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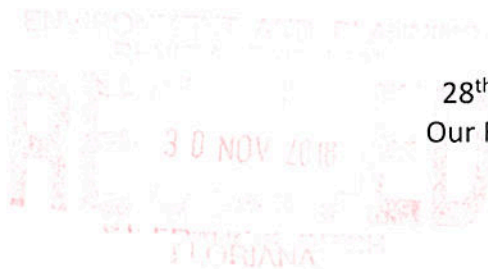
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The Chairperson  
Environment & Planning Review  
Tribunal  
Floriana

28<sup>th</sup> November 2018  
Our Ref: 176/1398-07



**PA 2048/17**

I write on behalf of Mr Joseph Gatt, with reference to the decision dated 13<sup>th</sup> November 2018 by virtue of which the Planning Authority refused permission for the proposed development.

**Refusal Reason 1:**

*The proposed development runs counter to the provisions of policy 6.2C of the Rural Policy & Design Guidance (RPDG) 2014 in that the proposed total floorspace is exceeding the maximum limit of 200 sqm. The proposal is therefore not in line with the Thematic Objective 1 of the Strategic Plan for Environment & Development for limiting the land take up for uses which are not necessary or legitimate in rural areas. Hence, the proposal also runs counter to Rural Objectives 1, 3, and 4 to facilitate sustainable rural development by controlling the location and design of rural development, as well as the cumulative effect of such development.*

We bring to the attention of the Appeals Board that, the total footprint of the pre-1978 buildings, was of 350sq. m and the total floor area was of 414sq.m i.e. much more than what we are proposing. From this total floor space only 50sq.m of roofed areas were then being utilized as a farm, since all animals were left in un-covered pens. **Considering that the proposed replacement structures, do not exceed the total floor area of the original building pre-1978 as shown in DOC 61A, the proposal satisfies the requirements of criterion (3) of policy 6.2C, since the proposed total floorspace is 315sq.m vis-à-vis the residential floor space in 1978 of 364sq.m.**

**Policy 6.2C of the Rural Policy & Design Guidance (RPDG) 2014 Criteria -**

Permission may be granted for the total redevelopment of an existing building, or the consolidation of buildings, located outside development zone, provided that all of the following criteria are satisfied

(1) the applicant can sufficiently prove that the building/s is covered by development permission (other than those specifically permitted for agricultural use after the coming into force of this policy document), or that it is/are/was a pre-1978 building/s; **This has been proven**

(2) the building/s does not merit inclusion in the list of scheduled property and/or is not of historical, architectural, vernacular or other significance; **As per SCH requirements the vernacular building is being retained.**

(3) the replacement building does not exceed the total floor area of the previous building/s; **the proposed total floorspace is 315sq.m vis-à-vis the residential floor space in 1978 of 364sq.m**

(4) the replacement building is of a high quality rural design and shall fully respect the wider context in which it is located; **The proposal enhances the existing vernacular building which apart from being retained is being proposed to be restored.**

(5) the replacement building shall be limited to: a) a use already legally established and/or covered by a development permission; **This is a legally established dwelling as aforementioned in criterion 1.**

Other similar application such as **PA 1844/15** a total floorspace of over 200sq.m were approved considering criterion (3) of policy 6.2C, as below extract from PA 1844/15 Report.

*-- Scale and massing of building*

*As shown in drawing 40B, the existing building has a height of two floors, a footprint of 296sqm and a floorspace of 429sqm. The proposed replacement building consists of a wine cellar / games room at basement level and a dwelling at ground and first floor levels, occupying a total footprint of 295sqm and a floorspace of 413qm (drawings 70B / 70C). The proposed basement level is not being added with the total building floorspace since it is located completely below ground level and contained beneath the footprint of the building (see section AA in drawing 70D). Considering that the proposed replacement room does not exceed the total floor area of the original building, the proposal is also considered to satisfy the requirements of criterion (3) of policy 6.2C.*

In another proposal **PA 2963/16** a total floor space of over 200sq.m was approved considering criterion (3) of policy 6.2C, as below extract from Case Officer's Report.

*Scale of building*

*Criterion (3) of policy 6.2C require that the replacement building does not exceed the total floor area of the previous building/s. In this case, the original building, garage and store had a total floor area of approximately 270sqm (drawing 73A). In view of the previous residential use of the building, the existing store is being considered as a domestic store, therefore qualifying for consolidation with the new dwelling.*



*B'referenza għall-permessi li gja hargu fl-inhawi, l-applikant ifakkar li "...l-konsiderazzjonijiet li jwasslu għad-decizjonijiet necessarjament jinhtieg li jkunu konsistenti" għaliex "l-inkonsistenza għandha bħala konsegwenza l-kontestazzjoni gustifikata, id-diskriminazzjoni, l-inugwaljanza, u mill-aspett soggettiv tal-applikant l-ingustizzja" (Joseph Muscat -vs- l-Awtorita' ta' Malta dwar l-Ambjent u l-Ippjanar (A.I.C. (PS) 18 ta' Mejju 2005) u Anna D'Amato -vs- Kummissjoni għall-Kontroll tal-Izvilupp (A.I.C. (RCP) - 28 ta' Gunju 2006) u Dr. Graham Busuttil -vs- l-Awtorita' ta' Malta dwar l-Ambjent u l-Ippjanar (A.I.C. (RCP) -28 ta' Frar 2008))*

#### **Refusal Reason 2:**

*The proposed development is of an excessive scale and would lead to an overdevelopment of the site. This would not be in the interests of the amenity of the area as a whole, and runs counter to Urban Objective 2.1a of the Strategic Plan for Environment and Development which aims to improve the townscape in terms of design, form, density and type of development.*

*This is an unjustified refusal considering that*

- 1. the proposal includes for the diminishing of the total footprint from 364sq.m in 1978 used as residential space for an extended family to the proposed 315sq.m,*
- 2. the client is renouncing exiting Farm Holding with registration R0219*
- 3. restoring a vernacular building*
- 4. removing an eyesore consisting of several sheds sprawled out over a tumolo*

*The above are all in consonant with the Urban Objective 2.1a of the Strategic Plan for Environment and Development stated above.*

For these reasons therefore we consider that this appeal should be upheld, and we reserve the right to submit additional proof that the aforementioned Policy has been used on various occasions from its inception in 2015 onwards, whereby several approvals have been issued whereby the total floorspace exceeded 200sq.m, in relation to the pre-1978 committed floorspace as in Criterion (3).

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Encl. (1) Refusal Decision;  
(2) Siteplan

Kindly acknowledge receipt of this letter.

Regards,

  
Perit Robert Grech A. & C.E.