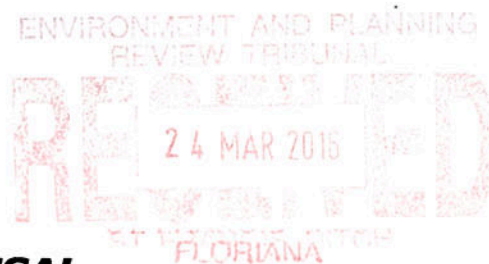


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Architect & Restoration Consultant

The Secretary
EPRT
St. Francis Ditch
Floriana

23 March 2016



APPEAL FROM REFUSAL

Application	PA4140/15
Location	Site at Triq Victor Pasmore, Ta' Hmis, Ghaxaq
Proposal:	Proposed dismantling of existing dilapidated agricultural room and construction of agricultural room with underlying storage space, and proposed rubble boundary wall and gate.

Reference is made to REFUSAL of the above application, with Decision Press Date 16 March 2016. On behalf of my client I would like to submit an APPEAL from said decision, based on the following arguments:

Reason for Refusal:

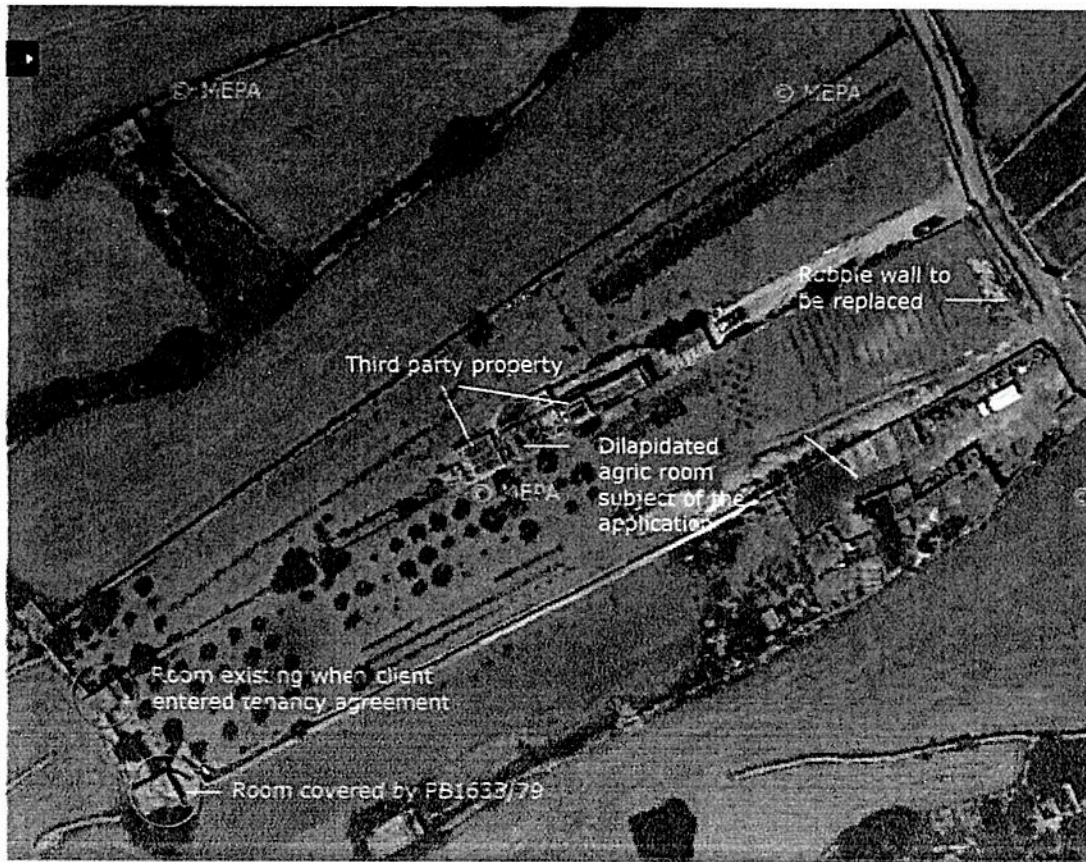
The proposal cannot be considered further unless the following illegal development is first sanctioned or removed and this in terms of regulation 14 of LN514/2010. The illegal development consists of structures/rooms situated at the south-western part of the site.

Counter argument:

The only reason for refusal is based on what is being termed as illegal development on site. In this regard I would like to bring to the attention of the EPRT the underlying aerial photo-block plan and comment as follows:

- The Enforcement mentioned in the DPAR (EC873/04) refers to the adjacent site, and therefore unrelated to the site of application under consideration;
- One of the rooms is covered by permit PB1633/79, as already indicated on the Application Form submitted on behalf of my client. Copy of said permit is being attached;
- The site in question is Government property, as attested by the Notification to Owner sent to the Estates Management Department, a copy of which was uploaded with the application. My client entered into a tenancy agreement with said Department in 2004 (copy of agreement attached). All structures existing on site today are clearly

present on the site plan attached to said Agreement, and my client is not in a position to reply to any situation created by third parties prior to taking possession of the land.



In view of the above, and since the sole reason for refusal being quoted relates to the alleged illegality on site, I would like to point out that Regulation 14 (6) of LN514 of 2010 states as follows:

Where parts of a site or building are illegal, permission for new development elsewhere on the site or building shall not be refused solely because there are illegalities on the site or building subject to all of the following:

- a) the application does not include the illegal parts; and*
- b) granting permission for the new development will not physically prevent, hinder or make difficult enforcement action, either removal or rectification, against the illegal parts; and*
- c) the applicant has no control, whether directly or indirectly, over the illegal parts or the applicant was not involved directly or indirectly in the illegal development.*

All the above are satisfied in my client's case.

Further to the above arguments, may I point out that my client's application seeks solely to address a situation of danger which has arisen and which is a potential hazard to third party – that of the replacement of the dilapidated structure; and the construction in accordance with the relevant LN of the rubble wall delineating the site along the road.

The proposed works have been considered positively by the Planning Directorate, and therefore in principle the application satisfies relevant policies. This in itself is an important consideration, particularly when one considers that the motivation of the application is primarily that of addressing a potentially dangerous situation which could cause damage to third party property.

In view of the above, and since in the interim period I have submitted on behalf of my client an application for removal of structural danger, should the EPRT still maintain that the reason for refusal persists, may I kindly ask the EPRT to consider allowing the retention of the room being alleged to be illegal in lieu of the dilapidated structure which is being dismantled. This in view of the fact that at present, two structures are definitely proven to be legally existing on site, ie that covered by PB1633/79 and the pre-1968 dilapidated structure.

Thanking you in advance.



Norbert Gatt
Cc Client

Attached: Payment of Eur 186.35
 Site Plan
 Refusal Notification
 Doc 1 – Copy of PB1633/79
 Doc 2 – Copy of Estates Management Dept tenancy agreement