



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, 22 February, 2023 at 8:45 AM virtually via WebEx.

PRESENT:

Board Members:

Alice Lightbourne (Chair)
Wayne Dill (Deputy Chair)
N. Garon Dowling (Corp. of St. George)
Josonne Smith (Bermuda Fire and Rescue Service)
David Astwood
Denis de Frias
Shabion Postlethwaite

Technical Officers:

Victoria Cordeiro (Director)
Larry Williams (Assistant Director)
Paul McDonald (Senior Planner)
Dolores Vazquez (Planner)
Tamsyn Doran (Planner)
Matthew Trott (Planner)
Yolanda Bashir-Paige (Assistant Planner)
Malik Richards (Acting Assistant Planner)
Nathan Frick (Applications Officer)

APOLOGIES:

Calvin Thomas
Patrick Cooper (Corp. of Hamilton)

MATTERS ARISING AND ACTIONS FROM PREVIOUS MEETING:

N/A

APPLICATIONS:

Sandys

1. P0420-22

Applicant: Marcelino Ferreira

Location: 84 Railway Trail
Sandys, SB02

Description of Proposal: Retroactive Application for Installation of Electronic Locking Gate and Conversion of Art & Craft Studio to Horse Stable, with Paddock on Agricultural Reserve.

Date Received: December 02, 2022

Planner: Yolanda Bashir-Paige

Discussion: The technical officer presented the application to the Board with a recommendation to refuse. A Board member (Mr. de Frias) declared to the Board that his firm represented the sellers of the various lots in the past, but is satisfied that this not qualify as a conflict of interest as the seller no longer owns any of the lots. The Board member did note that the owner of the property is employed as a contractor and should have been aware of the planning requirements for this development.

The representative for the Bermuda Fire and Rescue Services (Mr. Smith) declared a conflict of interest for this application and withdrew himself from the voting process. The BFRS member did acknowledge that the proposed gate would produce a significant time delay to provide emergency services and that the alternative access route is too tight for emergency vehicles to use. The BFRS representative queried the total width of the gate access, noting that a minimum of 12 feet of unobstructed width would be required to allow their largest emergency vehicles to pass through. The technical officer confirmed that the total width between the posts is approximately 10 feet.

The Board resolved to refuse the application for the following reason(s):

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 by Section 20 (2A) of the Development and Planning Act 1974.

2. The application does not comply with Policies ZON.5 and ZON.9 of Chapter 3 or AGR.4, AGR.7 and AGR.8 of Chapter 21 of the Bermuda Plan 2018 in that the proposal is not a form of development associated with the Agricultural use of the land and it has not been demonstrated that all reasonable steps have been taken to identify alternative locations outside the Agricultural Reserve.

Southampton

2. P0455-22

Applicant: Greg & Lorna Wilson

Location: 80 South Road
Southampton, SN02

Description of Proposal: Retroactive Application for Gabion Wall within 15 ft. Setback and Demolition of Greenhouse.

Date Received: December 23, 2022

Planner: Matthew L. Trott

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(s):

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 by Section 20 (2A) of the Development and Planning Act 1974 (as amended).

Warwick

3. P0278-22

Applicant: The Granaway Deep Trust

Location: 8 Harbour Road
Warwick, WK04

Description of Proposal: Proposed Alterations and Additions to Existing Dwelling to Include Interior Renovations, Alterations to the Existing Access onto Harbour Road, New Pool, Pavers, Covered Porch, Garage, Gate (4 feet 6 inches) and Columns (5 ft. Max Height), 4 ft. Max Height Walls, Rock Cut (5 ft Max.), Relocate Pit, New Steps, Remove Electrical Pole, Additions and Alterations to Existing Planting.

Date Received: July 22, 2022

Planner: Tamsyn Doran

Discussion: The technical officer presented the application to the Board 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.
3. In order to provide for the safe flow of traffic, access details shall conform to the requirements of Policy TPT.11, Chapter 12 of the Bermuda Plan 2018 Planning Statement and shall ensure that, at the point of access onto the public road, sight lines for a minimum distance of 120 feet can be achieved in either direction from a point 8 feet back from the edge of the carriageway. The said measures shall be implemented prior to the issuance of a Certificate of Completion and Occupancy.
4. In order to provide for the safe flow of traffic, the average gradient of the hereby approved driveway or private road shall not exceed 1 in 6 and no part of the driveway or private road shall have a gradient exceeding 1 in 5 in accordance with Policy TPT.10, Chapter 12 of the Bermuda Plan 2018 Planning Statement. The said measures shall be implemented prior to the issuance of a Certificate of Completion and Occupancy.
5. The hereby approved Conservation Management Plan shall be substantially implemented prior to the issuance of a Certificate of Completion and Occupancy. A request for inspection of the plantings/works undertaken shall be made in writing to the Department of Environment and Natural Resources and copied to the Department of Planning. Approval of the inspection will be required prior to the issuance of a Certificate of Completion and Occupancy. If any trees or shrubs shown on approved plans are removed, die or become seriously diseased or damaged, they shall be replaced by trees and shrubs of similar size and species to those originally required to be planted.
6. In the interest of visual amenity, the hereby approved walls shall be faced with Bermuda stone or rendered and finished to give the appearance of Bermuda stone, and completed prior to the issuance of a Certificate of Completion and Occupancy.

4. P0399-22

Applicant: Adria Richards

Location: Lot #4, West Estate Road, Riddell's Bay, Warwick

Description of Proposal: Proposed New 4 Bedroom - 4.5 Bath Main House with Pool, Pool House, Deck Areas, Generator, Gas Location, Trash Area and Pedestrian Gate, Driveway with 6 ft. High Entrance Gate, Posts And 4 ft. High Boundary Wall, New 4 ft. High Pool Barrier Fence with Self Closing Gates, Proposed Landscaping Works Including 3 ft. High Geocellular Retaining Wall.

Date Received: October 24, 2022

Planner: Malik Richards

Discussion: The technical officer presented the application to the Board with a recommendation to approve. A Board member queried if planning permission would be required if the applicant sought to extend or reconfigure the wooden deck. The technical officer confirmed that any alterations to the deck, such as the addition of a pergola, would require planning permission.

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.
3. In the interests of visual amenity, the entire site subject of this application shall be landscaped in accordance with the hereby approved plans prior to the issuance of a Certificate of Completion and Occupancy. Any trees or shrubs shown on approved plans which are removed, die or become seriously diseased or damaged shall be replaced by trees and shrubs of similar size and species to those originally required to be planted. Similarly, any trees which are shown as being retained on approved plans and are removed or damaged during the course of excavation or construction, shall require the submission of a revised landscaping plan, via an Application for Revision, showing details of the size, species and number of new plantings to be installed to replace any damaged or destroyed trees.
4. The submission of a building permit application shall include all details associated with the swimming pool backwash pit together with provision of a carbon filter or such other measures to demonstrate removal of chlorine. All details must be accompanied by written approval from the Department of Environment and Natural Resources and the installation of such measures as may be approved shall be agreed by that Department prior to the issuance of a Certification of Completion and Occupancy Permit.
5. In order to ensure that the proposed development is of an appropriate scale, no part of the hereby approved boundary walls shall exceed 4 feet above final grade.
6. Prior to any works being undertaken in the Coastal Reserve, the Terrestrial Conservation Officer shall be notified such that they can ensure the trees that are to remain are protected appropriately.

5. P0492-22

Applicant: Daina Stephens

Location: Vacant Lot B Riddles Bay Road, Opposite from #15 Fairways Road, Warwick

Description of Proposal: Proposed 2 bedroom dwelling with detached garage and studio apartment, pergola, driveway pillars and gates 4ft max height, 4'-0" height boundary fence and walls, Rock Cut 8'-0" max high.

Date Received: January 04, 2023

Planner: Matthew L. Trott

Discussion: The technical officer presented the application to the Board with a recommendation to approve. The Senior Planner recommended adding a condition to the approval requiring a link to be built to clearly define the two units, which was supported 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.

3. The private outdoor living space shown on the hereby approved plans shall be established for use in accordance with Policies DSN.16 and DSN.17, Chapter 9 of the Bermuda Plan 2018 Planning Statement, prior to the issuance of a Certificate of Completion and Occupancy.
4. Parking and manoeuvring space for two cars and two cycles shall be established for use in accordance with Policies TPT.20 and TPT.22, Chapter 12 of the Bermuda Plan 2018 Planning Statement, prior to the issuance of a Certificate of Completion and Occupancy.
5. In the interest of visual amenity, the hereby approved wall(s) shall be faced with Bermuda stone or rendered and finished to give the appearance of Bermuda stone, and completed prior to the issuance of a Certificate of Completion and Occupancy.
6. In the interests of visual amenity, the entire site subject of this application shall be landscaped in accordance with the hereby approved plans prior to the issuance of a Certificate of Completion and Occupancy. Any trees or shrubs shown on approved plans which are removed, which die or which become seriously diseased or damaged shall be replaced by trees and shrubs of similar size and species to those originally required to be planted.
7. The hereby approved rock cuts shall not exceed a total vertical height of eight feet in accordance with approved plans.
8. In order to accord with the provisions of the Riddell's Bay Special Development Order, the hereby approved solid-roofed pergola attaching the main residence to the cottage shall be fully constructed prior to the issuance of a Certificate of Completion and Occupancy and shall be retained thereafter.

Pembroke

6. P0323-22

Applicant: Robin Adderley

Location: 26 Cheriton Lane
Pembroke, HM01

Description of Proposal: Retroactive Change of Use from Residential to Commercial Use and Interior Renovations at Lower Level.

Date Received: October 04, 2022

Planner: Yolanda Bashir-Paige

Discussion: The technical officer presented the application to the Board with a recommendation to refuse. A Board member clarified the total lot size of the subject property, given that one of the slides presented to the Board showed a conflicting value. The technical officer noted the error and confirmed that the Board report and submitted drawings does provide the correct lot size values.

The Board resolved to refuse the application for the following reason(s):

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 by Section 20 (2A) of the Development and Planning Act 1974.

Smiths

7. P0312-22

Applicant: Barry Decouto

Location: Lot A, North of #46 Vermont Road, Smiths

Description of Proposal: Proposed New Three-Bedroom Detached House, Ground Floor - Open Plan Communal Space with an Entrance Foyer, Living Room, Kitchen, Pantry, Dining Room and Bathroom, Upper Floor Master Bedroom Suite with Ensuite Bathroom, Two Other Bedrooms, Laundry and a Bathroom, New Water Tank and Cesspit, New Grasscrete Driveway and Concrete Parking Area.

Date Received: September 28, 2022

Planner: Tamsyn Doran

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

A Board member (Mr. de Frias) declared a conflict of interest and did not participate in the voting process. The Chair sought confirmation with the Board members if the applicant's attempts to obtain acknowledgment is considered satisfactory. The Board agreed that the efforts provided by the applicant were deemed sufficient.

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

1. For the avoidance of doubt the application is granted in principle approval only. Those details relating to use, density, site coverage, siting and layout, building height, building lines, design, parking provision and access are hereby approved. Those matters relating to external appearance of the building and landscaping are reserved for the subsequent approval of the Development Applications Board.
2. The development hereby permitted shall begin either before the expiration of 2 (two) years from the date of this permission, or the expiration of 2 (two) years from the final approval of reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
3. The submission of a final planning application shall include a Conservation Management Plan which accords with the criteria set out by policy ENV.8 of Chapter 6 of the Bermuda Plan 2018 and details the removal of all impacted Agricultural Reserve soil to be redistributed within the remaining conservation area.
4. The submission of a final planning application shall include a topographical survey of the site to confirm the extent of all required rock cuts and fill.

Hamilton

8. P0416-22

Applicant: RWTP Golf Ltd

Location: Lot 9 (Site 02C Paynter's Hill), Tucker's Point, Hamilton Parish

Description of Proposal: Proposed New House with Garage and Guest Wing, Swimming Pool with Backwash Pit, Stone Boundary Walls, Fencing, Site Works and Landscaping

Date Received: October 28, 2022

Planner: Paul McDonald

Discussion: The technical officer presented the application to the Board 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.

3. No development, including any intrusive ground works, shall take place until a report prepared by an appropriately qualified professional has been submitted to and approved, in writing, by the Pollution Control Section of the Department of Environment and Natural Resources. The report shall demonstrate that on-site ground conditions are suitable for the short and long-term stability of the development hereby approved without compromising the integrity or environmental quality of any underlying caves and shall include any proposed intrusive investigation methods, such as, but not limited to, drilling or the digging of trial pits. The building permit application shall include a copy of the approved report together with the written approval of the Department of Environment and Natural Resources.

Reason: In order to allow for the proper evaluation of environmental risks to caves and to comply with policies CAV.3 and CAV.4 of Chapter 23 of the Bermuda Plan 2018.

4. The building permit application shall include a copy of a completed agreement with the Minister of Home Affairs pursuant to section 34 of the Development and Planning Act 1974 to designate the area identified by the drawing named 'Section 34 Agreement' dated 15 February 2023 as a Nature Reserve.

Reason: In order to ensure appropriate mitigation to the harm which has been caused to the existing Nature Reserve and to comply with policies ENV.1 of Chapter 6 and NAT.1 of Chapter 15 of the Bermuda Plan 2018.

5. The building permit application shall include a revised Conservation Management Plan in accordance with the information requirements set out by policy ENV.8 of Chapter 6 of the Bermuda Plan 2018 which includes the new Nature Reserve to be designated pursuant to Condition 4 and a karst rock removal methodology together with the written approval of such by Terrestrial Conservation Services of the Department of Environment and Natural Resources.

Reason: In order to ensure appropriate mitigation to the harm which has been caused to the existing Nature Reserve and to comply with policies ENV.1 and ENV.7 of Chapter 6 and NAT.1 of Chapter 15 of the Bermuda Plan 2018.

6. The building permit application shall include a Construction Environmental Management Plan which shall include, but not be limited to, details of protective fencing to the Nature Reserve, construction access, the location of all areas for staging and the storage of materials, aggregate and construction equipment and measures to mitigate noise, vibration, dust and contamination during construction. The development shall thereafter be carried out in full accordance with the approved details.

Reason: In order to ensure the proper management of the site, to protect the adjacent Nature Reserve and to comply with policy ENV.9 of Chapter 6 of the Bermuda Plan 2018.

7. All landscaping identified on the drawings hereby approved and Conservation Management Plan pursuant to Condition 5 shall be substantially implemented prior to the issuance of a Certificate of Completion and Occupancy. Written confirmation by Terrestrial Conservation Services of the Department of Environment and Natural Resources and the Department of Planning that the landscaping and the Conservation Management Plan has been completed shall be obtained prior to the issuance of a Certificate of Completion and Occupancy. If any trees or shrubs shown on the approved plans are removed, die or become seriously diseased or damaged, they shall be replaced by trees and shrubs of similar size and species to those originally required to be planted.

Reason: In order to ensure appropriate mitigation to the harm which has been caused to the existing Nature Reserve and in the interests of visual amenity and long-term plant management to comply with policies ENV.1 and ENV.7 of Chapter 6 and NAT.1 of Chapter 15 of the Bermuda Plan 2018.

8. The building permit application shall include details of a connection between the house hereby approved and the Tucker's Point Club Waste Water Treatment Plant and this connection shall be fully installed prior to the issuance of a Certificate of Completion and Occupancy.

Reason: In the interests of cave protection and to comply with policies CAV.3 and CAV.4 of Chapter 23 of the Bermuda Plan 2018.

9. If a previously undetected cave or cavity is revealed at any time, all works in that area shall cease immediately and the Pollution Control Section of the Department of Environment and Natural Resources and the Departments of Planning shall be informed by e-mail as soon as possible to arrange for site inspections. Works in the affected area shall not recommence until approval has been granted by both Departments and, if deemed necessary, an environmental risk management proposal has been submitted to and approved, in writing, by the both Departments

Reason: In the interests of cave protection and to comply with policies CAV.3 and CAV.4 of Chapter 23 of the Bermuda Plan 2018.

10. The building permit application shall include details of the disposal of waste swimming pool water via a connection to the piped sewer main, or if it can be demonstrate that such an arrangement is not feasible, the waste swimming pool water shall be processed via an activated carbon filter before it is disposed of via a soakaway.

Reason: In the interests of cave protection and to comply with policies CAV.3 and CAV.4 of Chapter 23 of the Bermuda Plan 2018.

11. All site services and utilities required shall be placed underground and trenching for such shall be limited to no greater than 3 feet in depth.

Reason: In the interests of cave protection and to comply with policies CAV.3 and CAV.4 of Chapter 23 of the Bermuda Plan 2018.

12. The hard surfaced forecourt hereby approved shall be constructed of a permeable surface and, prior to the issuance of a Certificate of Completion and Occupancy, provision shall be made for the control and disposal of storm water within the curtilage of the application site, which shall remain in place and be maintained to properly serve such a function thereafter.

Reason: In order to avoid the discharge of surface water onto the right of way and Nature Reserve and to comply with policies DSN.25 of Chapter 9, UTL.15 of Chapter 13 and NAT.1 of Chapter 15 of the Bermuda Plan 2018.

9. P0469-22

Applicant: Clearwater Devevelopment

Location: 90 South Road
Warwick, WK08

Description of Proposal: Proposed Pool Upper Deck Extension with Restaurant Below, New Storage and 4 ft. High Barrier Gates, 4 ft. High Barrier Wall, 4 ft. Max Height Guardrails, and 10 ft. Max Height Retaining Wall.

Date Received: November 28, 2022

Planner: Paul McDonald

Discussion: The technical officer presented the application to the Board 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.
 3. In the interests of visual amenity, the entire site subject of this application shall be landscaped in accordance with the hereby approved plans prior to the issuance of a Certificate of Completion and Occupancy. Any trees or shrubs shown on approved plans which are removed, which die or which become seriously diseased or damaged shall be replaced by trees and shrubs of similar size and species to those originally required to be planted.
 4. The submission of a building permit application shall include all details associated with the septic tank which shall be a two-compartment tank with treated effluent disposal via a sand filter. All details must be accompanied by written approval from the Department of Health and the installation of the septic tank and sand filter shall be approved by that Department prior to the issuance of a Certificate of Completion and Occupancy.
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ANY OTHER BUSINESS:

None



Chairman of the Development Applications Board

February 23, 2023

Date