

**QUESTIONS ASKED OF THE PRESIDENT OF THE DEVELOPMENT & PLANNING
AUTHORITY PURSUANT TO RULE 14 OF THE RULES OF PROCEDURE BY DEPUTY STEVE
FALLA**

I would like to respond to the following questions submitted by Deputy Steve Falla pursuant to Rule 14 of the Rules of Procedure about the Committee's decision not to hold an Open Planning Meeting for the Auberge planning application.

Question 1

Were any DPA members absent when it was decided to delegate the decision on the Auberge application to the Planning Service (for partial demolition, extension, alteration and change of use of restaurant and land to domestic use as part of adjoining dwelling - application ref: FULL/2021/0508)? If so, which member/s was absent?

Answer

All Committee members participated in the decision-making process and no Committee member was absent.

Question 2

Was the decision not to proceed with an Open Planning Meeting taken by the Authority members present or by officers in the Planning Service?

Answer

The decision can only be made by Authority members and not planning officers and so it was taken by the Authority members.

Question 3

Was the decision unanimous?

Answer

No.

Question 4

On what grounds was the decision taken not to have an Open Planning Meeting, given the noted "significant opposition" and public interest reflected by 69 objections and a petition of 1,600 names?

Answer

The Committee could see merit in holding an Open Planning Meeting for this application and supported that initially. However, on full assessment of all the facts, the Committee voted by majority that the application be decided by officers under delegated authority. This

is because, the application turned out to be straightforward in terms of the planning considerations and the proposed change of use is supported by the Island Development Plan.

Question 5

Does the Authority still believe that the decision not to hold an Open Planning Meeting was the right decision, in the context of open and transparent government?

Answer

The vast majority of planning applications are determined through delegated authority by officers. Although, delegated authority means that a planning application is not determined in public, officers take on board all representations on material planning considerations received as part of the planning process. Given that it was not a unanimous decision for or against an OPM, each Deputy stands by their view.

Question 6

Would the policies relied upon when granting this application for change of use apply to all other Guernsey out-of-town restaurants or pubs that have a residential dwelling on the same site?

Answer

Yes, the same Planning Law and policies would apply in all similar situations.

Question 7

Does the Authority believe that the term “retail site” is correct or appropriate when referring to a site containing a restaurant?

Answer

Although classified as “Retail” the specific use class for a restaurant is ‘Retail – Food’. The retail strategy on which the current planning policies are based does not differentiate between restaurants or other types of retail activity. The retail strategy essentially says that retail should be concentrated within the Main and Local Centres.

Question 8

Why did the adjoining site, referred as a “Site of Special Significance”, not influence this planning decision?

Answer

The adjacent Site of Special Significance designation was carefully considered but given the minimal work proposed to the property, this and the change of use would have no effect on the SSS. Specifically, the proposed change of use would not result in any intensification of activity or materially greater impact contrary to the aims of Policy GP2.

Question 9

Does the DPA believe that the Island Development Plan is fit for purpose in relation to this decision?

Answer

Yes, the IDP is fit for purpose in relation to this decision. If the Committee *for* Economic Development feel otherwise in relation to retail development then the Retail Strategy can be looked at and D&PA will facilitate any consequent change in retail policy arising from a new strategic approach.

Question 10

What would be required for there to be a judicial review of this decision?

Answer

The Committee would suggest that to answer this question independent legal advice would need to be sought from a suitably qualified legal professional. The Committee is not able to provide such legal advice.

Date of Receipt of the Questions: 4 February 2022

Date of Reply: 23 February 2022