

MFF/ic/2540

24th March 2017

The Secretary
Environment and Planning Tribunal
P O Box 172
Marsa



Dear Sir,

Re: PA/03906/16 – 142& 143 Triq Santa Marija, Sliema

On behalf of our client, Mr. Charles Ellul, we are herewith submitting an appeal against the decision taken by the Planning Authority to refuse the above development application.

In this connection, we have to submit that:

1. The proposed development does not run counter to Article 72 (2e) of Act VII of 2016. The same Article 72 (1) of Act VII of 2016 stipulates that the '*Planning Board shall give specific reasons for any refusal*' and quoting the same article as a reason for refusal is erroneous when the law stipulates the general considerations for the determination of a development application.
While it is true that Article 72 (e) of the Act stipulates that the Board shall have regard to representations made in response to the publication of the development proposal, such representations should be seen in the light of the current policies and not considered as a planning justification *per se* that justifies the refusal the development application.
In fact, the quoted article 72 (d) of the Act stipulates that '*the Planning Board shall have regard to any other material consideration, including surrounding legal commitments*'. In this connection, we had submitted a block plan showing the existing commitments of the area, including an old people's home across the road having a footprint area of circa 1300 sq. mt.
2. In the second reason for refusal it is being claimed that the proposal runs counter to P5 of the Development Control Design Policy. In this connection, we have to submit that, contrary to the first reason for refusal, this policy is in fact an actual policy with objective criteria, although it was incorrectly applied considering that this policy refers to the demolition of scheduled properties and properties within UCA.

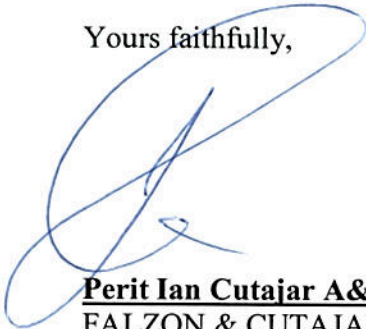
The site is neither a scheduled property and nor a property within UCA and therefore the reference to P5 of the Development Control Design Guidance is spurious. The reference to the SPED and particularly to Urban Objective 2 and 3 is also spurious considering that the development is not situated in the Urban Conservation Area or in a historic core.

3. One can never objectively conclude that the building has an architectural and historical value. This notwithstanding, we submitted revised drawings in which the existing façade was retained and incorporated in the proposed development. Moreover, Urban Objective 3 encourages the identification of sites / areas which are derelict, in a state of abandonment, or of poor quality or incompatible uses and seek their upgrading through high quality development. This is exactly the nature of applicant's site. This encouragement applies even if the site was situated in the UCA, let alone the fact that it is not.

In view of the above, we submit that the proposed development should be approved and the requested permit should be issued.

On behalf of our client, we reserve to make further oral and written submissions during the hearing of this appeal.

Yours faithfully,



Perit Ian Cutajar A&CE
FALZON & CUTAJAR
Architects and Civil Engineers.