



Environment and Planning Review Tribunal

Case Number: PA/02940/17
Application type: Full development permission
Appellant: Maria Jervis (ID651745M), Tania Gera, (ID328343M)
Simon Hamman (ID0174276A)
Applicant: Mr. Matthew Pace
Architect: Mr. Gilbert Bartolo
Proposal: To excavate and construct basement store, to carry out internal alterations at all levels, to construct extension to existing 5th floor, and overlying 6th floor and setback floor.
Site: Slimiza Suites, 29, Triq il-Katidral, Sliema, Malta

Environment and Planning Review Tribunal

PA/02940/17

APPLICATION OF APPEAL OF MARIA JERVIS, TANIA GERA, SIMON HAMMAN:

Whereas appellants humbly submit and premise as follows:

That this is an appeal from the Planning Commission's decision on the application for full development permission (Ref. No. PA/02940/17), published in the Government Gazette on the 12th of December 2017.

The application proposes "to excavate and construct basement store, to carry out internal alterations at all levels, to construct extension to existing 5th floor, and overlying 6th floor and setback floor."

That appellants are third party registered objectors and interested persons for all intents and purposes at law.

That appellants feel aggrieved by the decision referred to above, and by means of this application are requesting this Tribunal to revoke the Planning Commission's decision on the full development permission referred to.

That the appellants' grounds of appeal are the following:

Grounds of Appeal

The grounds of appeal are clear and manifest and consist in the following:

1. FIRST GROUND OF APPEAL

INCORRECT INTERPRETATION OF POLICIES REGARDING HEIGHT OF DEVELOPMENT WITHIN UCA:

As confirmed in the DPAR report, the site is located within the UCA, and consequently all development should abide by the relevant policies for this classification.

With regards to permissible maximum building height, appellants maintain that the applicant's claim that the façade should extend as per plan submitted is in fact incorrect and is a misinterpretation of SPED and the building height interpretation as adopted through DC15.

A Streetscape Analysis specified as a mandatory requirement in DC15 has not been provided. Such documentation would be necessary to assess the development's compliance with DC15 policies both in relation to;

- (a) Establishing the permissible maximum building height.

SPED policy U.O.2 (3) calls for "a context driven approach to control building heights in UCAs."

In DC15 this is transposed through policy P4 'APPLYING HEIGHT TO WIDTH RATIO IN URBAN CONSERVATION AREAS' which states that;

"In the case of Urban Conservation Areas, the existing committed prevailing height to width ratio will be derived through a streetscape analysis".

Furthermore, the section of the site lying *outside* the UCA is also subject to this height restriction since according to DC15 Transition policy P6, the height of a building immediately outside of the UCA is in fact *itself* restricted by the prevailing height of buildings along the frontage within the UCA, to ensure that development outside of the UCA does not "*visually dominate the streetscape and other spaces within the UCA*".

The proposed height within the UCA cannot be justified under any existing planning policy, since as shown here, it is the height within the UCA that dictates what is acceptable within the UCA itself and furthermore, what is acceptable exactly adjacent to the UCA to ensure a transition in accordance with P6 such that the character and volumes of the UCA are the predominant aesthetic.

- *Disregard of contextual driven approach advocated by SPED and the high number of Scheduled historic properties a few metres away from the proposed development:*

The development will furthermore create an unsightly permanent blank party wall adjacent to the appellants' property, scarring the character of the Sliema UCA. This is a particularly pertinent point in view of the fact that the Planning Authority has recently Scheduled a row of historic properties on the same side of the road, a few metres further up. The Planning Commission's complete disregard for the context-driven approach enshrined in the SPED and the Planning Authority's commendable measures taken to preserve the visual, historical and aesthetical integrity of the zone, constitutes another ground of appeal.

2. SECOND GROUND OF APPEAL

MISLEADING INFORMATION REGARDING ILLEGALITIES ON SITE

As will be shown during the appeal proceedings, there is an outstanding enforcement order on the property. The legalities on site were never sanctioned. Moreover, applicant did not specify which part of the existing plans were actually approved plans, or illegally built.

It is contended that this is misleading and erroneous information and contributed to providing a false representation of material considerations which vitiate the Planning Commission's decision..

3. THIRD GROUND OF APPEAL

IRREGULAR AND ABUSIVE OMISSION OF RETENTION OF PLANNING NOTICE FOR STATUTORY TIME PERIOD

As will be seen during the appeal proceedings, the Planning Notice required by law was not retained for the statutory time period, despite objectors' representation to this effect, resulting in a serious breach of the public's natural rights to information and possibilities of participating in the planning process.

4. FOURTH GROUND OF APPEAL
COMPLETE DISREGARD OF LOSS OF RESIDENTIAL AMENITY AND OTHER MATERIAL CONSIDERATIONS AS CONTEMPLATED IN ARTICLE 72(2)(d)

The Planning Commission did not give sufficient weight to the fact that the site is located within an area designated as residential area, and the development will be an unbearable intensification of the commercial aspect which is not contemplated by the legislator.

Furthermore, there was no realistic consideration of surrounding legal commitments, environmental, aesthetic and sanitary considerations.

For these reasons and others which may result during the hearing of the case, the appellants are humbly requesting this Honourable Tribunal to annul the decision taken by the Planning Commission in this case and to revoke the permit without further delay.



Av. Claire Bonello
215/4 Old Bakery Street, Valletta
drcbonello@gmail.com

List of witnesses:

1. The appellants and the applicant
2. The Planning Authority
3. Employees consultants of the Planning Authority
4. Architects and experts
5. Representatives of the Malta Tourism Authority
6. Representatives of the Sliema Local Council
7. Neighbours
8. Representatives of eNGOs Din l-Art Helwa, Flimkien ghal Ambjent Ahjar



Av. Claire Bonello
215/4 Old Bakery Street, Valletta
drcbonello@gmail.com