

MFF/dem/900/30/42

5th February 2021

The Secretary
Environment and Planning Tribunal
P O Box 172
Marsa



Dear Sir,

Re: PA/00645/20 – St Joseph Farm, Triq San Leonardu, Zabbar

On behalf of our client, Mrs Carmen Grech (0418075M), we are herewith submitting an appeal against the decision taken by the Planning Authority to refuse the Planning Application PA/00645/20 that proposes the change of use from a disused swine farm to Class 5A warehouses/workshops plus other additions and alterations. This refusal was communicated to our client as per letter dated 19th January 2021, and published on the 3rd February (copy of which is enclosed).

The reasons for refusal are as follows:

- The proposed development runs counter to the provisions of Local Plan policies SMAG01, which protects agricultural land from all types of inappropriate development and SMCO 06, which specifies that there shall be a strong presumption against the creation of new built structures (including cultivation and animal husbandry related structures) in AHLVs. The proposed therefore also runs counter to the SPED Urban Objective 3 which aims to protect and enhance the character and amenity of urban areas.
- The proposed development runs counter to the provisions of policy 6.2C of the Rural Policy and Design Guidance (RPDG) 2014 in that the proposed development in terms of uses, volume and height does not constitute an environmental benefit. The proposal is therefore not in line with the Thematic Objective 1 of the Strategic Plan for Environment & Development for limiting the land take up for us which are not necessary or legitimate in rural areas. Hence, the proposal also runs counter to Rural Objectives 1, 3 and 4 to facilitate sustain

First reason for refusal:

The first reason for refusal states that the development under appeal has been refused due to the creation of new built structures on agricultural land in an Area of High Landscape Value. The first reason for refusal makes reference to Policies SMAG 01 and SMCO 06. It is to be noted that the first reason for refusal is flawed in its entirety as will be proven below:

- Policy SMAG 01 aims at protecting Agricultural Land. The proposed development does not comprise of take up of agricultural land therefore, SMAG 01 has no relevance to this case. Furthermore, Map ZA6 of the South Malta Local Plan does designate the site under appeal as Agricultural Area.
- Policy SMCO 06 states that there shall be a strong presumption against the creation of new built structures in Areas of High Landscape Value. Not only does the development under appeal not proposed new or additional structures but the site under appeal does not fall within an area designated as an Area of High Landscape Value (AHLV). Map ZA6 of the South Malta Local Plan does not designate the site under appeal as an AHLV.
- Urban Objective 3 protects the character and amenity of urban areas and not rural areas. Since the site under appeal lies within the Outside Development Zone, then this Objective too does not have any relevance to the site in question.

The first reason for refusal has been shown that it does not have any relevance to the development under appeal. We therefore request that the first reason for refusal is omitted due to its irrelevance.

Second reason for Refusal:

The second reason for refusal states that the proposed development runs counter to policy 6.2C. However we may wish to note that the proposal does not run counter to this policy due to the following reasons:

- The existing building is covered by a development permission as per Policy 6.2C(1)
- The existing building does not merit inclusion in the list of scheduled property as per Policy 6.2C(2)
- The development subject to this appeal does not exceed the total floor area of the existing building as per Policy 6.2C(3)
- The development subject to this appeal does not propose the redesign of the existing structure as per Policy 6.2C(4)
- The replacement building proposes a use which is already "*legally established*" in the area as per Policy 6.32C(5)(a). Furthermore as stated in Policy 6.2C5(d) "*any other use*" can be proposed which is "*already serviced by a road network that would adequately cater for the proposed new use*".
- The proposed development will not affect any existing trees Policy 6.2C(7)

Therefore the above points show how the development under appeal is fully compliant with Policy 6.2C of the Rural Policy.

Furthermore, the second reason for refusal mentions Thematic Objective 1 which is about Socio-Economic Development and how such needs are to be met. Socio-Economic issues have nothing to do with the development subject to this appeal. Socio-economic development is primarily about the interplay between social processes and economic activity within a society. Therefore we fail to understand how this can be related to the development under appeal

We therefore request that the second reason for refusal is also omitted.

Other Considerations:

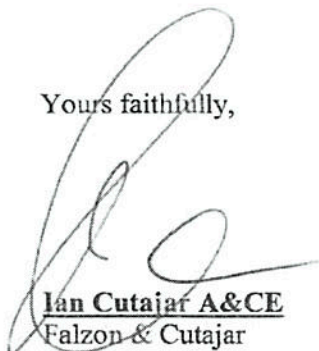
We would like to point out that when drafting the Rural Policy and Design Guidance 2014, the legislator made sure to include that when rehabilitating and changing the use of an existing building, as per Policy 6.2A, uses such as warehouses and industrial activities should not be permitted. Therefore, just as the legislator felt the need to include this premise in Policy 6.2A, then the non-mentioning of such a premise in Policy 6.2C means that industrial uses can be permitted. In fact Policy 6.2C(5)(d) mentions "*any other use*".

Furthermore, the proposed development lies within the vicinity of other industrial uses such as the waste/sewage treatment plant approved by PA/06974/06, PA/01437/09, PA/03644/13 and PA/05195/18; ta' Maggi industrial zone initially approved by PA/05003/05 and tal-Milord Plant initially approved by PA/00075/08; and other disused farm structures used as warehouses.

Applicant reserves the right to make further written and oral submissions during the course of the hearing of this appeal.

The following documents are being attached – copy of the Planning Authority's Decision, copy of Site Plan, Copy of Receipt

Yours faithfully,



Ian Cutajar A&CE
Falzon & Cutajar
Architects and Civil Engineers

