

27th January 2022

The Environment and Planning Review Tribunal



Nru. ta' l-Applikazzjoni: PA/1594/21

Lokazzjoni: 1, Triq il-Forn, Sqaq Nru. 5 (with a second access) from, Triq il-Forn, Sqaq Nru. 6, Lija

Proposta: Conversion of existing dwelling into two separate dwellings. The proposal includes the demolition of a number of structures and the construction of two pools (one for each dwelling). The proposal also includes a number of minor internal alterations and the addition of an extension at first floor level. A new dwelling is being proposed to be constructed in the area accessible from Sqaq Nr.6

Ref. Taghna:

Ref. Tribunal:

Faye Camilleri Preziosi, Nicholas Camilleri Preziosi, Sharonne Fenech, Mark Fenech, Margaret Dimech Galea, Jason Dimech Galea, Calcedonio Cini, Edwin Cini, Mary Azzopardi u L-Kunsill Lokali Hal Lija

vs

L-Awtorita' ta' l-Ippjanar u Roderick Bartolo

The appellant respectfully submits:-

- I) The applicant made the submission of this application in 2021.
- II) This application was approved by the Commission and the decision was published on the 29th 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 site in question forms part of a Green Open Enclave and is regulated by policy CG 09 of the applicable Local Plan.

a. Development within Open Space Enclave

According to this policy, the Authority “will not consider any development or redevelopment proposal that create new independent residential/non-residential units, including garages for the parking of vehicles”.

The said policy only enables developments that constitutes “an extension to an existing building aimed at increasing the amenity and enjoyment of the property”. Furthermore, the proposal in question does not qualify as a conversion scheme aimed at bringing a disused or dilapidated building back into use and neither does it qualify as a development scheme in line with other applicable UCA policies.

In addition, the scale, bulk and design of the proposal must not compromise the openness of the enclave and the architectural integrity of the existing building.

The proposed development of one dwelling clearly relies on development within the Open Space Enclave. In effect, the Open Space Enclave is being used for the

development of new residence, which goes against the spirit of the Policy that has been tailored specifically to protect such enclaves.

b. Depth of proposed building

The proposed footprint has a depth of 30m. According to the same policy, any intervention that is allowable must ‘not result in a building depth of more than 25m from street frontage’.

c. Percentage of soil take-up within Open Space Enclave

The proposed new dwelling is located within a designated ‘Open Space Enclave’. Development where in such enclaves only extensions to the existing dwelling are allowed and should be limited to no more than 15% of soil take up.

1.3 The proposal is also contrary to the provision of Policy Design Guidelines 2015 (DC2015) – Policies P45 and G21

The policy clearly states that ‘all developments should aim to provide a positive spatial contribution to their context in the definition and enclosure of existing space’ in such a manner that *“the development of gardens and backyards therefore leads to the loss of such valuable amenity space and should be resisted, particularly within UCAs.”*

Reference is made to the decision of this Tribunal in the names Tilney vs. Awtorita et (PA 4413/17) Appeal 473/17 decided on the 1st August 2019.

Hence, also on the basis that the proposed development constitutes excessive, overdevelopment in the Lija UCA, appellant maintains that such a development will compromise the existing character of the street.

1.4 The proposed development also constitutes excessive depth of development into garden in comparison with neighbouring properties

The existing building as existing is deeper than the neighbouring properties and it projects onto the cluster of gardens (all forming part of the same open space enclave). .

1.5 In approving this application on the basis of a wrong interpretation and application of the policy, the authority failed to apply the provisions of article 72(2) of Chapter 552 of the Laws of Malta and also failed to apply other relevant provisions of Sped which mitigate against he approved development.

1.6 The proposed development does not satisfy all other applicable criteria and requirements that are necessary for this development to be favourably considered and approved.

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 refusal, and this under those terms and conditions that the Tribunal may deem appropriate.

With Respect

A handwritten signature in dark ink, appearing to read 'Av. Ian J. Stafrace', written over a light blue horizontal line.

Av. Ian J. Stafrace

Witnesses:

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



Av. Ian J. Stafrace
9/4 Britannia House
Old Bakery Street
Valletta



Request for suspension

The Appellant respectfully submits that in accordance with the provisions of Article 33 of Chapter 551 of the Laws of Malta, the development being proposed and hence approved, should not be executed pending the outcome of this appeal.

It is obvious that if the development is enabled, the site, being in a UCA and in an Open Green Enclave, would be compromised.

The approved works seriously impinge on the UCA and Open Green Enclave mature features and the works should hence be suspended pending the outcome of this appeal.