

63, JL Building, Office 3, Luqa Road, Paola PLA 9045, Malta
 T +356 2180 6548 E info@jgperiti.com www.jgperiti.com

JG
 PERITI

ENVIRONMENT AND PLANNING
 REVIEW TRIBUNAL

RECEIVED
 15 JAN 2021
 ST. FRANCIS DITCH
 FLORIANA

4th January, 2021

The Secretary
 EPRT
 St. Francis Ravelin,
 Floriana

Re. Proposed alterations & extensions & indoor pool at ground floor & jacuzzi at roof level to existing residence. Proposed change of use from disused bakery to class 4D at Qormi – PA 05625/20

Reference is made to the refusal dated 9th December, 2020 and issued in connection with the above-mentioned application. We would like to lodge our appeal against this refusal decision for the following reasons:

Reason for Refusal 1

'Proposed Class 4D use runs counter to Policy Provisions'

We are fully aware that 'change of use' to catering establishments are generally not accepted in residential areas; however the EPC have failed to take into consideration the fact that the part of the development over which the Class 4D use is being proposed is already established as a 'traditional bakery' and hence there already exists a legal commitment of a commercial nature on the site. Once such a commitment exists, the Planning Authority is legally bound by Article 72 (2d) of the Planning Act to consider these commitments when deciding upon an application.

In this instance this part of the act was evidently overseen.

Further to the above, one might also add that when one looks at the application from the perspective of nuisance caused to neighbours, the change of use from bakery to a Class 4D outlet would in all probability lead to an improvement with respect to fumes, smells, noise and operational hours.

Reason for Refusal 2

'Proposed roof structures run counter to Policy P39 of DC2015'

Policy P39 states that if no commitments exist no set back floor will be allowed. During the course of the application, we have presented evidence that commitments do exist. First and foremost, a setback floor is already approved by PA 1426/14 on the same site. Secondly the height of the proposed setback floor respects the skyline established by an already existing

commitment just a few meters away on Triq Stanislaw Gatt (refer to streetscape elevation uploaded as Doc 1h) whereby a second floor level is constructed not as a setback floor but up to the street alignment.

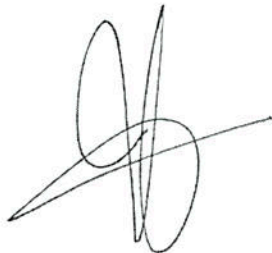
We have also presented a google maps photo with the existing level of commitment of setback (and not) second floor levels in the surrounding areas.

For some reason or other the EPC felt that the above-mentioned current situation is not enough a commitment to accept our proposed setback floor.

Reason for Refusal 3

To this end, we believe that a site inspection is merited so that one could explain better what the proposed interventions involve. We would have been more than pleased to carry out such an inspection in the presence of an SCH representative during the course of the application however, very unfortunately, consultations with SCH have been rendered into an 'over the desk' exercise with little room for appreciation of the actual situation on site and with even lesser room for discussion with the goal of finding an acceptable way forward.

In view of the above, we respectfully ask the EPRT to consider our arguments and overturn the refusal decision. We also hereby request the right to produce further submissions from myself and our legal representative throughout the course of the appeal.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Joe Grech A&CE