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First Report to the Environment and Planning Review Tribunal

Case Number	PA/08106/19
Merits of Appeal	Against Refusal
Location of Site	La Pietra, Triq ta' Gawhar, Tas-Sies, Safi
Appellant Name	Mr. Joseph Attard
Architect Name	Perit Roderick Camilleri
Proposal	Demolition of existing additional structures, change of use of existing disuses pig farm to dwelling and construction of extension to dwelling. Sanctioning of existing swimming pool and balance tank, reinstatement and construction of surrounding rubble walls.

1.0 The Proposal, Site Location, and Constraints

1.1 This is an appeal against the refusal of PA/08106/19 for the Demolition of existing additional structures, change of use of, existing disuses pig farm to dwelling and construction of extension to dwelling. Sanctioning of existing swimming pool and balance tank, reinstatement and construction of surrounding rubble walls.

1.2 The site is located at La Pietra, Triq ta' Gawhar, Tas-Sies, Safi.

2.0 Reasons for Refusal

2.1 The proposal does not satisfy the requirements in PA Circular 4/16 since the submitted proposal and drawings do not include the sanctioning of the alterations and extension to the original pre-1968 structure and formalization works at the site entrance. Also, the submitted site plan does not indicate the entire extent of the applicant's site.

2.2 The proposed re-development runs counter to criterion 5(c) of policy 6.2C of the Rural Policy & Design Guidance (RPDG) 2014 since the Veterinary Regulation Directorate and Agricultural Advisory Committee did not confirm the exact location of the farm being 'Tas-Sies, Safi', and in any case the small scale of the original pre-1968 structure (approx. 24sqm) does not justify its conversion into a new residential unit. Hence, the proposal runs counter to Thematic Objective 1.10 and to Rural Objective 3 of the Strategic Plan for Environment & Development which only allow for rural development which is legitimate or necessary.

2.3 The proposed residence exceeds the maximum allowable floorspace of 200sqm considered in terms of criterion 5(c) in policy 6.2C of the Rural Policy and Design Guidance (2014).

2.4 The sanctioning of the existing swimming pool runs counter to policy 6.4 (1) of the Rural Policy and Design Guidance (2014) since the residential use of the site is not considered to be established.

2.5 The proposed reinstatement of the existing boundary walls runs counter to policy 2.9 of the Rural Policy and Design Guidance since the proposal exceeds the maximum permissible height of 1.2m.

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*

Further to the fresh drawing submitted by the applicant, the latest drawings at 119D indicate that the extension at the back part of the room as shown on the 1968 survey sheet is being proposed for sanctioning. Moreover, a revised site plan 119A has also been submitted indicating the extents of the site. Hence the requirements in PA Circular 4/16 are satisfied.

3.1.2 *Re: Reason for Refusal no. 2*

The proposed re-development does not run counter to criterion 5(c) of policy 6.2C of the Rural Policy & Design Guidance (RPDG) 2014 on the basis that the structure on the site in question used to serve as a pig farm, and this can be confirmed from the letter received from the Veterinary Regulation Directorate dated 14th June 2019, whereby the Directorate confirmed that there was a pig farm registered in the name of Mr Salvu Abdilla and that during an inspection, 6 fatteners were found.

Moreover, although the exact location of the farm could not be directly confirmed, the Veterinary Regulation Directorate, by a letter dated 27th April 2020, confirmed that the structure on the site in question was used as a farm. In this letter the Directorate stated that it could not confirm whether **there were any other farms in the area**, except for the farm of the applicant. Here the Directorate confirmed that the structure on the site of the applicant was actually used as a farm. In addition to this, by stating that it could not confirm whether there were any other farms in the area, the Directorate was confirming that the farm registered in the name of Mr Salvu Abdilla was the same farm in relation to which the request was made to the Directorate, and therefore, the Directorate indirectly confirmed that the farm of Mr Salvu Abdilla and the structure on the site in question are one and the same.

Furthermore, according to Subsidiary Legislation 437.78, the definition of a farm or holding is "any establishment, construction or, in the case of an open-air farm, any place in which animals are held, kept or handled", and therefore, **any place where at least one or more animals are kept is considered to be a farm or holding**. In this case, since the structure had been a pig farm holding at least 6 fatteners upon inspection, this structure is considered to be a farm and therefore the criterion 5(c) of policy 6.2C of the Rural Policy & Design Guidance (RPDG) 2014 applies, and therefore a residential unit not exceeding 200sqm can be built.

3.1.3 *Re: Reason for Refusal no. 3*

The latest drawings (drwgs. 119D/119E) indicate that the gross floor area of the proposed dwelling is of 200sqm, and therefore, the terms of criterion 5(c) in policy 6.2C of the Rural Policy and Design Guidance (2014) will be fulfilled successfully.

3.1.4 *Re: Reason for Refusal no. 4*

With respect to Refusal No.4, and further to the reasons for the refusals above, the residential use of the site should be established, and therefore the existing swimming pool, further to sanctioning, will be in accordance with policy 6.4 (1) of the Rural Policy and Design Guidance (2014).

3.1.5 *Re: Reason for Refusal no. 5*

With reference to Refusal No. 5 which deals with the height of the boundary walls, the latest drawings (see drwg. 119H) indicate that the boundary wall is being limited to a height of 1.2m as per policy 2.9 of RPDG 2014, and therefore reason for refusal may be considered addressed.

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.


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