

The Secretary,
Environment and Planning Review Tribunal,
Floriana



5th August 2022

Our Ref	FC0101
PA Ref	PA/1460/21
Location	Site at, Il-Gwejdija, Qrendi
Proposal	To sanction formation of an underground water reservoir, reinstatement of boundary rubble walls and construction of dividing walls.

Dear Sir/Madam,

I am writing to behalf of applicant Mr. Felic Cassar to submit an appeal against the refusal issued by the Planning Authority in respect to the above-mentioned development application, which refusal was published on the 6th July 2022 and a copy is attached.

The proposed development consisted the sanctioning of works that had been carried out at Il-Gewdija, Qrendi. The sanctioning requested was the formation of an underground water reservoir, reinstatement of boundary rubble walls and construction of dividing walls.

In response to the reasons for refusal, kindly note the following:

- Reason for refusal 1 stated that "The existing gate is in conflict with policy 2.9 of the Rural Policy & Design Guidance (RPDG) 2014 as it exceeds the stipulated height of 1.2 metres and it's width is more than that permitted."

The above is not the case. As can be observed from the submitted drawing PA/1460/21 doc. 352d, the lowering of the existing gate has been proposed to a maximum height of 1.2m to comply with policy 2.9 of the Rural Policy & Design Guidance (RPDG) 2014. Furthermore, the width of the gate was justified by the submitted drawing PA/1460/21 doc. 351d as shown by the vehicle tracking diagram provided, showing a tractor with a wheelbase of 2.04m manoeuvring inside the field with agricultural machinery. As a result, the width of the gate is required due to the limitations of the width of the pathway just opposite the gate.

- Reason for refusal 2 stated that "The illegal increase in soil level has resulted in the change in the site contours and modification of the site layout and topography, thus running counter to Policy 1.2H of the Rural Policy and Design Guidance 2014 which seeks the conservation, maintaining and enhancement of the natural landscape."

None of the drawings submitted had proposed any increase in soil level. The soil levels and topography of the site had been surveyed as is.

- With reference to reason for refusal 3 stating that "The illegalities carried out have resulted in the demolition of rubble walls, running counter to Legal Notice 160 of 1997 - Rubble Walls and Rural Structures (Conservation and Maintenance) Regulations and, Legal Notice 169 of 2004 - Rubble Walls and Rural Structures, Conservation and Maintenance Regulations (Amendment). Both regulations declare rubble walls and non-habitable structures as protected, in view of their historical and architectural importance, their contribution to the character of rural areas, their affording a habitat for flora and fauna, and their vital importance in the conservation of the soil and of water. The proposal also runs counter to Policy 2.9.2 of the Rural Policy and Design Guidance 2014 and counter to Rural Objective 4 of the Strategic Plan for Environment and Development. Furthermore, the height of the walls as constructed is higher than the permitted height of 1.2metres."

The above is not the case, as the demarcation walls built within the perimeter of the site are shared with third-parties; and the demarcation wall at the right hand side of the property was sanctioned by PA/02753/16 and at the left hand side of the property was sanction by PA/00876/15. Furthermore, the lowering of existing rubble walls to a maximum height of 1.2m was proposed, and shown in the submitted drawings, to comply with policy 2.9 of the Rural Policy & Guidance (RPDG) 2014, as can be observed from drawings PA/1460/21 doc. 351c, 352b, 352c and 353a. Furthermore, the reinstatement of rubble walls has been marked to sanction in drawing PA/1460/21 doc. 351a.

4. With regards to reason for refusal 4 that "The existing demarcation walls runs counter to criterion 3 of policy 2.9 of the Rural Policy & Design Guidance (RPDG) 2014, in that these are in excess of the already permitted height of 1.2 metres.

As per response provided for the reason for refusal 3, the above is not the case, as the existing rubble walls lowered at a maximum height of 1.2m has been proposed, to comply with policy 2.9 of the Rural Policy & Guidance (RPDG) 2014, as can be observed from submitted drawings PA/1460/21 doc. 351c, 352b, 352c and 353a.

5. With reference to reason for refusal 5 that "The pathway created has resulted in the loss of agricultural land thus counter to Policy 1.2D of the Rural Policy and Design Guidance 2014 and counter to Rural Objective 1 of the Strategic Plan for Environment and Development which seeks to ensure the protection of good quality agricultural land from development. In addition this has not been endorsed by the Agricultural Advisory Committee and the Environment & Resources Authority."

As has been noted in drawings PA/1460/21 doc. 351a, 351c, 352b, 352c and 353a, the pathway is owned between third parties and was created as a result of easement, right of way, and has been approved by PA/00876/15 and appeal PAB/00210/15. Approved drawing showing the pathway can be observed from PA/00876/15 doc. 52b.

6. Reason for refusal 6 stated that "The proposal cannot be considered further unless the following illegal development is first sanctioned or removed and this in terms of regulation 17 of Legal Notice 162 of 2016. The illegal development consists of the front walls constructed in franka stone and higher than 1.2metres above ground level, the demarcating walls higher that those approved, the demarcation internal franka & rubble walls, concrete platform, formation of ramp, the removal of top soil & deposition of inert material."

In consideration of the above, the proposal should have been considered further given that the drawings submitted, in particular drawings PA/1460/21 doc. 351c and 353a, do in fact propose lowering the demarcation walls to 1.2 metres above highest soil level, rubble walls to be lowered to 1.2 metres above highest soil level, gate entrance jamb constructed in franka stone to be reconstructed in rubble walls, the concrete platform and formation of ramp removed and reinstated with agricultural soil. Demarcation walls built with internal franka have been proposed to demolition as can be observed in drawing PA/1460/21 doc. 353a. Furthermore, the demarcation wall at the right hand side of the site is shared with a third-party which was sanctioned by PA/02753/16 and at the left hand side of the site is shared with a third-party which was sanctioned by PA/00876/15.

Furthermore, in response to the reasons for refusal a letter detailing the above has also been submitted to the Planning Authority as can be observed from document PA/1460/21/354a, dated 3rd June 2022.

Whilst thanking you for your attention, I remain,

Yours truly,

Documents Attached:

- PA-01461-21 - 396a - Decision Notice
- PA-01460-21 - 351a - A001 - to Sanction 1_250 - A3
- PA-01460-21 - 351c - A003 - to Propose 1_250 - A3
- PA-01460-21 - 351d - A004 - Proposed (Clean) + Vehicle Tracking 1_250 - A3
- PA-01460-21 - 352a - A005 - to Sanction 1_500 - A1
- PA-01460-21 - 352b - A006 - to Demolish 1_500 - A1
- PA-01460-21 - 352c - A007 - to Propose 1_500 - A1
- PA-01460-21 - 352d - A008 - Elevations + Details - A3
- PA-01460-21 - 353a - A002 - to Demolish 1_250 - A3
- PA-01460-21 - 354a - PA Letter - 2022-06-03
- PA-00876-15 - 52b - Path Way Plan