



**Date:** 02 December 2022  
**Our Ref:** M-745

The Secretary  
 Environment & Planning Review Tribunal  
 Block B, St. Francis Ditch  
 Floriana



**Subject:** *Appeal against refusal of permission to PA/05277/22 – Proposed sanctioning of existing garages at ground floor and proposed construction at first floor to include Class 4A offices (floorspace not exceeding 75 sqm). Proposed alterations at ground floor to include a wc, small store, staircase and lift*

In accordance with the provisions of Article 13 of the Environment and Planning Review Tribunal Act, 2016, we are lodging an appeal against refusal of permission to PA/05277/22 by the Planning Authority.

Planning application PA/05277/22 has been refused permission on the following grounds:

*Reason for Refusal 1:* The use of the first-floor premises as a Class 4A office will interfere with the garages users abutting the private internal road and therefore the proposal runs counter to SPED Urban Objective 3.5 which aims to protect and enhance the character and amenity of urban areas.

*Reason for Refusal 2:* The construction of first floor level is not in keeping with the characteristics of the area and therefore the proposal runs counter to the provisions of Policy P23 Garages for Private Vehicles - Internal Garages of the Development Control Design Policy, Guidance and Standards 2015.

#### Response to Reason for Refusal 1

SPED's Urban Objective 3.5 aims to protect and enhance the character and amenity of distinct urban areas by controlling the proximity of non-residential uses in urban areas.

Policy SMHO 02 of the South Malta Local Plan provides further detail on how the decision maker can strike a balance between the protection and enhancement of the character and amenity of distinct urban areas and the proximity of non-residential uses in urban areas, in this case the Residential Area of Haz-Zebbug, Malta. Indeed, Policy SMHO 02 allows for the provision of Class 4A offices in Zebbug's Residential Area as long as:

- The floorspace of the offices does not exceed 75 sqm;

- The offices do not unacceptably exacerbate parking problems in a residential street that already has an acute under provision of parking spaces for residents; and,
- The offices comply with any relevant section of the DC 2005 (design, access, amenity, etc.) – *(In this case DC15)*

The proposed office floorspace and parking requirement are not issues in this case and have been justified in Section 4.8 of the DPA. Indeed, the report does state that *‘the proposed development is not likely to have a negative impact on the residential amenity’* of the area and that it is providing the necessary parking requirement. Thus, the proposed development protects the amenity of the of the Zebbug Residential Area.

The urban character of the area in which the site is located can be assessed both in terms of the heights and massing of surrounding developments within the development zone and the historic character of the Urban Conservation Area (UCA) of Zebbug, which lies directly to the south of the Site. The proposed development is well within the height limitation of the development zone. Moreover, the proposed development, in terms of its height, massing, and the 3m setback from UCA boundary, provides a suitable transition between the development zone and the UCA, in accordance with Policy P6 of DC15. This has also been confirmed by the Superintendence of Cultural Heritage, which confirmed in Document 59a that the proposed development *‘should not negatively impact of the [Zebbug] UCA’*. Thus, the proposed development also protects the character of the Zebbug Residential Area and relates to the character of the Zebbug UCA.

Thus, it is considered that the proposed development strikes a good balance between the protection of the character and amenity of the distinct urban areas in Zebbug and the provision of non-residential uses in the same urban areas. This is in accordance with SPED’s Urban Objective 3.5.

#### Response to Reason for Refusal 2

On 6 September 2022, the Planning Commission **approved** outline planning application **PA/04509/21** for a site that is located directly opposite the application site (refer to Attachment 1 for site location). This permission established the principle of construction of a Class 1 residential dwelling over the existing and approved garages in RG/04527/18 and internal alterations to the approved garages.

PA/04509/21 was initially refused on the bases of Policy P23 of DC15, that is, for the same reason as this application. However, through an appeal process and subsequent referral back to the stage prior to the case officer’s report, it was established that this site does front a **public street** and not a so called ‘driveway’ that leads to an alleged ‘internal garage area’.

Indeed, at the end of the year 2021, Infrastructure Malta rebuilt and resurfaced with asphalt the entire alley off Triq San Martin thus rendering it a public street (refer to Attachment 2 for photo). If the alley was a private driveway leading into an internal garage area, Infrastructure Malta would not have rebuilt and resurfaced it as this entity does not resurface private driveways.

Thus, if the alley off Triq San Martin has been established as a public street, then the area in which the application site is located cannot be considered as an internal garage area, as it is being described in the DPA report. Therefore, Policy P23 of DC15 does not apply to the application site.

For the above-mentioned reasons, the appellant humbly requests that the Environment & Planning Review Tribunal revokes the decision as issued with the refusal notice and to order the issuance of the relative permit, subject to any other provision that it deems appropriate.

List of Witnesses

The applicant hereby reserves the right to request a site access, in case this is deemed necessary; as well as the right to call witnesses whose testimony is material to his appeal, including but not limited to the following

- The appellant for the confirmation of the facts.
- All the witnesses indicated by the other parties for counter examination and for confirmation of the facts.
- Planning Authority Officials for the confirmation of the facts.
- Officials from other entities that have made submissions on the case for the confirmation of the facts.
- Technical persons that may shed light on specific issues and for the confirmation of the facts.
- Any other witnesses for the confirmation of other facts that arise as a result of this Appeal.

Yours sincerely,



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**Mark Arrigo**

*B.E. & A. (Hons), M.Sc.(Surrey), A. & C. E.*

Attachment 1: Site Map showing the site of PA/04509/21 in relation to the application site.

Attachment 2: Photo of the alleyway asphalted by Infrastructure Malta.