

First Report to the Environment and Planning Review Tribunal

Case Number	PA/06941/17
Merits of Appeal	Against Refusal
Location of Site	Scicluna, Wied il-Qoton, Birzebbugia, Malta
Appellant Name	Mr. Michael Scicluna
Architect Name	Perit Daniel Grima
Proposal	Sanction of extension to pre-1967 farm building, including boundary wall, timber gate and reservoir. Proposed stables, extension to existing disused farm including change of use to dwelling, pool including ancillary facilities and landscaping. Proposal includes demolition of existing pavement, horse track and stables.

1.0 The Proposal, and Site Location

1.1 This is an appeal against the refusal of PA/06941/11 for the Sanction of extension to pre-1967 farm building, including boundary wall, timber gate and reservoir. Proposed stables, extension to existing disused farm including change of use to dwelling, pool including ancillary facilities and landscaping. Proposal includes demolition of existing pavement, horse track and stables.

1.2 The site is located at Scicluna, Wied il-Qoton, Birzebbugia, Malta.

2.0 Reasons for Refusal

2.1 The existing/proposed new residence does not satisfy criterion 5(c) of policy 6.2C of the Rural Policy and Design Guidance (2014), in that there is insufficient evidence that the site consists of a disused farm. Moreover, the pre-1967 rural structure within the site does not create a negative environmental impact, whilst the proposed new residence would result in adverse impacts on the rural landscape. The proposal also runs counter to criterion 5(a) of policy 6.2C since there is no evidence that the pre-1967 rural structure was used for habitation purposes prior to 1992.

2.2 Given that no legally-established accommodation has yet been established on the site, the proposed swimming pool & ancillary tiled area are in conflict with policy 6.4 of the Rural Policy & Design Guidance (RPDG) 2014.

2.3 The stables are proposed to be located a significant distance away from the public road and from the proposed residence, resulting in the sprawl of development and unnecessary take-up of fresh land, running counter to policy 1.2D of the Rural Policy & Design Guidance (2014). The proposal thus runs counter to the Rural Objectives of the Strategic Plan for Environment & Development (SPED), particularly Rural Objectives 1.7 and 4.3(a), which seek to control the cumulative effect of rural development, and to protect the most sensitive landscapes of cultural importance and natural beauty.

2.4 The sanctioning of the external boundary wall runs counter to the provisions in policy 2.9 of the Rural Policy and Design Guidance 2014, which stipulate a maximum of 1.2 metres from the higher site levels. The height of the access gate is also in excess to the 1.2 metre height, running counter to provisions in same policy.

- 2.5 The proposed sanctioning of the water reservoir on non-registered arable land runs counter to policy 2.7A of the Rural Policy & Design Guidance (RPDG) 2014.
- 2.6 The current proposal does not address the 6 course demarcation wall dividing site from third parties, hence proposal cannot be considered further in terms of Regulation 17 of Legal Notice 162 of 2016, unless this illegal development is sanctioned or removed.

3.0 Comments on Appellant's Arguments

- 3.1 The Appellant has the following comments to make:

3.1.1 *Re: Reason for Refusal no. 1*

The site of the proposal was previously used as a farm for sheep and goats by Leo Camilleri according to the letter dated the 1st of June 2017 sent to the applicant by the Veterinary Regulation Directorate. This was further confirmed again by a letter dated the 21st November 2017 sent to applicant by the same directorate (Letters annexed and marked as 11c and 70a respectively).

These letters further explain that this site was indeed a farm as the definition of farm in Subsidiary Legislation 437.78 – Regulations about the identification and registration of animals is met.

Furthermore, this farm has ceased to be operational since at least 2002, when the last activity of the farm being operational was recorded. Therefore, the farm has been non-operational for more than 10 years prior to the coming into force of Policy 6.2C and thus, criterion 5(c) of such policy is satisfied.

3.1.2 *Re: Reason for Refusal no. 2*

The proposed swimming pool & ancillary tilled area are not in conflict with policy 6.4 of the Rural Policy & Design Guidance (RPDG) 2014 since it is established that criterion 5(c) of Policy 6.2C is met and therefore all requirements of the Policy are met.

3.1.3 *Re: Reason for Refusal no. 3*

The stables have to be built at the proposed area and not next to the existing building as otherwise they will run counter to the Animal Welfare Regulations. This is the reason why the stables are being proposed to be built further away from the existing building.

3.1.4 *Re: Reason for Refusal no. 4*

The architect has already amended the proposal in order for the boundary walls and the access gate to be of a height of 1.2 metres, and therefore in accordance to Policy 2.9 of the Rural Policy and Design Guidance 2014.

3.1.5 *Re: Reason for Refusal no. 5*

The proposed sanctioning of a water reservoir runs counter to Policy 2.7A of the Rural Policy and Design Guidance 2014 as criterion 5(c) of Policy 6.2C is not being accepted. Once that policy is accepted as explained above in Reason for Refusal No.1, it will not continue to run counter.

3.1.6 *Re: Reason for Refusal no. 6*

The illegal development forms part of an existing pre-1967 development and it will be sanctioned upon the development permission of this application.

4.0 Request

- 4.1 For the above-mentioned reasons, the appellant respectfully requests that the Environment and Planning Review Tribunal to refuse the decision as issued with the refusal notice and to accept this appeal.



Avv. Graziella Attard

8th January 2018