

23rd June 2020

The Environment and Planning Review Tribunal

Nru. ta' l-Aplikazzjoni: PA/3086/19

Lokazzjoni: Il-Fortizza, Triq it-Torri, Sliema

Proposta: To sanction altered canvas roof over permitted canvas/wood structure, to sanction and propose external dining areas including tables, chairs and umbrellas. To sanction changes in the signage on the facade of the building.

Ref. Taghna:

Ref. Tribunal:

Sliema Fort Co. Ltd.

vs

L-Awtorita' ta' l-Ippjanar



The appellant respectfully submits:-

- I) The applicant made the submission of this application in 2019.
- II) This application was refused by the Commission and the decision was published on the 27th May 2020.
- III) The appellant feels aggrieved by this decision and is hereby submitting this appeal.

Together with this appeal, the appellant is submitting:-

- A copy of the decision notice (Dok JA1).
- Receipt of Payment (Dok JA2).

The appellant respectfully submits the following:

- 1.1* The Authority wrongly applied the provisions of the law and policy regulating this site.
- 1.2* The site in question is covered by a legitimate permit and committed site hence, the current permit should have been approved.
- 1.3* The proposal is limited to development on site that is OWNED by the appellant, and not on a public open space.
- 1.4* Therefore, the provisions of the Outdoor Catering Areas on Public Open Space Policy (OCA) are not applicable at all.
- 1.5* Furthermore, and without prejudice to the above, under the provisions of the OCA, the proposed development is permitted if it does not entail damage to existing heritage buildings. In this case no damage is being done. This proposal has been discussed with the Superintendent of Cultural Heritage (SCH) and altered so that in his latest consultation of the 25th November 2019 (125a) there is no objection to the proposal.
- 1.6* The proposed application does not infringe policy P15 of the OCA. The design and layout of the furniture takes into consideration the requirements of wheelchair users. It was designed after consultation with the CRPD. Required distances between tables and chairs as well as ramps, etc. were carefully included. The proposed furniture and other equipment are of sufficiently high quality, having a plain and simple design that respects the character of the building. The various outdoor furniture items are designed holistically and guided by one coherent design.
- 1.7* The applicant has already made it amply clear that the materials that will be used will be of the quality and level that enhance the value of the building per se;
- 1.8* There are no bright colours proposed. The palette is muted and should comply with policy G3 of the OCA policy.

- 1.9* Since the development is not in a public area, as explained above, the provisions of policies P21, P22, and P23 of the OCA policy are therefore not fully relevant. However, the structures are either easily demountable, or in the case of the canopy, fully reversible.
- 1.10* Policy G9 is fully complied with as the umbrellas are stabilized, as they would certainly have to be, considering their exposed position.
- 1.11* Since the development is not in a public area, as explained above, the provisions of policies S6 are therefore not fully relevant. The height of the canvas structure is dictated by the dimensions and architecture of the existing historic structure.
- 1.12* Reference is also made to the illuminated fascia sign. We maintain that this does not run counter to guidance G37 of DC 2015. This policy does allow illuminated signs on premises in Urban Conservation Areas that are open at night, such as bars and restaurants during hours of business. The sign consists of individual letters and not a complete fascia. It is discreetly lit, and the letters are solid opaque black with the illumination within the side rim behind the solid part.
- 1.13* Most of the seating is already permitted. The seating in the front of the building on Triq it-Torri is permitted by the MTA. The dining area beneath the canopy is permitted by PA 02227/01. The only tables not included in any permit are the thirty tables on the north-east side. However, outside area has, in fact, been used for dining since the 1980's. There have been periods when the whole external area was used for dining. Although the external dining area is now included in this permit application, as requested by the Authority's own officer, it is debatable whether a permit is even required for an area which, pre 1992, was already a dining area. Indeed, the whole building and the surrounding area was given by the Government on an emphyteutic title specifically to be used for catering purposes only.

1.14 The proposal is also fully compliant with CRPD requirements.

1.15 The site in question is surrounded by similar and identical developments, all of which have been duly notified to the authority, and hence the Authority was duty bound to approve the said permit.

1.16 The proposed development is in line with the local plan policies regulating the site, and is not contrary to the provisions of the applicable policies.

1.17 The proposed development satisfies all other applicable criteria and requirements that are necessary for this development to be favourably considered and approved.

In view of the above, and further submissions that the appellant reserves to make, the appellant requests the Tribunal to revoke the decision of the Commission, and consequently order the Authority to issue the relative permit, and this under those terms and conditions that the Tribunal may deem appropriate.

With Respect



Av. Ian J. Stafrace

Witnesses:

1. Appellants, and consultants and consultees and officers of the Authority to confirm the facts.



Av. Ian J. Stafrace
9/4 Britannia House
Old Bakery Street
Valletta