

26 December, 2021

The Secretary,
Environment and Planning Review Tribunal
St. Francis Ravelin,
Marsa



Application Number: PA/08859/20
Location: Southport, Xatt is-Sajjieda, Marsaxlokk
Proposal: To sanction alterations in basement and removal of Jacuzzi pool;
To sanction additional receded floor - additional 10 rooms.
Applicant: Mr Mario Xuereb

Request for Appeal Hearing against Refusal of Development Permission
PA/08859/20

Sir,

We, the undersigned, have been instructed by Mr Mario Xuereb, to lodge an appeal against the decision by the Planning Commission to refuse the proposed developments as per PA/08859/20 and published on the 1st December 2021.

REASONS FOR REFUSAL

1. The proposed height of development runs counter to Urban Objectives 2.3 and 2.4 of the Strategic Plan for Environment and Development which promote a context driven approach for the control of building heights within Urban Conservation Areas in order to protect the traditional urban skyline. The proposal also runs counter to policies P35 and P39 of the Development Control Design Policy, Guidance and Standards 2015 which require that building heights are based on a streetscape analysis in order not to create an unacceptable visual impact.
2. The proposal does not comply with the Urban Objective 2.1a and Thematic Objective 8.7 of the Strategic Plan for Environment and Development which require that development in Urban Conservation Areas is compatible with the existing character and urban design of the area. The proposal is not sympathetic with the adjoining buildings and would not contribute towards the improvement of the quality and to the visual amenity of the area.

3. The proposal does not comply with the provisions of Legal Notice 227 of 2016: Development Planning (Health and Sanitary) Regulations, 2016, in that the plans endorsed by the engineer do not tally with the proposed plans.
4. The proposal has not been endorsed by the Malta Tourism Authority which is one of the permitting authorities for tourism accommodation. Hence the proposal runs counter to Article 72 (2f) of the Development Planning Act (Chapt 552), which requires that the Planning Board shall have regard to recommendations made by consultees.

PRELIMINARY

The undersigned are hereby enclosing a presentation to this letter in order to explain in detail and also show visuals and a photographic survey to help the Tribunal understand better the context of the extension and the surroundings.

One may wish to note that the site is covered by PA 3917/17 To demolish existing restaurant built on 2 floors, & propose new hotel class 3B & to propose restaurant class 4D at roof level; to propose beauty spa & gym class 4B at basement which has been approved on 30th August 2017.

It is important to note that this application is requesting the Planning Authority to sanction modifications and extension as already built. Thus, the photographic survey in this presentation shows the final building height. The site in question will not be extended higher from what is shown in the photos.

REASONS FOR REFUSAL 1 AND 2

The policies require to have proposed extension within an UCA to be compatible to the existing streetscape and adjoining buildings in height and not to create an un acceptable visual impact.

It can be noted, that the façade along the official building line has not be modified to what it has been already approved in previous permit. The façade design has been already approved. The old façade has been kept and will be restored to its original glory. New materials and technologies will meet the old and be used for the extended part.

The additional floor which is recessed from the façade 4.86m, is in line and of the same height as the adjacent building on the left hand side when facing the façade. Since the building on the right hand side is protruding outwards, the setback floor of the latter building is in line with the building alignment of the proposed site. Such setback height is slightly lower than the extension at third floor. Level 4 is setback more than 15m from the façade which is not visible from Xatt is-Sajjieda.

Moreover, the additional floor is not visible from the adjacent side road being Triq San Frangisk. Given that the latter road is narrow and an uphill, the building in Triq San Frangisk covers the additional floor. Furthermore, given that the site in question is located on the boarder of the UCA, the buildings at the back and sides of the site in question have a height limitation of 17.5m. As it is shown in the photographic survey, those buildings that have been developed recently and that already meet the maximum height limitation of 17.5m, are actually towering over the additional floor.

REASONS FOR REFUSAL 3

A number of fresh drawings have been submitted and eventually the file has been suspended since further time was required to discuss in detail the application with the consultees. The case officer unsuspected the file and

prepared DPAR immediately without requesting further information such as revised engineers report to abide to the latest drawings.

REASONS FOR REFUSAL 4

The lack of endorsement by the Malta Tourism Authority was the subject of an appeal before the Tourism Appeals Board, which proceedings were still pending at the time the Planning Commission took its decision.

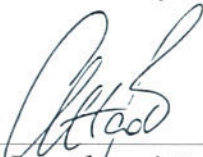
CONCLUSION

In view of the above, the appellant, whilst reserving the right to make further written and oral submissions and further representations, respectfully requests the Tribunal to:

1. Overturn the decision taken by The Planning Authority, whereby it granted the development permission in a decision published on the 14th of November 2018;
2. Without prejudice to the above, give any direction that the Tribunal may deem proper, both to The Planning Authority and the Applicant.

The appellant reserves the right to request for a site inspection by the Tribunal, if necessary. In addition, the appellant requests to produce the following witnesses listed hereunder during the appeal procedure, while he reserves his right to produce further witness and evidence which may arise in order to substantiate his claims.

Yours Faithfully,



Dr Jonathan Attard
B.Comm, LL.B., Dip. N.P., LL.D.



Perit Michelle Micallef Bugeja
B.E. & A. (Hons.), A. & C. E.

C.C: The Secretary, Environment and Planning Review Tribunal.

LIST OF DOCUMENTS:

- Dok. A Proof of Payment for € 200;
- Dok. B Decision Notice;
- Dok. C Site Plan;
- Dok. D Presentation

LIST OF WITNESSES:

- The appellant to testify and elaborate on the facts;
- Persons who are indicated or signatories of documents submitted with the application or with this appeal;
- Architects involved in the application in question or on other Permits on the same site;
- People whose names are unknown who know the facts of the case;
- Representatives of the Planning Authority and Malta Tourism Authority.
- Officials or employees of Government Departments, Ministries, Agencies and Authorities;
- Subject to further witnesses.



Dr Jonathan Attard
B.Comm, LL.B., Dip. N.P., LL.D.



Perit Michelle Micallef Bugeja
B.E. & A. (Hons.), A. & C. E.