



Government of Bermuda

MINISTRY FOR THE CABINET OFFICE & DIGITAL INNOVATION

PLN: P0040-26

APPEAL: APPL0003-26

5th June 2026

Bermuda Housing Corporation
44 Church Street
Hamilton
HM12

Dear Sir/Madam,

Appeal against the Decision of the Development Applications Board

Appellant: Ministry of Housing and Municipalities
Agent: Bermuda Housing Corporation / Keino Furbert Jacobs
Site: Off Malabar Close, Malabar Road, Sandys
Proposal: Proposed Nine (9) Prototype Capsule Units for Emergency Housing on Malabar Road (Pilot Housing)
Decision: Refused by the Development Applications Board on 8th April 2026

I refer to the appeal lodged in respect of the subject decision made by the Development Applications Board (the 'Board').

I have carefully considered the record of appeal, and I have decided to uphold the appeal and grant planning permission for a limited period of four (4) years.

In evaluating this appeal, my statutory duty requires me to assess the proposal against the provisions of the Bermuda Plan 2018 as a whole, balancing the urgent national mandate for transitional shelter with the vital planning protections owed to our local communities. I have carefully assessed the initial technical refusal, the formal letters of objection from the Boaz Island community, and the Bermuda Housing Corporation's (BHC) subsequent supplemental submissions dated May 26, 2026.

The objections raised by local residents are valid, deeply understood, and respected. Communities have an absolute right to expect that any development introduced into their neighbourhoods is structurally resilient, environmentally sanitary, and protective of their privacy. It is the Ministry's role to ensure that innovation is never weaponised at the expense of the community's standard of living.

However, the evidence now before me demonstrates that the initial areas of friction have been systematically resolved through robust, data-driven engineering and operational compromises. Accordingly, I am allowing the appeal and granting final planning permission for a strictly limited period of four (4) years, subject to the enforcement of the following technical frameworks:

1. The "Bermuda Image" (Policy DSN 4 and DSN 11) and Operational Lifespan Framework

The most prominent concern raised by the Development Applications Board and local objectors is that these modern, aluminium-clad capsule units depart from the traditional stone walls and pitched-roof profiles that define the "Bermuda Image". I acknowledge and entirely agree with the principle that our architectural heritage must be fiercely protected from permanent deterioration. However, a clear distinction must be made between permanent residential developments and emergency, time-limited interventions.

While the unique curved profile of these units represents a contemporary approach to rapid housing delivery, the visual impact on the surrounding area can be carefully mitigated by a deliberate adherence to traditional island colour theories. BHC has confirmed that the units feature a factory-applied white powder-coated aluminium cladding designed to reflect Bermuda's classic white wall surfaces, complemented by dark window framing. Furthermore, this approval is conditional upon BHC applying traditional Bermuda accent colours to the exterior entrance doors and structural steel base plates before deployment, thereby establishing an intentional visual connection to Bermuda's architectural heritage.

Certified engineering evaluations from Brunel Ltd. confirm that these structures are functionally temporary, possessing a specific structural design life of only 5 to 10 years. Because these units are not permanent fixtures, a balanced application of planning policy requires that they be evaluated within the context of their short operational lifecycle rather than as a permanent alteration to our built environment.

Reflecting this technical boundary, I am granting planning permission for a term of four (4) years. This window directly aligns with the safe, operational shelf life of the infrastructure while providing a strict regulatory limit. Any consideration for a future extension beyond this 4-year limit will not be automatic; it will remain entirely conditional upon a formal evaluation of the units' physical durability.

2. Addressing Site Density, Open Space and Overdevelopment (Policy RSD.3)

The Resident's Objection: Public objections from local residents centred on a deeply felt concern regarding overcrowding and overdevelopment on Boaz Island, arguing that the community is already navigating significant space and infrastructure constraints.

The Minister's Reason for Allowance: While acknowledging the neighbourhood's anxiety regarding local density, objective planning metrics demonstrate that the proposal complies fully with the statutory boundaries established by Parliament. The application site encompasses approximately 0.63 acres (27,532 square feet) of land. Under Chapter 27 (Policy RSD.3) of the Bermuda Plan 2018, a Residential 1 base zone allows for a maximum density of 20 units per acre, which means this specific parcel could legally and theoretically accommodate 13 dwelling units. By restricting this pilot initiative to just 9 units, the development operates at 4 units below the maximum allowable density. Furthermore, the project maintains a remarkably low building site coverage of just 12.77%, ensuring substantial physical breathing room and open space are preserved across the site. The development is technically low-density and satisfies the core land-use protections enforced by the Bermuda Plan 2018.

3. Guarantees on Public Safety and Hurricane Resilience

Given the exposed coastal geography of Malabar Road, the Ministry has requested documentation detailing the structural integrity of proposed structures. Certified engineering calculations from Brunel Ltd. demonstrate that these steel-framed capsule enclosures are:

- Structurally rated to withstand extreme hurricane wind speeds of 150 mph under ASCE 7 design parameters.
- The primary structural steel frames are hot-dip galvanised. The exterior cladding and framing are aluminium.
- Base plates that attach the building to concrete piers are hot-dip galvanised with adequate steel that allows for loss of steel over the design life of the structure.
- Safety is structurally guaranteed by anchoring the units via hot-dip galvanised plates and bolts directly into six (6) concrete piers measuring 2'-0" x 2'-0" x 4'-8" high, which sit on reinforced concrete pad foundations measuring 3'-0" x 3'-0" x 12" that meet all required loading criteria.

4. Immediate Privacy Issues (Policy DSN.17)

The Department of Planning originally cited a lack of immediate privacy due to the typical time-lag required for natural vegetative screening to mature. To eliminate this impact, BHC will revise its plans to introduce immediate physical barriers. This permission is strictly conditional upon the installation of 6-foot-high architectural PVC or Wooden privacy fencing at the impacted private amenity spaces, and the application of opacity-frosting film to the interior glass of all units subject to direct overlooking. These measures ensure that the privacy of both the occupants and the surrounding neighbours is secured from Day 1 of the site's operation.

5. Safe Highway Access and Public Road Setbacks (Policy TPT.11 and Policy RSD.10)

The Resident's Objection: Local residents raised significant concerns that introducing an additional driveway entry onto a public road poses traffic safety risks, and that the proximity of the capsule units to Malabar Road is hazardous.

The Minister's Reason for Allowance: While acknowledging the community's safety concerns, technical assessments and formal consultations with the Highways Section of the Department of Works and Engineering confirm that traffic safety and visibility parameters are fully preserved. Every proposed capsule unit is structurally compliant with standard residential zoning restrictions and sits entirely outside the required 25-foot minimum setback from the public road. Furthermore, to secure safe vehicle conflict parameters, the final approved plans incorporate a 14-foot-wide driveway with 12-foot bell-mouths paired with a newly established 5-foot grass verge along the entire frontage of Malabar Road to maximise visibility. Due to the straightness of the roadway corridor and the inclusion of these safety buffers, sightlines that meet the statutory 120-foot visibility clearance in both directions are achieved. This permission is strictly conditional upon the full implementation and verification of these highway access safety measures by technical officers prior to the issuance of a Certificate of Completion and Occupancy.

6. Environmental Protection, Public Health, and Waste Management (Policy UTL.8 and Policy WAT.2)

The Resident's Objection: A local resident raised an objection, expressing concern that the development poses environmental and waste-management risks. The objector argued that a hydrogeological survey should be mandatory to ensure that the volume of wastewater effluent would not affect the local water table or overall environmental health.

The Minister's Reason for Allowance: The protection of Bermuda's water resources and public health is an absolute priority under Policy WAT.2 and Policy UTL.8 of the Bermuda Plan 2018. While I understand the resident's caution regarding wastewater management, technical reviews conducted by statutory authorities confirm that these environmental risks have been fully mitigated. The technical infrastructure plan features four dual-chamber septic tanks that route effluent into an engineered sand filter system. Crucially, the application was formally forwarded to the Pollution Control Section of the Department of the Environment and Natural Resources (DENR-PCS). In their official statutory consultation response dated March 18, 2026, DENR-PCS confirmed that they have no objections to the proposed system and require no additional recommendations. Because the Government's environmental protection experts

are satisfied, an independent hydrogeological survey is not required. This approval remains conditional upon the wastewater systems being installed precisely to these vetted technical standards as part of the building permit process

7. Full Compliance with Waste Management Standards (Policy DSN.22)

BHC's initial request sought to deviate from the standard communal garbage enclosures required under Policy DSN.22. Let me be clear: the Ministry will not sanction any operational model that risks public sanitation or invites illegal dumping. I am pleased to note that BHC has completely retracted this waiver request. The approved revised site plan now incorporates a fully centralised communal garbage collection area adjacent to the Malabar Road access point, in accordance with the Department of Planning's environmental guidelines on Communal Garbage Locations for developments such as this.

8. Community Compatibility and Operational Track Record

The Resident's Objection: Public objections from local residents raised significant apprehensions regarding the potential long-term social impact of a transitional facility within a residential enclave, expressing concerns over neighbourhood safety, potential disturbances, and the degradation of surrounding property values

The Minister's Reason for Allowance: A critical element of this appellate review was to investigate the potential long-term impact of transitional housing on established residential neighbourhoods. Rather than relying on unverified assumptions, I required the appellant to submit documented operational evidence from existing facilities serving comparable transitional needs to ensure this pilot does not compromise the stability of Boaz Island.

According to the formal records and submissions supplied by BHC, the data demonstrates a clear track record of community compatibility. Specifically, the Corporation's submission highlights the Beacon Hill facility in Sandys, which has reportedly been successfully integrated into its neighbourhood since October 2023, without adversely affecting local property values or community cohesion.

Furthermore, BHC's data references Roosevelt House in Warwick, which has operated a similar transitional model since 2015, illustrating that structured social support facilities can function harmoniously when governed by strict codes of conduct.

This established operational history provides the Minister with a reliable benchmark, indicating that neighbourhood compatibility is fundamentally driven by rigorous day-to-day site management and structured social support rather than alternative architectural forms.

9. Strict Enforcement of the Pilot Lifecycle

This project is approved strictly as a temporary, controlled pilot initiative to evaluate alternative construction speeds and fiscal performance during a national housing emergency. In alignment with BHC's written confirmation, this permission will automatically expire 4 years from the date of the issuance of the Certificate of Completion and Occupancy, at which point the units must be removed and the site restored, unless a formal renewal is granted based on proven operational compatibility.

The planning permission hereby granted is subject to the following conditions:

1. The development hereby permitted shall begin before the expiration of three (3) years from the date of this permission.
2. The development hereby permitted is for a limited period of four (4) years from the date of issuance of the Certificate of Completion and Occupancy, at which point the capsule units must be removed and the site restored, unless a formal renewal is granted based on the units' proven operational compatibility and durability.
3. A building permit shall be in force prior to the commencement of any building operations. The development hereby approved shall not be brought into operation until a Certificate of Completion and Occupancy has been issued.
4. 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 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. The building permit application site plan must illustrate the minimum policy requirements.
5. A communal garbage storage area shall be provided and included in the building permit application, and established in accordance with policy DSN.22, Chapter 9 of the Bermuda Plan 2018, prior to the issuance of a Certificate of Completion and Occupancy.
6. In order for the capsule units to be more sensitive to and compatible with the "Bermuda Image" in accordance with policies DSN.4 and DSN.11, Chapter 9 of the Bermuda Plan 2018, traditional Bermuda accent colours shall be applied to the exterior entrance doors and structural steel base plates.
7. In order to provide adequate privacy in accordance with policy DSN.17, Chapter 9 of the Bermuda Plan 2018, 6-foot-high architectural PVC or wooden privacy fencing shall be installed at the impacted private amenity spaces, and opacity-

frosting film shall be applied to the interior glass of all units subject to direct overlooking.

8. In the interests of visual amenity, existing vegetation shown to be retained on the approved plan shall be protected by 4 feet high fencing prior to the commencement of building operations. Any vegetation which is removed or damaged during the course of excavation or construction shall require the submission of a 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 vegetation.
9. 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, prior to the issuance of a Certificate of Completion and Occupancy.
10. A Certificate of Completion and Occupancy shall not be issued until all plantings/works of the hereby approved landscaping plan have been completed. All plantings shall be maintained thereafter and, if any trees or shrubs shown on the approved plans to be planted or retained are removed, die or become seriously diseased or damaged within 4 years of issuance of the Certificate of Completion and Occupancy, they shall be replaced by trees and shrubs of similar size and species or an alternative as approved, in writing, by the Department of Planning.
11. Parking and manoeuvring space for 11 cars and 12 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.
12. In order to avoid the discharge of surface water onto the public road/estate road, 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.

Yours sincerely,



The Hon. Diallo Rabain, JP, MP
Minister for the Cabinet Office & Digital Innovation

cc:

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