

26th August 2022



**The Environment and Planning Review Tribunal**

*Nru. ta' l-Applikazzjoni:* PA/3753/21

*Lokazzjoni:* 'Fontanella', 9, Triq ix-Xambekk, Triq il-Felukka, Marsaxlokk

*Proposta:* Proposed demolition of existing dwelling, excavation for basement level, construction of basement garages, 1x3 maisonette at ground, 3x3 bed apartments from first to third floor and 1x2 bed unit at fourth (recessed) floor level.

*Ref. Taghna:*

*Ref. Tribunal:*

**Godwin Azzopardi**

**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 27<sup>th</sup> July 2022.
- III) The appellant feels aggrieved by the 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 It is clear that the application should have been considered acceptable to the Authority on the strength of the local plan policies which are clear in enabling the proposed development.
- 1.2 The Authority could not and should not have applied the provisions of DC 15 and/or the Sped since the provisions of the local plan are clear and the proposed development is squarely in line with the local plan policies.
- 1.3 Reference is made to PA 10374/18 which was approved by the Authority and which application was also discussed before the Tribunal (PAB 196/19) wherein the Authority held:

*L-Awtorita' izzomm ferm mar-rifjut (sic), u tispjega li s-sit tali izvilupp jinsab gewwa zona fejn huma permessibbli multiple dwellings fuq l-istess footprint tal-bini prezenti. L-Awtorita' itenni li l-izvilupp kif approvat huwa konformi mal-kundizzjonijiet ta' zoning skont il-Pjan Lokali, bhala Residential Area b'height limitation ta' erba' sulari u semi-basement. L-Awtorita' tispjega, li kontrarjament ghall-applikazzjoni precedenti fuq l-istess sit, l-izvilupp kif approvat jinkludi l-ewwel zewg sulari b'disinn li jirrispetta l-proporzjonijiet tal-bini fuq l-istess streetscape.*

- 1.4 In rejecting the appeal of the third party, the Tribunal Held:

*Illi fl-ewwel lok, dan it-Tribunal ha konjizzjoni tal-izvilupp approvat li jikkonsisti minn talba ghat-twaqqiegh ta' residenza tat-tip terraced house, u sabiex minflok tinbena blokkka appartamenti fuq sitt livelli. Is-sit jinsab gewwa zona li kienet ippjanata bhala Home Ownership Scheme, u fil-prezent il-kuntest tal-bini madwar is-sit huwa kkaratterizat minn terraced houses fuq zewg sulari. Il-binja ezistenti m'hijiex wahda ta' xi valur arkitettoniku, u ghalhekk it-twaqqiegh taghha m'huwiex oggezzjonabbli.*

*Illi l-aggravji mressqa mill-appellant jikkoncernaw l-gholi tal-bini gdid u l-impatt ta' dan fuq l-istreetscape, u l-impatt ta' zieda fiddensita' residenzjali fuq is-sit permezz tal-izvilupp ta' erba' appartamenti minflok residenza wahda. It-Tribunal ha konjizzjoni tad-denominazzjoni li tapplika ghas-sit odjern skont il-Pjan Lokali, fejn Mappa GT1 jalloka s-sit gewwa Residential Area, u Mappa GT2 jidisenja height limitation ta' erba' sulari u semi-basement.*

*Hija l-fehma tat-Tribunal li dawn il-kundizzjonijiet ta' zoning juru bl-aktar mod car li l-intenzjoni tal-izvilupp ta' din iz-zona hija ta' wahda high density. Dan qiegħed jintqal minhabba li kieku dan ma kienx il-kaz, il-height limitation kienet tkun inqas minn dik indikata fil-Pjan Lokali. It-Tribunal innota li l-bini gdid huwa konformi mal-height limitation ta' erba' sulari u semi-basement, fejn l-gholi totali tal-bini ma jaqbix il-massimu permessibbli ta' 22 metru u lanqas ma jaqbez għoli ta' 18.6 metru fuq il-faccata tal-bini. Dan huwa in linja ma' Policy P35 u Annex 2 tal-linja gwida DC15.*

*Għalkemm il-bini gdid sejjer ikun aktar għoli minn dak li hemm prezenti fl-istreetscape, dak propost ma jistax jingħad li m'huwiex kompatibbli minhabba li huwa konformi mal-height limitation. Nonostante dan, l-Awtorita' hija obbligata li tara li l-bini gdid ikun jirrispetta l-kuntest vizwali, u partikolarment il-proporzjonijiet u disinn li jiddominaw l-istreetscape. Kif spjegat l-Awtorita' fil-kaz tal-applikazzjoni odjerna, l-ewwel zewg sulari gew disinjati b'tali mod li jidhru bhala kontinwazzjoni tal-istreetscape ai termini tal-gholi propost għal dawn iz-zewg livelli. B'hekk l-Awtorita' spjegat li z-zieda fl-gholi tal-bini ma jiddisturbax ir-ritmu tal-istreetscape.*

- 1.5 A similar situation has already been addressed in similar estates and identical permits have already been issued in the vicinity of the proposed development.
- 1.6 It is this evident that the proposed development is acceptable in the area in question.

In view of the above, and further submissions that the appellant reserves to make, the appellant requests the Tribunal to annul the decision of the Commission, and order the approval of the application ins question and hence the issue of 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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**Valletta**