

Chairperson,
Environment Planning Review Tribunal,
Planning Authority,
Floriana



Description	Change of use from office Class 4A as approved in PA5972/18 including the extension of site boundary, to Childcare Centre (Class 2C) at ground floor level	
Location	217, Triq il-Kostituzzjoni, Mosta	
Our reference	PA/8221/19	
Date	10/03/2020	

The applicant refers to the Decision Notice issued by the Authority recommending a refusal for the following 2 reasons:-

1. *The proposed Class 2C child care does not satisfy all of the criteria of the Supplementary Planning Policy Guidance: Child Day Care Facilities (2017), since the site is situated on a distributor road and in an area with a heavy traffic flow.*
2. *The proposal does not comply with the provisions of Legal Notice 227 of 2016: Development Planning (Health and Sanitary) Regulations, 2016, since the Engineer's Report is to be updated according to latest plans submitted.*

The appellant would like to reiterate on the following points:

1. With respect to the first reason for refusal kindly note with reference to Central Malta Local Plan - Road Hierarchy Map - TR1, the site is located within a local access road and not a distributor road. In the case officer's report it is stating that this was superseded by the GEOserver, however the appellant does not believe this is correct as the GEOserver is considered to be a tool to facilitate the planning process and not a replacement to an approved document by the Minister. Upon research done, there is no approved document which states that the local plan approved by the Minister is superseded by a tool which already existed when the Local Plans were issued in 2006, although the appellant is aware that since 2006 this tool was updated.
2. PA 8439/17; PA1408/18 and PA3030/16 are all approved permits for a Childcare Centre (Class 2C) located and approved on an Arterial or Distributor Road. Other

- older examples also exist for which Childcare centers are still open and running on such busy roads.
3. The premises are considered to be adequate for a Childcare Centre as positively recommended by the DQSE. In terms of the encouragement of social facilities, the Strategic Plan for Environment and Development 2015, in Thematic Objective 2, notes that in addition to the provision for new social and community facilities, and extensions to such facilities, child day care provision should be facilitated. This leads to the fact that the proposed childcare centre is strategically located on the periphery of the Town centre which avoids the business of the actual centre yet close enough to support both the working and living community of the area.
 4. The Supplementary Planning Policy Guidance: Child Day Care Facilities (2017), item 3.3 does not recommend locating the Childcare on an Arterial and/or distributor roads because of the presence of undesirable levels of chemical pollution and noise. However the appellant does not think this is applicable since the proposal was to have the administration and services on the front part and both the indoor and outdoor play areas overlook the back of the property which overlooks Wied il-Ghasel a green lung which has similar characteristics for a desirable location and satisfy the intent of the policy. Worth noting that the back part of the site touches the development scheme hence having the ODZ at the back of the premises.
 5. It is also important to note that the current use constitutes a material consideration and legal commitment which, as indicated in Article 72 of the Development Planning Act.
 6. Furthermore, with respect to the second reason for refusal, the applicant would like to underscore that whenever an engineer's report was requested by the Planning Authority, this was always submitted as was done in document 18a and 61a. There was no further communication on a required report and only in the Case officers report was it mentioned again that it was required. Once it was known that an updated report was required, it was prepared and submitted as document 93a and hence should not be a reason for refusal of the permit.

We trust the Tribunal will evaluate the arguments and overturn the recommendation.



PERIT ELENA BORG COSTANZI