

Minutes of the Governor in Council Meeting held on Thursday, 9th December 2021 at 1:00pm
in the Council Chamber

Present: His Excellency the Governor (Dr Philip Rushbrook)
The Hon. Chief Minister/Employment Skills & Education (J D Thomas)
The Hon Attorney General (Mr A T Cansick)
The Hon Minister, Treasury Infrastructure & Sustainable Development (M A Brooks)
The Hon Minister Safety, Security & Home Affairs (J R Ellick)
The Hon Minister Health & Social Care (M D Henry)
The Hon Minister Environment, Natural Resources & Planning (C L Scipio)

In attendance: Secretary to Executive Council (Mrs N M Bargo)
The Chief Secretary (Mrs S O'Bey)
Head of News (Mrs K A M Yon)

OPEN SESSION

1.1 Welcome

The Governor welcomed all present to the meeting. The purpose of the meeting was to consider three development applications which the Land Development Control Authority (LDCA) had referred to Governor in Council (GIC) for consideration in accordance with the Land Planning and Development Control Ordinance as the granting of development permission was considered as a departure from the Land Development Control Plan (LDCP).

Three members of the public were in attendance for this open session.

The Chief Planning Officer (CPO), Mr Ismail Mohammed was in attendance for the entire meeting.

The Hon Chief Minister/ESE invited the Hon Minister of Environmental Natural Resources and Planning (ENRP) Portfolio to present all three applications.

The Hon Minister, ENRP advised that Ministers had noted the public's reaction to an earlier open session meeting where a development application was considered and Ministers deliberations took place in close session. It was advised that going forward Ministers' deliberations would be held in open session allowing members of the public attending to be present. Ministers had met informally with the CPO which allowed them to have deliberations on all three applications in advance of the day's meeting. Such an approach is acceptable under the Constitution.

1.2 Development Applications

1.2.1 Development Application for a proposed Satellite Earth Station at Horse Point, Bottom Woods (GiC Memo 02/2021)

The Minister ENRP introduced the Memorandum asking GiC to advise whether Full Development Permission should be granted, with Conditions, for the proposed development of a Satellite Earth Station Facility at Horse Point Plain, Bottom Woods as recommended by the Land Development Control Authority (LDCA).

The Minister, ENRP explained that this Development Application was 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 Land Development Control Plan (LDCA) due to the development being located in the Coastal Zone.

Points highlighted by the Minister in relation to this application were:

- a number of consultation meetings and an Environmental Impact Assessment (EIA) had been carried out for this development application;
- the LDCA was supportive of this application and the Chief Environmental Officer had not raised any concerns with the EIA;
- the benefits that this development will bring about were acknowledged, however attention was placed on the need to strike a balance between the environment and economic benefits, taking into consideration that the area in question is designated a Nature Conservation Area and provisions are included in LDCA 2012 for these areas/zones to be protected; and
- there was an expressed view that the EIA did not fully address all of the impacts of the designated areas, including endemic invertebrates that might exist within the development site and it was felt that further work needed to be carried out in that regard before an informed decision is made.

Given the representations from stakeholders and the response received during the public consultation process, Ministers requested additional information from the applicant as follows:

- Confirmation from the Island's energy provider, namely Connect Saint Helena Ltd as to whether they are able to supply the level of power needed by this development given that the applicant had made reference to the PASH renewable energy project, which Ministers are aware has fallen away;
- That a further walkover survey of the development site is arranged to determine the presence of endemic invertebrate species that could be negatively impacted upon if this development is approved with minimal regard of their existence. The walkover should take place as soon as practicable to coincide with the time frame in which the initial survey was completed, during which endemic invertebrate was present. It was advised by the CPO during this meeting that three walkover surveys had been completed previously, which contradicted what Ministers had been advised during their informal meeting held with the CPO. During the meeting the CPO advised that three walkover surveys has been undertaken in May 2021, January 2021 and October 2020;

- Details of the proposed security fencing together with a graphic impression of the visual impact of the fencing on the landscape;
- Whether there would be any impact from the blasting operations of an existing nearby quarry business on the operational use of the site;
- Whether the radio wave frequencies would have any negative impact on the wildlife within the development site.

With regard to Council's request for additional information that determined the Horse Point site over other sites that were identified for the development, the advice of the Hon Attorney General was that the application needed to be considered in light of the prescribed site and not against other site options as this would be moving towards an investigative process.

The CPO was invited to comment on the queries raised by Council and advised as follows:

- Connect Saint Helena Ltd had indicated that they do not anticipate any problems with the supply the power required for the development;
- Three walkover surveys had been undertaken: May 2021, January 2021 and October 2020. The CPO was of the view that a further walkover would be useful at the start of the project construction stage to determine any additional endemic invertebrates that might exist on the site. However, Ministers remained resolute in their wish for the walkover to take place imminently to allow for mitigation measures to be implemented if necessary, should additional species be identified;
- The security fencing would be similar in type to that used for the Rupert's development project;
- The applicant was aware of the existence of the quarry and its operations; as well as other users within the vicinity of the development site;
- The EIA assessed the impact of wave frequencies on the wildlife and concluded that there would be no impact;
- There would be no conflict between the radio frequencies used by the Airport and that from the proposed Satellite facility.

In light of the points raised by Council, the Hon Minister, ENRP recommended and Council confirmed their collective support, that the development application for the proposed Satellite Earth Facility at Horse Point be deferred to a meeting to be held before the end of January 2022, pending receipt of the additional information requested as follows:

- (i) Confirmation from Connect Saint Helena Ltd that they are able to supply the level of power required for the development;
- (ii) A report or feedback from the walkover survey for endemic invertebrates. Such should take place as soon as possible in order for application is brought back to GiC before the end of January 2022;
- (iii) Receipt of an artist's impression of the proposed security fencing;
- (iv) confirmation from the applicant that the quarry blasting operations would not have any impact on the proposed development; and
- (v) Confirmation that there will be no potential impact on the wildlife within the and around the development site from the radio frequencies being proposed.

(Action: Hon Minister ENRP)

1.2.2 Development Application for the proposed construction of a Workshop, Office, Carpentry Shop and Storeroom, Upper Rupert's Valley, (Retrospective Application) (GiC Memo 02/2021)

The Minister ENRP introduced this Memorandum asking Governor in Council to consider and advise whether Full Development Permission should be granted, with Conditions, for the proposed construction of a Workshop, Office, Carpentry Shop and Storeroom in Upper Rupert's Valley as recommended by the LDCA, in retrospect. The Land Development Control Ordinance 2013 provides for Governor in Council to consider development applications retrospectively.

This development application was 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 was considered as a departure from the LDCA Coastal Zone policies.

Points highlighted by the Hon Minister, ENRP were:

- 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;
- It was noted that building works had commenced on site and is to be deemed unauthorised;
- Concerns were raised from a Health and Safety perspective, in particular that the workshop is likely to include 'hot works' involving the use of highly flammable materials which would take place in close proximity to the new Bulk Fuel Installation (BFI) facility. The Chief Planning Officer's (CPO) report to the LDCA did not provide any information with regards to any new development or types of activities permissible at this site, beyond the 150m development proximity zone of the BFI identified by Halcrow. It was noted that a section of the development site appear to be within the 150 development proximity zone of the BFI;
- Concerns were raised that the CPO's report did not provide any detailed information on the potential impact on business operations of this proposed development if and when the new BFI becomes operational;
- Ministers wanted some assurance that activities/work intended by the developer would be carried out safely and to gain a better understanding of whether a workshop using highly flammable materials just outside the 150m development proximity zone of the BFI is acceptable;
- In the absence of an official Health and Safety Body, Ministers wished to refer to Health and Safety literature on best practice given the nature of the proposed development. As SHG was the landowner of the site on which the development is proposed, SHG would undertake the open literature review, in consultation with the Safety Security and Home Affairs Portfolio.

In light of the points raised by Council, the Hon Minister, ENRP recommended and Council confirmed their collective support, that the development application for the proposed construction of a Workshop, Office, Carpentry Shop and Storeroom be deferred to the next GiC meeting, pending clarity around the health and safety aspects relating to this development.

(Action: Hon Minister ENRP & Chief Secretary)

1.2.3 Development Application for the proposed installation of a new Scientific Stilling Well at the new Wharf Rupert's Valley (GiC Memo 03/2021)

The Minister ENRP introduced this Memorandum asking Governor in Council to consider and advise whether Full Development Permission should be granted, with Conditions, for the Proposed Installation of a New Scientific Stilling Well at Rupert's Wharf, as recommended by the LDCA.

The development application is within close proximity to the sea and in accordance with the existing Governor in Council Directive to the CPO (dated 17 April 2014), this application needed to be referred to the Governor in Council for a decision. The Direction covering this referral is as follows:

- Direction 3: 'The development of any land covered by water or land within 50 meters of land covered by water'.

It was noted that the location for this proposed development is at the new Wharf in Rupert's. This area is within the Coastal Zone and has no conservation area restrictions.

The CPO explained that the application is for the proposed installation of a Tide Gauge and GPS station on the new Wharf at Rupert's to collect data pertaining to sea level and land movement, which can be used by scientists to help determine if and how climate change is affecting the oceans in the South Atlantic and in particular sea levels. It was noted that similar devices are already installed around the Island and that the applicant has a resident representative on Island.

Council noted from the Chief Planning Officer's Report to the LDCA that during the stakeholder consultation process on this application, the Marine Conservation Section requested that the data collated which will help inform Marine Conservation and Management Planning matters, be shared with them. It was therefore requested that this should be negotiated with the applicant as a gesture of good will.

(Action: Secretary to Executive Council)

The Governor thanked the Chief Planning Officer for the work and input he had contributed towards planning and development matters during his term of office and wished him all the best for the future.

1.3 Publicity/Briefing to the Press

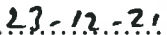
The HoN would prepare a draft summary of top lines on the three development applications for Council's comment, and arrange for a discussion to be held on radio for the Hon Minister, ENRP to inform the public of the decisions taken, preferably the following day being Friday 10 December 2021 but bearing in mind the scheduled formal meeting of Legislative Council.

(Action: Head of News & Hon Minister ENRP)

There being no further business the Governor closed the meeting at 11:05am.


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Secretary to Executive Council


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Governor


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Date