



18th August 2020

The Environment and Planning Review Tribunal

Nru. ta' l-Applikazzjoni: PA/4037/19

Lokazzjoni: 141, Telghet Birkirkara & Triq Sant Elija, San Giljan

Proposta: Excavation of a vacant plot, demolition of a dilapidated building, and construction of two basement levels of parking, including one Class 4A office and one class 4B shop at basement level -1 and ground floor. Construction of residential complex of 62 units over three levels and three recessed floors, and one pedestrian road joining Triq Sant' Elija &, Telghet Birkirkara.

Ref. Taghna:

Ref. Tribunal:

Tum Invest Limited

vs

L-Awtorita' ta' l-Ippjanar

The appellant respectfully submits:-

- I) The applicant made the submission of this application in 2019.
- II) This application was refused by the Commission and the decision was published on the 5th August 2020.
- III) The appellant feels aggrieved by this decision and is hereby submitting this appeal.

Together with this appeal, the appellant is submitting:-

- A copy of the decision notice (Dok JA1).
- Receipt of Payment (Dok JA2).

The appellant respectfully submits the following:

1.1 The Authority wrongly applied the provisions of the law and policy regulating this site.

1.2 The Authority assessed the application wrongly.

1.3 In refusing this application on the basis of a wrong interpretation and application of the policy, the authority failed to apply the provisions of article 72(2) of Chapter 552 of the Laws of Malta correctly, especially when disregarding the specific provisions of the Local Plan regulating the site in question.

1.4 The Authority ought to decide applications brought before it on the basis of plans and policies and cannot use a consultation reply as a reason for refusal.

1.5 The Authority ignored the provisions of the Local Plan which impose an obligation on the site to create a link between Triq Sant Elija and Telghet Birkirkara, and hence, the creation of this link which is mandatory, ought to take precedence over other considerations.

1.6 Hence, reasons of refusal 4, 5 and 6 are not applicable to this application since the proposal is not creating any internal development and the minimal demolitions are likewise mandated by the obligation to create the aforementioned link.

1.7 The Authority failed to treat this application on the basis of the same criteria it used in similar situations, both in the immediate vicinity of the site in question and also in sites which have or are located within a historic context.

1.8 The proposed development satisfies all other applicable criteria and requirements that are necessary for this development to be favourably considered and approved.

In view of the above, and further submissions that the appellant reserves to make, the appellant requests the Tribunal to revoke the decision of the Commission, and consequently order the Authority to issue the relative permit, and this under those terms and conditions that the Tribunal may deem appropriate.

With Respect



Av. Ian J. Stafrace

Witnesses:

1. Appellants, and consultants and consultees and officers of the Authority to confirm the facts.



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