



30th December 2022

The Environment and Planning Review Tribunal

Nru. ta' l-Aplikazzjoni: PA/4080/21

Lokazzjoni: Site at new Street in Sqaq tal- Hlas, Qormi

Proposta: Proposal entails placement of skips within disturbed yard, along with the sanctioning of a small room as seen on the 1978 aerial photo and proposed reconstruction of same. Proposal also entails the sanctioning of the boundary wall along the site along with the proposed construction of a new boundary wall to delineate the owner's site.

Ref. Taghna:

Ref. Tribunal:

Matthew Vella

vs

L-Awtorita' ta' l-Ippjanar

The appellant respectfully submits:-

- I) The applicant made the submission of this application in 2021.
- II) This application was refused by the Commission and the decision was published on the 1st December 2021.
- III) The appellant feels aggrieved by this decision and is hereby submitting this appeal.

Together with this appeal, the appellant is submitting:-

- A copy of the decision notice (Dok JA1).

- Receipt of Payment (Dok JA2).

The appellant respectfully submits the following:

- 1.1 The Authority wrongly applied the provisions of the law and policy regulating this site.
- 1.2 In refusing this application on the basis of a wrong interpretation and application of the policy, the authority failed to apply the provisions of article 72(2) of Chapter 552 of the Laws of Malta and also failed to apply other relevant provisions of Sped which mitigate in favour of enhancing and consolidating development in developed areas.
- 1.3 The proposed development is in line with the local plan policies regulating the site, and is not contrary to the provisions of the applicable policies.
- 1.4 The proposed development satisfies all other applicable criteria and requirements that are necessary for this development to be favourably considered and approved.
- 1.5 The intended use cannot be accommodated elsewhere since the use can be detrimental to neighboring uses and sites and certainly can't be sited in an area that is designated for development.
- 1.6 It is important to note that the proposal relates namely to an activity of waste separation and sorting that will take place atop the existing disturbed land and will not require a roofed-up area, but will only involve a number of stackable skips of varying sizes for the waste to be sorted and filtered to be taken to the appropriate facility. One should note that this activity is one which at its core safeguards our environment and fulfils the SPED Thematic Objective 9 in view of point 2.35 regarding climate change and the essential need to shift towards

recycling of waste to minimise the burdens on landfills and the take up of area landfills require.

1.7 The proximity of the said site to other uses namely PA 9380/19, PA 1978/18, PA 9619/17 and PA 933/03 is indicative of the considerations made by the Authority of the immediate vicinity of the site in question.

1.8 The area in question was described by the Case officer in PA 9380/19 as follows:

The premises consists of a 1-storey high warehouse with an external height of 6.2 metres, a site frontage of 9.4 metres and an overall building footprint of 590 square metres. The warehouse is not visible in 1978 aerial photo and it had not yet been roofed in 1988 (refer to doc. 62a), and forms part of a larger built up area, which consists of other industrial uses, with a similar height (refer to photos at docs. 1d/1e). These buildings are covered with valid development permits, which include PA 5647/19 and PA 6356/05 on both ends of the industrial area and PA 2558/15, located opposite the site in question. Although the area is designated as ODZ, it is surrounded by legal commitments with the same height or higher and with similar industrial use, or even more intense. Therefore, considering that the site in question cannot be used for agricultural purposes, in view of the same adjacent commitments, the proposed sanctioning is deemed acceptable.

1.9 Similar and identical proposals were approved in numerous cases. Hence even by applying the principle of paribus ceribus, and namely that similar situations ought to be determined in the same manner, the Authority was manifestly wrong in refusing this proposal.

In view of the above, and further submissions that the appellant reserves to make, 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. Ian J. Stafrace

Witnesses:

1. Appellants, and consultants and consultees and officers of the Authority to confirm the facts.



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