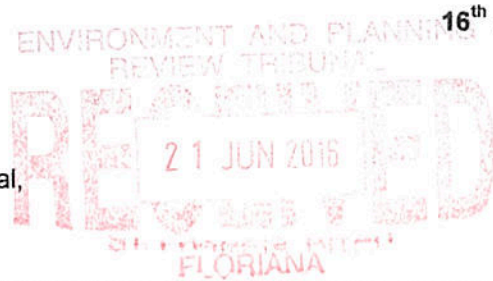


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16th June 2016



The Director
Environment and Planning Review Tribunal,
St. Francis Ditch
Floriana.

Application number	PA/00004/16
Location	43, Tinbix is-Skiet, Triq Bernard Blanc, Birkirkara, Malta
Proposal	Change of use from part domestic garage to a casa bottega class 5a premises to cater for diagnostic service & repairs

APPEAL:

We hereby request the planning review tribunal to re consider two specific aspects of this development permit granted by MEPA as published on the 25th May 2016:

1. The development permit is being granted for a restricted period of 3 years, with the continuation of approved use on site being subject to a fresh full development application every three years (ref permit condition 1a as shown on copy of permit conditions **DOC F** attached).
2. The permit has been granted subject that the use of a hydraulic jack would be excluded from the equipment that the applicant is being allowed to use on site related to the approved class 5a use

• VALIDITY OF DEVELOPMENT PERMIT:

The approved change of use has been approved by MEPA subject to the condition quoted below:

"The use of the development as a diagnostic service and repairs is valid for 3 years from the date of publication of the decision in the press after which the continued use will be subject to a fresh Full Development Application"

One surely cannot disagree with the fact that it is not "common practice" that the authority approves similar applications for a limited period of three years. The applicant is being requested to submit a full development application proposing the same use as approved in PA 4/16 every three years. Such decision conflicts with other decisions taken by the same authority as regards similar (practically identical) applications. It is clear that the approved use proposed by the applicant is within the parameters of development permitted by the Local Plan and in line with development policies. In view of the above we feel that there are no valid reasons which justify why this particular decision had to be inconsistent to other decisions taken by the same authority and specifically why the permit conditions had to be different from those imposed in other permits.

A number of development permits issued by the same authority in the past two years, all approving class 5A uses are being quoted below.

		Description.
1	PA 0494/14 (ref Doc A)	Change of use from part domestic garage to class 5A garage for use of: computer diagnostic tuning and electronic repairs on cars (50sq.m.) (casa bottega - residence of applicant above) and to sanction minor internal alterations.
2	PA 2250/14 (ref Doc B)	Change of use of part semi-basement garage to class 5a. To include car diagnostics service and repair.
3	PA 1736/15 (ref Doc C)	Change of use from class 4b and part garage to class 5a auto service and electrician garage-computer diagnostic tuning and electronic repairs
4	PA 2006/15 (ref Doc D)	Change of use from class 4 (sale of auto parts) to a private vehicle garage and to introduce a class 5a (car diagnostics service and repair) within garage in Triq Misrah Suffara. To demolish front part of garage 13 and to construct an additional dwelling.
5	PA 0321/16 (ref Doc E)	Partial change of use from class 4B to class 5A (car valeting outlet).

The decision notices for every development permit quoted (docs A to E) are being attached for ease of reference. All quoted permits are valid for 5 years with the permit would cease to be valid only if the change of use is not affected within the five years. The condition is as quoted below:

"This development permission is valid for a period of FIVE YEARS from the date of publication of the decision in the press but will cease to be valid if the development is not completed by the end of this validity period".

- **PERMITTED EQUIPMENT:**

Following the EPC sitting of the 16th March 2016, the authority requested revised drawings to include a list of equipment with the relevant location indicated on plan. Following EPC discussions it was clearly stated that such equipment had to exclude any type of hydraulic jack.

Once again we feel that such a decision is discriminatory since none of the five permits quoted specifically restricts the type of equipment which can be used on site. Restrictions on equipment are only derived from the contents and declarations of the engineer's report which does not however provide a comprehensive list of all equipment which can be used.

It is evident that the approved class 5A use cannot function properly without the use of a jack. The jack can be operated by single phase electrical supply and cannot be considered as a pneumatic tool. There is therefore no reason why such equipment has to be excluded from being installed on site.

CONCLUSIONS:

We feel that the decision taken by the authority related to this development application should be consistent with other decisions taken by the same authority related to similar development applications

1. We request that the development permit would be valid for a period of five years with no need to re new permit periodically. Such a decision would be consistent to that taken in PA 494/14, PA 2250/14, PA 1736/15, PA 2006/15 and PA 321/16
2. We also consider that in view of the nature of the approved class 5A activity, the use

of jack should be considered as part and parcel of the approved activity. Such equipment is required in order to enable the applicant to carry out the approved car diagnostic services and repairs.

For all the above reasons, the appellant, whilst reserving the right to present further evidence and make further submissions to the tribunal, humbly requests this tribunal to revise the conditions mentioned as included in the EPC decision published on the 25th May 2016.

Regards



Perit Lino Cachia.

Encl: documents

(Doc A) – Decision notice PA 494/14

(Doc B) – Decision notice PA 2250/14

(DOC C) – Decision notice PA 1736/15

(Doc D) – Decision notice PA 2006/15

(Doc E) – Decision notice PA 321/16

(Doc F) – Permit conditions PA 00004/16

Payment of Eur 186.35