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The Chairman
Planning Authority
St Francis Ravelin
Floriana



Dear Sir

I am writing on behalf of my clients Mr Ivan Azzopardi (ID No 702761M) and Mr David Zammit (ID 83569M), owners of shops 'Level 1' and 'Zsazsa', St John Square Valletta in order to submit an appeal as interested third parties with respect to permit PA/1781/20 submitted by Roberto Silvio Zammit. The original application description was '*to erect temporary tented structure of outdoor catering area Class 4D from 1st November 2020 to 31st January 2021*'. The location indicated for this application is Café' Caravaggio, Shop 9D/9T, Misrah San Gwann, Valletta. The non-executable decision of this permit was posted on the 28th of April 2021, with the precision press date being 5th May 2021. Mr Azzopardi and Mr Zammit were objectors to the original application. The reasons for this appeal are listed below.

The original proposal included one large marquis type structure, which was however changed to a number of smaller umbrellas. The proposal description was eventually changed to one being: '*To Sanction the setting of umbrellas, tables and chairs on outdoor catering area of Class 4D property*' over half of St John Square, ie the left hand half of the square as one is approaching St John's Cathedral from St Zachary Street. Our appeal is not merely against the proposed tented structure or the small umbrellas ultimately accepted but also to the taking over of all this half of the square by tables and chairs. Tables and Chairs (and umbrellas) should be limited to the vicinity of the shop which will be servicing them. However Café' Caravaggio has taken over all the square, irrespective of the impact on other shops, whether other shops object to this taking over or whether other shops want to set up catering establishments and tables and chairs themselves. Shops Level 1 and Zsazsa are both located within the perimeter of the square and the proposal thus fronts their shops. It is usual practice that

the consent of owners of properties in front of which tables and chairs are to be erected is obtained prior to granting permit. No such consent was sought or obtained.

In his application the Architect states that the applicant is the owner of the site. The square is public land and falls under the ownership of the Lands Authority. The shops fronting the square also belong to the Lands Authority, as this area was developed holistically in the post war reconstruction. This statement was contested by the undersigned and the applicant requested to seek Lands Authority Consent. Thus the statement that the property belongs to the applicant is fundamentally incorrect. It is not known whether this application form particularly the reference to the ownership, was eventually corrected. The only title that the owner could enjoy on the square is some form of encroachment. In such a case Lands Authority consent is required. After the first hearing, when the applicant was requested to obtain Lands Authority consent, an updated Case Officer's report was uploaded stating that *'The Board is to consider the submission by the Architect of the clearance from the Lands Authority for the proposed development at doc. 126B'*. Document 126B is not accessible for viewing and to this date we do not know if this consent included particular conditions, restrictions or whether it applied to the whole area covered by the application or whether the consent was related to specific times of the day or the year. In our opinion, when this was one of the main contentious issues, the Lands Authority Consent should have been made public.

Whatever the Lands Authority Consent, the Planning Authority has always upheld the principle that whenever tables and chairs and umbrellas are proposed to be set up, these must front the applicant's own property or tenement. One of the reasons for refusal of a similar application, PA/1306/16 that is Reason 2 of Decision is being reproduced here and stated:

'The proposal runs counter to Policy P17 of the Policy for Outdoor Catering areas on Public Open Space in terms of third party rights since the outdoor catering area is not being placed in front of the catering establishment.' The Planning Authority cannot uphold this principle at times and not at under. In the case of PA1306/16, the proposed tables and chairs were on the opposite side of a public road, making the third parties claims less strong than the permit being contested.

The permit is thus being appealed also because it prejudices the rights of the applicants to apply and obtain permits for tables and chairs in front of their shops. Conditions making this permit valid until some eventual masterplan are of no real value to an interested third party, since it is the Planning Authority itself which should be the driver of such master plans and the experience of the undersigned is that there is no process or urgency to establish such masterplan even though badly needed.

The quoted application, PA/1306/16 was also refused on the so called impact on the views towards a historic monument. I am hereby reproducing the first reason for refusal, which stated: *The proposed development runs counter to Policy 1(ii) of the Policy, Guidance and Standard for Outdoor Catering Areas on Public Open Spaces, 2016 in that it impinges negatively on the historic space of St George's Square and on the views of a Grade 1 Scheduled Fountain. Hence, the proposal would not be in the interests of the character of the area and also runs counter to Thematic Objective 8.7 of the Strategic Plan for Environment and Development Urban'*. In our opinion the monument, whose views are being obstructed, that is St John's Co Cathedral, is more important than the Grade 1 Scheduled Fountain.

Given the reasons outlined above, we feel that there are enough justifications for this appeal to be upheld. I thank you and remain

Yours sincerely



Jesmond Mugliett