

Environment and Planning Review Tribunal
 Block B, St. Francis Ditch
 Floriana



Our Ref.: 6041/21

23rd February 2022



Case No.: PA/05113/21

Location: Site at, Triq il-Kuccard, Safi

Proposal: Sanctioning of timber-clad gate and proposed four (4) stables with adjoining paddock, manure clamp, underground cesspit, and additional soil.

Request for Appeal

Dear Sir/Madam,

I refer to the Development Permit Application decision taken on the 4th February 2022 published on the 16th February 2022 with regards to the above mentioned proposal, which was refused. The reason for refusal to this permit application are as follows:

Reason for Refusal 1

The proposed stable complex runs counter to the provisions of policy 5.2 of the Rural Policy & Design Guidance (RPDG) 2014 in that the site is located within the 100 metres from the development zone and the waste management facilities have not been endorsed by the Agricultural Advisory Committee.

With regards to the fact that the site is located within the 100 meters from the development zone, may I point out that, similarly and adjacent to the site of this permit application, a proposed animal enclosure bearing application no. PA/03052/19 was granted, even though it is located just opposite the development zone in Safi.

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Moreover, may I point out that Article 72 of the *Development Planning Act 2016* states that:

(2) In its determination upon an application for the development permission, the Planning Board shall have regard to:

(d) any other material consideration, including surrounding legal commitments ...

In addition, please find block plan indicating existing similar legal commitment in the area, which can be found at doc. 100a.

With regards to the clearance of the waste management facilities, may I point out that the endorsement by the Agricultural Advisory Committee can be found at doc. 153a.

Therefore, in view of the above argumentation, this reason for refusal does not hold.

Reason for Refusal 2

The proposed walls will result in land fragmentation into parcels of less than 1 tumolo, and therefore the proposal is in conflict with criterion 4 of policy 2.9 of the Rural Policy & Design Guidance (RPDG) 2014. The installation of bamboo fencing on top of the walls does not constitute acceptable material for rubble walls.

May I point out that the wall one on the right-hand side of the site is third party property, and therefore its construction does not fall under my client's remit. The wall on the left-hand side of the site was constructed by my client, and consequently he is proposing to demolish this wall and reconstruct a rubble wall of not more than 600mm high from the highest soil level with a temporary bamboo fence to act as wind-shield to protect the planting of the proposed trees from wind as indicated in the proposed sections at doc. 57c.

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Moreover, due to the difference in level of the existing soil of approximately 1.12m which make the area prone to flooding and thus will endanger the wellbeing of the equines to be kept on site, deposition of soil is required on site. The deposition of soil on site is also required for the planting of indigenous trees as requested and stipulated as a condition by the AAC at doc. 49a.

It is worth mentioning that the deposition of soil on site does not run counter to the provisions of policy 2.8 of the Rural Policy and Design Guidance 2014 in view that it is not going to lead to adverse environmental and hydrological impacts.

May I point out that the installation of bamboo fencing on top of the rubble walls do constitute acceptable material since a similar permit, namely PA/994/12 as per doc. 70c, were approved by the Authority.

Therefore, in view of the above argumentation, this reason for refusal does not hold.

Reason for Refusal 3

The proposed development runs counter to the provisions of policy 2.8 of the Rural Policy & Design Guidance (RPDG) 2014 in that the deposition of soil will result in changes in topography and would constitute in the necessity of high walls which would otherwise not be needed.

The deposition of soil is required for the planting of indigenous trees as requested and stipulated as a condition by the AAC at doc. 49a. May I point out that the deposition of soil on site does not run counter to the provisions of policy 2.8 of the Rural Policy and Design Guidance 2014 in view that it is not going to lead to adverse environmental and hydrological impacts.

Moreover, the difference in level of the soil of approximately 1.12m will make the area prone to flooding and will endanger the wellbeing of the equines to be kept on site.

Therefore, in view of the above argumentation, this reason for refusal as in the case of the above mentioned other two reasons for refusal, does not hold.

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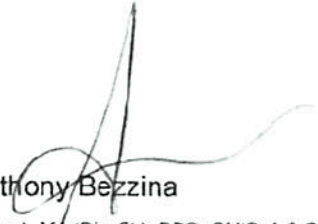
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architects - civil engineers - interior designers - project managers

May I also point out that my client would like to reserve the right to put forward other issues and evidence to overturn the decision to refuse this permit application.



Perit Anthony Bezzina

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