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Saturday, 06 June 2020

Our Ref.: ME 20621 - LT 1

The Chairman,
Appeals Board,
St. Francis Ditch,
Floriana.



Appeal on PA 5367/19

I the undersigned Architect and Civil Engineer am hereby submitting on behalf of my clients Mr. Ray Dowdall (ID 649456M) and Mrs. Marina Dowdall, various reasons for which we feel that the above mentioned permit should have never been approved as proposed.

- 1) The site levels were erroneously submitted. The levels indicated on the submitted plans indicated levels which were already modified by the illegal dumping of material which took place c. 22 years ago on the site in question and on which there was also an enforcement notice bearing number EC00973/99.

This dumping actually led to the modification of the site configuration as well as site levels and therefore assessment of this application got somewhat prejudiced.

- 2) Enforcement was pending direct action. The illegal construction of a wall in the valley as well as the material dumped illegally in the valley with the aim to modify and enlarge the site was never removed.
- 3) If one examines in depth the original site configuration and the original contours of the area, (Refer to attached site plan at Doc1) it is immediately noticeable that the plot on which this application was approved was one of the shortest plots (from the 5 adjacent plots i.e. 216 – 219A), however as modified and as now being approved with this application, the site got much longer. The block plan shown at Doc 2 which is the approved block Plan at RED 76G, also gives an indication that the valley got somewhat NARROWED behind plot 217. This can be also confirmed further if one looks at attached Doc. 3 which is a superimposition of the original site configuration showing also the original width of the valley and the overlaid new site configuration. In our opinion this was never contested by the Planning authority as the information submitted to the Planning Authority was misleading.

Even the Mellieha Local Council brought to the attention to the Planning Authority that previous interventions on the site in question involved encroachment on the valley by the dumping of residual material. It is also noted that the boundary wall on the valley side, as it was proposed, was not aligned with those of neighbouring properties (doc. At Red 46A).

- 4) The approved section at red 76h, which also gives an interpretation of the original site profile, clearly shows that the development as approved runs counter to Policy P35 of DC15 which states that the height of bungalows, is established by offsetting the gradient derived from the existing site levels by 4.75 metres. As seen from attachment at Doc 4, it is quite evident that this policy was not adhered to. Infact at certain points the proposed development is higher than 8.7m from the original site level.

When we refer to the gradient of the existing site levels, one is to take into consideration the original site levels and not those modified by illegally dumped material which led to the increase in level by an average of 1.2 to 3m at the rear end of the plot.

- 5) The piles at the rear end of the plot, were constructed within the original valley and not within the plot itself.
- 6) There are no bungalows in the area which were approved having 4 levels. This bungalow was approved having at least 4 levels.
- 7) The restricted valley width, as also visible in photos 3-5 in annex 1 attached herewith, which width was reduced to a mere 1.4 – 1.5m by the developer has created a bottleneck to water flowing down the valley during heavy rains. This is in turn leading to higher water levels during the rain which are also causing additional erosion of my client's property foundations.

We are also herewith attaching various photos as evidence and as poof to the comments above of the illegalities on site as well as evidence of the misleading information submitted. Please refer to Annex 1 attached herewith. We feel that the above mentioned facts were never given real attention during the processing of this application. Further investigation should be carried out regarding the illegalities which already exist, their impingement on the approval of the permit in question and the way these have been sanctioned should be given further attention and if necessary should be duly investigated.



Perit Marvin Ellul

Rehome

PA

Environment & Planning Review Tribunal

From: Dr. Ian Stafrace <ian@salibastafrace.com>
Sent: 08 June 2020 12:16
To: Environment & Planning Review Tribunal; Marvin Ellul; Marina Dowdall; Joanna Busuttil
Subject: Appeal from PA 5367/19
Attachments: Site Plan.pdf; Permit.pdf; DOC 1.pdf; Doc 2.pdf; DOC 3.pdf; Doc 4.pdf; PA 5367_19 - Sammy letter (1).pdf; Appeal on PA 5367-19 Dowdall.pdf; CamScanner 05-12-2020 19.28.37.pdf

Attached please find appeal request from the above captioned.

Kindly note that the appellant would request the following witnesses:

1. Representatives of the Authority to give evidence on the levels of the site, the planning history of the site and enforcements on site.
2. Representatives of ERA
3. Mr. Sammy Vella to confirm the statement being submitted with the appeal
4. Consultants of the appellant to confirm the facts of the case

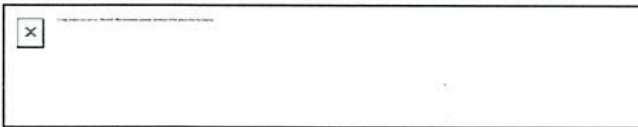
AV. IAN J STAFRACE
PARTNER

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