

P E R I T
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Our Ref: CC223803

Your Ref: PA/01340/22

Environment and Planning Review Tribunal
 St Francis Ravelin,
 Floriana



Dear Sir

Re: Appeal against the grant of development permission for application PA/01340/22
 325 and 327, Triq Haz-Zabbar, Fgura

Proposed sanctioning of existing Class 4B Shop as built (As approved in PA342/10) and Class 4A Offices, and proposed part change of use from Class 4A Offices to Class 4D (retaining existing Class 4A for the rear part of the property) including internal alterations and installation of signage.

On behalf of my clients, Ms. Charlotte Carabott Castagna (ID 584777M), Alfred Zammit (ID 950648M) and Damian Muscat (ID 173994M), I am, hereby, presenting an appeal against the decision taken by the Planning Authority to grant development permission with respect to application PA 1340/22.

In the first instance I would like to bring to the attention of the Tribunal that in the representation made by clients in Min 55a in the records of PA 1340/22 it was specifically indicated that:

No consent will be given to attach flues / chimneys on the overlying property owned by the objectors.

Notwithstanding this categorical and clear indication that the objectors as owners of overlying property will NOT consent to the affixing of a chimney to their property. The engineers report (Min 9d) states that the extraction system depends on having a chimney rising 3 m above the highest roof. In order to install this chimney, this has to be affixed to the permanent structures vertically above the site in question and which are owned by the objectors.

The lack of consent, referred to in the foregoing, was not included in the case officer's report and hence the premise upon which development permission was recommended to grant and the consequent decision to grant development permission is, in this sense, flawed. This is because the chimney as part of the extraction system as proposed by the applicant cannot be fixed as proposed.

It is acknowledged that the PA does not get involved in questions of ownership of properties, however in this case, the assumption that a chimney could be constructed when it was specifically indicated in representations that such an eventuality would not be

entertained, should have been sufficient grounds to refuse the development permission as sought by the applicants.

In the representation lodged by my clients it was stated that:

Waste

It is noted that there is no indication of the location for the adequate space for the storage of waste as prescribed in Legal Notices 175/2004, 426/2007 and 290/2010 as contained in the Catering Establishments regulations (S.L. 409.15). Without any indication of where this storage space for waste would be located, its impact on the surrounding property including the overlying property cannot be assessed. It is objectionable that any permission should be granted in the absence of an appropriate space being located for the storage of waste.

It is noted that the case officer made no reference to this part of the representation made by the objectors. The approved plans do not include provision for waste management as required by legislation stated in the foregoing paragraph.

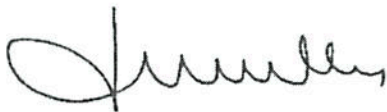
The appellants' reaffirm the representation made that:

The proposed use as a Class 4D outlet constitutes bad neighbourliness and is incompatible with the surrounding residential units adjacent to and overlying the proposed site, which naturally would decrease the amenity of the residential units through the associated disturbance resulting from noise and odours.

It is contended that the proposed development runs counter to Structure Plan policy BEN 1 which seeks to protect the amenity of existing uses. It also runs counter to SPED policies UO3 and UO 3.5.

The opening times of a Class 4D outlet includes unsociable hours as well as hours when residents may reasonably be expected to be resting / sleeping. The presence of a class 4D outlet underlying and adjacent to a residential property will result in unjustifiable disturbance to the well being of the occupants of the residential property.

In the light of the above, we respectfully submit that the Review Tribunal kindly considers the issues concerning the case and that that the original decision to grant development permission is reversed and the development permission is retracted.



Dr. Joseph Spiteri