

MINUTES

Land Development Control Authority Meeting

Date : Monday, 25th November 2024
Time : 9 am
Venue : The Museum of St Helena, Jamestown

Present:	Mrs Ethel Yon OBE	Chairperson
	Mr Lawson Henry	Member
	Mr Gavin George	Member
	Mr Gerald Yon	Member
Apologies:	Ms Patricia Coyle	Head of Planning & Building Control (HoP&BC)/Chief Planning Officer (CPO)
	Mr Shane Williams	Senior Planning Officer (SPO)
	Mrs Karen Isaac	Secretary
	Mr Ronald Scanes	Member (off island)
	Mr Ian Gough	Member
	Miss Petra Joshua	Planning Officer (PO)

Also in attendance:

Five members of the public, including Applicant(s) and Objector(s).

1. Attendance and Welcome

The Chairperson welcomed all present and thanked Members for their attendance.

2. Declarations of Interest

There were no Declarations of Interest to declare.

3. Application for LDCA Determination

Application 2024/31 – Change of Use from Residential Care Home to (HMO) House of Multiple Occupation – Barn View, Longwood: Property Division, St Helena Government (deferred item).

The Chair advised that the Application for consideration had been deferred on two occasions. At the meeting of 7 November 2024 the Authority requested that a legal mandate on the situation with regard to House of Multiple Occupation (HMO) should be obtained from the Attorney General's Chambers as there was nothing in the Planning Legislation regarding this. The information had been received.

SPO gave an outline of the Application including its planning history.

There were representations received.

The SPO advised that he had assessed the concerns raised in the representations particularly on material planning considerations and the financial ownership responsibilities.

The Application was assessed against the Housing Policies, Intermediate Zone Policies, Social Infrastructure, Road and Transport, Built Heritage and the Housing Strategy manual. Based upon this, there were 2 recommendations by the SPO in that (a) the LDCA refer the Application to Governor-in-Council for decision. This requires that the Authority decide as to *"whether granting the Application would be inconsistent with the Land Development Control Plan but there are material planning considerations that suggest permission should nevertheless be granted."* Or, recommendation b) that the Authority could grant development permission subject to the conditions stipulated in the officer's report.

Policy SI.4 of the LDCP was highlighted. The SPO also highlighted the legal advice received from the Attorney General's (AG's) Chambers as requested by the Authority. This legal advice was that the land use as a HMO does not fall within any defined land use classed within St Helena's legislation and that as such it is required that it stand sui generis. It was also considered that the change of use application could be progressed based upon existing Planning Policy.

In considering, it was raised by a Member that while the recommendation is to refer the Application to GIC, the LDCA are agreeing to a change in policy and there are no specific policies relating to the type of residential accommodation (although in this case falling outside the defined use classes and therefore in a use class of its own; "sui generis").

It was highlighted that by referring the Application to GIC, a policy is not being created but referring for the reason there is no policy in place for this and could be highlighted as a concern as part of the comments to GIC that there are no policy directions.

It was stressed that the legal advice received did not address a specific concern raised by the Authority regarding whether in deciding this application, and accepting a definition for HMO-type residential accommodation, that the LDCA would be making new planning policy.

Whilst it was felt that the legal advice did not address these particular concerns, the SPO indicated that the legal advice does indicate that it is possible to make a decision on this Development Application using the existing housing and other LDCP policies.

It was further said by a member that he did not consider a definition to be a policy and that a future policy direction or an amendment to the Planning Ordinance would be required.

Although there was no guidance in the Planning Legislation nor any relevant Planning Policies in place, the SPO said that there are a number of policies that are available to assist with consideration of the Application and the legal advice given was that those policies are sufficient to make a decision on the HMO.

The CPO said that she understands that it would be helpful to have a bespoke policy on HMOs and certainly could include this within the proposed revised Development Plan.

The recommendation was supported to refer the Application to GiC for decision indicating that there are material planning considerations that suggest permission should be given despite inconsistencies with the LDCP.

It was noted that the Application must be decided based on existing policies and material considerations.

Resolution: The Authority supported recommendation A in that the Application be referred to Governor-in-Council for final determination on the grounds that the proposal is inconsistent with Policy SI.4 which indicates that Barnview continue to be used/expanded for its current use/use as a secured accommodation and as the type of development does not have any related bespoke policy in the LDCP (and is therefore inconsistent as no planning policy exists). But that there are material circumstances which indicate otherwise such that the proposal should be granted.

The Chairperson thanked members for their attendance and the meeting closed at 09.50 Hrs.

Chairperson to the LDCA

Date