

27th December 2017

**The Environment and Planning Review Tribunal**



*Application Number:* PA/1217/17

*Location:* Yellow House, Triq Santu Rokku, Kalkara

*Proposal:* Construction of villa and pool including the creation of soft and hard landscaping and the re-erection of a new front boundary wall. Demolition and restoration of parts of the existing building and excavation to create basement level.

*Ref. Taghna:*

*Ref. Tribunal:*

**Lorraine Barbara**

**vs**

**L-Awtorita' ta' l-Ippjanar**

The appellant respectfully submits:-

- I) The applicant made the submission of this application in 2017.
- II) This application was refused by the Commission and the decision was published on the 6<sup>th</sup> December 2017.
- III) The appellant feels aggrieved by this decision and is hereby submitting this appeal.

Together with this appeal, the appellant is submitting:-

- A copy of the decision notice (Dok JA1).
- Receipt of Payment (Dok JA2).



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The appellant respectfully submits the following:

1. It is evident that there are a number of points that have not been properly interpreted by the Planning Commission in reaching its decision on this case.
2. It is inconceivable that the objective facts relative to the site in question are given different interpretations by different sections within the Authority vested with the decision process. Such inconsistency breach the rights of the appellant to receive a due process in the determination of the application and renders the decision taken by the Authority null and void.
3. The Authority applied wrong policies and other considerations in the decision, as will be shown during the course of this appeal.
4. The Authority cannot interpret the proposed development as a new development and the reference to the site as not being an infill plot is completely irrelevant. The site in question already consists of a house which is being proposed to be re-developed. It is amply clear that this proposal is in line with the policies regulating the area in question.
5. It is also relevant to note that similar developments in the same Hamlet have been given a different treatment by the Authority and permits have been issued even in cases of completely new developments. The appellant makes reference to the permits quoted in the course of the application in question and reserves the right to make further submissions and references during the course of the appeal.
6. The contradiction of the first reason for refusal is further highlighted by the second reason for refusal which refers to the re-development of the current building.



7. The proposed development must be analysed within the context of the current building and the adjoining property to the site in question and the dimensions and architecture of the proposed building are in line with the applicable policies.
8. The status of the current building and the reference thereto in the third reason for refusal is likewise incorrect and wrong. It is evident that the property should not have retained any conservation status. Yet the current process must be analysed within the context that the said application was intended to progress in parallel with a de-scheduling correction process still ongoing intended to ensure that the replacement building is acceptable. All statutory consultees participating in this process were in favour of the proposed development which addressed all conservation issues.
9. The fourth reason of refusal is likewise irrelevant and wrongly imposed. The proposed development must be analysed in the light of the current status of the Hamlet and the permits approved by the same Authority for new developments, re-developments and extensions and as such, it is evident that the proposed development is in line with the provisions of RGPD 14.
10. Furthermore Policy 1.2H is not applicable to the current proposal since the said policy must be read and applied in conjunction with other policies of the RPDG 14 and same refers to landscape features and certainly not to urban built environments.
11. The appellant also notes that the Authority is vested to consider and determine planning applications in full observance of Art. 72 of Chapter 552 of the Laws of Malta. The verbatim reference to policies (albeit most of which are not applicable to the current proposal) is in breach of the provisions of the said provision of the law and the appellant submits that the Authority should have analysed the proposal of the appellant within the wider context and after taking



*[Handwritten signature]*



into consideration other factors and matters which are of relevance to the proposed development <sup>1</sup>.

***SITE INSPECTION***

***The appellant requests that the Tribunal carries out a site inspection as soon as possible, even before the date of the first sitting of the appeal.***

In view of the above, and further submissions that the appellant reserves to make, the appellant requests the Tribunal to revoke the decision of the Commission, and approve his request for approval of the said permit, and this under those terms and conditions that the Tribunal may deem appropriate.

With Respect



**Perit Nicholas Samut-Tagliaferro**



**Av. Ian J. Stafrace**

**Witnesses:**

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<sup>1</sup> Ref Mark Cauchi vs. Awtorita (PA 2551/15 decided by the tribunal)

1. Appellants, and consultants and consultees and officers of the Authority to confirm the facts.



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