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17th April 2020

Our Ref: F2985

The Environment & Planning Review Tribunal
St. Francis Ditch, Block B
Floriana



Attention: EPRT Environment Planning Review Tribunal

Application No: PA6259/19
Location: Site at, Triq Ras il-Qawra, San Pawl il-Bahar
Proposal: Proposed erection of boundary wall around vacant site

Dear Sir/Madam,

The applicant, Ms. Anna Murray Curtis, is hereby appealing against the decision to refuse the above mentioned application which was published on the 25th March 2020. The appeal is being sought based on the grounds listed below.

The only reason for refusal is:

"The proposed enclosing of an open area between the existing seven-storey buildings within the Residential Priority Area of San Pawl il-Bahar, will restrict access to an open space that policy NWUS 4 (and as indicated in paragraph 5.2.16) seeks to retain. The proposal therefore also runs counter to Urban Objective 3 of the Strategic Plan for Environment and Development, which aims to protect and enhance the character and amenity of urban areas."

However, the proposal does not seek to "close" the open space but rather to delineate what is private property and create a boundary wall which will not have a negative impact on the character and amenity of the urban area around the existing residential blocks.

The scope of this application is solely to erect a low wall in order to create a secure perimeter around an open portion of the site. Considering that this portion of the site is



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privately owned, as can be clearly seen on the attached contracts, our clients is ultimately responsible of anything which occurs within this site. Currently this portion of the site is being illegally used as a parking area; the original permit does not approve such use within the site. In view of this our client could ultimately be penalized by the Enforcement Unit for third party wrong doings so our client intends to secure this portion of the site to restrict clear illegal and abusive uses occurring on site.

Photographic proof of this illegal parking is easily obtained from Google Earth:



Fig 1 – Illegal parking onsite dated 9/17/2017



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Fig 2 – Illegal parking onsite dated 8/02/2019

Further to policy NWUS 4 on the North West Local Plan in which it states;

"The two seven storey towers and a number of four storey blocks were permitted adopting density measures and appreciable areas of open space were created as a result, which the policy seeks to retain"



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We would like to point out that we are not in agreement with this clause being quoted in the DPAR. We are attaching a copy of the official permit PAPB/1051/66, where there are no conditions whatsoever in relation to density measures. We kindly request the ERPT to clarify the discrepancy between the approved permit and the local plans interpretation of the same permit.

We are also attaching a contract of acquisition in which it is stated that the applicant, our client, is the rightful owner of the portion of Land we are applying on. Together with this contract we are also attaching a typical contract of the sale of an apartment pertaining to the said site. Through the contract it is mentioned that the said portion of site is privately owned and the purchasers only have five hundred and forty square feet (50 sq.m) for right of use which is for entry purposes from the road to the communal parts of the block only. Case in point the permit issued for refusal does not include any ownership issues as this has been confirmed through the uploading of such ownership documents.

The resultant "landscaped" garden would still remain as is, with the difference of it being enclosed with the proposed boundary wall of 1.4m height as per P7 of DC15. Thus considering that the landscaped area shall be retained, Urban Objective 3 of the Strategic Plan for Environment and Development, which aims to protect and enhance the character and amenity of urban areas, is being respected in any case.

In conclusion, building a very small wall in order to protect the possession of her property is the least our client can do in order to safeguard her property rights without in any manner really disturbing the environment. The issue is not only one of planning but of ownership and the applicant as the rightful owner can claim the exclusive use of the property in question something which is denied to her by the denial of the permit to erect the wall. Certainly, the use of the property is subject to planning review but the exclusivity of that use by our client is not subject to planning laws but is an express consequence of his rights of ownership.

The Tribunal is requested to overturn the refusal decision taken by the EPC in the board sitting.