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1/26/2021

Segretarju
Bord tal-Appell dwar l-Ambjent u l-Ippjanar
Block B,
Saint Francis Ravelin,
Floriana.

Dear Sir,

RE: PA/04529/2020 – Paul Portelli

To sanction additions and alterations to pre 1994 sheep farm, consisting of new farm structures at ground floor and other minor alterations and change of use of rooms as extension to existing farm.

I am writing on behalf of the applicant, Paul Portelli of “Australia Hose”, Triq ta’ Hida, Nadur, to file an appeal against the decision reached by the Planning Authority on the 15th December 2020 to refuse this application.

In essence, the Planning Authority adopted the reasons for refusal proposed in the DPAR, namely that

1. *The sanctioning of additions and alterations to pre-1994 sheep farm located within the development zone run counter to policy 5.1B criterion (d) of the Rural Policy & Design Guidance (RPDG) 2014, and to Thematic Objective 6.1 of the Strategic Plan for Environment & Development, which aim to safeguard environmental health from air and noise pollution by controlling the location, design, and operation of development.*

and

2. *The applicant is already in possession of another cow farm located within the Development Zone of Nadur and therefore the proposed sanctioning would breach condition (23) of previous Development Permission PA5633/02, which prohibits the applicant from breeding animals in any other premises located within an inhabited area.*

Appellant submits that these two reasons are unfounded and unjustified and that the decision should be overturned for the following reasons.

In so far as concerns Reason 1, it is submitted that contrary to the case officer’s report, this application needs to be assessed in terms of Policy 2.3A of the RPDG 2014 – Existing livestock farm units (including pre-1994 Farms). This policy states that permission may be granted for the construction of a new building, or redevelopment of, or an extension to an

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existing building, for animal breeding, production, waste management and/or the related storage, for a livestock farmer. It does not exclude farms located within the development zone.

The decision quotes Policy 5.1B: Animal enclosures. This policy applies for new developments intended for "the enclosures with adequate fencing for animals, intended for research, educational, sport, leisure and exhibition purposes...." Hence the policy quoted in the Planning Authority's decision is irrelevant to this case.

The decision also states that this proposal runs counter to Thematic Objective 6.1 of the SPED. This policy aims to protect the environment from air and noise pollution. However this is not the case because the farm which has been in operation pre-1994 is not the cause of air and noise pollution. This results clearly from a certificate from the veterinary surgeon who inspected the farm which has been already exhibited in the records of this application. In his report the vet certifies that the farm is clean, that it is suitable to keep ruminants and that Mr Portelli has always attended to his herd with great care and always followed his instructions or guidance properly.

Reason 2:

With regards to the cow farm operated by Mr Portelli located outside the development zone, it is true that a condition was imposed in granting him this permission which prohibits the applicant from breeding animals in any other premises located within an inhabited area, however, the sheep cannot be placed in the cow farm because this goes against the regulations of animal breeding. It is not permissible to keep cows and sheep in the same farm.

Secondly, this condition was imposed way back in 2002. This condition has now been superseded through the introduction of Policy 2.3A of the RPDG 2014 – Existing livestock farm units (including pre-1994 Farms). Consequently, the Planning Authority's insistence on conditions imposed way back in 2002 is totally and absolutely unjustified. It is an established principle of planning policies and legislation that an application for a development permit should perforce be evaluated on the basis of the policies and laws in force at the time the application is filed and decided upon, and not on the basis of some condition imposed under previous legislation.

In this particular case, Policy 2.3A of the RPDG-2014 expressly caters for the possibility of a development permit being issued in respect of farms located within the development zone.

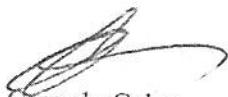
It is submitted that this application has to be evaluated in the light of the fact that the site in question has been used uninterruptedly since before 1992 for the rearing of ruminants, coupled with the fact that this site qualifies for the issue of this permit in terms of Policy 2.3A of the RPDG 2014 – Existing livestock farm units (including pre-1994 Farms).

For these reasons, and all the other reasons that shall result during the hearing of this appeal, we are therefore requestinng that the Planning Authority's decision is overturned and the application be approved.

A copy of the receipt for the fees relating to this appeal is being herewith annexed.

Thanking you in anticipation, I remain, Sir,

Yours Truly,



Av. Carmelo Galea



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