

The Environment and Planning Review Tribunal

Reference: PA/08725/20

Appellant: Mr. Matthew Aquilina

Applicant: Mr Conrad Borg obo GPL Properties

Location: Holm Boutique, Sqaq Fabri, San Giljan

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Proposal: Part change of use of internal space inside Class 3A into Class 4D restaurant.

APPLICATION HUMBLY REQUESTING SUSPENSION OF EXECUTION OF DECISION AND PERMIT.

Whereas appellant humbly submits, and premise as follows:

That contextually with this application the appellant is also filing an appeal from the Planning Commission's decision on the application for a full development permission (Ref. No. PA/08725/20). That appellant is a third party registered objector and interested person for all intents and purposes at law.

The appellant notes that the Planning Authority ignored both facts and policies when approving this permit going both against the local plan and the approach taken by the honourable tribunal since in other planning applications of surrounding properties the Tribunal highlighted that the area is residential in nature.

It's clear that the planning authority is not taking any note of the tribunal's prior cases and approved a permit that goes against the local plans and laws of Malta making the man on the street wonder if the planning institution is working in line with its obligations laid out in the local plans and laws of Malta.

The Tribunal to take note of PAB/00481/19 regarding a property situated a few meters away from the one under appeal the Tribunal had confirmed the area as a residential area. "**Fir-rigward tal-permessi l-ohra citati,dawn jinsabu wkoll f'zona demoninata bhala residenzjali**". The whole benefit of having a Class 3A as a class use and allowed within a residential area will be lost if the PA approves commercial catering uses within these establishments and will set a very ugly precedent for future planning applications.

The Tribunal also to take note that the wrong planning commission approved this permit as the site is located partially within a UCA, the DC 2015 is clear that when a site is located within two areas, as is this case, the Commission of UCA's will take precedence.

This specialization is also put forward in Chapter 552, article 65 where the minister through the government gazette highlighted that the board is now divided into two distinct areas, that is those within development zones and those in an urban conservation commission.

The DPA report issued by the case officer also mentions the area as a UCA, however the case was passed on to the wrong planning commission which approved it although it went against the policies and plans of the area, and the commission had no expertise or authority to approve this case.

Should this permit not be suspended, it will cause prejudice in that it will create a precedent for other irregular developments. On the other hand, the applicant is not prejudiced by the suspension, as the appeal will be determined within a shorter time frame thereby providing legal certainty.

Claire Bonello LL.D

Matthew Aquilina

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