



31<sup>st</sup> May 2021

The Chairman  
Planning & Environmental Review Tribunal  
St Francis Ravelin  
Floriana

Dear Sir,

**RE: PA 00686/20**

I write on behalf of Pauline Abela with reference to the refusal of the above-captioned application dated 4<sup>th</sup> May 2021 (copy attached), regarding the site namely "Dar ta' Trajsu", Triq il-Kanal, c/w Triq is-Salvatur, Xewkija. The proposed development consists of the following:

***"To rehabilitate existing structure previously used for habitation"***

The proposed development application was refused by the Environment & Planning Commission solely on the following ground;

The proposal runs counter criterion 2 of policy 6.2A of the Rural Policy and Design Guidance (2014) since it fails to provide sufficient evidence that the residential use of the original building is legally established and/or covered by development permission. Hence, the proposal runs counter to Thematic Objective 1.10 and to Rural Objective 3 of the Strategic Plan for Environment and Development which only allow for rural development which is legitimate and necessary."

My client feels aggrieved by the above decision and is hereby appealing for the following reasons:



**First Ground – the Commission did not interpret Policy 6.2A of the Rural Policy and Design Guidance (2014) correctly but relied on legal advice which did not reflect the wording of the policy.**

Contrary to what is stated, it is submitted that the proposal is in conformity with criterion 2 of policy 6.2A of the Rural Policy and Design Guidance 2014.

The residential use of the building in question has already been established. Evidence of previous contracts was produced and sent to the Directorate showing that a certain Paolo Vella had acquired the property in 1932 and that he lived there together with his wife Caterina nee Debrincat and his five children. Paolo Vella was known as “ta’ Lola” and evidence was also produced from the Xewkija Parish Office showing those addresses and the names of those individuals who received grace at their home at Easter. Paolo Vella was indicated in this document as a resident of Strada Mgarr ix-Xini, which was the previous name of the street where the property is located.

The Tribunal is invited to examine Docs 7F and 7J and Doc 50E and 50G which confirm this.

Appellant submits that, if necessary, she is prepared to produce further evidence to support the fact that the place was inhabited and that the documents refer to the property in question. Reference is made to minutes of the meeting of 8<sup>th</sup> June 2020 where the documents were referred to the Legal Section to advise regarding proof of residence. The reply at Minute 83 states that “the proof submitted does not provide that the property in question was used for residential purposes in 1978.”

With all due respect, criterion 2 of Policy 6.2A does not require the legally established use to be linked to any particular date. The reference to 1978 is only made in criterion 1 where it is stated that the building should either be covered by a valid development permission or is a pre-1978 building.

In this case, the proposal satisfies criterion 1 in that it is a pre-1978 building and criterion 2 in that applicant has sufficiently proven that the use is legally established. Therefore with all due respect, the advice given and on which the EPC based its decision is not legally or technically correct.

**Second Ground – Proposal is not in Breach of the Strategic Plan for Environment and Development (SPED)**

The ground for refusal also cites Thematic Objective 1.10 and Rural Objective 3 of SPED as reasons for refusal.

It is submitted that the proposal is not in breach of either of these two objectives.

The Planning Authority itself has approved the Rural Development Policies in 2014 which permit the approval of residential property outside the development zone. Therefore, it is not consistent for the Commission to cite this objective which caters for the non-exploitation of rural areas “which are not legitimate or necessary” as a reason for refusal when a policy exists which actually provides and allows for such residential development in particular cases.

The same can be said of Rural Objective 3 of SPED. The objective aims to guide development outside the development zone which is justified to areas of Containment and away from protected areas and areas of sensitivity. It needs to be pointed out that one cannot cite this general objective as a reason for refusal when the Authority has approved the 2014 Rural Policies which provide a guideline for development in certain areas, including residential development in particular cases.

Appellant wishes to produce the following as witnesses:

L-appellant, Emanuel Vella u individwi ohra u entitajiet ohra mhux maghrufa sabiex jixhdu dwar l-aspett residenzjali tas-sit

In conclusion, it is submitted that the proposal is justified and the policies quoted in the reason for refusal are not applicable or do not warrant the refusal. Therefore, in the light of the grounds for appeal submitted in this request for, the Tribunal is hereby being requested to revoke, annul and cancel the refusal by the EPC and order the issuing of the relative Development Permit, subject to those conditions which the Tribunal may deem fit in line with approved policy.

Regards

A handwritten signature in blue ink, appearing to be 'Tanya Sciberras Camilleri LL.D.', written over a large, light blue circular stamp or watermark.

Tanya Sciberras Camilleri LL.D.

Enc.

Site Plan

Copy of refusal

Copy of minutes