

Chief Planning Officer's Report - November 2021

DEVELOPMENT APPLICATION	<u>2021/79 – Proposed Construction of a Workshop, Office, Carpentry Shop and Storeroom (Retrospective Application)</u>
PERMISSION SOUGHT	Full Permission
REGISTERED	09 September 2021.
APPLICANT	Adrian Duncan, AMD Engineering.
PARCEL	RV0099
SIZE	0.42 acres.
ACTUAL SITE SIZE	0.32 acres.
LOCALITY	Rupert's Valley.
LAND OWNER	Crown Land Allocated to Applicant.
ZONE	Coastal Zone.
CONSERVATION AREA	None.
CURRENT USE	Vacant with outdoor storage
PUBLICITY	The application was advertised as follows: <ul style="list-style-type: none"> ▪ Independent Newspaper - 10 September 2021 (Ind) ▪ Site notice displayed in accordance with Regulations.
EXPIRY	24 September 2019
REPRESENTATIONS	None.
DECISION ROUTE	Delegated / LDCA / EXCO
SITE VISIT	Prior to the development application being submitted.

A. CONSULTATION FEEDBACK

- | | |
|-------------------|-------------------------|
| a) Water Division | No Objection - Comments |
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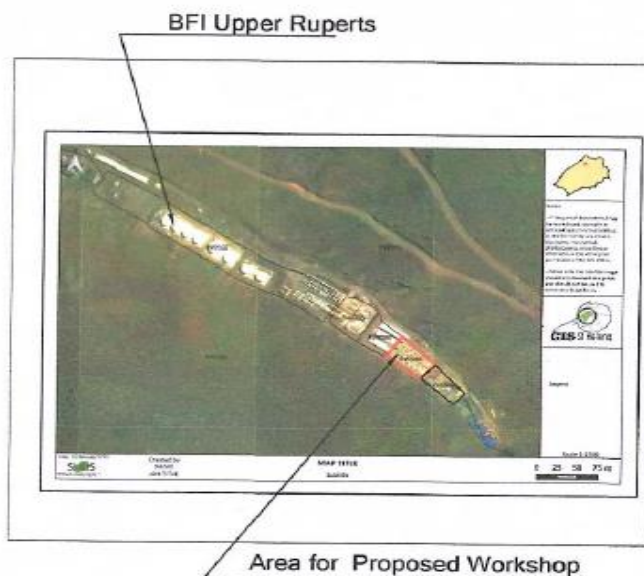
b) Sewage Division	No Objection - Comments
c) Energy Division	No Objection
d) St Helena Fire & Rescue	Objection – Comment
e) St Helena Roads Section	No Objection
f) Heritage	No Response
g) Environmental Management	No Objection
h) Public Health	No Response
i) Agriculture & Natural Resources	No Objection
j) Property Division (Crown Est)	No Response
k) St Helena Police Services	No Objection
l) Aerodrome Safe Guarding	Not Consulted
m) Sustainable Development	No Objection
n) National Trust	No Response

B. PLANNING OFFICER’S APPRAISAL

LOCALITY & ZONING

The location for this proposed development is in the area of Upper Rupert’s Valley, further south of the BFI development. The site has previously been used for construction and outdoor storage purposes during the development of Rupert’s Wharf, Haul Road and the Airport. In more recent times it has been vacant and/or under-used. This area is within the Coastal Zone and there are no conservation area restrictions. Within the wider Rupert’s Valley there is some sensitivity for development in some areas due to the historic uses of parts of the Valley.

Diagram 1: Location of Development



The site is located south of BFI development with access by narrow access road off the Haul Road. There is no alternative exit out of this area.

Background and Planning History

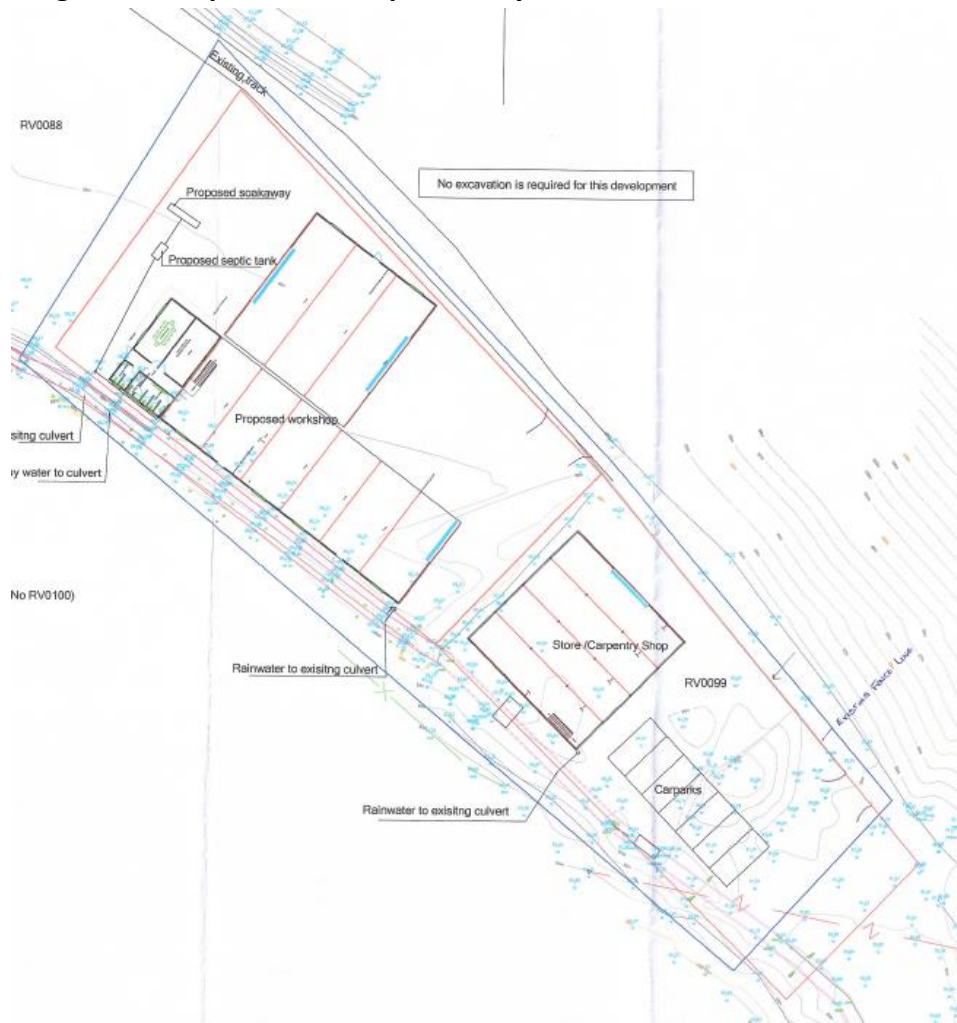
With the on-going development and regeneration of the Lower and Middle Rupert's Valley area with port and freight container facilities number of occupiers have been relocated to enable the development to proceed. The applicant of this proposed development has been relocated from the area of the freight container development but has left things a little late and has now found himself in a dilemma and has commenced the construction of the development and use without development permission. Furthermore the buildings are also being constructed without Building Regulation approval and there is no on-going inspection of the construction that is taking place to ensure compliance with building construction requirement.

Diagram 2: Construction Work in Progress



Whilst the applicant submitted a development application in July, it was assessed and the applicant was informed that it was incomplete and advised to submit additional information in support of the proposed development. However, this information was not provided and the construction commenced on site. The applicant was advised the building works being undertaken was unauthorised whilst use of the site was not a concern as it is likely the use of the site for industrial, workshop and construction was similar to the previous and existing use and that construction should not continue until development permission has been obtained. After some difficult communication with the applicant the additional information requested was provided to enable registration of the development application. It is the Planning Officers understanding that some construction has continued in the meantime.

Diagram 3: Proposed Development Layout



Proposed Development

The proposal is to build an industrial workshop unit for metal fabrication and carpentry workshop, offices and storage. There will also be an element of open storage and car parking. The main built form is a combination of three buildings that are interconnected with the following measurements:

- Single storey main workshop - 36.185m by 12.260m with roof ridge height 5.8m (4.0m to the eaves)
- Single storey workshop – 18.15m by 18.3m with roof ridge height 7.35m (4.90 to the eaves)
- Two storey staff facilities – 7.615m by 12.260m with roof ridge height 7.50m (5.70m to the eaves)

The second building located slightly away measures:

- Two storey carpentry shop and store – 18.40m by 18.60m with roof ridge height 9.2m (5.40m to the eaves)

The total floor area for the built development is 1,643.89 sqm.

Diagram 4: Main Workshop Layout/Floor Plan

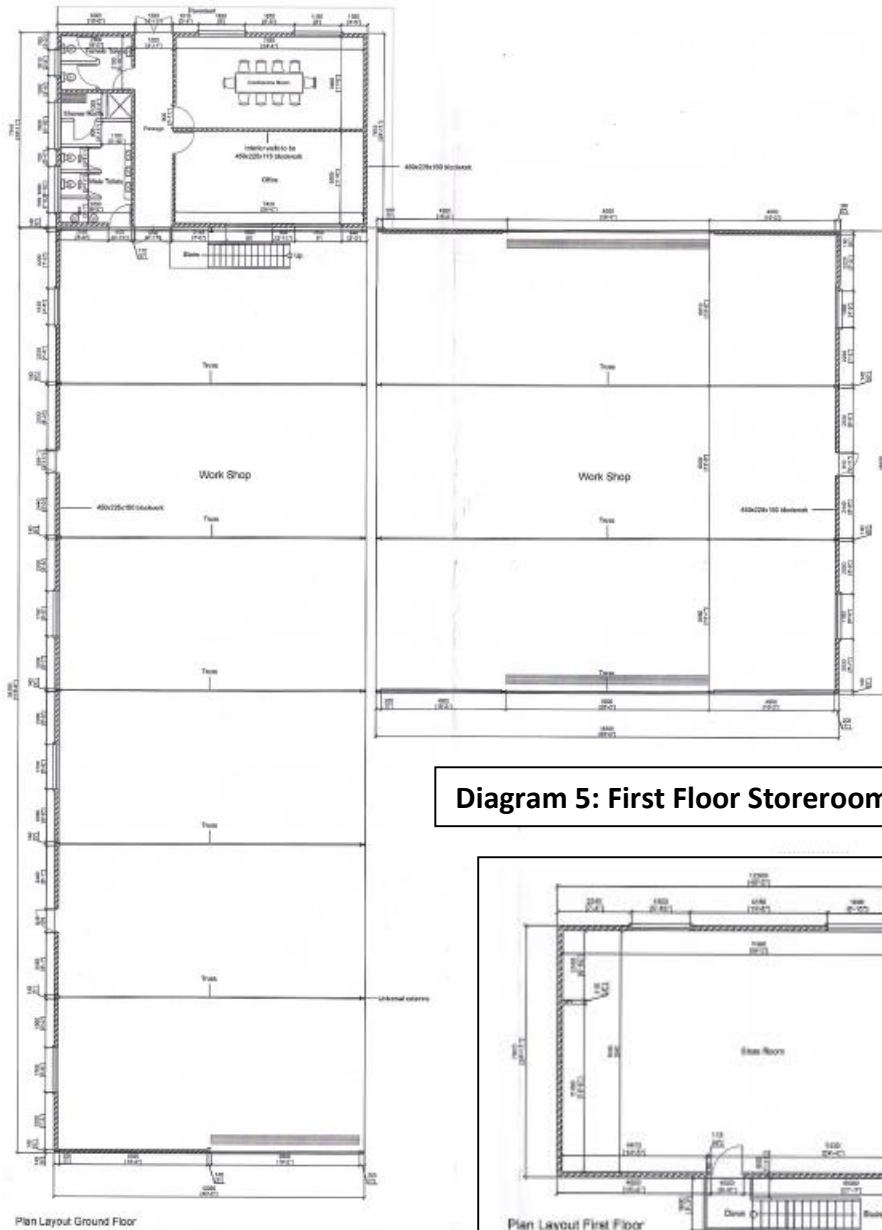
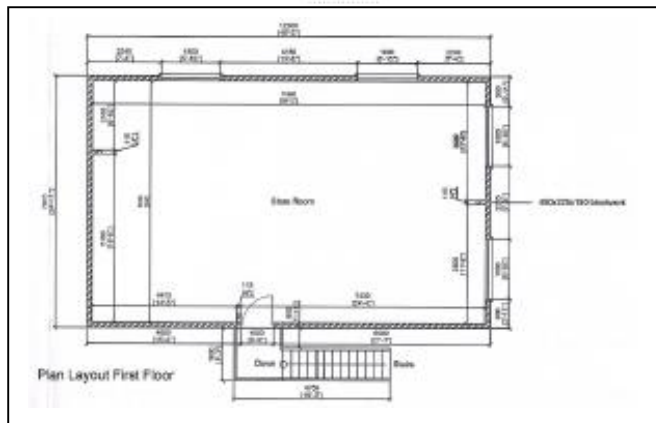


Diagram 5: First Floor Storeroom



The buildings are of a simple design of block work construction on the lower wall and the upper levels are cladded with corrugated metal sheeting and with similar metal sheeting roof. The main elevations have door openings and windows, including large opening with roller shutters for the workshops.

Diagram 6: Workshop Elevations North Elevation

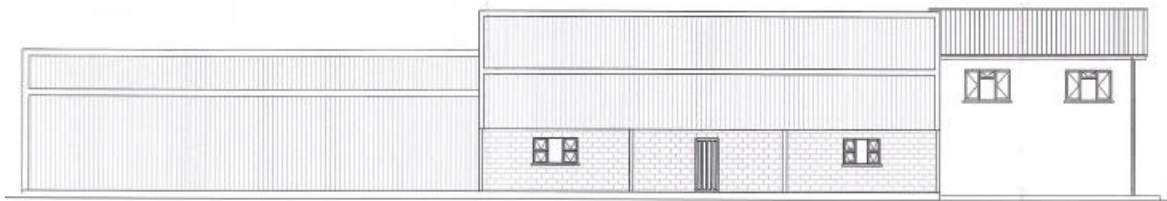


Diagram 7: Workshop Elevations South Elevation



Diagram 8: Workshop Elevations West Elevation

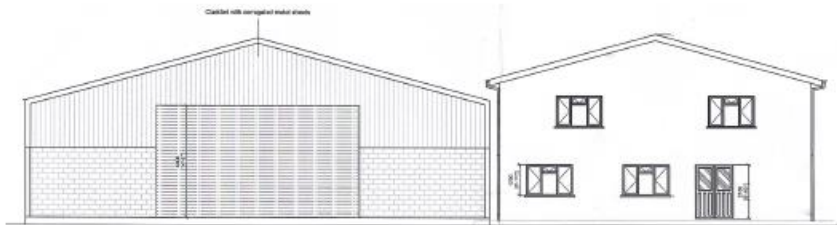
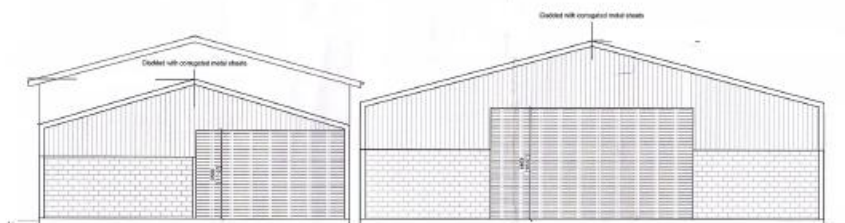


Diagram 9: Workshop Elevations East Elevation



There is car parking space provided for seven vehicles to the west of the carpentry workshop, however there is no space identified for the storage of any of the construction and operational vehicles for this use.

There is a culvert running to the south of the application site and it is proposed that rain water and grey water will be channelled into the culvert. A septic tank and soakaway will be provided to the eastern end of the site.

Diagram 10: Carpentry Workshop and Store Room – Floor Layout

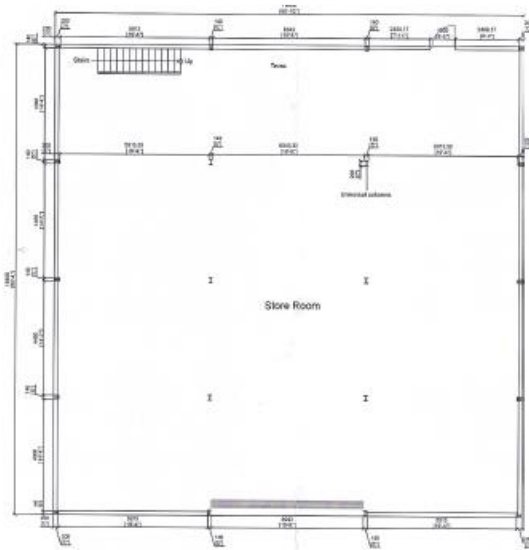
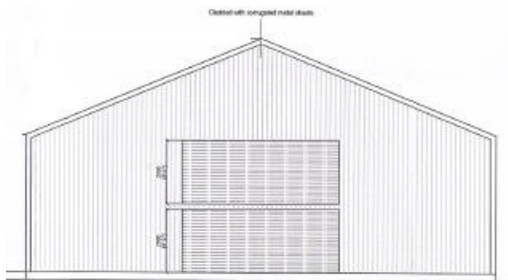


Diagram 10: Carpentry Workshop and Store Room – North Elevation



POLICY CONSIDERATION

Land Development Control Plan 2012: The relevant Land Development Control Plan policies that are applicable in respect of this development include the following:

- Coastal Zone Primary Policy CZ1
- Water Supplies Policy W2
- Sewage, storm and Drainage: Policies SD1(b, c) and SD7
- Road and Transport Policies: RT1(c)(d)RT7
- Social Infrastructure SI.11, SI.12
- Employment Premises EP.1, EP.3 and EP.4
- Built Heritage: Policies BH2 BH3 and BH4

The Land Development Control Plan policies identified for the assessment provides some direct and indirect support in principle for the proposed development and for this reason the assessment must be taken as a whole. There is some support in principle for the development through the development of industrial uses in this part of Ruperts Valley.

Draft Rupert's Valley Development Plan (June 2016 Consultation): The proposed development is in general supported by the land use policies in the Draft Rupert's Valley Development Plan (RVDP) (July 2016 Consultation Version). Following a number of consultations in the preparation of the Development Plan, it remains in draft form and has not been progressed to adoption. However it has not been officially withdrawn and/or abandoned. In view of this some limited weight can be afforded to the land-use policies in this draft development plan in the assessment of the development proposal.

The draft RVDP was formulated following the adoption of the current LDCP 2012, the Governor in Council granted Development Permission in December 2013 (2013/92) for a permanent wharf and related infrastructure at Rupert's Valley, amending the airport development permission and reference design.

It is stated in this draft plan that this was a strategic decision to invest in the future of sea access and permanent wharf facilities at Rupert's to shift the freight handling and container storage away from its historic home in Jamestown to Rupert's Valley. To this end investment in the new road infrastructure linking Rupert's Valley with the airport site, construction of the replacement Bulk Fuel Installation and Airport Contractor's temporary occupation of land has further changed the character of the valley in a manner so that it has already become very commercial in its character and physical appearance.

The draft plan also states that the way Rupert's Valley has been used from 2016 and the anticipated pattern of development can no longer sustain designation under the former Coastal Zone Policy and an amended policy response is proposed not just to reflect this reality but also to set out clear standards to guide future development proposals, reserve land to safeguard future port and related operations and to make optimum use of new infrastructure investment.

The principle policy for the assessment of this proposed development of a port container handling facilities in the Lower Rupert's Valley is the **Coastal Zone Policy CZ1** which states:

"There will be a presumption in favour of retaining the natural appearance and ecology of the Coastal Zone and the grant of development permission will therefore be regulated by the following implementation policies with the presumption that all development shall include provision for rainwater collection, storage and re-use, commercial development shall include provision for grey water treatment and re-use, and all development shall include for sustainable treatment of sewage without risk of pollution."

This principle policy is seeking to protect the natural appearance and ecology of the coastal zone area from development and subsequent policies of the Coastal Zone seek to regulate development that are considered to be acceptable in this zone. Whilst there is no specific support for the proposed development of port facilities in this principle

policy, however the implementation policies are designed to ensure that where development is acceptable in the Coastal Zone for tourism and leisure and some element of residential use, it should meet sustainable development objectives in terms of water and sewage. The acceptable developments in the zone include the areas identified for Coastal Villages and development and facilities related to tourism and recreation and in areas that are accessible. The Rupert's Valley area has been developed since the beginning of the first occupation of the Island with accessibility issues and this area has been a focal point for access. The application should be considered as an opportunity for the development and regeneration of the previously developed area and to regulate uses, however this development proposal need to be considered outside the scope of this policy only because this principle policy makes no mention of or recognition of the industrial and commercial activities in Rupert's Valley and yet at the time of the LDCP being prepared and adopted in 2012, such uses may already have been established substantially.

Similarly policies in the Employment Section of the LDCP, policies EP.3 and EP.4 provide support for the development of commercial, industrial and storage development in Rupert's Valley. Policy EP.4 in particular recognises the need for the Wharf at Rupert's Bay, however this is linked to the development of the Airport. For the delivery of the Airport, the wharf has been delivered at Rupert's Bay. In the interpretation of these two policies whilst in the formulation of the LDCP in 2012, it may not have been considered the longer term future of the Wharf at Rupert's Bay post airport construction, however the draft Rupert's Valley Development Plan has been formulated to utilise the new port facilities in Rupert's Valley and land-use proposals set out are in line with the objectives of policy EP.3.

In view of the principle policy CZ.1 set out above, the proposed development must be considered as a departure from this LDCP policy. Therefore, this development application has been referred to the Governor-in-Council for decision in accordance with Section 23 of the Land planning and Development Control Ordinance 2013

STAKEHOLDER CONSULTATION

Consultation responses have been received from Stakeholders in respect of the proposed development (see Annex 1 for detail of responses). There are objection and concern raised by the Fire and Rescue Service and Programme Management Unit with regards to the access road into the site and the health and safety issues arising from the neighbouring BFI installation. The main issues is the intensification of the industrial operations in close proximity to the fuel installation site, particularly metal fabrication activity that can cause sparks. There is a need to ensure a safe distance from the fuel installation in compliance with health and safety regulation. There is a need for an alternative access route to enable safe evacuation in case of emergency. There are deep

hillside on all three sides of the application site. It is recommended that alternative access into the area needs to be provided. There are currently no proposals for such facility to be provided.

CHIEF PLANNING OFFICER RESPONSE

The health and safety concerns raised by the Fire and Rescue Service is a serious issue that needs to be addressed in assessment of this proposed development and future intensification of uses in this area. As development by this applicant is well on its way without the wider health and safety considerations arising from the development and proposed use in close proximity to BFI installation an urgent and immediate action is required to provide a safe alternative route out of the area. An area further east of the application site has been identified for deposit of spoils arising from the construction of the Freight Container Development that is also likely to further activity in the area.

Furthermore with the limited access to the site along a long narrow access road and no alternative escape route and further exacerbated with increased parking and vehicle movement, there has been no risk assessment undertaken to assess the impact of the proposed development in the area.

If an alternative escape route for the workers can be provided in the short-term with a view to providing a more acceptable long-term alternative access to the area, then development permission may be granted. However, if such a short-term solution to provide an acceptable pedestrian escape route is not feasible given the physical constraints of the area then development permission cannot be granted on health and safety grounds.

REPRESENTATION

No representation has been received from the local neighbours or the general public in response to the wider publicity and neighbourhood consultation. Solomon and Company responsible for the BFI operation have been contacted to obtain a response in respect of this development. Unfortunately no response has been received from the Company.

OFFICER ASSESSMENT

The area of the Upper Rupert's Valley can be described as a mix of industrial and commercial uses that have continued to evolve over the years and has the potential for further intensification of such uses. The application site has been used for industrial use and storage in the past and therefore in principle there are no policy or land-use planning issues arising from this development application. The proposal for the construction of the workshop building in this location also does not raise concern as

long as the site and the volume of development is able to be accommodated and provision is made for car parking and vehicular movement arising from the industrial and commercial operation. The number of car-parking spaces being provided is well below the provision that should be expected with the floor area being proposed. Given the limitation of the site and recognising that there are no traffic congestion issues in the area, the level of car parking provision required for this business operation should be conditioned to enable the applicant to review staff transport requirement and to submit a Business Transport Plan setting how he intends to manage the transport needs of the business.

As regards to health and safety issue arising from the proposed development and the need for an alternative egress from the site in case of emergency, the applicant in cooperation with SHG's Properties Section, as the landowner, would need to provide an immediate solution that provides a means of escape for the workers in case of emergency. If such a means of escape cannot be provided then the use of building and the site for industrial or any other operation cannot be permitted. There must also be a longer-term proposal for an alternative egress from this area with the construction of a suitable access track for all users.

C. CONSIDERATION OF THE APPLICATION BY LAND DEVELOPMENT CONTROL AUTHORITY

At their 6 October 2021 meeting the Land Development Control Authority (LDCA) considered the report on the development application seeking FULL Development Permission for the retention and development of the proposed workshops, carpentry and storage. The LDCA welcomed the proposed development and the detailed design and raised no concerns or issues and accepted that the proposed development which will have minimum effect on the coastal zone environment and landscape of the area as industrial and commercial uses are already well established there. The LDCA acknowledged the health and safety concerns arising from the proposed development due to the close proximity of the BFI installation which needs to be addressed and there being only a single narrow access road into the area, an alternative escape route initially for pedestrians and also vehicular access needs to be established as soon as possible. The health and safety concerns need to be addressed and implemented before the site can be occupied in compliance with the 'Conditions' as set below. This needs to be developed in partnership between the landowners and the various users of the neighbouring land plots.

LDCA has recommended to Governor-in-Council to grant Full Development Permission subject to the 'Condition's as set out below.

D. CONCLUSION FROM OFFICER ASSESSMENT

The development application for the construction of the workshops, industrial use and related facilities in the Upper Rupert's Valley area has been considered against the relevant development plan policies and the regulations and it concluded that there is development plan policy support for the proposed development as set in the Report. Whilst the proposed development is considered not to be in compliance with the principle objectives of the Coastal Zone policy, however it is considered there is sufficient justification in a number of other development plan policies to support and enable the form of development proposed at this site in Ruperts.

The proposed development will have little or no effect on coastal zone landscape of the area as industrial and commercial uses are already well established. There are however health and safety concerns arising from the proposed development due to the close proximity of the BFI installation and there being only a single narrow access road into the area. These health and safety concerns will need to be addressed and implemented before the site can be occupied. Where these conditions are considered to be a way forward to enable this development proposal to be supported then it is advised that Governor-in-Council support the recommendation for approval.

E. REFERRAL OF DEVELOPMENT APPLICATION TO GOVERNOR-IN-COUNCIL

The Development Application is being referred to Governor-in-Council in accordance with Section 23(2)(b)(i) of the Land Planning and Development Control Ordinance 2013, as the grant of development permission must be considered as a departure from the LDCP Coastal Zone policies. The proposed development is within Coastal Zone policy area and it is not directly related to tourism activity or can be classified as being essential infrastructure. However, it also needs to be acknowledged that the other policies of the LDCP (Employment) in particular allows for this form of development in such areas as it can be demonstrated that the development will provide economic benefits to the Island.

LDCA has recommended to the Governor-in-Council to grant Full Development Permission subject to the Condition's as set out below.

F. RECOMMENDATION

In view of the assessment set out in this report, it is recommended that Governor-in-Council **GRANT DEVELOPMENT PERMISSION** subject to the following conditions:

- 1) This **permission will lapse** and cease to have effect on the day, 5 years from the date of this Decision Notice, unless the development has commenced by that date.

Reason: Required by Section 31(2) of the Land Planning and Development Control Ordinance 2013.

- 2) The development shall be implemented in accordance with the details specified on the Application Form; Site Layout, Floor & Elevation Plans (DWG No. St71/2021, AT72/2021, St73/2021 and Design and Access Statement) received on 8th September 2021 as stamped and approved by the Planning Officer, on behalf of the Land Development Control Authority, subject to the Condition of this Decision Notice and unless the prior written approval is obtained for an amendment to the approved details under Section 29 of the Land Development Control Ordinance, 2013.

Reason: Standard condition to define the terms of the development and to ensure that the development is implemented in accordance with the approved.

- 3) This Development Permission does not confer approval under the Building Control Ordinance. Please consult with the Building Inspector(s) to find out whether building regulations approval is required, prior to the development commencing.

Reason: to ensure development is carried out in accordance with the Building Control Ordinance 2013.

- 4) Before the development is occupied and industrial operation commences on site, proposal for the alternative escape route from the application to safe destination will be submitted and approved in writing to the Chief Planning Officer on behalf of the Land Development Control Authority and approved proposals will be implemented immediate.

Reason: To ensure that the safety of the workers is not compromised and a suitable means of escape is provided for all users of the area in the case of emergency

- 5) Notwithstanding compliance with Condition 4, within 12 months of the operation of the use, details proposal for an alternative egress route out this area will be submitted and approved in writing to the Chief Planning Officer on behalf of the Land Development Control Authority and approved proposals will be 12 months of the proposal being approved.

Reason: to ensure that there is permanent and more acceptable safe escape route for all users from the area in the case of emergency

- 6) Within the six months of the completion of the development and commencement of its use, a **Transport Travel Plan for the business** will be submitted and

approved in writing by the Chief Planning Officer on behalf on the Land Development Control Authority, setting out the proposal for the management of employee travel to and from work and to management car parking on site and ensuring that no employee vehicles are parked in the access road causing restrict to the access road and the **Transport Travel Plan will be implemented immediately.**

Reason: to ensure that business and its employee vehicles are effectively managed, not restricting access on the access road and in the immediate area of the business operation.

- 7) During **Construction** of the development, no obstruction shall be caused on any public road and to reinstate damage to any public road and other public or private infrastructure/structure arising from implementation of the development permission.

Reason: To ensure safe vehicular access and reinstate damage to public infrastructure arising directly from the approved development in accordance with Planning Policy IZ 1(g).

- 8) Excavation into slope and infilling to form level platforms or embankments shall be in accordance with the approved plans and engineering design principles. Deviation to be agreed with the Chief Planning Officer and Building Inspector. Land made unstable as a result of implementation of development shall be satisfactorily stabilised, consolidated or retained in consultation with the Chief Planning Officer and Building Inspector.

Reason: In the interests of safety to maintain the stability of land and visual amenity and also to accord with LDCP Policy IZ1 (f).

- 9) All regraded land (including fill-faces and cut-faces) to be appropriately vegetated and landscaped, within a year following construction.

Reason: to ensure that the development blends into the natural landscape and that soil be effectively re-used in garden areas in accordance with LDCP IZ1 (h).

- 10) **Storm water** should be managed on site and not allowed onto the public roadway or neighbouring areas.

Reason: To protect public and private amenity and accord with Development Plan **Policy SD1.**

- 11) The Driveway to the site from the existing roadway (as indicated on the Site Layout Plan), to be appropriately formed (in accordance with the Island's Roads Policy) and surfaced (preferably with a permeable surface material) sufficient for use by normal passenger cars and emergency vehicles.

Reason: to ensure that the dwelling has adequate access in accordance with LDCP Policy RT1 (d).

- 12) Occupation of the development is not permitted until it is adequately served by a potable water supply, adequate energy supply as well as a foul drainage system, as approved by the Building Inspectors in consultation with the Chief Planning Officer.

Reason: To accord with LDCP IZ1, SD1, RT7 and W3.

- 13) **Roof Water Practices:** No Roof Water or other Surface Water shall be connected to or directed to any foul drain. Roof water shall be piped to storage tank of minimum capacity 450 litres with overflow piped to the sea.

Reason: to conserve rainwater and to avoid overloading the Septic Tank, in accordance with LDCP SD1.

- 14) All **external lights** attached to the building shall be designed and sited such that they do not emit light at or above the horizontal and the light source (lamp, bulb or LED) shall not be visible beyond the site boundaries.

Reason: to avoid light pollution and to protect the dark skies status of the island in accordance with LDCP policy E8.

- 15) The Colour of Roof shall be dark slate grey.

Reason: to blend the building into the landscape, in accordance with the Adopted Policy on Colour of Roofing Materials.