

EXECUTIVE COUNCIL TOP LINES – TUESDAY 11 AUGUST 2020

Development Application: Proposed Container Handling Facilities Incorporating Office Buildings, Warehousing, Secure Compounds and Car Parking, Lower Rupert's Valley

Background

- The development application is for the northern part of Lower Rupert's Valley locations that includes Rupert's Wharf and part of Rupert's Valley (central area), for the development and regeneration of the area that will deliver port facilities for the Island
- This application was considered at the Land Development Control Authority (LDCA) meeting on 8 July 2020 but representations from the LDCA to Executive Council were deferred to seek clarifications/amendments to the details of the proposal. Following this there were a number of discussions with the applicant to assess the request of the LDCA. Following the discussion with the applicant, the applicant had informed the Chief Planning Officer (CPO) that following further consideration, including consulting on ISPS compliance, they would not be submitting any revised details and wished the development proposals to be considered as submitted
- A further report was made to the LDCA for their meeting on 5 August 2020. The outcome of the discussions and decision of the LDCA on the proposed development was conveyed to the Governor-in-Council at the meeting
- Prior to the submission of the development application, there were discussions by the CPO with the applicant in respect of the proposal, seeking advice on the document required in support of the development application. The applicant also submitted an application for a Screening Opinion in respect of the proposed development. The Screening Opinion was prepared by the CPO in consultation with the Chief Environmental Officer and the conclusion drawn was that whilst there is adverse impact arising from the proposed development, it was not considered to be significant to trigger the need for an Environmental Impact Assessment report
- Further background on the Planning Application can be found in the ExCo Memo for this meeting. The Memo is available on the Executive Council page of the SHG website: <https://www.sainthelena.gov.sh/government/legislative-council/executive-council/>.

At the meeting

- **Executive Council considered the application pursuant to the Land Planning and Development Control Ordinance**

- **Executive Council was asked to consider whether Full Development Permission with Conditions be granted for Proposed Container Handling Facilities Incorporating Office Buildings, Warehousing, Secure Compounds and Car Parking in Lower Rupert's Valley. The LDCA deferred their decision on the development application and the reason for deferral was to address their concerns as listed below. The LDCA had initially deferred their representations on the application but had made representations by the time of the application**
- **ExCo agreed that there is a desire to complete the development of lower Rupert's as per the development application but recognised that this needed to be done as appropriately as possible**
Following much discussion and noting the sensitivity of the application, ExCo agreed to defer the item to the next meeting in two weeks (25 August 2020) in order for statements to be prepared and shared as follows:
 - **A statement or letter from the Economic Development Investment Programme (EDIP) Chartered Engineer confirming the work undertaken to remove the source of the recent fuel leak in Rupert's, identified soil contamination and checks in the surrounding area**
 - **A note to explain the arrangements for community access to key locations in the lower valley, in particular the beach and the old building used to treat sick liberated Africans, as well as clearer details on the new footpath to be laid out along the side of the port area**
 - **A visual survey as a new baseline point of reference of the three historic structures within the boundaries of the proposed development: Rupert's Lines wall; the dry stone walled area for break bulk cargo; and the old hospital building**
- There was a large audience in the gallery for this item which has created much interest in the public domain
- A number of SHG officers were also in attendance at the meeting to provide further clarification to Members as required
- The CPO took Members through the application
- A question was raised around the process of this application being referred to ExCo in relation to the law. The Attorney General clarified that for applications (such as the current one) that have to be referred to Executive Council by the Chief Planning Officer, the Council cannot make a decision until:
 - (i) They have received comments or representations from the Planning Authority; or
 - (ii) 28 days have elapsed since the referral
- It was noted that two representations had been made by the LDCA and all Members had seen these representations ahead of the meeting

- It was also noted that the CPO had handled the application correctly in respect of the law by conducting a Screening Opinion at the request of the applicant and had provided a response
- The following concerns expressed by the LDCA were noted:
 - Lack of information regarding how the facility will interface and affect the heritage of the area
 - Proposed development should be assessed against Policy BH6
 - Lack of detailed plans for access
 - Lack of an Environmental Impact Assessment
 - Lack of details for the proposed fence lines/security measures
- Noting the concerns around an Environmental Impact Assessment Report (EIA Report) not having been undertaken, the CPO explained that a Screening Opinion had been undertaken at the start of this year and the conclusion reached was that the development would not have a significant impact on the environment and an EIA report was therefore not required
- Two full EIA Reports had been carried out on Rupert's previously in 2007 and 2013 as part of the Airport Project and Rupert's Breakwater respectively. This has formed the baseline of the Screening Opinion in Rupert's. The 2007 EIA Report provides significant details of the structures in the Rupert's area which means the baseline is already available
- The Chief Environmental Officer provided clarity on the EIA process. She explained that the EIA is a process which starts with a Screening Opinion which identifies the key environmental issues in a proposed development and determines if they are significant. There is a checklist in place that covers all aspects of the environment namely the area itself, biodiversity, landscape and visual amenity, cultural heritage and archaeology, water environment, air quality, transport and access, marine and coastal environment
- Members were also concerned whether the fuel leak identified earlier this year in Rupert's would have an impact on the development. The EDIP Chartered Engineer who project managed the fuel leakage mitigation work provided some background. He explained that two underground fuel lines over 30 years old and which had suffered previous leaks in their lifetime, had been found to be leaking earlier this year. The decision was taken to purge the lines of fuel and fill them with water in May so there is now no diesel or petrol in any of these lines. As part of the mitigation work there was a need to ensure there was no residual fuel in the soil in this area so a series of trial pits were dug along the lines and the St Helena Fire & Rescue Service determined zero soil contamination in any of these areas. Therefore the EDIP Chartered Engineer was confident that the leak does not present a current or future risk to the general public or this development. There will be further checks for the presence of hydrocarbons in this area during the soils investigations planned for the design of the foundations for this development

- It was questioned whether the issue of the fuel leak would affect the current Screening Opinion but the CPO confirmed that there is no need for another Screening Opinion as a result of this
- Members were also concerned about the availability of all documents relating to the Planning Application to members of the LDCA and also to the public, particularly the Screening Opinion. It was agreed that going forward all documents related to any Planning Application will be shared with the LDCA, ExCo and the public
- Members questioned whether Rupert's residents were fully consulted on the development application. SHG's Capital Programme Manager explained that a door-to-door exercise had been carried out with all residents in Rupert's who had given their full support for the proposed development. There had been concerns around access to the beach, being able to make use of public toilets and the use of razor fencing. Reassurance was given that the beach and toilets would still be accessible by the public with some restrictions during Port operations and that there would be no razor fencing but fencing would be similar to that already installed around the compound where the CAN (France) helicopter was parked. That is chain link fencing (2.4m high) with three strands of barbed wire on top, giving a total fence height of 2.9m
- A number of representations had been received from a number of people including concerns around the impact on the general area, access to the beach and traffic management from Rupert's to Jamestown
- It is inevitable that during the period of construction there will be a level of disturbance in the area through increased level of construction traffic, level of noise from machinery and potential dust. However, it is not considered to be significant in comparison with the existing activities in the area and all activities will be monitored by ensuring the operation will be in normal working hours as set out and managed through the Environmental Management Plan (EMP) or Construction Management Plan (CMP)
- Members would like to see a whole Port Operational Management Plan prepared noting that this is the third application on Rupert's to come to ExCo and Members want to be absolutely clear that the impacts on access to the area as well as the alignment and specification of the fencing should be as less intrusive as possible
- The CPO highlighted the conditions attached to his recommendation to approve this application namely:
 - Ground soil testing to establish whether any of the areas within the development have been contaminated by the fuel leakage
 - Method statement setting out archaeological assessment to be undertaken by a qualified archaeological professional
 - Security fencing is erected around the perimeter of the development site and exact alignment of the fencing
 - Details of diverted footpath through the site and its construction to ensure it meets the needs of its users

- Landscaping scheme – details of hard and soft landscaping to be undertaken
- A Port Operational Management Plan is prepared setting out day to day management of the port operations and control of access for all users.

ExCo
11 August 2020