

DATE: 03/10/2017

ENVIRONMENT AND PLANNING REVIEW TRIBUNAL

REFERENCE NUMBER: 2599-16-MCC

Application Number: PA/05072/16

Appeals: PAB224/17 (Previous submission)

Location: Compass Lounge, Triq It- Torri, Sliema, Malta

Proposal: To amend PA1989/10 to sanction use of basement from a storage area into a food preparation area and kitchen including installation of extraction chimney



To Whom It May Concern:

I refer to the refusal decision being published on the 11th of October 2017 following a board hearing of the Planning Commission.

Please note that following the submission of an appeal PAB224/17 the Environment and Planning Review Tribunal gave instructions to the Planning Authority to re-take the decision. Subsequently the EPC decided to confirm its original decision without going into the merits of the case. **The main reason being that once a decision is taken it cannot be changed.**

On behalf of the client I request that the Environment and Planning Review Tribunal decides the case once and for all, especially in the light that the applicant is incurring a daily fine due to the lengthy procedures of going from one entity to the other. As a result a new appeal is being submitted.

ADDRESS: 4, Triq Stivala, Mosta, MST3205
PHONE: 21423406; 79095919; 79276116
MAIL: info@mc2architects.eu

mc²architects
PERIT DAVID MIFSUD PARKER
B.E. & A. (Hons.) A.&C.E. Cons. Studies

4, Triq Stivala, Mosta MST3205 Malta
Tel: 21423406 Mob: 79095919
info@mc2architects.eu www.mc2architects.eu

Illegalities on Site

I will first go through the issue of illegalities on site. During the initial planning process the undersigned submitted in writing (doc 80A attached) photographic proof that all the illegalities were removed. A subsequent inspection by the enforcement noted that some of the tables were outside the permitted zone and informed the case officer accordingly. On 4th May 2017 the case officer sent the DPA Notification (attached) clearly stating that the recommendation for refusal was for the extra tables and chairs. The quote as follows:

The proposal cannot be considered further unless the following illegal development is first sanctioned or removed and this in terms of regulation 17 of Legal Notice 162 of 2016. The illegal development consists of an area for tables and chairs larger than that approved.

The undersigned replied in writing on the 8th of May 2017 (doc 99A attached) and requested that the enforcement re-visit the premises to ensure that all illegalities were removed.

During the Planning Commission Hearing on the 15th of May 2017 the undersigned explained the case verbally (in the presence of the client) to the chairperson. Instead of tackling the issue of the removal of all the illegalities noted on site and deferring the case following an inspection she decided that the 'food preparation area' in the basement would create a precedent and will thus be refused even though the proposal was according to policy 5.20 of the Supplementary Guidance for kiosks. In fact I quote from the DPA Report:

In principle, the proposed sanctioning may be considered acceptable as it complies with policy 5.20 of the Supplementary Guidance for kiosks as it states that "Where kiosks are to be sited on promenades, only the sale of food and drink will be permitted". In addition the proposed basement level complies also to the sanitary laws and regulations as per minute 68. Therefore the sanctioning of use as a food preparation area at basement level ancillary to the kiosk in question may be favourable recommended.

An appeal was submitted (PAB224/17). The Environment and Planning Review Tribunal met on the 13th of July 2017 and the following was decided:

ADDRESS: 4, Triq Stivala, Mosta, MST3205
PHONE: 21423406; 79095919; 79276116
MAIL: info@mc2architects.eu

mc²architects
PERIT DAVID MIFSUD PARKER
B.E. & A. (Hons.) A.&C.E. Cons. Studies
4, Triq Stivala, Mosta MST3205 Malta
Tel: 21423406 Mob: 79095919
info@mc2architects.eu www.mc2architects.eu

Appell Numru 224/17.

Meta ssejjah l-appell deher l-appellant assistit mill-perit David Mifsud Parker. Għall-Awtorita' dehru l-Avukat Keith Borg u Vince Grech. It-Tribunal, in vista tal-minuta 125 tal-enforcement officer Josef Scicluna, datata 13 Lulju 2017, qed ihassar iddecizjoni ta' rifjut u jibghat latti lura lill-Awtorita' sabiex terga' tigi deciza millgdid. It-Tribunal jastjeni milli jiehu konjizzjoni ulterjuri ta' dan l-appell.

The Planning Commission met on the 11th of October 2017 and decided that the file is refused without going into the merits of the case.

Kitchen at Basement

I refer to PA39/14 approved on 23/05/2017 and approving the sanctioning of a kitchen at basement level. (Drawings 32C, 32D, 32E attached).

Conclusion

The client removed all illegalities on site and so there should be no apparent or real reason not to issue a permit. I insist on my position that the hearing was unfair and discriminatory and I hope that the Appeals Tribunal will overturn the decision.

I hope the above will suffice but please do not hesitate to contact the undersigned should you require additional information.

Perit David Mifsud Parker

mc²architects
PERIT DAVID MIFSUD PARKER
B.E. & A. (Hons.) A. & C.E. Cons. Studies
4, Triq Stivala, Mosta MST3205 Malta
Tel: 21423406 Mob: 79095919
info@mc2architects.eu www.mc2architects.eu