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THE ENVIRONMENT & PLANNING REVIEW TRIBUNAL

Planning Authority Reference: PA/04744/20

(Proposal Description: 'Proposed consolidation of two legally established structures into a dwelling with an indoor pool. The proposed landscaping includes alterations to the existing boundary wall.)

(Site: Triq ta' Ghar Lapsi, Siggiewi, Malta)

(Our Reference: FA00/05/21)

(Tribunal Reference: N/A)

**ENVIRONMENT AND PLANNING
REVIEW TRIBUNAL**
RECEIVED
19 MAY 2021
**ST. FRANCIS DITCH
FLORIANA**

Spiridione Farrugia

– vs –

Planning Authority

Rikors tal-appellant

Date: 13th May, 2021



We cordially object to the Planning Authority's decision for the following reasons:

1. **The proposed reconstruction and relocation of a previous generator room and part of an old farmhouse to fresh land located away from the original sites goes beyond the permissible development stipulated in policy 6.2C of the RPDG (2104), which allows the re-development and consolidation of buildings on the same footprint, not their relocation on a different site. Also, the generator room covered by PB2807/83 does not qualify for reconstruction into a dwelling, whilst the relocation of part of the old farmhouse would result in the subdivision of the original property.**

In 1979, as part of the Qrendi Road improvement project PW/1222/75, the then Roads Department evacuated the dwelling, which my client co-owns with the two objectors, and partly demolished it. As road improvements are overseen by Government policies, the Department had to relocate and reconstruct the entire building which it demolished.

Since then, the Authorities did not rebuild the dwelling and their non-compliance breached my client's fundamental right of enjoyment of his property.

As this road forms part of the National Lorry Route Network (as per Map 9 of the South Local Plan), Policy SMTR 04, restricts any development within the buffer zone of this arterial road. The South Local Plan also defines this area as being prone to flooding.

With all these site restrictions, my client is cordially requesting the Authority to rebuild this dwelling in the San Niklaw area, which the **Strategic Plan for Environment and Development (SPED)** defines it as an **Intensive Agricultural Zone**.

While my client accepts the Authority's decision regarding the generator room, he respectfully wishes to draw the Board's attention that if his property was not demolished by the Authority, he would have applied to sub-divide it into dwellings as per Rural Policy 6.2a.

Nowadays, as part of the road improvement's procedure, the owner of the demolished building has to apply with the Authority to rebuild the demolished dwelling as per Rural Policies 6.2c and 6.3.

We wish to draw to the attention of the Board members that Rural Policy 6.2c does not stipulate that the new building must be reconstructed on the same footprint location.

This is the main reason of this application.

The proposed development is therefore not considered justified to be located in the Rural Area, as it will result in the creation of a new dwelling outside development zone, in conflict with approved Government policies, plans and programmes for rural areas. Hence, the proposal runs counter to the Thematic Objective 1.10 and Rural Objective 3 of the Strategic Plan for Environment & Development which only allow for rural development which is legitimate or necessary.

Please note that the demolished dwelling was a legitimate building which was located outside the development zone. Therefore, our proposal conforms with both the **Thematic Objective 1.10 and Rural Objective 3 of the Strategic Plan for Environment & Development** where it will not 'create a new dwelling outside the development zone' but to its reconstruction.

From the submitted photos, PWD demolished the abutted section of this building and carted away all its old stones and slabs. Therefore, it is difficult for us to submit the requested works method statement on how to dismantle my client's property.

- 2. The proposed two-storey residence with an exposed basement level exceeds the maximum permissible 200sqm floorspace stipulated in the Rural Policy and Design Guidance and includes an external access ramp and beaten earth car port which would lead to the unnecessary take up of land and formalization of a site located outside development zone. The proposal also includes the creation of new blank party walls on the side elevation which would detract from the visual quality of the area. Hence, the proposal runs counter to Rural Objectives 1.7 and 4.3c of the Strategic Plan for Environment and Development, which aim to control the location, design and cumulative effect of development in rural areas.**

In our proposal, we:

- abided with the EPRT Board recommendations stipulated in PA/03212/16 and PA/03212/16;
- adopted the building height limitation as per PA/01924/14 and PA/05030/17;
- followed the concept of PA/05845/16, in dividing the building into two separate dwellings.

The proposed new location is an infill between two large wide façade farmhouses, one is 7.4m high and the other is 3.6m high from street level. Its pre-1967 façade is 10 courses high and is accessible from a side ramp 5m wide behind it.

When considering the height of the adjoining buildings, the soil level and that the proposed 200m² two-storey building will be recede by 5m, we requested in extending the existing ramp to provide access to the basement. One needs to note that this basement is partially exposed from the back field only and not visible from any road.

In our proposal we further mitigated in limiting the take-up of arable land by locating the in-door pool, which will be completed hidden behind the transparent solar-panels.

When viewing the proposed building from Lapsi Road, one will partially see the upper part of the receded ground and first floor whereas its east side will be completely hidden behind the citrus trees, which will be planted as part of the proposed landscaping. As regards to its west blank party wall, this will be completely covered by the existing two-storey farmhouse and therefore will not create any visual impact within the area.

- 3. There is no justification for the construction of a new dwelling on fresh agricultural land, which would result in the scattering of development outside the development zone. Hence, the proposal run counter to policy 1.2D of the Rural Policy and Design Guidance and Local Plan policy NWAG 01 for the protection of agricultural land. The proposal is also in conflict with Thematic Objective 1 of the Strategic Plan for Environment & Development for limiting the land take up for uses which are not necessary or legitimate in rural areas. The proposal also runs counter to Rural Objectives 1, 3, and 4 to facilitate**

sustainable rural development by controlling the location and design of rural development, as well as the cumulative effect of such development.

With respect to this third reason for refusal, please refer to our previous comments.

4. **The proposed development has been objected to by the Superintendence of Cultural Heritage since it would have an adverse impact on the Grade 2 scheduled historical airfield. Hence, the proposal would conflict with Thematic Objective 8 of the Strategic Plan for Environment and Development, which aims for the safeguarding and enhancement of cultural heritage.**

As per Objective 1 of SPED, on 2nd February 2017, EPRT approved PA/07823/06, where the Minister of Rural Affairs requested to earmark the entire San Niklaw area for the reallocation of 12 livestock farms from different villages to this Intensive Agricultural Area.

During its evaluation, following the submission of the Cultural Heritage Assessment, the Superintendence approved the amended plans as it concluded that they reflected the conclusions of various meetings held between the interested parties including ERA. The new plans indicated that 12 farms and the manure clamp will be relocated on the airfield perimeter that contains no defensive or fortification features.

When referring to our proposal, the Superintendence is now stating that although our site is located within the buffer zone of this historical airfield, 'it would have an adverse impact on the Grade 2 scheduled historical airfield'. Such statement undermines all the intensive and detailed studies that were previously completed by its Department.

One also needs to highlight that none of the stated fortification features are located within my client's property.

5. The proposed demarcation wall on the western periphery runs counter to criterion 3 of policy 2.9 of the Rural Policy and Design Guidance (RPDG) 2014, in that the stipulated height of 0.6m is being exceeded. Also, the creation of two separate access gates at the site entrance is not considered justified or necessary and therefore the proposal is also in conflict with Thematic Objective 1.10 of the SPED.

When adopting same EPRT's rational as in PA/03212/06's appeal, the height of the surrounding predominant rubble/franka demarcation walls vary from 1.5m to 2.1m. Therefore, building a rubble wall 1.2m which is only visible from its location and its surrounding while completely hidden from Lapsi Road, will be less homogenous, let alone building it 0.6m as recommended.

As a result of the above facts and considerations, we respectfully request the Tribunal to favorably consider our proposal and overturn the decision taken by the Planning Authority.

Yours truly,

A handwritten signature in black ink, appearing to be 'Perit Daniel Grima', written in a cursive style.

Perit Daniel Grima
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