

First Report to the Environment and Planning Review Tribunal

Case Number	PA/02529/16
Merits of Appeal	Against Refusal
Location of Site	'Tal - Libru', Bingemma Road, Mgarr MGR 2601
Appellant Name	Mr. Nazzareno Bugeja
Architect Name	Perit Daniel Grima
Proposal	Sanctioning of change of use from farm to farmer's dwelling. Proposal includes sanctioning of alterations of the dwelling in question, shifting of rubble wall and landscaping. Demolition of concrete paving.

1.0 The Proposal, Site Location, and Constraints

1.1 This is an appeal against the refusal of PA/02529/16 for the sanctioning of a change of use from a farm to a farmer's dwelling. This proposal also includes the sanctioning of alterations of the dwelling in question, shifting of rubble wall and landscaping. It also includes the demolition of a concrete paving.

1.2 The site is located at 'Tal-Libru', Bingemma Road, Mgarr.

Reasons for Refusal

2.1 The proposal runs counter to the eligibility criteria for a farm residence, as specified in policy 2.2A of the Rural Policy & Design Guidance (RPDG) 2014 which requires that the dairy or swine livestock farm has to be operational with a minimum of 40 sows or 40 milking cows, sheep, or goats.

2.2 The proposal does not satisfy criterion 5(c) of policy 6.2C of the Rural Policy and Design Guidance (RPDG) 2014, in that there is no evidence the livestock farm building has ceased operation for at least 10 years, and since the redeveloped residence requested for sanctioning is creating a more significant environmental impact than the former livestock farm.

2.3 A new vehicular concrete access has been created, which access leads to an informal country path. This new access results in the take-up of fresh agricultural land and goes beyond the provisions of the North West Local Plan (2006) & the Rural Policy & Design Guidance (2014). Given that the works are not legitimate or necessary within the rural area, they run counter to Thematic Objective 1.10 and to Rural Objective 4 of the Strategic Plan for Environment and Development.

2.4 The submitted proposal description proposes the removal of illegal works, in conflict with Regulation 17(4) of Legal Notice 162 of 2016. Also, the submitted drawings fail to clearly distinguish between the works being proposed for sanctioning and the works to be removed, thus proposal is in conflict with PA Circular 4/16.

3.0 Comments on Appellant's Arguments

3.1 The Appellant has the following comments to make:

3.1.1 Re: Reason for Refusal no. 1

The appellant is arguing that the farm is operational having license 668 but in fact presently it does not have the required amount as the breeder cannot keep that amount due to the fact that Nazzareno Bugeja is a member of the cooperative and the amount to keep in the farm is indicated by the cooperative. The applicant cannot have more sows in the farm than the amount requested by the cooperative as it is the cooperative that indicates the amount which can be slaughtered and if the breeder keeps more than the amount indicated and the sows are not slaughtered the breeder will be in breach of the Animal Welfare regulations. One has to take notice also that when an inspection was carried out the farm caters for more than 40 sows therefore the fact that Nazzareno Bugeja does not have the amount of 40 sows is not capriciously but he is tied to keep that amount. Since the farm caters for more than 40 sows, the applicant would willingly keep that amount as it would be more profitable;

3.1.2 Re: Reason for Refusal no. 2

This refusal does not apply to the proposal at hand as the farm is licensed with license number 668 and applying 2.2A. This proposal is not about a farm that has ceased operation for at least 10 years, and therefore, this refusal is inapplicable.

Reference is being made to attached license having reference number on right hand side 902317 indicating that Nazzareno Bugeja license 668 was breeding in the year 2015 and 2016;

3.1.3 Re: Reason for Refusal no. 3

This new vehicular concrete access will all be converted into grass blocks and decking;

3.1.3 Re: Reason for Refusal no. 4

The amended drawings to be submitted will clearly distinguish between the works proposed for sanctioning and those works to be removed.

4.0 Request

4.1 For the above-mentioned reasons, the appellant respectfully requests that the Environment and Planning Review Tribunal to refuse the decision as issued with the refusal notice and to accept this appeal.



Avv. Graziella Attard
122, Sisters Street
Tarxien

10th March, 2017

4 docs attached.
JA