



GOVERNMENT OF BERMUDA

Department of Planning

*Dame Lois Browne-Evans Building, 58 Court Street, Hamilton HM 12, Bermuda
Phone: (441) 295-5151 Fax: (441) 295-4100*

Development Applications Board Minutes

Minutes of a meeting held on Wednesday, 9 June, 2021 at 8:45 AM virtually via WebEx.

PRESENT:

Board Members:

Alice Lightbourne (Chair)
Wayne Dill (Deputy Chair)
Patrick Cooper
N. Garon Dowling
David Astwood
Denis de Frias
Wendy Dunne
Calvin Thomas
Shabion Postlethwaite
Josonne Smith (Bermuda Fire and Rescue Service)

Technical Officers:

Paul McDonald (Acting Senior Planner)
Dolores Vazquez (Planner)
Tamsyn Doran (Planner)
Malik Richards (Acting Assistant Planner)
Jessica Dill (Trainee Heritage Officer)

APOLOGIES:

None

MATTERS ARISING AND ACTIONS FROM PREVIOUS MEETING:

None

APPLICATIONS:

Devonshire

1. PLAN-0545-20

Applicant: Tony Maderios

Location: 8 Marsh Lane
Devonshire, BM DV06

Description of Proposal: Proposed Addition of Balcony, Elevator Shaft, Canopy for Compressor and Water Pump Above Water Tank, Concrete Pad for Proposed BELCO Transformer, Exterior Stairs, and Interior Renovations to Fix Failed Slab

Date Received: March 11, 2021

Planner: Malik Richards

Discussion: The technical officer presented the application with a recommendation to approve. No questions or comments were posed by the Board.

The Board resolved to approve the application, subject to the following conditions:

1. The development hereby permitted shall begin before the expiration of 2 (two) years from the date of this permission.
2. For the avoidance of doubt the consent hereby granted is for planning permission only. Prior to the commencement of building operations a separate application for a building permit must be made and approved.

Pembroke

2. P0133-21

Applicant: Harrys

Location: 71 Pitts Bay Road
Pembroke, HM08

Description of Proposal: New 8-Storey Mixed-Use Residential / Commercial Building (10 Residential Units)

Date Received: March 19, 2021

Planner: Dolores B. Vazquez

Discussion: The technical officer presented the application with a recommendation to refuse. No questions or comments were posed by the Board.

The Board resolved to refuse the application for the following reason:

1. The proposal is considered to be in conflict with COM.8(d) of the Draft Bermuda Plan 2018. The Development Applications Board does not have the discretion to approve an 8 storey building in this location.

Southampton

3. P0183-21

Applicant: Russell De Moura

Location: 77 Middle Road A
Southampton, SB04

Description of Proposal: Proposed Retroactive 4'7" Max Height Retention Structure/Wall near the water's edge.

Date Received: April 21, 2021

Planner: Tamsyn Doran

Discussion: The technical officer presented the application to the Board with a recommendation to refuse.

The Board asked for clarification regarding whether the Director may refuse retroactive applications under delegated authority.

Technical officers advised that it would not be feasible to amend the Scheme of Delegation at this time given that current legislation does not allow decisions of the Director to be appealed to the Minister, however the Department is aware of such concerns and noted that a change in legislation would be needed.

The Board resolved to refuse the application for the following reason:

1. The applicant has failed to demonstrate to the satisfaction of the Board that he was not responsible for the breach of planning control or that, at the time the development was being so carried out, he did not know, and could not reasonably be expected to have known, that the development was in breach of planning control as required under Section 20 (2A) of the Development and Planning Act 1974 (as amended).

St. George

4. PLAN-0514-20

Applicant: Scott Carlington

Location: 44 Ballast Point Road
St. George's, BM DD02

Description of Proposal: Proposed Sea Wall Remediation works to Existing Walls, New 6' High Retaining Walls and New Boat Slip. Retroactive Works for Re-Construction of Existing Wood Dock to Concrete.

Date Received: November 25, 2020

Planner: Malik Richards

Discussion: The technical officer presented the application with a recommendation to refuse.

The Board sought clarification over the application of Section 20 (2A) of the Development and Planning Act 1974 in respect of how to determine whether an applicant did not know, or could not reasonably be expected to have known, that the development was in breach of planning control.

Technical officers advised that the Department has consistently taken the position that developers should contact the department to ascertain whether planning permission is required prior to carrying out the work and the only exceptions to this position have been where the applicant was not the person responsible for carrying out the retroactive work or the development in question was particularly minor.

The Board queried whether the applicant could apply for the non-retroactive development included in this application.

Technical officers advised that the applicant could appeal should the Board resolve to refuse planning permission and could also submit a separate application for the non-retroactive work.

The Board resolved to refuse the application for the following reason:

1. The applicant has failed to demonstrate to the satisfaction of the Board that he was not responsible for the breach of planning control or that, at the time the development was being so carried out, he did not know, and could not reasonably be expected to have known, that the development was in breach of planning control as required under Section 20 (2A) of the Development and Planning Act 1974 (as amended).

ANY OTHER BUSINESS:

None



Chairman of the Development Applications Board

Date 10 June 2021