



4th January 2022

The Environment and Planning Review Tribunal

Nru. ta' l-Applikazzjoni: PA/4006/21

Lokazzjoni: Johnson, Triq is-Swieqi, Swieqi

Proposta: Internal and external alterations and change of use from garage to Class 1A residence

Ref. Taghna:

Ref. Tribunal:

Joseph Agius

vs

L-Awtorita' ta' l-Ippjanar

The appellant respectfully submits:-

- I) The applicant made the submission of this application in 2021.
- II) This application was refused by the Commission and the decision was published on the 7th December 2021.
- III) The Appellant feels aggrieved by this decision and is hereby submitting this appeal.

Together with this appeal, the appellant is submitting:-

- A copy of the decision notice (Dok JA1).
- Receipt of Payment (Dok JA2).

The appellant respectfully submits the following:

1.1 The Authority wrongly applied the provisions of the law and policy regulating this site.

1.2 The original reason for which the proposal was recommended for refusal is the loss of parking. The Appellant respectfully submits that in line with P18 of the DC 15 and referring to other similar approved permits namely PA 5868/18, PA 8943/20 the loss of parking may be compensated for by a contribution established by the authority. Moreover The proposed development will create a public parking space in front of the property that may be used by the residents of the area.

1.3 Furthermore, even applying the principle entrenched in Circular 3/14, the proposed development, albeit not being commercial in nature, should also be approved.

1.4 The second reason of refusal, namely that “the proposed development runs counter to the provisions of policy P26 of the Development Control Design Policy, Guidance and Standards 2015 which specifies that to safeguard residential amenity and to ensure a reasonable standard of internal living environment, the **residual development** will have a site frontage that is not less than 4 metres in the case of terraced residential developments” is not applicable to this case since in this case there is no residual development.

1.5 Reference is made to the definition of a residual development as specified below extracted from the DC15:

“residual site refers to the resultant area following the parceling of plots by virtue of a public deed as occurring prior to the issue of this document, which will not result in the creation of more than two non-flatted residential units.

In the case of this site, it is clear that it is not a residual site but an existing building that forms part of a block. Moreover P26 clearly states that:

'In the case of redevelopments, frontages less than 4 metres (terraced developments) or 8 metres (detached and semi-detached dwellings) will be allowed as long as only one unit is created'.

This reason of refusal is therefore not applicable to this site. Moreover, the site approved in PA 5868/18 was also narrower than 4m and the issue of the residual site was never mentioned in any part of the application.

1.6 Even the third reason for refusal is wrongly applied to this case.

1.7 The proposed development is not contrary to P 32 since although the area of the property excluding the front garden is just over 53 sqm, the site enjoys a front garden that measures over 11 square metres.

1.8 As per G45 a 10% increase in the area of the property should be considered when calculation the Gross floor area of the property. The 10% increase will bring the overall area of the property to 58.3 sq m thus in line with policy P32 of DC 15.

1.9 Furthermore, in the definition of gross floor area it is clearly stated that:

*Gross Floor Area (GFA) of a development is the total area of the whole unit measured from the external face of the development's walls (or in the case of party walls measured up to half the width of such walls), including all internal and usable external spaces, such as balconies and terraces, which go **beyond the statutory sanitary requirements** and excluding the net area of any service shafts contained within such development. In the case of usable external spaces, the floor space which shall be considered as part of the minimum dwelling size shall not exceed 10% of the established threshold for the relevant dwelling size.*

A front garden does not fall under the statutory sanitary requirements. Its function is similar in nature to any other external parts of a property. It is the intention of the applicant to design the front garden as an extension to the property.

1.10 Finally reference is made to PA 8943/20 whereby the GFA of the property was less than the site in caption. Although the site did not include any external space whatsoever, the DPA report for this application stated:

Dwelling size, outlook and sanitary regulations

The proposed one-bedroom unit at ground floor level satisfies the minimum floorspace requirement by including the 10% external floor space as per policy G24 of DC15.

In view of the above, and further submissions that the appellant reserves to make, the appellant requests the Tribunal to revoke the decision of the Commission, and consequently order the Authority to issue the relative permit, and this under those terms and conditions that the Tribunal may deem appropriate.

With Respect

A handwritten signature in blue ink, appearing to read 'Av. Ian J. Stafrace', written in a cursive style.

Av. Ian J. Stafrace

Witnesses:

1. Appellants, and consultants and consultees and officers of the Authority to confirm the facts.

A handwritten signature in black ink, appearing to read 'Av. Ian J. Stafrace', written in a cursive style.

**Av. Ian J. Stafrace
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