

11th January 2022

The Environment and Planning Review Tribunal



Nru. ta' l-Applikazzjoni: PA/3682/21

Lokazzjoni: Site at Wardija, San Pawl il-Bahar, Ras il-Wied, Mgarr

Proposta: Proposed relocation of existing rural passage. Works include the relocation of existing deteriorated rubble walls.

Ref. Taghna:

Ref. Tribunal:

Martin Vella , Luke Vella, Joseph Vella & Rosanna Sollars

vs

L-Awtorita' ta' l-Ippjanar u is-Socjeta Filarmonika Sta. Marija, Mosta

The appellant respectfully submits:-

- I) The applicant made the submission of this application in 2021.
- II) This application was approved by the Commission and the decision was published on the 15th December 2021.
- III) The Appellant feels agrieved 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 approving this application the Authority went contrary to the principles entrenched in the Sped and RPDG.
- 1.3* The proposed development is situated on land which is not privately owned and hence the applicant had to obtain the consent of the Lands Authority as part of the application process;
- 1.4* The RPDG makes it amply clear that no new access should be allowed which would introduce new physical and landscape impacts, and this when there is an existing passage and no justification was brought to prove the need to create a new alternative passage.
- 1.5* It is also unclear why the Fireworks Factory Policy Technical Committee was at all consulted on this application since ultimately the proposal is not justified on the basis of the fireworks factory. It is also unclear how the Authority failed to refer to the decision of the Court in the names Mallia et. vs. Alex Vella et. (1196/89) wherein the legality of the same fireworks factory was considered and determined as being in breach of the Law.
- 1.6* The current passage services other properties, including the properties of the Appellant and hence the current passage could not have been altered or removed;
- 1.7* The appellant was not notified with any documents submitted in the course of the application and neither was document 53A visible or accessible to the Appellants. This document seemingly was a reply to the representation of the Appellant.
- 1.8* The claim by applicant that this new passage is needed because of safety and security, find no justification and no evidence was brought to justify this claim.

1.9 The Authority also failed to consider the position taken by ERA and the SCH on the proposed development.

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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