

17th April 2017

The Environment and Planning Review Tribunal

Nru. ta' l-Aplikazzjoni: PA/6588/16

Lokazzjoni: 139, Triq Marsalforn, Xaghra, Gozo

Proposta: To merge piece of land to domestic garden and to build garden stores/room and boundary walls and to prune existing carob tree

Ref. Taghna:

Ref. Tribunal:

Kirill Naryzhnyy
vs
L-Awtorita' ta' l-Ippjanar



The appellant respectfully submits:-

- I) In 2016, the applicant made the submission of this application.
- II) This application was refused by the Commission even though the Planning Directorate had recommended its approval.
- III) The said decision was published on the 22 March 2017.
- IV) 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 Planning Directorate was in favour of this application and recommended its approval as presented.
- 1.2 The proposed development is within a site that is within scheme and that has an additional frontage on another schemed road.
- 1.3 The First Reason of refusal is a generic reason, and completely not applicable to the case in question, since the SPED should be applied, at best, in the case of a conflict with some other policy regulating the site in question. It is obvious that the proposed development is in line with the Local Plan and the DC 2015, and fully respects the rules regulating the site in question.
- 1.4 The second reason of refusal is not justifiable, and the Commission cannot simply refer to objections as a basis of a decision. A representation made to the Authority should be taken note of in the decision if such a representation is based on sound planning policies which justify the objection. As such, the objection itself cannot serve as a reason to refuse, but can only serve such a purpose if the reasons contained therein contain sufficient planning reasons for the application to be refused.
- 1.5 The same applies to the surrounding legal commitments. The provisions of article 72(2)(d) are intended to serve as a basis for a decision when the surrounding legal commitments have a material bearing on the decision to be taken. There is no mention of any legal commitments that have served as a basis for the decision taken in this case, and hence the reason as quoted is not applicable to the case in question.
- 1.6 The third reason of refusal is likewise not applicable to this case. The site in question happens to have the configuration of being alongside the third party walls of the neighbouring gardens. This policy in question is certainly not

applicable to such situation which would normally apply to situations which are different from the case in question.

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 approve his request for approve the said permit, and this under those terms and conditions that the Tribunal may deem appropriate.

With Respect



Av. Ian J. Stafrace

Witnesses:

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



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