

Our ref.: 0495/2017



Environment and Planning Review Tribunal
 St. Francis Ditch
 Floriana

Application Number: PA/10347/17
Location: 3 Domus Pacis, Triq San Duminku, Attard
Proposal: Proposed internal alterations to an existing pre-1967 townhouse, and demolition and rebuilding (including extensions) of back part. Proposal also includes redesign of existing disused garden to include swimming pool, landscaping and garage. Façade is to be restored and wall enclosing garden is proposed to be modified to include openings for garage and car space.

Dear Sir/Madam

On behalf of the applicant, Mr Matthew Portelli residing at *Virtu, Ta' Xbiex Terrace, Ta' Xbiex*, and the appointed legal aid for this submission, Professor Ian Refalo, I am hereby officially filing a request for appeal with reference to the refusal of the above-mentioned Full Development Application, dated 13 February 2019. The sole reason for rejection given in the decision notice reads as follows:

- i) *The proposed development would change the external and internal appearance of a Grade 1 listed building and goes beyond scientific restoration and rehabilitation. The proposal would therefore detract from the historical value of this important building and so it detracts from Thematic Objective 8 of the Strategic Plan for Environment and Development which aims for the safeguarding and enhancement of cultural heritage.*

We strongly object to this decision for the following reasons:

- i) The proposed development seeks to rehabilitate an elegant townhouse which has stood derelict for several years currently in a derelict state. Besides minor internal alterations, the application projects the construction of a group of additional rooms at first floor at the rear section of the property in order to create three comfortable bedrooms with amenities yet retaining the general spatial arrangement of the *piano nobile*. As can be gleaned from the latest proposed plans, it is intended to upgrade the property just like other neighbouring residences.

- ii) The reason for refusal relates to the visual integrity of a neighbouring Grade 1 listed property which as can be seen from the SCH comments was in fact scheduled during the process of the application under review. The SCH then went on the request mitigating measures so that the proposed extension would not be visible above the niche/ prospettiva of the Grade 1 property, an exercise which we have since amply complied with. After various proposals and discussions with the owner of the third party objectors, the final proposals were submitted whereby no blank party walls are being proposed above the Baroque prospettiva.
- iii) During the EPC hearing in what we feel was as a consequence of miscommunication and incoherent arguments, the permission was however denied.
- iv) Below are the various positions and comments of the Directorate and Superintendence during the processing of the application which we feel support our case confirming that a refusal was unfairly handed:

Doc 83a, dated 10 May 2018

With reference to the current situation, the Superintendence notes that:

- 1. Due to the high architectural and historical value, the Superintendence recommends that Villa Barbaro Bellosquardo and all the surrounding historical grounds which seem to have originally formed part of this complex merit scheduling;*
- 2. With regards to PA 10347/17, the architect is to propose a solution that addresses the visual impact above the already existing wall.*

Doc 113a dated 2 Oct 2018

The Superintendence acknowledges the reduction of volume for the ensuite (to the left of the third party prospettiva). It is however still concerned that as revised, the proposed receded volume at first floor level (right behind the third party prosepettiva) might still be visible and will create a visual impact above the prosepettiva within the scheduled property.

Updated section F-F' (Eapps doc 97g) to include the prospettiva, garden and scheduled property so as to confirm if the new extension will create a visual impact when seen from within the footprint of the scheduled property;

Doc 117a dated 16 Oct 2018 – Development Planning Application Report

- *2. Directorate's Comments - Any issues raised by the objectors regarding inaccuracies on the drawings were addressed by the architect in subsequent submissions. The latest valid drawings are deemed to show the proposed development in a satisfactory matter.*
- *2. Directorate's Comments - The directorate notes that the proposal does not qualify as an internal development as the proposed building consists of one residence having an outlook onto the street. The proposed additions have not been objected to by the Sanitary Engineering Office hence the claims made by the objector with regards to the hindering of natural light and ventilation are not*

being considered as valid. Regarding the lift, updated drawings show that noise mitigation measures are included in the design of the lift proposed.

- 4.7.1. Discussion - In terms of layout, the proposed building consists of the main living spaces at ground floor and of three bedrooms at first floor. The proposal is in line with the relevant DC15 policies (P27, P32 and P45) in that the maximum permissible building depth of 30 metres is not being exceeded and the minimum gross floor area required for three-bedroom units is being exceeded. In addition, the proposal achieves a satisfactory layout and indoor/outdoor living space thus contributing to the regeneration of such historic buildings within Urban Conservation Areas.

Doc 204a – Deferral Report

Planning Commission (Development Permissions)(min. 133)

Board noted that any additions at first floor are not to be seen from the adjacent grade 1 building at ground floor. SCH clearance for any proposed intervention is required.

PRT Comments

Architect submits revised drawings at docs 166A-I superseding drawings 89C-F/89K/97E-F for which comments were raised in the DPAR at doc 116a. The revised drawings (docs 166) indicate the overall height of the proposed en-suite reduced to 2.3m (instead of 2.45m), the stairs removed and the roof proposed at the kitchen/dining/living area lowered by 1-metre. Although the building has been stepped to mitigate the visual impact from the scheduled building, it is evident that the proposed overall building height will be higher than the height of the existing walls as shown on image 72 as per doc 20J. **Further to docs 166, no comments were raised by SCH and therefore the information requested in minute 113a have not been addressed. For this reason, should the Commission approve the development, SCH clearance is to be obtained before the executable development permission is issued.** Once submitted the drawing numbers/conditions/supporting documents are to be updated accordingly. Sanita: Proposal only as depicted in conventional colours on drawings 166a, 166b, 166c and 166d is in line with LN 227/16 (min. 182). In view of the above comments, file is being referred to the Board's consideration.

- v) In view of the reserved matter highlighted in bold above (SCH clearance), we have meanwhile contacted the Superintendent (vide email exchange in Appendix B) and we therefore kindly request that the SCH are reconsulted.
- vi) During the processing of the application, the drawings have been amended several times to reduce the impact on the prospettiva and the garden. With the latest proposal, we feel that a solution has been found and we also understand that the following urban objectives from the Strategic Plan for Environment and Development (SPED) apply favourably:

Urban Objective 2: To improve the townscape and environment in historic cores and their setting with a presumption against demolition of property worthy of conservation by:

1. Formulating Conservation Area Action Plans to:
 - a. Control design, form, scale, density and type of development;
 - b. Facilitate appropriate housing types;
2. Encouraging good restoration practices and conservation
3. Adopting a context driven approach to the control of building heights within Urban Conservation Areas



Urban Objective 3: To identify, protect and enhance the character and amenity of distinct urban areas by:
4: Identifying sites which are derelict, in a state of abandonment, of poor quality or include incompatible uses and seek their upgrading through high quality

vii) In view of the above, and further submissions that the undersigned reserves to make, we kindly request the Tribunal to re-examine the application and overturn the decision of the Commission.

Trusting that the above is to your satisfaction, I remain,

Yours sincerely,



Perit Edward Said

B.E. & A.(Hons) (Melit.), P.G.Dip.(Melit.), M.Sc.(Bath)