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PLANNING AUTHORITY

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5th November 2021

Environment and Planning Review Tribunal
St. Francis Ditch
Floriana



Dear Sir/Madam

Application Number:
Proposal:

PA 06282/20
To change use of from part of Class 4A office to a Class 4C catering establishment, including tables and chairs.
Rosa Marina Apartments, 216, Triq ix-Xatt, Pieta'
Development Permission published 20/10/21

This is an appeal, in terms of Article 13 of the Environment and Planning Review Tribunal Act, 2016 entered into by the registered third party objectors, the Rosa Marina Apartment Residents of 216, Triq ix-Xatt, Pieta'. The following are the grounds for the appeal from the captioned development permission published on the 20th October 2021:

- 1) The proposed outdoor catering area has not been endorsed by Transport Malta, which is the Authority responsible for the issue of operating licences for these uses. Therefore, the proposal runs counter to Article 72 (2f) of the Development Planning Act, which requires that the Planning Board shall have regard to recommendations made by consultees. The significance of this is that apart from being a mandatory requirement, the site is also abutting on a very busy narrow service road used by both cars and buses just off a very busy arterial road. The inclusion of tables and chairs will be of danger and hazard to both patrons of the proposed establishment as well as to the appellants, residing in the overlying tenements, as well as to patrons of other shops along the road. Should this decision be confirmed, the road will need to be used by both pedestrians as well as buses and cars.

This will render impossible the passage to any person with special needs. There have been various instances over the years of over the years of persons being hit by cars/buses on this service road;

- 2) The proposed change of use will see a significant increase in inconvenience created to the overlying tenements. A catering establishment will be open both day and night and will see an increase of noises and fumes and smells throughout the day and night. The proposed tables and chairs will be directly underlying the balcony of the overlying tenements and the smells could, in all likelihood, be emitted directly onto the internal yards where there are all the windows of the overlying tenements. Any A/Cs or ventilation equipment cannot be installed on the roof, which is third party property, therefore will need to be installed in the internal yard or backyard which is underlying to all overlying tenements' windows required for light and air. This will create a significant negative impact on the lives of the tenants of the overlying properties since they will need to keep such windows closed at all times. There is also a distinct possibility that the outlet could play music over various medias which would further disturb the peace of the overlying tenements;
- 3) The proposal runs counter to the policy NHHO 01 of the North Harbour Local Plan which does not list Class 4C uses as permissible uses within zoned residential areas. Furthermore, the immediate area is not committed with similar uses to allow departure from policy in terms of provision (g) of the Partial Review of Subsidiary Plans: General Policy relating to Regeneration/ Consolidation Initiatives (2013). The character and amenity of urban areas will therefore not be protected and enhanced. The predominant use in the area is residential, retail, and office spaces. The site is not committed for catering establishments;
- 4) The proposed catering establishment will further increase the parking problem existing in the area.



The right to make further submissions is hereby being reserved. For the above reasons, and additional reasons as may be submitted, it is requested respectfully that this Appeals Tribunal revoke the captioned Development Permission granted.

Yours faithfully



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