



*Government of Bermuda*  
Ministry of Home Affairs  
OFFICE OF THE MINISTER

PLN: P0429-21  
APPEAL: APPL0022-22

March 13, 2023

Adwick Planning  
P.O. MA 29 Mangrove Bay  
Sandys MA BX

**Attention: Mr. Peter Adwick**

Dear Sir:

**Appeal Against the Decision of the Development Applications Board**

**Applicant:** Island Construction Services  
**Appellant:** Bermuda Environmental Sustainability Taskforce, Bermuda Audubon Society and Bermuda National Trust c/o Adwick Planning  
**Site:** 79 Middle Road, Devonshire DV06  
**Proposal:** Proposed Three Two-Storey Maintenance and Storage Buildings and Five One-Bedroom Staff Apartments, Parking, Driveway and Landscaping  
**Decision:** Approved by the Development Applications Board August 10, 2022

---

I refer to the appeal lodged in respect of the subject decision made by the Development Applications Board and enclose a copy of the Inspector's report and recommendation dated February 15, 2023.

I have carefully considered both the Director's case and the Inspector's recommendation. In making my decision, I acknowledge the long-standing history of this development site which pre-dates the current land-use zoning. For this primary reason, I do not agree with the Inspector's recommendation and have decided to dismiss the appeal and uphold the Board's decision and grant planning permission.

Whilst I appreciate the Inspector's assessment of the appeal, that the industrial activity that has existed on this site since the 1960s which was confirmed as being established by a Court judgement in the 1990s must be recognized. Notwithstanding the onsite operation, the Conservation Base Zone has remained and as such the site is zoned Open Space Reserve under the Bermuda Plan 2018.

Under the Open Space policies, the existing and proposed residential housing and existing industrial activities are classified as “non-conforming”. The Inspector stated in her report that the inclusion of housing is surprising. But in light of Bermuda’s limited land resources, the continued integration of residential units on the site is deemed an efficient use of land. There are three existing residential units on the property which have co-existed for many years with the various industrial activities. Since, the Inspector inferred that had the application included improvements to the living standards of the existing dwelling units, the five new units would be compliant under the Bermuda Plan and therefore supportable.

There was concern expressed in the Inspector’s report regarding the lack of information on the types of industrial activities on the site. Whilst I understand the Inspector’s desire to confirm the respective particulars of the industrial activities, such knowledge will not alter the established industrial history of the site.

I note that the Highways Section of Works & Engineering, the Pollution Control Section and the Terrestrial Conservation Officer of the Department of Environment and Natural Resources raised no objections to the development. It was at the recommendation of the Terrestrial Conservation Officer that a landscape buffer strategy (mound) along the east boundary with the Nature Reserve was instituted to protect any adverse environmental impacts on this sensitive area.

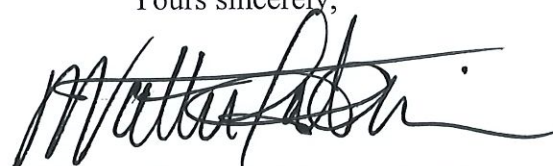
To this end, the Board in granting permission have ensured that appropriate planning conditions have been included to address any potential traffic and environmental impacts the proposal may cause.

The hereby approved application will be 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. Details of all borehole locations and specifications shall be to the design requirements of the Department of Environment and Natural Resources. Written approval from that Department shall be provided with the submission of a building permit application.
4. A Conservation Management Plan meeting the informational and qualitative standards of Policy ENV.8, Chapter 6 of the Bermuda Plan 2018, to include a programme for implementation and ongoing maintenance, shall be submitted for the review and approval of the Department of Planning and Department of Environment and Natural Resources prior to the submission of a building permit application. The Conservation Management Plan, together with the written approval of both Departments, shall be included in the building permit application and all plantings shall be substantially completed prior to 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.

5. 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.
6. In order to avoid the discharge of surface water onto the public road and adjacent property, provision shall be made for the control and disposal of storm water within the curtilage of the application site. Such measures shall be provided prior to the issuance of a Certificate of Completion and Occupancy.
7. The private outdoor living spaces 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, prior to the issuance of a Certificate of Completion and Occupancy.
8. Parking and manoeuvring space for at least 19 cars and 17 cycles shall be established for use in accordance with Policies TPT.20 and TPT.22, Chapter 12 of the Bermuda Plan 2018 prior to the issuance of a Certificate of Completion and Occupancy.
9. All details pertaining to the proposed access onto Parson's Lane and Middle Road, including sightlines, access and egress, turning radius, vegetation and traffic calming to improve visibility, shall be submitted for the approval of the Highways Section of the Department of Works and Engineering prior to the submission of a building permit. The approved details, together with the written approval of the Highways Section, shall be included with the building permit application and implemented prior to the issuance of a Certificate of Completion and Occupancy.
10. In the interest of protecting the Conservation Base Zoning along the northern, eastern and western boundaries of the application site, no development other than plantings shall be permitted on that area of the site indicated on the hereby approved drawings as Area B - Nature Reserve Buffer. All such material shall be entirely removed from the site prior to the issuance of the Certificate of Completion and Occupancy.
11. Details of potable water storage locations and specifications shall be to the design requirements of the Department of Health. Such details together with the written approval of that Department shall be provided with the submission of a building permit application.

Yours sincerely,



**The Hon. Walter H. Roban, JP, MP**  
**Minister of Home Affairs**

cc: Director of Planning  
Asst. Director – Development Management  
Senior Planning Officer – Development Management  
Senior Planning Officer – Forward Planning