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The Secretary Planning Review  
Tribunal  
St. Francis Ditch  
Floriana

info@eprt.org.mt

App No. : PA/06610/21

Location : Site at, Triq il-Bies, San Gwann.

Proposal : Sanctioning of reservoir as built over site covered by PA/7006/16 inc. landscaping scheme. Proposed planting of further trees, covering of reservoir with top soil and fixing of timber gates.



**Re: Appeal against Planning Commission Refusal Decision**

This appeal is being submitted obo Mr. John Sammut of 'Rodmor', Triq il-Venew, San Gwann. For ease of reference, kindly find attached in chronological order the following literature:

**Appendix 1:** EPRT Appeal Levy fee of € 200 and Bank receipt.

**Appendix 2:** Planning Commission refusal decision dated 01.06.2022 and published on the 15.06.22 - Doc 125a.

**Appendix 3:** Full Developmen Permission Application Non-Schedule 1 – Doc 94a.

**Appendix 4:** Site plan locating site – Doc 1b.

**Appendix 5:** Part 1968 site plan locating site.

**Appendix 6:** Photos of site – Doc 1L.

**Appendix 7:** Streetscape and landscape photos 1-4 – Doc 1c.

**Appendix 8:** Site Landscape photos 5-12 – Doc 1d.

**Appendix 9:** Site Landscape photos 13-19 – Doc 1e.

**Appendix 10:** Existing Block Plan – Doc 1f.

**Appendix 11:** Approved Plan as per PA/07006/16 – Doc 1g.

**Appendix 12:** Approved/Existing Block Plan – Doc 1h.

**Appendix 13:** Existing/Proposed Block Plan – Doc 1c.

**Appendix 14:** Approved/Existing Reservoir Plans – Doc 1j.

**Appendix 15:** Sections and Elevations – Doc 1k.

**Appendix 16:** WSC consultation – Doc 32a.

- Appendix 17:** Minutes of AAC meeting dated 15.10.21 – Doc 39a.  
**Appendix 18:** SCH consultation dated 28.10.21 – Doc 78a.  
**Appendix 19:** ERA consultation dated 29.16.21 – Doc 86a.  
**Appendix 20:** Planning Request for information dated 24.11.21 – Doc 92a.  
**Appendix 21:** Undersigned submission of information – Doc 93a.  
**Appendix 22:** Notification of Planning Commission dated 01.06.22 – Doc 100a.  
**Appendix 23:** DPAR dated 11.05.22 – Doc 99a.  
**Appendix 24:** DPAR Reply dated 30.05.22 – Doc 115a.  
**Appendix 25:** Sections – Doc 115b.

The DPAR reply attached as appendix 24 is within itself a reply over the refusal arguments. Nevertheless the following points are being referred for the Tribunal consideration:

***Reason for Refusal 1 – Change in site configuration and site levels***

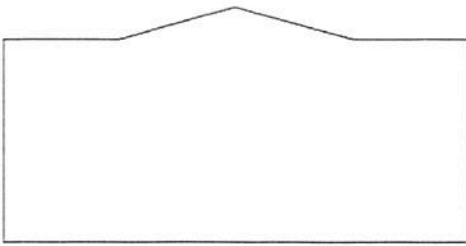
- The development application plans as presented in **Appendix 10-14** shows the plans in conventional colours showing changes from approved to existing. These changes over site configuration do not relate to works as carried out but correction of survey from approved plans in **PA/933/07**.

The above statement is confirmed by –

1. ERA consultation (**Appendix 19**) it states;  
*... in Doc 1d it does not appear that the existing walls were further increased in height above soil level.*
2. Appeal Tribunal in decision of Appeal **PAB/1083/19** which confirmed that no enforcement on site is pending over illegal development of demarcation walls, as per cited reason for refusal in **PA/1083/19**

- The natural state and topography over the upper half of the site has been altered during the construction of Triq il-Bies. A large amount of construction material was dumped over the area, in order to form a wide level surface to form the road. The construction of this road did not entail the formation of a retaining wall, but relied on the natural angle of repose of the material, which resulted in spillage of construction material along the width of the valley, including site under consideration.

The above statement is confirmed when comparing 2021 siteplan (**Appendix 4**) and 1967 siteplan (**Appendix 5**). The section over which Triq il-Bies was constructed, is on a sloping land with a change in level of 5m within the width of the road.



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***Reason for Refusal 2 – Sanctioning of reservoir not built according to policy and approved permits***

- The reservoir was built within the envelope of glacie formed during the construction of Triq il-Bies. **Appendix 25** shows the section of the reservoir in relation to material on both sides of the site, from levels provided by *icloud server*. The position of the reservoir was slightly shifted from the approved drawing, as can be seen in **Appendix 12**, making it more acceptable in view that the reservoir is within the envelope of the glacie.
- The reservoir was not excavated further below in order to safeguard the road above. In view that Triq il-Bies was **not** constructed with a retaining wall, excavation underneath the loose material would have created unacceptable vibrations to the unconsolidated material over which the road was formed. This could have resulted in damage to road and properties on the opposite side of the road, as well as injury to workers and third parties.
- The exposed side of the reservoir is already shielded by existing Aleppo pines, and additional olive trees are proposed to be planted next to reservoir. A photomontage in **Appendix 6**, shows the existing and proposed views from the valley.

***Reason for Refusal 3 – Multiple access to site***

- The changes requested for sanctioning, when comparing to approved plans in **PA/933/07** include
  - o Shifting of approved 3m wide access to the right hand side of the site, next to the rubble wall delinating neighbouring field
  - o The creation of a small gate on the opposite side of the site

In view of the width of the site, two parallel entrances are being provided to access the site without the need to cross the fields each time. The opening are of different size, with one providing access by foot and for small equipment relating to farming.

In view of the above, proposed development may be considered favourably. The above arguments shall be further elaborated during the EPRT board.

**Perit Mannie Galea**