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Our Ref: 19113**Your Ref: PA/1238/21**

The Chairman
 The Environment and Planning Review Tribunal
 St Francis Ditch
 Floriana

7th September 2021**Appeal against Refusal - PA/1238/21****Application Ref. No:** PA/1238/21**Applicant:** Mr Jason Charles Gauci**Proposal Description:** To install sliding glass railings to sides and front of external lightweight canopy approved in PA/532/17 situated in front of existing Class 4D establishment**Site:** Area in front of Tal-Puzzu Restaurant, Triq Gorg Borg Olivier, Mellieha

Reference is made to the application bearing reference number in caption, submitted on behalf of my client Mr Jason Charles Gauci, and to the Planning Authority's decision to refuse the proposed development, which decision was published in the government gazette on the 11th August 2021. The following were the reasons of refusal:

Reason of Refusal 1

The proposed tables and chairs run counter to paragraph 2.3 of the Policy, Guidance and Standards for Outdoor Catering Areas on Public Open Space, since Transport Malta, which is a permitting Authority, is objecting to the proposal.

Reason of Refusal 2

The proposed installation of glass railings run counter to policies P22 and P23 of the Policy for Outside Catering Areas on Public Open Spaces (2016) and counter to Policy P50 (Fixed and demountable structures, canopies and awnings – design parameters) of the Development Control Design Policy, Guidance and Standards 2015, since such development is not allowed within an area typology A4b where there is no schemed front garden. The proposal therefore also runs counter to the Urban Objective 3 of the Strategic Plan for Environment and Development which aims to protect and enhance the character and amenity of urban areas.

Reason of Refusal 3

The proposal does not comply with the provisions of Legal Notice 227 of 2016: Development Planning (Health and Sanitary) Regulations, 2016, since a warranted engineer is to certify that restaurant can achieve acceptable levels of light and ventilation in accordance with recognized building codes and standards due to the proposed structure.

The undersigned would like to comment regarding the said reasons of refusal, as follows:

Regarding **Reason of Refusal 1**, the clearance from Transport Malta has been obtained and also submitted to the Planning Authority at doc.69d. This clearance letter is also being provided with the submission of this appeal.

Reason of Refusal 2 states that the glass railings run counter to policies P22 and P23 of the OCA Policies, and P50 of DC2015. However, the above-mentioned OCA policies relate to the shading equipment/structures and their applicability, whilst policy P50 relates to fixed/demountable structures, canopies and awnings. Hence it cannot be understood why these policies are being quoted, when this application is proposing the addition of glass railings to an existing shading structure, approved through PA/523/17.

Reason of Refusal 3 is stating that a warranted engineer needs to certify that the restaurant can achieve acceptable levels of light and ventilation due to the proposed railings. The undersigned cannot comprehend as to how the proposed development, i.e. the installation of glass railings along the sides of the outdoor catering area, will affect the light and ventilation of this outdoor catering area. The said glass railings will still allow the penetration of natural light and ventilation since the proposed railings will not enclose the structure completely, but will only be 1.5m high. Having said this, should the EPRT deem it necessary, the undersigned would have no objection to the provision of an engineer's report.

Furthermore, the undersigned would also like to point out that whilst this application was for the installation of sliding glass railings, the applicant (now appellant) would also be open to change the proposal to one where instead of having fixed railings, the sides of the outdoor catering area would be sheltered by folding glass apertures which would stack against each end of the outdoor catering area. In this manner, the outdoor catering area can retain its open character during the warm summer months, whilst during the colder months, these folding apertures can provide shelter to the outdoor catering area.

In view of the above, the appellant, whilst reserving the right to make further written and oral submissions and further representations, respectfully requests that the EPRT duly considers the undersigned's arguments regarding the reasons of refusal such that this decision to refuse the installation of glass railings is overturned and the permit may be issued.

Yours faithfully,



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