

1st September 2022

**The Environment and Planning Review Tribunal**

*Nru. ta' l-Applikazzjoni:* PA/539/22

*Lokazzjoni:* Trankwilla, Triq Raddet ir-Roti, Bahrija, Rabat

*Proposta:* To sanction alterations to existing dwelling, proposed external staircase and construction of swimming pool and ancillary facilities

*Ref. Taghna:*

*Ref. Tribunal:*

**Jonathan Dingli**  
vs  
**L-Awtorita' ta' l-Ippjanar**



The appellant respectfully submits:-

- I) The applicant made the submission of this application in 2022.
- II) This application was refused by the Commission and the decision was published on the 3<sup>rd</sup> August 2022.
- 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 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 and other 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 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.
- 1.6 The protection status of the site and the proposed intervention should have been analysed in the light of the objective assessment made. It must be emphasised that the applicant carried out an assessment on the basis of what he was required to do by the ERA in accordance with the Habitats Directive (Dok. 49b). This assessment clearly established, and ERA agreed to same, that “the proposed interventions are not expected to have significant direct impacts on the habitats and species for which the site is protected”. Yet, for some reason, the ERA, whilst acknowledging and accepting these findings, still objected to the development. This matter is of utmost importance since it forms the basis of the decision that led to the refusal of the proposed development and like any public authority, the ERA is bound by basic principles of Rule of Law, equity and

proportionality, and cannot unilaterally and without legal authority, simply issue a decision which is contradicted by the studies that it itself requested.

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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**Valletta**