water closets available for the increase in staff. PO indicated these would be addressed at the Building Regulation stage. The documentation was available should Members want to review this.

The invitation for questions and or clarity was put to Members.

The Chief Minister asked for clarification on the temporary nature of the current operations of 14 days. In 2018 approval was sought for the move to Rupert's which was understood to be all port facilities however in December 2023 approval was sought again to move all port facilities to Rupert's. This was supported by the Minister for and the Portfolio Director of Safety, Security & Home Affairs (SSHA). The Chief Secretary clarified that in 2018 it was not the intention for all operations to move to Rupert's. The intention was to operate as needed therefore a small group was moved to Rupert's.

The Chief Minister then asked how this intention impacted on the Jamestown Wharf Project which was planned for economic development if there was no plan to move all operations and expressed concern that the move was costing more money. Chief Secretary referred to the Financial Secretary as Chair of the Wharf Development Group who explained that Jamestown Wharf would only be used for the time that ships were in the harbour and for clearing cargo. Chief Secretary confirmed that it was still the plan for a satellite office to be in Jamestown to manage operations in relation to yachts but all cargo handling would be at Rupert's.

The Chief Minister then stated that staff had expressed concern around the move to Rupert's. Minister for SSHA explained that the Portfolio had an obligation to the tax-payer to ensure value for money and operating two buildings was not cost effective. The move to Rupert's would enable savings on one building. There would be 100% use in Rupert's with the exception of the satellite office in Jamestown.

The Chief Minister then referred to the conditions that were set. She asked for an indication on when these were to be submitted to the CPO so as not to delay the project. PO indicated that these should have already been received so she would follow up on this.

Minister for Treasury & Economic Development (TED) questioned why the CFS building was included in the plan as this was not within 50 metres of the sea. PO clarified that this was included as it was a part of the whole development. The Minister for TED agreed with the Minister for SSHA that this would demonstrate SHG being efficient and effective.

The Chief Minister reiterated her question regarding the concerns raised by staff in relation to the move. Minister for Health & Social Care (SHC) offered a comment that whilst there was concern around losing business in Jamestown there would be an increase in business in Rupert's. There are some businesses already there and this move would be welcomed by the people in Rupert's.

Chief Minister gave the Collective Advice which was to support the proposed amendments to the facilities in Rupert's Valley and acknowledged that this move would help fulfil international obligations. She acknowledged that the current set up in Jamestown was not fit for purpose and highlighted the need for all staff to support the move. She highlighted the need for the developer to update plans as soon as possible so that further plans could be made to better utilise the Jamestown /wharf. Minister for ENRD was working with others to make plans on how to better utilise the Jamestown wharf whilst also respecting the historical features.

Following discussion Council advised and the Governor agreed that Full Development Permission should be granted, with Conditions, as recommended, for Amendments to Rupert's Container Handling Facilities (approval previously given under development application 2020/41), Lower Rupert's, Rupert's Valley.

9.3.1 Publicity/Briefing to the Public

The Minister for ENRP and the CPO would undertake the normal processes in regards to both applications to make the public aware of decisions made which included airing on radio.

9.4 Retrospective Application for Installation of Fence at Coffee Shop (ECIP Memo 02/2024)

The Minister for Environment, Natural Resources & Planning (ENRP) introduced and gave a brief overview of the background to the Retrospective Application for Installation of Fence at Coffee Shop. She explained that this was considered by the LDCA in June but was referred to Executive Council as it is within 50 metres of the sea, approximately 35 metres. She further explained that the justification for this application was due to the premises being vandalised. The Minister then invited the CPO to present the application.

Supporting documentation titled 02-2024 Planning Officer's Report – Installation of Fence had been shared with members.

The CPO gave an overview of the retrospective application which was to retain the fence that had already been erected by the tenant for criminal protection measures and also to implement CCTV. CPO gave a brief description of the colour and where the fence was currently erected and the placement of the CCTV notice. Two comments had been received; one from the Heritage Society and the other from a member of the public that the fence was not in keeping with the area which was a conservation area. LDCA had also agreed that the fencing that had been placed was conspicuous from public vantage points and was unacceptable and had recommended refusal of the application. The LDCA also recommended that if the GIC was in agreement with the recommendation to refuse the application then enforcement action should be taken. CPO indicated a preference to speak to the applicant to discuss an alternative to the fencing and suggested that a 3 month enforcement notice be given to allow this to take place.

The Minister for ENRP asked CPO to refer to the relevant Building Heritage Policies where this application was in breach as further information (BH1a, BH1c, BH2 and BH5). CPO indicated that the site was within the intermediate zones which are the Coastal zones or Green Heartland which restricted development and this was an inappropriate development at this point. There were concerns about the overall impact on the conservation area.

The Governor sought clarity around the criminal activity reasoning given for the erection of the fence in the Coffee Shop area and the referenced potential to speak to the applicant about an alternative to the fence.

The CPO acknowledged the concern raised by the applicant and would have preferred if the applicant had spoken to Planning first before taking measures. CPO wanted to have the opportunity to first sit with the applicant to discuss other measures. At this time there was no indication of what they could be. Minister for HSC suggested inward facing CCTV and low level sensor lighting which was compliant with other lighting policies. There were low cost alternatives that could have been discussed with Planning.

The Chief Minister offered that CCTV was installed so this should reduce vandalism or allow reporting of such. There could be more vigilance from the Police. Discussion with the tenant of the premises was supported.

The CPO indicated a desire to speak to the Police; she confirmed that the applicant had spoken to the Police before she took the decision to erect the fence but had not spoken to Planning. The Governor asked for the Police response. CPO explained that she did not have a copy of what was indicated to the applicant but understood they may have suggested the applicant talk to planning beforehand. CPO suggested for the applicant's purposes that the process was slow and wanted to take measures quickly which resulted in the retrospective application. Planning was not a part of that process.

The Minister for TED asked two questions; whether the applicant knew planning permission was needed and whether the fence and the CCTV were installed at the same time. CPO indicated she did not have this information so could not answer these questions.

The Minister TED clarified his reason for asking whether CCTV had been done singularly to see whether this measure would deter vandalism before erecting the fence. The Governor advised anecdotally, as he did not have all the evidence, that the CCTV was installed first and revealed the extent of the criminal activity in the grounds which led to the erection of the fence. Minister for TED asked whether the CCTV could be used to prosecute the offenders.

The Acting Attorney General offered that he was of the understanding that the offenders, mostly juveniles, had been dealt with through the courts. Minister for TED advised, given the indication that the CCTV deterred the criminal activity, the fencing was not necessary; the tenant went a step too far.

The CPO further explained that a gate was to be erected which would be between the premises of Donny's and the Coffee Shop. This could be moved and would provide a level of defence to the front and side. This however was not being presented at this meeting.

The Chief Minister made a statement that a lack of consultation and feedback from the listed bodies consulted was an issue and this was unhelpful to LDCA. **Going forward a note should be made of what feedback was received and the number of 'no responses' noted. This would be helpful to LDCA and also ExCo members.**

(Action: Chief Planning Officer)

Whilst the Chief Minister appreciated the frustration of the tenants and the cost incurred when a business is vandalised, the tenant of the Coffee Shop has to comply with planning processes. Concern was expressed in regards to people taking independent action and implementing their own safety and security measures without consulting Planning. Chief Minister agreed with the Minister for TED regarding CCTV and suggested a Police presence should be considered.

The Chief Minister clarified whether permission was also required for signage. PO confirmed that there was a legal requirement to erect signage depending on the size and had consulted the Police who confirmed that police permission must be given to enforce CCTV. **Chief Minister clarified that if the removal of the fence was supported then there had to be clarity on what was to happen to the sign. This had to be followed up.**

(Action: Chief Planning Officer)

The Governor again expressed concern that given the specific reference to criminal damage as the reasoning behind this application, why the Royal St. Helena Police Force had not been consulted. CPO responded that there had been directive given that the Police did not want to be consulted on applications. Planning had followed up for feedback from the Police but reiterated that they had been specifically asked by the Police not to send applications to them for comments.

Governor clarified with the Minister for ENRP that the Paper presented stated that the Police had been consulted, hence the reason for his question. Minister for ENRP referred to the paper in question and indicated this should indicate No Response from the Police.

The Chief Minister indicated Collective Advice to be support for the recommendation by the LDCA to refuse the application and enforcement to remove the fencing in the 3 month time period. The reason being awareness of retaining the Jamestown Historical Features and to

adhere to the restrictions around development in a conservation area. Moreover, applying retrospectively was setting a bad precedence.

The Chief Minister was made aware by constituents that the UN had provided funding to make these public areas and was cautious about restricting the community access. Whilst the Chief Minister appreciated that some of these areas were kept secure due to the threat of vandalism it was noted this should be considered when developing St Helena as it was the culture to have a social area to mingle with others.

The Governor clarified whether there was support for the CPO to engage in conversation with the applicant on a potential alternative and CPO asked whether engagement with the tenant to seek alternative measures was permitted before the 3 month notice was served. The Chief Minister gave her approval for this to take place.

Following discussion, Council advised and the Governor agreed to accept the refusal for the retrospective planning permission; that the CPO engage in conversation with the applicant and depending on the outcome of that discussion, enforcement action may proceed within a time period of 3 months.

9.4.1 Publicity/Briefing to the Public

The handling of this matter had been discussed in the previous Item.

There being no further business, the Chief Planning Officer, Planning Officer and members of the public were thanked for their attendance.

The meeting ended at 10.15am.

NM Bargo
Secretary to Executive Council

N J Phillips CBE
Governor

19 September 2024