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PA

THIRD PARTY APPEAL

ENVIRONMENT AND PLANNING  
REVIEW TRIBUNAL  
**RECEIVED**  
13 OCT 2017  
ST FRANCIS DITCH  
FLORIANA

**Joeaby Vassallo**  
Perit

**E. A. Bianco**  
Avukat

10<sup>th</sup> October 2017

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

**Reference:** PA/06671/16

**Proposal:** To sanction minor alterations as built, erect part boundary wall at back of site, and fix steel wire net over part boundary walls.

**Location:** Site at, Triq il-Wied Bordi off, Triq Il- Mosta, Lija, Malta

**Terms of Reference**

The undersigned Perit and Lawyer are hereby lodging an appeal on behalf of Mr Anthony Lia of 'Lia buildings', Triq il-Mosta, Lija, who is a registered interested third party in the planning application bearing reference PA/06671/16 for the proposed *"To sanction minor alterations as built, erect part boundary wall at back of site, and fix steel wire net over part boundary walls,"* at *"Site at, Triq il-Wied Bordi off, Triq Il-Mosta, Lija, Malta."* Said application was approved by the EPC, which decision was published on the 13th September 2017.

**Decision being appealed**

This submission is an appeal from the decision to sanction *"the construction of a low brick wall along either side of the applicant's private pedestrian passage way from the site's secondary access from Mosta Road."*

## Reasons for appeal

### Width of Drive-in

Reference is made to the approved DPA report, with reference PA 6671/16/171a, whereby in paragraph 4.7 *Discussion, Third Party Objections*, it states that:

*“The construction of the low boundary wall along the applicant’s pedestrian secondary access has resulted in a width of approximately 3.1 metres of the showroom’s side drive-in.”*

Furthermore, the report applies the minimum vehicle access width indicated in DC 2015 as follows:

*“DC 2015 stipulates a minimum vehicle access width of 2.4 metres (policy S1) and therefore the “resultant” drive-in’s width is according to the stipulated parameters.”*

The minimum vehicles access width of 2.4 metres as indicated by Design Standard S1 – Vehicular Access Width Standards, clearly specifies 2.4m for *“one car access but not passing of other vehicles.”* This standard is further reinforced pictorially in figure 30 of the DC 2015. However, the operations of the showroom’s side drive-in are of a commercial nature and do not only include passenger cars but also larger vehicles, including trucks carrying 20 foot containers and low-loaders, which deliver, *inter alia*, auto-parts and vehicles. Design Standard S1 accommodates for four varying vehicular access widths including:

- a) 2.4 metres – one car access but not passing of other vehicles
- b) 3.7 metres – access by a fire tender
- c) 4.1 metres – 2 cars can pass each other
- d) 4.8 metres – a car and a lorry can pass each other
- e) 5.5 metres – two lorries can pass each other



A standard 20 foot container measures 20 feet long by 8 feet high by 8 feet wide, which in metric dimensions convert to 6.10m long by 2.44m high by 2.44m wide<sup>1</sup>. The width of the container, exceeds the minimum vehicle access width of 2.4m.

Considering the above and considering that the showroom's operations do not require that two cars pass each other, the standard 3.7m for an access by a fire tender applies. Thus the "resultant" drive-in's width is not according to the stipulated parameters.

Consequently the sanctioning of "*the construction of a low brick wall along either side of the applicant's private pedestrian passage way from the site's secondary access from Mosta Road*" runs counter Design Standard 1 of DC 15 and the following policies:

#### *Central Malta Local Plan*

##### *Policy CG05 – Areas of Containment*

Point 3 of policy CG05 states:

*It is demonstrated to the satisfaction of MEPA that no deleterious impacts will result from the proposed development on existing uses in the vicinity of the site;*

Considering the above facts, the sanctioning of "*the construction of a low brick wall along either side of the applicant's private pedestrian passage way from the site's secondary access from Mosta Road*" has a deleterious impact on the existing use of the showroom, as previously indicated in this submission.

##### *Policy NA09 Triq il-Mosta Rear Service Road*

A service road at the rear of the current establishments being served by Mosta Road is intended to be set out. The policy encourages the

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<sup>1</sup> An IVECO Magirus Impactx6 fire tender has an overall dimensions of 9.00m in length, 2.50m in width (excluding rear view mirrors) and 3.85m in height (roof monitor included) – source: <http://www.cocointernational.it/pdf/IMPACT.pdf>



existing establishments to change the existing access and exits to be served from the proposed rear service road for safety reasons.

The sanctioning of *“the construction of a low brick wall along either side of the applicant’s private pedestrian passage way from the site’s secondary access from Mosta Road”* not only introduces a new access onto Mosta Road, and thus running counter policy NA09, but also creates a safety hazard by constraining containers from accessing the showroom’s side drive-in.

### Ownership of Pedestrian Passage

Reference is made to the approved DPA report, with reference PA 6671/16/171a, whereby in paragraph 4.7 *Discussion, Third Party Objections*, it states that:

*“In view of the above, since no ownership contestation is being made and “resultant” showroom drive-in’s width is according to the stipulated parameters, the sanctioning of the wall along the pedestrian access can still be favourably considered.”*

It is hereby being stated that no ownership contestation was made within the specified period as set-out in article 11(2) of L.N. 162 of 2016 - Development Planning (Procedure for Applications and Their Determination), due to lack of sufficient documentation proving the actual ownership of the said pedestrian passage at the time.

Now, however, enough documentation has been compiled which proves the ownership of the portion of land being considered as the *“applicant’s private pedestrian passage way.”*

After all research has been finalised, it transpired that the said portion of land in question belongs to Liaco Ltd. The site (referred to as plot 10) on



which the existing showroom owned by Mr Lia was purchased by Mr Lia's company, Liaco Ltd, on the 23<sup>rd</sup> April 1991. On the 12<sup>th</sup> December 1992, plot 9, contiguous to plot 10's West, was also bought by Liaco Ltd.

With reference to the relevant deeds of acquisition, there is no mention of a private passage way property of third parties nor was a servitude or any burden indicated to include a right of passage by third parties.

Should the board require any documentation referred to in this appeal, the undersigned will provide legalised hard copies.

### **Desired variations to decision**

Based on the above appeal reasons, the undersigned desire that the decision is varied in such a way as to exclude the "*applicant's private pedestrian passage way,*" from the scope of the application and all works, including the existing boundary wall erected by the applicant, to be removed and reinstate the "*applicant's private pedestrian passage way,*" to its original state.

Furthermore, any reference to "*applicant's private pedestrian passage way,*" should be clarified to explain that said passage way is property of Liaco Ltd.



Perit Joeaby Vassallo



Avukat E. A. Bianco



Anthony Lia