

Minutes of the Meeting of Executive Council held on Tuesday, 26th November 2019 at
9:30am in the Council Chamber

Present: His Excellency the Acting Governor (Mr Greg Gibson)
The Hon Chief Secretary (Mrs S O'Bey)
The Hon Financial Secretary (Mr D L Richards)
The Hon Attorney General (Mr A T Cansick)
The Hon Dr C S S Essex
The Hon A A Green
The Hon L A Henry
The Hon D F Thomas
The Hon R K Yon

In attendance: Clerk of Councils (Mrs C C Johnson)
Head of Corporate Support (Mrs C A George)
Head of News (Mrs K Yon)

Apologies: The Hon C R Beard - On overseas business attending the Westminster
Seminar in the UK

OPEN SESSION

61.1 Welcome

The Acting Governor welcomed all to the meeting.

61.2 Mid-Year Changes to Customs Duty Tariffs (ExCo Memo 53/2019)

The Acting Governor declared his interest for this item and advised that he had just imported a vehicle to the Island.

The Attorney General also declared his interest.

The Deputy Financial Secretary, Mr Nicholas Yon was in attendance for this item of business.

The Chairman of the Economic Development Committee introduced the memorandum, explaining that in August 2019 a new customs duty payable on the importation of vehicles had been introduced, so that the basis of duty payable was based on fixed incremental rates of duty, rather than a percentage applied to the value of the vehicle. Since then, two issues had been identified which needed to be addressed; this Amendment Regulation sought to resolve

the disparities that had been identified and was a tidying up exercise. The Financial Secretary further elaborated on the proposed options.

The Attorney General advised that there could be a slight litigation risk associated with option 2 as set out in the Memorandum but the Financial Secretary explained that SHG Customs officials had contacted all the individuals concerned directly to let them know of the proposed changes after approval had been given to amending the Regulations by the Economic Development Committee. It was noted that this change would apply to between 40-60 vehicles.

Following discussion, Council advised and the Acting Governor agreed, that the Customs and Excise (Tariffs) (Amendment No 3) Regulations 2019 should be approved and come into effect from the 1st December 2019. The Chief Secretary advised that going forward she would make sure Corporate Human Resources staff communicated this information to new hires from overseas.

(Action: Chief Secretary/Clerk of Councils)

At this point, the Deputy Financial Secretary left the meeting.

61.3 Development Application – Security Office (ExCo Memo 54/2019)

The Chief Planning Officer, Ismail Mohammed and Miss Alfreda Yon, Capital Programme Manager, were in attendance for this item of business.

The Chief Secretary began by asking the Attorney General to advise on the expectations of the role of the Executive Council when sitting as the Planning Authority and he read the 2014 Section 24 of the Ordinance 1st matter and relevant 2nd point of the Legislation.

The Chief Secretary also drew Members' attention to Annex C to the Memorandum which set out the instances when planning applications come to Executive Council and confirmed that each of the four applications on the agenda fitted that criteria. The Chief Secretary also welcomed the Chief Planning Officer and advised that he would explain the details of the proposed developments.

The Chief Secretary introduced the memorandum asking Council to advise whether Full Development Permission should be granted, with Conditions, for the Siting of Port Security Office and Installation of Security Fence for a period of two Years at Rupert's Wharf as recommended by the Land Development Control Authority (LDCA).

The Chief Planning Officer went through a detailed power point presentation and explained the siting would be for two years. He added said that all stakeholders had been consulted but

not all agencies had responded. It was questioned as to whether the lack of responses might be leaving a loophole for the future; the Chief Planning Officer explained that it is not compulsory for consulted stakeholders to provide a response if they are of the view that a response is not required. It was suggested that SHG stakeholders could be asked to respond in all instances even if just stating 'not applicable'. In response to a question as to whether the Planning Office had a paper trail of all those who are consulted, the Chief Planning Officer confirmed that emails are retained and he could strengthen the process by adding a trail to the email which would indicate it had been received.

The Chief Secretary commented that this development would make working conditions better for all those involved.

Following discussion, Council advised and the Acting Governor agreed, that Full Development Permission, with Conditions, for the Siting of Port Security Office and Installation of Security Fence for a period of two Years at Rupert's Wharf as recommended by the Land Development Control Authority (LDCA) should be approved.

(Action: Clerk of Councils)

61.4 Development Application - Internal Refurbishment of Ex-Police Headquarters for the Relocation of Judicial Service (ExCo Memo 55/2019)

The Chief Planning Officer, Ismail Mohammed and Miss Alfreda Yon, Capital Programme Manager, were in attendance for this item of business.

The Chief Secretary introduced the memorandum seeking Council's advice as to whether Full Development Permission should be granted, with Conditions, for Internal Refurbishment of the Ex Police Headquarters for the relocation of Judicial Services, as recommended by the Land Development Control Authority (LDCA). She added that this project was part of the Economic Development Investment Programme and said that Members would be familiar with this proposal because it had been to this forum before and the Chief Justice had also highlighted the need for this on more than one occasion.

The Chief Planning Officer went through the details advising that whilst the proposed development involved changes only to the interior of the building, because it is a Grade 1 Listed Building planning permission was required. The Land Development Control Authority (LDCA) had considered the application on three occasions, as there was concern that the interior of the building did not facilitate easy accessibility for persons with disabilities. Whilst there were plans to address this as far as possible in phase 2 of the development, the LDCA had insisted that any improvements to allow disabled accessibility should go ahead as part of phase 1 of the development. Thus one of the conditions associated with any approval of the application was that such approval should only be given for 12 months to enable time for phase 2 of the development to be planned and implemented.

In response to a question as to the reasons why facilitating disabled access was causing a problem, the Chief Planning Officer explained that the levels of the floors inside the building differed with steps from one to the next and corridors which were narrow; phase 2 of the proposed works would, however, allow access at the rear of the building for disabled persons provided that the associated funding was forthcoming. The Capital Programme Manager explained that phase 2 would follow immediately after phase 1 in the next financial year, adding that DFID was supportive of both phases of the development as their protocols dictate that disabled access to buildings must be available.

Members were concerned that one of the conditions of approval recommended by the LDCA was that the development permission should be granted for just 12 months, as it would be wasteful to occupy a building and then potentially have to vacate it. Whilst Members were of the view that everything possible should be done to facilitate a disabled friendly building, following discussion, Members agreed that Condition 2 in the LDCA recommendation letter should be removed.

The Chief Planning Officer advised that he could do a paper showing how the building would look with the full review and Members agreed this would be beneficial.

(Action: Chief Planning Officer/Clerk of Councils)

Following discussion, Council advised and the Acting Governor agreed, that Full Development Permission should be approved, with Condition numbers 1, 3, 4, 5, 6 & 7 as recommended by the Land Development Control Authority (LDCA), for Internal Refurbishment of the Ex Police Headquarters for the relocation of Judicial Services.

(Action: Clerk of Councils)

61.5 Development Application - Rockfall Mitigation Work in James Valley and Rupert's Valley (ExCo Memo 56/2019)

The Chief Planning Officer, Ismail Mohammed and Miss Alfreda Yon, Capital Programme Manager, were in attendance for this item of business.

The Chief Secretary introduced the memorandum asking Council to advise whether Full Development Permission should be granted, with Conditions, for the Rockfall Mitigation Works at James Valley and Rupert's Valley as recommended by the Land Development Control Authority (LDCA).

The Chief Planning Officer went through all the details of the maps, netting, fencing and details of the work entailed.

The Hon Dr Essex expressed her disappointment that an area above the Brow was not included and proposed that it should be included in the scope of work. The Financial Secretary advised that the Fairhurst report had indicated that the eastern side of Jamestown posed a low risk of rockfall, hence no netting had been suggested in that area.

Following discussion, Council advised and the Acting Governor agreed, that Full Development Permission should be approved, with Conditions, for the Rockfall Mitigation Works at James Valley and Rupert's Valley as recommended by the Land Development Control Authority (LDCA)

(Action: Clerk of Councils)

At this point, the Capital Programme Manager left the meeting.

61.6 Development Application - Comprehensive Development Residential Service Plots, Bottom Woods (ExCo Memo 57/2019)

The Chief Planning Officer was in attendance for this item of business.

The Chief Secretary introduced the memorandum asking Council to advise whether HYBRID Development Permission should be granted, with Conditions, for Comprehensive Development Residential Service Plots, Government Landlord Housing, Green Space, Retail Park, Road and Car Parking at the Bottom Woods Comprehensive Development Area as recommended by the Land Development Control Authority (LDCA).

The Chief Planning Officer gave a presentation on the details of the application.

The Chairman, Environment and Natural Resources Committee commented that during the process of developing this application, consideration had been given to engaging with Connect Saint Helena Limited regarding sewerage in the area; it had been noted that Connect Saint Helena Limited had indicated that the sewerage system could only accommodate 28 housing plots.

Following discussion, Council advised and the Acting Governor agreed, that HYBRID Development Permission should be approved with Conditions, for Comprehensive Development Residential Service Plots, Government Landlord Housing, Green Space, Retail Park, Road and Car Parking at the Bottom Woods Comprehensive Development Area as recommended by the Land Development Control Authority (LDCA). In doing so, Members noted that this development proposal would create jobs, assist first time house owners and boost the economy.

(Action: Clerk of Councils)

The Acting Governor thanked the Chief Planning Officer and at this point, the Chief Planning Officer left the meeting.

61.7 Public Accounts Committee (Procedure) Bill 2019 (ExCo Memo 59/2019)

The Attorney General introduced the memorandum asking Council to advise whether the Public Accounts Committee (Procedure) Bill 2019 should be printed, published and presented as Government business at the next formal meeting of the Legislative Council to be held in December 2019. This Bill sought to make provision for the constitution of a quorum for meetings of the Public Accounts Committee.

The Public Accounts Committee (PAC) is established under section 69 of the St Helena, Ascension and Tristan da Cunha Constitution Order 2009 (the Constitution) which provides that there are to be five members of the PAC, a Chairman and another person who is not an elected member of the Legislative Council and three elected members of the Legislative Council. The Constitution does not make provision for a quorum of the PAC. It was therefore accepted that for the PAC to be properly constituted, all five members must be present for the business of the PAC to be conducted. If for any reason a member cannot attend, the PAC cannot meet and where circumstances arise, urgent matters cannot be considered. He explained that if for any reason, the Chairman and members are required to vote to make a decision with respect to the business of the Public Accounts Committee, the Chairman shall have a casting vote if the votes are evenly divided.

Some Members queried whether this new provision would apply to the business of both formal and informal meetings of the PAC. The Attorney General said it was to apply to formal PAC meetings only. Members were of the view that the clause 3. (2) Bill should be amended to state 'no formal business' rather than 'no business'. The Attorney General said he would discuss this request with the Legislative Drafter.

(Action: Attorney General)

Following discussion, Council advised and the Acting Governor agreed that the Public Accounts Committee (Procedure) Bill 2019 should be printed, published and presented as Government business at the next formal meeting of the Legislative Council to be held on 06th December 2019, noting that a Certificate of Urgency to allow the Bill to proceed would be required, as the date by which Bills were to be published to ensure 10 clear days before the date of the formal Legislative Council meeting, as required in the St Helena Legislative Council Standing Orders, had already passed .

(Action: Attorney General/Clerk of Councils)

61.8 Any Other Business

There was no other business to discuss in the open session.

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P. Rustbrook

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Clerk of Councils

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Governor

14 January 2020

Date