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31st May 2021

The Chairman
Planning & Environmental Review Tribunal
St Francis Ravelin
Floriana

ENVIRONMENT AND PLANNING
REVIEW TRIBUNAL

RECEIVED
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ST. FRANCIS DITCH
FLORIANA

Dear Sir,

RE: PA 8975/20

I write on behalf of Nadia Xuereb with reference to the refusal of the above-captioned application regarding the site at Ta' I-Iskurvit, Mgarr. The proposed development consists of the following:

"Proposed construction of stables with paddocks, manure clamp, pump room and feed store ancillary to the stables."

To rehabilitate existing structure previously used for habitation"

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

1. The site lies within a designated Special Area of Conservation and the proposed stable complex runs counter to Regulation 14(2) of LN 311 of 2006, which requires that the competent authority shall take appropriate steps to avoid, in the protected sites avoid deterioration of natural habitats and the habitats of species, as well as the disturbance of the species for which the areas have been designated. The proposal is also in conflict with policies 1.2G of the Rural Policy and Design Guidance and runs counter to Thematic Objective 8.2 of the Strategic Plan for the Environment and Development, which seeks to safeguard protected areas includes SAC's, whilst enabling activities aimed at enhancing their management objectives.
2. The proposed stables and ancillary facilities run counter to policy 5.2 of the Rural Policy & Design Guidance (RPDG) 2014 since the existing access serving the site is not

legally established and the floor area of the structures exceeds the 25sqm limit per stable. Hence, the proposal also runs counter to Rural Objectives 1,3,and 4, which seek to facilitate sustainable rural development by controlling the location and design of rural development, as well as the cumulative effect of such development.”

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

First Ground – there will not be the deterioration of natural habitats nor the disturbance of any existing species.

The proposal to construct stables on sit has been conceived using environmentally friendly materials. 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.

Second Ground – Proposal is not in conflict with 1.2G of the Rural Policy & Design Guidance

One cannot understand how the Authority has decided *a priori* that the proposal conflicts policy 1.2 of RPDG 2014. According to the DPA report, the proposal was screened in line with the provisions of the EU Habitats Directive and Legal Notice 311 of 2006 as amended. No explanation has been given about the nature of this screening and what exercise has been carried out by the Authority.

Without providing any explanation whatsoever, the Directorate reached the conclusion that the proposal would give rise to “a precedent for further developments and retroactive sanctioning”. In the same breath however, the Directorate acknowledged in its report that “the proposed structures per se are not expected to have major direct impacts on the integrity of the habitats, species and the Natura 2000 as a whole, if seen in isolation”.

Policy 1.2 does not permit those developments which would have an unacceptable adverse environmental, landscape, cultural or archaeological impact, but no explanation has been given as to what these adverse impacts could consist of, given that the proposal consists of stables.

Therefore the allegation that the proposal is in conflict with this policy has not been explained and therefore is not justified.

Third Ground – Proposal does not run counter to Thematic Objective 8.2 of the Strategic Plan for the Environment and Development

Again, one cannot understand why it has been concluded that the proposal is in breach of this Thematic Objective 8.2. The policy aims to safeguard protected areas in order to safeguard and enhance biodiversity, cultural heritage, geology and geomorphology.

It is grossly unfair for the Environmental Resources Authority to assess this proposal and object to it merely because it deems that the development, coupled with “future similar pressures” would lead to “an unacceptable cumulative impact.”

No studies have been produced and no justification was given to explain how and to what extent would the proposed development fail to safeguard the area where the site is located.

Fourth Ground – Proposal does not run counter to policy 5.2 of RPDG 2014

Contrary to what is stated, the policy does not run counter to policy 5.2 of RPDG 2014 because the access to the site is legally established and, in any event, this policy does not impose a legally established access as a prerequisite for the grant of a permit for stables.

According to policy 5.2, the requirement is that the existing road network serving the site is capable of dealing satisfactorily with the traffic which will be generated by the development, and that vehicular access to the site shall be appropriately located and does not cause a traffic hazard.

It is submitted that the proposal satisfies this requirement. The site is accessible from the existing road network and there is a legally established right of way from the public road to the site so this is not an issue whatsoever.

Fifth Ground – Proposal does not run counter to Rural Objectives 1, 3 and 4, as is being claimed

The rural objectives aim to protect the rural environment by facilitating sustainable rural development and diversifying of activities within the Rural Area to sustain agriculture and safeguard its distinctiveness.

No explanation has been given as to how a typically rural development such as stables can run counter to the Rural Objectives and appellant contests this conclusion reached by the Commission since it is baseless.

Indeed, the proposal is in line with Rural Objective 1 since the development of stables can be classified as rural development since the keeping of horses can also be described as “rural development” which the objective aims to facilitate. The proposal can also be classified as a recreational facility as described in Rural Objective 2 and is not easily located within an Area of Containment, given that such areas are

indicated for activities which are not suitable within the urban area owing to their potential deleterious effect on residential areas, such as warehousing, boatyard etc. Therefore the location of stables within an Area of Containment is not compatible with other activities normally located within such areas.

Reference is made to permit **PA 2128/17** issued, *inter alia*, for the construction of three stables and ancillary facilities to a horse breeder at a site at "Ta' Taht is-Saqni, Zebbug, Malta. In this particular case, there are similarities to be drawn not only because of the nature of the development but because access to the site is via a private path which is common with third parties.

Appellant wishes to produce the following as witnesses:

Appellant to confirm the facts

Martin Zerafa for confirmation of the facts

Bjorn Bonello – to testify about the proposal, particularly regarding the issue of the existing road network.

Director of Veterinary Services – to testify about the licence to keep horses.

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 black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Tanya Sciberras Camilleri LL.D.

Enc.

Site Plan

Copy of refusal

~~Copy of minutes~~