

# Local Planning Panel

Meeting No 106

Wednesday 6 November 2024

Notice Date 30 October 2024



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#### **Present**

Mr Graham Brown (Chair), Ms Melonie Bayl-Smith, Ms Annelise Tuor and Ms Judy MacGraw.

At the commencement of business at 5.02pm, those present were:

Mr Brown, Ms Bayl-Smith, Ms Tuor and Ms MacGraw.

The Executive Manager Planning and Development was also present.

The Chair opened the meeting with introductory comments about the purpose and format of the meeting and an acknowledgement of country.

## **Order of Business**

The Panel agreed that the order of business be altered, such that Item 4 be dealt with prior to Item 3, for the convenience of registered speakers.

## Item 1 Disclosures of Interest

In accordance with section 4.9 of the Code of Conduct for Local Planning Panel Members, all panel members have signed a declaration of interest in relation to each matter on the agenda.

No members disclosed any pecuniary or non-pecuniary interests in any matter on the agenda for this meeting of the Local Planning Panel.

## Item 2 Confirmation of Minutes

The Panel noted the minutes of the Local Planning Panel of 16 October 2024, which have been endorsed by the Chair of that meeting.

## Item 3 Development Application: 1-5 Flinders Street, Surry Hills - D/2023/119

Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, the Panel granted a deferred commencement consent to Development Application Number D/2023/119, subject to the conditions set out in Attachment A to the subject report, subject to the following amendments:

General Conditions 3 (General Design Modifications) and 4 (Heritage Design Modifications) are to be moved to the Deferred Commencement Conditions section of the Notice of Determination.

#### **Reasons for Decision**

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act, 1979 in that subject to the imposition of the recommended conditions of consent, the proposal is generally consistent with the planning controls applicable to the site, and where variances are proposed these are acceptable for the reasons outlined in the report to the Local Planning Panel.
- (B) The proposal satisfies the objectives and provisions of State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Industry and Employment) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.
- (C) The proposal is consistent with the objectives of the E1 'Local Centre' zone.
- (D) Subject to the recommended conditions of consent, the proposal will contribute to the ongoing conservation of the heritage item on site "Former Commonwealth Bank including Interior" (I1541), and the conservation of the Oxford Street Heritage Conservation Area (C17) through conservation measures to the retained building.
- (E) The proposed development appropriately responds to the site and its context, with additions to the building that are compliant with the statutory height and floorspace controls, appropriate in terms of architectural expression and achieves design excellence.
- (F) The proposed land uses are permissible with consent in the zone and will support the vitality of the area. Subject to the recommended conditions of consent, land uses envisaged under the Oxford Street Cultural and Creative Precinct controls will be assured in perpetuity to ensure the character of the precinct is preserved.

- (G) The public interest is served by the approval of the development, as amendments to the design have generally addressed the concerns of Council staff, the Design Advisory Panel, and the community. The recommended conditions of consent will mitigate any environmental impacts that could potentially arise from the construction and operational phases of the proposed development.
- (H) General conditions 3 and 4 were changed to deferred commencement conditions to ensure there is one complete updated accurate set of plans for approval.

Carried on the following show of hands:

Ayes (3) Mr Brown, Ms Bayl-Smith and Ms MacGraw

Noes (1) Ms Tuor

Motion carried.

D/2023/119

## **Speakers**

Matthew Strachan and Heather Leaf.

Nick Prilis (Archon Property Pty Ltd) – on behalf of the applicant.

## Item 4 Development Application: 116-126 Erskineville Road, Erskineville - D/2024/129

The Panel granted consent to Development Application Number D/2024/129 subject to the conditions set out in Attachment A to the subject report, subject to the following amendments (additions shown in **bold italics**, deletions shown in strikethrough):

## (25) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the Plan of Management, titled 'Plan of Management and Maintenance of Assets – Automated Public Toilets (APTs) – External Areas' (TRIM Ref: 2024/443820).

The Plan of Management shall be reviewed with Council and updated where required. The updated Plan of Management shall be submitted to and approved by Council's Area Planning Manager.

#### Reason

To ensure all parties are aware of the approved supporting documentation that applies to the development and the Automated Public Toilet is adequately managed to maintain cleanliness.

#### **Reasons for Decision**

- (A) The proposed public amenities facility is permissible within the RE1 Public Recreation zone. The proposal, subject to conditions, is consistent with the objectives of the RE1 zone.
- (B) The development will not result in detrimental impacts to the character of the Erskineville Road Village Centre locality and the Burren Estate Heritage Conservation Area.
- (C) Appropriate conditions are recommended to ensure the proposed development does not result in detrimental impacts to the existing trees on site.
- (D) The development, subject to conditions, will facilitate the orderly operation of the APT and will not unreasonably compromise the amenity of the locality.
- (E) The development exhibits design excellence and accords with the objectives of relevant planning controls and the City of Sydney Public Toilet Strategy 2014.

- (F) The proposal, subject to conditions, and as demonstrated by additional information provided by the applicant to address issues raised by Council officers, is in the public interest.
- (G) Condition 25 was amended to provide a mechanism for updating the Plan of Management.

Carried on the following show of hands:

Ayes (3) Mr Brown, Ms Bayl-Smith and Ms Tuor

Noes (1) Ms MacGraw

Motion carried.

D/2024/128

## **Speakers**

Sarah Tantum and Andrew Chuter.

Paul Keywood (Mecone) - on behalf of the applicant.

## Item 5 Development Application: 29 Pyrmont Street, Pyrmont - D/2024/172

Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, the panel granted a deferred commencement consent to Development Application Number D/2024/172 subject to the conditions set out in Attachment A to the subject report.

#### **Reasons for Decision**

The application was approved for the following reasons:

- (A) The proposed development is generally consistent with the relevant objectives and controls of the Sydney Local Environmental Plan 2012 (LEP) and Sydney Development Control Plan 2012 (DCP).
- (B) Based upon the material available to the Panel when determining this application, the Panel is satisfied that the applicant has demonstrated that compliance with the Height development standard in clause 4.3 of the Sydney LEP 2012 is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with the requirements of clause 4.6(3) of the Sydney LEP 2012.
- (C) The proposed development complies with the maximum floor space ratio development standard contained in Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (D) The proposed development, subject to conditions, is of an appropriate scale, built form and design consistent with the desired future character of the area. As such, the proposed development exhibits design excellence in accordance with the requirements contained in clause 6.21C of the Sydney Local Environmental Plan 2012.
- (E) The development is generally consistent with the objectives of the Sydney Development Control Plan 2012.
- (F) Suitable conditions of consent are recommended, and the development is considered to be in the public interest.

Carried unanimously.

D/2024/172

## **Speakers**

Zena Vaassen.

Ed Lippmann (Lippmann Partnership Pty Ltd) – on behalf of the applicant.

## Item 6 Development Application: 132-134 Shepherd Street, Darlington - D/2024/615

The Panel granted consent to Development Application Number D/2024/615 subject to the conditions set out in Attachment A to the subject report, subject to the following amendments (additions shown in **bold italics**, deletions shown in strikethrough):

## BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

## OCCUPATION AND ONGOING USE

## (4) BICYCLE PARKING AND END OF TRIP FACILITIES

(a) The minimum number of bicycle parking spaces and end of trip facilities to be provided within the site boundary for the development must comply with the table below.

Bicycle Parking Type	Number	Requirements
Non-residential visitor	3	Spaces must be Class 3 bicycle rails
End of Trip Facility	Number	
Туре		
Personal lockers	3	

All bicycle parking spaces and end of trip facility must be provided on private land. The public domain cannot be used to satisfy this condition.

(b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the *Area Planning Coordinator / Manager* Registered Certifier confirming prior to *the community facility being reopened for public use.* issue of the Occupation Certificate being issued.

#### Reason

To ensure the allocation of bicycle parking onsite that is in accordance with Australian Standards and the Council's DCP.

#### (5) PLAN OF MANAGEMENT

- (a) The Plan of Management dated 8 October 2024 must be amended:
  - to be consistent with the conditions of this consent D/2024/615, including those pertaining to hours of operation and waste management and collection;
  - (ii) to implement noise reduction measures recommended **at section 7 of in** the acoustic report titled Operational Noise Emission Assessment, reference: 6498R001.LM.240905, dated 5 September 2024, prepared by Acoustic Dynamics **excluding recommendation 2** that require:
    - 1. an acoustic engineer to be engaged to calibrate any speakers that are installed; and

- 2. for air-conditioning equipment to be serviced regularly to maintain low levels of mechanical services noise;
- (iii) to outline measures to manage light spill to adjoining premises;
- (iv) to amend recommendation 3 at section 7 of the acoustic report to read as follows: 'Patrons should use the main entrance / exit via Shepherd Street after 10pm to minimise the impact on residences to the north and south of the site:
- (v) the amended Plan of Management must be submitted to and approved by Council's Area Planning Coordinator / Manager prior to the community facility being reopened for public use commencement of the use or issue of an Occupation Certificate whichever is the earlier.
- (b) The use must always be operated / managed in accordance with the Plan of Management, approved in accordance with the process specified at (a) above. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.
- (c) The Proponent may update and revise the Plan of Management by submitting the updated Plan of Management to Council's Area Planning Coordinator/Manager for approval.

#### Reason

To ensure all parties are aware of the approved supporting documentation that applies to the development.

#### OCCUPATION AND ONGOING USE

#### OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of the building.

#### Reason

To ensure the site is authorised for occupation.

#### (6) HOURS OF OPERATION - SENSITIVE USES

The hours of operation are regulated as follows:

#### **Indoors hours of operation**

- (a) The hours of operation of the indoor areas of the premise must be restricted to between 7.00am and 10.00pm, Monday to Sunday.
- (b) Notwithstanding (a) above, the premises may operate between 10.00pm and 12.00 midnight for a trial period of 1 year from the date of the reopening of the community facility for public use. Council's Health and Building Unit is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to <a href="mailto:liquor@cityofsydney.nsw.gov.au">liquor@cityofsydney.nsw.gov.au</a>
- (**dc**) Should the operator seek to continue the extended operating hours outlined in (**eb**) above, an application must be lodged with Council not less than 30 days before the end of the trial period. Council's consideration of a proposed

continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints and any views expressed by the Police.

#### Reason

To ensure the premises operates within the approved hours of operation.

(Remaining conditions to be renumbered accordingly.)

## **Reasons for Decision**

The application was approved for the following reasons.

- (A) The site is located in the Zone R1 General Residential. The development is for a community facility and which is permitted with consent in the zone.
- (B) The development accords with the objectives of the Sydney LEP 2012 and the Sydney DCP 2012.
- (C) The development, subject to the recommended conditions, will not unreasonably compromise the amenity of nearby properties.
- (D) Condition 5 was amended to adopt selected recommendations of the acoustic report pertaining to management procedures for the hours of 10pm and 12 midnight, to minimise noise emissions.
- (E) Condition 5 was further amended to address light spill concerns and clarify the location of sensitive previewer and appropriate noise mitigation measures, and to provide for the Plan of Management to be updated subject to approval of Council's Area Planning Manager.
- (F) As the proposal does not result in a change of building use and therefore an occupation certificate is not required under s6.9 of the *Environmental Planning and Assessment Act* 1979, Condition 6 was deleted and Conditions 4, 5 and 7 amended accordingly.
- (G) Considering the low noise risk from community activities and that the capacity of the premises is limited to 40 people, Condition 7 was further amended to allow for hours of operation of 7am to 12 midnight, Monday to Sunday for both the indoor and outdoor areas of the community facility to provide flexibility for a wide range of community activities.

Carried unanimously.

D/2024/615

## **Speakers**

Karine Shellshear, Nathan McCarthy and Councillor Sylvie Ellsmore.

Chris Sipidias (City of Sydney) – on behalf of the applicant.

## Item 7 Development Application: 277-279 Broadway, Glebe - D/2024/71

The Panel:

- (A) upheld the request to contravene clause 4.3 'Height of Buildings' development standard in accordance with clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012;
- (B) upheld the request to contravene Section 69(1)(a) relating to maximum co-living room sizes, of the State Environmental Planning Policy (Housing) 2021 in accordance with clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012; and
- (C) granted consent to Development Application Number D/2024/71 subject to the conditions set out in Attachment A to the subject report, subject to the following amendments (additions shown in **bold italics**, deletions shown in **strikethrough**):

## (3) SECTION 7.11 CONTRIBUTIONS PAYABLE - CONTRIBUTION TOWARDS PUBLIC AMENITIES - CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2015 - WEST PRECINCT

Council has identified the development will increase demand for public amenities and facilities. Pursuant to Section 7.11 of the Environmental Planning and Assessment Act, 1979 (as amended), and the City of Sydney Development Contributions Plan 2015 the following monetary contributions are required towards the cost of public amenities.

Contribution Category	<u>Amount</u>
Open Space	\$ <del>979,471.58</del> - <b>\$981,104.94</b>
Community Facilities	<del>\$325,294.3</del> 4 <b>\$326,083.27</b>
Traffic and Transport	<del>\$1,507.02</del> <b>\$1,472.20</b>
Stormwater Drainage	\$0.00
Total	\$1,306,272.93 <b>\$1,308,660.40</b>

The City of Sydney will index the above contribution for inflation at the time of payment using the following formula.

Cpayment = Cconsent x (CPIpayment ÷ CPIconsent)

Where:

Cpayment = Is the contribution at time of payment;

Cconsent = Is the contribution at the time of consent, as shown above;

CPIpayment = Is the Consumer Price Index (All Groups Index) for Sydney

published by the Australian Bureau of Statistics that applies at the

time of payment; and

CPI1consent = Is the Consumer Price Index (All Groups Index) for Sydney at the

date the contribution amount above was calculated being - 139.1 for

the June 2024 quarter.

The contribution must be paid prior to the issue of any Construction Certificate in relation to this development.

Please contact Council's Planning Administration staff at planningsystemsadmin@cityofsydney.nsw.gov.au to request a letter confirming the indexed contribution amount payable.

Once the letter confirming the indexed contribution is obtained, payment may be made at any of the City's Neighbourhood Service Centres or the One Stop Shop at Town Hall House. Acceptable payment methods are EFTPOS (debit card only), cash (up to 10K only), Credit Card (up to 50K only) or a bank cheque made payable to the City of Sydney. Personal or company cheques will not be accepted.

## (6) FLOOR SPACE RATIO - ALL OTHER AREAS

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the development must not exceed 3.6:1 3.65:1 calculated in accordance with Sydney Local Environmental Plan 2012. For the purposes of the calculation of FSR, the Gross Floor Area of the business component is 317 361sqm, for the residential component is 4080sqm (areas below ground level of Broadway excluded), and the total Gross Floor Area is 4,441sqm.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Areas (by use) in the development, utilising the definition under Sydney Local Environmental Plan 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifier.

## (8) USE - SEPARATE DA REQUIRED

No consent is granted or implied for the fitout or specific use of:

- Ground level retail tenancies.
- Basement mezzanine level commercial tenancy, and retail tenanciesy.
- Basement level gym and retail tenancy.

No consent is granted or implied for the fitout or specific use of:

Basement level gym.

A development consent or Complying Development Certificate (as appropriate) is required to be obtained for the fitout and/**or** use prior to that fitout or use commencing.

#### (10) SIGNS - SEPARATE DA REQUIRED

A separate development application for any proposed signs additional to those approved as part of this consent (other than exempt or complying signs) must be submitted to and approved by Council prior to the erection or display of any such signs.

The submitted signage strategy prepared by SJB Architects (Ref: DA-8002 Rev 3, DA-8003 Rev 3) is to be updated with the deletion of signage type C from (2) elevation south (above the awning) prior to endorsement of the strategy and submitted to the Area Planning Manager for approval.

#### (22) BICYCLE PARKING AND END OF TRIP FACILITIES

(a) The minimum number of bicycle parking spaces and end of trip facilities to be provided within the site boundary for the development must comply with the table below.

Bicycle Parking Type	Number	Requirements
Residential	120	Spaces must be a class <b>1-2</b> bicycle locker [i]
Residential visitor	14	Spaces must be Class 3 bicycle rails
Non-residential	710	Spaces must be Class 2 bicycle facilities
Non-residential visitor	<del>10</del> <b>7</b>	Spaces must be Class 3 bicycle rails
End of Trip Facility Type	Number	
Showers with change area	2	
Personal lockers	12	

All bicycle parking spaces and end of trip facility must be provided on private land. The public domain cannot be used to satisfy this condition.

#### Notes:

- (i) If a basement storage area on title that is large enough to store a bike and is no smaller than a class 1 bike locker this can be counted as a space.
- (b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Registered Certifier confirming prior to and form part of the Construction Certificate being issued.

#### (61) PLAN OF MANAGEMENT

- (a) An updated Plan of Management for the co-living use is to be submitted to and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager prior to the issue of an Occupation Certificate for the site/use.
- (b) A copy of the plan is to be kept on site by the site manager.
- (c) The use must always be operated / managed in accordance with the Plan of Management approved in accordance with the process specified at (a) above. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.
- (d) The Proponent may update and revise the Plan of Management by submitting the updated Plan of Management to Council's Area Planning Coordinator / Manager for approval.

## (80) THROUGH-SITE LINK

The pedestrian through-site link between Glebe Point Road to Grose Street is to be open for access to the public between the hours of 6.00 7.00am to 10.00pm Monday to Sunday or for other times as provided in writing by the City's Area Planning Manager.

#### (81) HOURS OF OPERATION

The hours of operation for retail and commercial premises are restricted to between:

Monday to Sunday: 7.00am to 10.00pm

Reason

To ensure the premises operates within the approved hours of operation.

(Remaining conditions to be renumbered accordingly)

#### **Reasons for Decision**

- (A) The proposal is permissible with consent in the E1 Local Centre Zone.
- (B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
  - (i) the applicant has demonstrated that compliance with the height of buildings development standard in clause 4.3 of the Sydney LEP is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012; and
  - (ii) the applicant has demonstrated that compliance with the maximum room size development standard in Section 69(1)(a) of the State Environmental Planning Policy (Housing) 2021 is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012.
- (C) The proposed development complies with the maximum Floor Space Ratio development standard contained in Clause 4.4 of the Sydney Local Environmental Plan 2012 and Section 68(2)(a) of State Environmental Planning Policy (Housing) 2021.
- (D) The proposal provides communal living area and communal open space in accordance with Chapter 3 Part 3 Section 68(2) of State Environmental Planning Policy (Housing) 2021.
- (E) The proposal is generally consistent with the standards for co-living housing under Chapter 3 Part 3 Section 69 of State Environmental Planning Policy (Housing) 2021.
- (F) The proposal exhibits design excellence in accordance with the requirements contained in Clause 6.21C of Sydney Local Environmental Plan 2012.
- (G) The proposal retains the heritage significance of the Glebe Point Road Heritage Conservation Area and heritage items within the vicinity of the site.
- (H) The proposal promotes uses that attract pedestrian traffic along the ground floor frontage of Grose Street, Glebe.

- (I) The proposal is generally consistent with the relevant objectives and provisions of Sydney Development Control Plan 2012.
- (J) Condition 3 was amended to accurately reflect the contributions calculation.
- (K) Condition 6 was amended to accurately reflect the approved development.
- (L) Condition 8 was amended to allow for a first use of retail and commercial occupancies.
- (M) Condition 10 was amended to clarify how the amendments to the strategy are to be made.
- (N) Condition 22 was amended to reflect the correct class of bicycle parking spaces and to redistribute commercial parking spaces as agreed by the City Transport Planning Unit.
- (O) Condition 61 was amended to clarify the requirement for ongoing compliance with and operation of the Plan of Management, and to provide for the Plan of Management to be updated subject to the approval of Council's Area Planning Manager.
- (P) Condition 80 was amended to allow flexibility for the opening times of the through site link.
- (Q) Condition 81 was added to address the inclusion of first use for retail and commercial tenancies.

Carried unanimously.

D/2024/71

## **Speakers**

Joanne McGuinness (SJB) – on behalf of the applicant.

## Item 8 Development Application: 18-20 York Street, Sydney - D/2024/520

The Panel granted consent to Development Application Number D/2024/520 subject to the conditions set out in Attachment A to the subject report, subject to the following amendments (additions shown in **bold italics**, deletions shown in **strikethrough**):

## (4) GROUND FLOOR LICENSED PREMISES - PRIMARY PURPOSE

The primary purpose of the *ground floor* premises is as a restaurant with the kitchen to be open and substantial food service to be available to patrons at all times during the approved hours of operation. The sale and supply of liquor must cease when the kitchen ceases to operate. All patrons *in the ground floor level restaurant* are to have an allocated seat and the number and location of tables and chairs provided for seated dining must be in accordance with the approved floor plan at all times.

## (36) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the Plan of Management dated August 2024 that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

The Proponent may update and revise the Plan of Management by submitting the updated Plan of Management to Council's Area Planning Coordinator / Manager for approval.

### **Reasons for Decision**

- (A) The development is consistent with the objectives of the SP5 Metropolitan Centre zone.
- (B) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012, subject to conditions.
- (C) The proposal is consistent with the relevant objectives of the Sydney Development Control Plan 2012, subject to conditions.
- (D) Subject to the recommended conditions of consent, the proposed development will have an acceptable impact on the amenity the site locality and will not result in unreasonable additional adverse environmental impacts to adjoining sites. Conditions of consent are recommended to ensure the uses are managed in an appropriate manner in accordance with the endorsed Plan of Management and relevant standards.

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- (E) Condition 4 was amended to clarify the original intention that this condition applies only to the ground floor level of the premises rather than the use and operation of the basement level.
- (F) Condition 36 was amended to provide for the Plan of Management to be updated subject to the approval of Council's Area Planning Manager.

Carried unanimously.

D/2024/520

## **Speaker**

James Thorpe (Odd Culture) - on behalf of the applicant.

The meeting of the Local Planning Panel concluded at 7.17pm.

CHAIR