



Hastings District Council

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OPEN MINUTES

HEARINGS COMMITTEE

Meeting Date: **Monday, 29 October 2018 and
Reconvened in Public
Excluded Session later on
Monday, 29 October 2018**

**(Proposed Subdivision of 126 Main Road, Clive into 6
residential sites, a commercial site and an esplanade
reserve – C and S Davidson)**

HASTINGS DISTRICT COUNCIL

**MINUTES OF A MEETING OF THE HEARINGS COMMITTEE
HELD IN THE COUNCIL CHAMBER, GROUND FLOOR,
CIVIC ADMINISTRATION BUILDING, LYNDON ROAD EAST, HASTINGS
ON MONDAY, 29 OCTOBER 2018 AT 9.30AM**

***[AND THEN CONTINUED IN PUBLIC EXCLUDED SESSION
LATER ON MONDAY, 29 OCTOBER 2018 IN THE GUILIN ROOM,
GROUND FLOOR]***

**AND FURTHER CONTINUED LATER ON MONDAY, 29 OCTOBER 2018
IN THE GUILIN ROOM, GROUND FLOOR
(FOLLOWING A RESOLUTION TO PROCEED IN OPEN SESSION)**

PRESENT: Chair: Councillor Lyons
Councillors Barber and Redstone

IN ATTENDANCE: Environmental Consents Manager (Mr M Arnold)
Team Leader Environmental Consents/Subdivision (Mr C
Sutton)
Senior Environmental Planner Consents (Mr D Bishop)
Committee Secretary (Mrs C Hilton)

ALSO PRESENT: Mr C and Mrs S Davidson (Applicants)
Mr P McKay, Consultant Planner, Mitchell Daysh Limited
(appearing for the Applicants)
Mr C and Mr J Spain (Submitters)

A member of the public was also present as an observer.

1. APOLOGIES

There were no apologies.

2. PROPOSED SUBDIVISION OF 126 MAIN ROAD, CLIVE INTO 6 RESIDENTIAL SITES, A COMMERCIAL SITE AND AN ESPLANADE RESERVE (C AND S DAVIDSON) (RMA20180010)

The Chair, Councillor Lyons, introduced the members of the Hearings Committee sitting on the Panel for this hearing, and the council officers present. The Chair made his opening comments and outlined the process that would be followed at the hearing, together with addressing "housekeeping" issues. It was explained that the planning report had the same status as any of the other evidence being considered at this hearing.

The Chair advised that he and Councillor Redstone had been on a site visit that morning, prior to the hearing. The other hearings panel member, Councillor Barber, had been unable to visit the site at that time, but he was familiar with the property and its environs.

Mrs S Davidson, Applicant, addressed the hearing, on behalf of herself and her husband, **Mr C Davidson,** and gave a power point presentation with supporting notes (57681##0346 and 57681#0359). She outlined their current and proposed use of the subject site and addressed the concerns raised by the submitters.

The Hearings Committee did not ask any questions of Mr or Mrs Davidson at this stage of the hearing.

Mr P McKay, Planning Consultant, Mitchell Daysh, addressed the hearing on behalf of the applicants. His expert evidence (57681#0343 and 57681#0344) had been pre-circulated prior to the hearing and this was taken “as read”.

Mr McKay highlighted the key points in his evidence – these included:

- Paragraph 25, on Agenda Page 8 –this paragraph should be deleted.
- Paragraph 41, on Agenda Page 12 – this should refer to Section 6.2 “Plains Strategic Management Area” of the District Plan (rather than Section 6.1 “Plains Production Zone”).
- Paragraph 41 – minor amendments to the end of the second to last sentence.
- He noted the relevant provisions of Sections 6.1 and 6.2 of the District Plan and compared them with the provisions in Section 2.4.
- Paragraph 27 – set out conclusions of the HPU DS Implementation Working Group in regard to the subject site. Flooding in this area was not an impediment to development.
- The proximity of the subject site to areas zoned Plains Production or Residential and the defining of the site boundaries with these areas.

Mr McKay and Mrs Davidson then responded to questions from the committee regarding their respective evidence. The main points that were addressed in response to questions included:

- Clarification was sought regarding Paragraph 36 – a single depth of new planting up to 4m in height or a 2m high close boarded fence.
- Less than 10m setback from the boundary was sought by the Applicants.
- The length from the access down to the southwestern boundary fence relating to lots 6 and 7 was approximately 25m.
- The Applicants would comply with any conditions regarding the depth of planting required along the property boundary adjoining 120 Main Road, Clive.
- Paragraphs 45 and 46 – clarification of statements that the proposal was contrary to the District Plan policies and objectives but not in an overall sense.

Messrs J and C Spain, submitters, addressed the hearing and referred to some of the slides in the presentation given by Mrs Davidson, showing existing projected spray drift. The main points the submitters raised or that were addressed in response to questions from the committee included:

- Spraying was undertaken on their commercially used property – the adjoining neighbour had chosen to build there (Stubbings – who was Mrs Davidson’s sister) knowing that fact.
- The residence on the adjoining Lawry property was close to the Spain property as that had previously been part of the submitters’ family land.
- The submitters outlined where they planned to extend the kiwifruit and avocado plantings.
- They wanted the boundary setbacks to be 15m to minimise any possible potential for spray drift.

- They would prefer if Lots 6 and 7 were not included in the proposal.
- The area under the trees currently used by café patrons for car parking would not be available if the proposal went ahead.
- It would be dangerous for patrons to park elsewhere and have to cross Main Road to get to the café.
- They felt this was an opportunity to address current dangerous traffic and access issues in the area, if consent was granted.
- Mr C Spain stated there had been a formal historic agreement regarding maintaining the public access to the reserve and through to the river. He said that this had been a test case and had been referred to Parliament.
- Mr C Spain also alluded to the past history of how the consent had been obtained for the fish and chip shop. The Chair advised that this point was not pertinent to this application.

At this point **the Council's reporting planner, Mr D Bishop**, was asked to comment on the statement regarding maintaining the access to the river. He advised there was no indication on the current title to show there was a right-of-way to access the reserve. He would check if there had been any reference on the previous title.

Mr C Spain was sure that the access had been on the title when the stopbank had been upgraded four or five years earlier. He had checked about it at that time, as he had been required to sign a form, regarding access.

The hearing adjourned for morning tea at 10.33am
and resumed at 10.53am.

The **Council's reporting planner, Mr D Bishop**, spoke to the agenda report and highlighted the key points. The main points raised or that were addressed in response to questions from the committee included:

- Landscaping.
- Parking – currently the café was providing the required number of car parks.
- If a future parking issue arose, that would be addressed through the appropriate process, not via this application.
- Traffic issues – NZTA had “signed off” this application.
- The scale of the café operation was limited by the current resource consent.
- Esplanade reserve – there was nothing on the title regarding a formal easement. The title had been created in 1953.
- The agreement referred to by the submitters may have been an informal agreement and that could not be addressed further in this forum.
- Reverse sensitivity and yard setbacks for future dwellings. He briefly backgrounded the establishment of the current 15m setback distance.
- He clarified the 15m setback requirement compared to shelterbelt provisions - the latter needed to be maintained and there were height restrictions to prevent shading of neighbouring properties.

Mr McKay then exercised the Right-of-Reply on behalf of the Applicants. Mrs Davidson also addressed some issues that had been raised during the hearing. The main points that were addressed included:

- Spraying – the Applicants had owned a farm for many years and Mr Davidson was a registered Spray Safe operator. Spray operators were responsible for safe spraying practices on a site.
- Traffic and car parking – NZTA requirements for safe access have been met.
- The Applicants were happy to mark out the car parking on café site so the parking area was clearly defined.
- There was plenty of parking on the café side of Main Road which would minimise the need for patrons to have to cross the road.

It was noted that the hearing would now be adjourned and the Committee would then start its deliberations. At this point the Committee went into Public Excluded Session to commence its deliberations.

Councillor Lyons/Councillor Barber

That the public be excluded from the deliberations in relation to the hearing of the application for proposed subdivision of 126 Main Road, Clive (C and S Davidson) (RMA20180010)). The reason for passing this Resolution in relation to this matter and the specific grounds under Section 48(2)(a) of the Local Government Official Information and Meetings Act 1987 for the passing of this Resolution is as follows:

That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in:

- a) Any proceedings before a local authority where:**
- i) A right of appeal lies to any Court or Tribunal against the final decision of the local authority in those proceedings; or**
 - ii) The local authority is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings.**

CARRIED

The Hearing adjourned at 11.00am
and would reconvene in Public Excluded Session
for the Committee to undertake its deliberations

**THE DECISION WAS RELEASED ON MONDAY, 19 NOVEMBER 2018
(FOLLOWING A RESOLUTION ON 29 OCTOBER 2018 TO PROCEED IN OPEN
SESSION IN ORDER TO RELEASE THAT DECISION)**

PROPOSED SUBDIVISION OF 126 MAIN ROAD, CLIVE INTO 6 RESIDENTIAL SITES, A COMMERCIAL SITE AND AN ESPLANADE RESERVE (C AND S DAVIDSON) (RMA20180010) ... *Continued*

The Committee then confirmed its decision in Open Session so it could be publicly released. The Substantive Wording is set out below. The full decision wording, including narrative, conditions and advice notes is contained in a separate document as noted in italics below.

SUBSTANTIVE DECISION

Councillor Lyons/Councillor Redstone

That pursuant to:

- (a) Rules SLD25 (Subdivision) and PP38 (Land Use) of the Proposed Hastings District Plan (as Amended by Decisions 15 September 2015);**
- (b) Regulations 9(1) and 9(3) of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011; and**
- (c) Sections 104, 104B, 104D, 108 and 220 of the Resource Management Act 1991, resource consent as a Non-Complying Activity is GRANTED to Charlie and Susan Davidson to:**
 - (i) Subdivide Lot 1 and Lot 4 DP 8555 (CFR HB137/171) into 6 residential sites, a commercial site and an esplanade reserve; and**
 - (ii) Waive the requirement for building platforms to comply with the zone setback distances (yards);**
 - (iii) Waive the requirement to provide a 20m wide esplanade reserve adjacent to the Ngaruroro (Clive) River; and**
 - (iv) Waive the density and yard requirements for the Plains Production Zone for all sites.**
 - (v) Waive the 'trees on boundaries' standard (6.2.5H(i)) for the proposed landscaping along the southern boundary of the site.**

CARRIED

(Note: The full wording of the signed hearing decision, is attached as a separate document. The full decision is circulated with, and forms part of

these minutes – the signed decision is saved under 57681#0362 in the Council's records system.

That full decision wording also includes the narrative which summarises details of the hearing process and the evidence that was presented to the Committee for its consideration, in regard to the application).

The meeting was formally closed
on Monday, 29 October 2018 at 12.20pm

Confirmed:

Chairman:

Date: