

The Environment and Planning Review Tribunal

4 March 2021

Application No.: PA/05688/20
Application Type: Full development permission
Date Received: 4 July 2020
Location: 31, 66, 64, 62, 60, Triq Ġużè Howard c/w Triq Sir Arturo Mercieca, Sliema
Proposal: Proposed additional recessed floor to PA/09249/19 to create additional residential unit

Andrea Zammit Tabona
 [I.D. 235683M]

—vs—

Planning Authority



Appeal Application of Andrea Zammit Tabona [I.D. 235683M] — “the Applicant” or “the Appellant”.

The Appellant respectfully submits:

- That the Applicant made his submission of this Application on 4 July 2020;
- That this Application was refused by the Planning Commission and the decision was published on 3 February 2020.
- That the Appellant feels aggrieved by this decision and is hereby submitting this appeal.
- That together with this appeal, the Appellant is submitting:
 - i. A copy of the decision notice: Annex “AZT1”;
 - ii. Receipt of Payment: Annex “AZT2”

The Appellant respectfully submits the following:

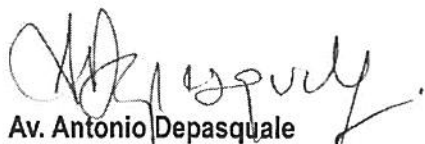
1. That the Authority wrongly applied the provisions of the Law and policy with specific regard to the site within its context as provided by the Development Control Design Policy, Guidance and Standards 2015 — “DC15” — and the Strategic Plan for Environment and Development — “SPED”;
2. That thus the Authority assessed the Application wrongly;
3. That in refusing the Application on the basis of a wrong interpretation and application of the policy, the authority failed to correctly apply the provisions of Article 72(2) of Chapter 552 of the Laws of Malta;
4. That in refusing the development permit on the basis of P32 DC15, the Authority failed to include the external area of the proposed development consisting of two (2) individual residential tenements with external terraces having a frontage over Triq Ġużè Howard and Triq Arturo Mercieca, as relative to the individual tenement. In addition, the Authority’s affirmation that the proposal runs counter to Urban Objective — “UO” — 3 SPED which aims to protect and enhance the character and amenity of urban areas, is legally unfounded and unjustified despite its inclusion in the decision notice;
5. That the longitudinal and transverse sections passing through the internal shafts were duly submitted unto the Authority as requested;
6. That in delivering its decision to refuse the Application, the Authority disregarded and ignored the heights of pre-existing buildings in the area, including the corner building situated immediately opposite the site, also in Triq Ġużè Howard corner with Triq Arturo Mercieca in Sliema, constructed in virtue of the full development application bearing the Authority’s reference PA/01379/11, duly approved, and other existing developments in Triq Arturo Mercieca, including but not limited to, PA/10660/17, PA/11125/18 and PA/04954/18 — thus amounting to a legal commitment in terms of Law. The proposed development’s massing may certainly not be held to be more excessive than the existing commitments within the area of influence of the site;
7. That thus in light of P4 DC15, the Authority failed to comprehensively assess the Application through a streetscape analysis, taking into consideration (i) existing legal commitments duly approved by a valid planning commitment, and (ii) the neighbouring developments to be included within the area of influence in terms of Figure 18 DC15;
8. That building heights within Urban Conservation Areas — “UCA” — shall be based on the streetscape analysis as established in P4, whereas additional levels above this height shall be assessed on the basis of P39, per P35 DC15. The Authority cites P35 and P39 DC15 affirming that the proposal runs counter thereto as building heights are based on a streetscape analysis in

order not to create an unacceptable visual impact, however completely ignoring the dispositions of P4 DC15 with regard to the consideration of existing, built and legal commitments within the area of influence of the site as aforementioned. In addition, legal commitments prevail over the local plans;

9. That the Authority further cites UO 2.3 and 2.4 of SPED while also completely disregarding UO 2.3 SPED's dispositions with regard to a context driven approach towards the site, specifically within the UCA of **Sliema** whereby building height limitations within its UCAs per the relative Local Plan and other existing built legal commitments go above and beyond most other villages, towns and cities in Malta due to the intrinsic characteristics of the locality which may not be set aside when considering such development application;
10. That the Superintendence of Cultural Heritage — "**SCH**" — was incorrect to state that it "*believes that no further increase in height is acceptable in this area*" as the development as proposed shall not exceed the height of existing legal commitments duly approved in terms of Law. It is unclear why the SCH has expressed its objection to the approval of the Application whereas it has not objected to, for instance, PA/11125/18, requested and approved over a site falling within the same UCA in Sliema and identical Local Plan policies as the site;
11. That in light of the existing built legal commitments within the area of influence, should the proposal be approved, the historic sites' skyline shall definitely not be adversely affected as the Application does not propose the development of the site beyond such heights;
12. That any consequential blank walls shall not face and thus not be visible from Triq Ġużè Howard and Triq Arturo Mercieca and thus shall not negatively impact the streetscapes of the relative streets, and shall be covered in the event of development of adjacent sites, or otherwise treated;
13. That the design of the proposed development is in line and respects the design and style of the traditional dwellings, upward additions and other existing legal commitments constructed, albeit recently, within Sliema's UCA, including in the same Triq Ġużè Howard and Triq Arturo Mercieca as wherein the site is located, and thus the proposal, if approved, will certainly respond to the local character by incorporating high quality design within a context driven approach in terms of UO 2 and 4 SPED. The proposed development shall complement the aesthetics of the existing dwellings and other buildings within the area;
14. That thus Authority failed to treat this Application on the basis of the same criteria it used in similar situations in the immediate vicinity of the site in question;
15. That thus proposed development satisfies all other applicable criteria and requirements that are necessary for this development to be favourably considered and approved;

16. That in view of the above, and of further submissions that the Appellant reserves to present, 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. Antonio Depasquale

City Legal, 9/8, Britannia House, Old Bakery Street, Valletta



Av. Luca Durovich

Witnesses: Appellant;
Perit Tehomir Angelov Georgiev;
Consultants and consultees and officers of the Authority to confirm the facts



Av. Antonio Depasquale

City Legal, 9/8, Britannia House, Old Bakery Street, Valletta



Av. Luca Durovich