

Our Ref: 20096

The Chairperson  
The Environment and Planning Review Tribunal  
St Francis Ditch  
Floriana

1<sup>st</sup> February 2023



**Appeal against Refusal – PA/01305/21**  
*Agricultural Land at, Triq Burmarrad, Burmarrad, San Pawl il-Bahar*

Reference is made to the application for development bearing reference number in caption, and to the Planning Authority's refusal of this application. The refusal decision was published in the Government Gazette on the 4<sup>th</sup> January 2023.

The application was refused for the following reasons:

**Reason of Refusal 1**

*The boundary wall proposed for sanctioning runs counter to the provisions of L.N.160/97 and to policy 2.9 of the Rural Policy and Design Guidance 2014, which stipulate that such walls should be constructed using traditional methods and irregularly shaped, rough dressed stone.*

**Reason of Refusal 2**

*The 42sq.m beaten earth ramp is considered excessive and has resulted in unnecessary site formalization and land take up. Hence, it runs counter to policy 1.2D of the RPDG, 2014.*

**Reason of Refusal 3**

*The proposed reservoir and pump room runs counter to policy 2.7A of the Rural Policy & Design Guidance (RPDG) 2014 since both interventions have not been endorsed by the Agriculture Advisory Committee (AAC). Hence, proposal also runs counter to Thematic Objective 1.10 and to Rural Objective 4 of the Strategic Plan for Environment and Development in terms of land–use in that the proposal is not considered legitimate or necessary within the rural area.*

**Reason of Refusal 4**

*The applicant is already in possession of another 21sq.m structures within the registered land parcels, thus the proposal will further exceed the applicant's storage entitlement as specified by criterion 6 of Policy 2.5A of the Rural Policy & Design Guidance (RPDG) 2014. It therefore also runs counter to the Thematic Objective 1.10 of the Strategic Plan for Environment & Development which only allows for rural development which is legitimate or necessary.*

**Reason of Refusal 5**

*The proposal cannot be considered further unless the following illegal development is first sanctioned or removed. The illegal development consist of an excessive/ wide passageway from site entrance to the existing ramp (proposed for sanctioning) which is partly paved in concrete, installation of timber gate at site entrance, construction of walls with fence and planters along the entrance and also the dumping of inert material next to the noted illegal structure visible in docs. 1d, 59a and 60a.*

Following discussions with the applicant, fresh plans are hereby being submitted with this appeal so as to:

- Re-locate the proposed agricultural store to the front part of the site so as to be closer to the site entrance and reduce the take-up of agricultural land in order to access the room
- Remove the beaten earth/concrete ramp at the site entrance, to be replaced with agricultural soil
- Re-locate the pump room to the side of the upper part of the field

Furthermore, the undersigned hereby submits comments regarding the above-mentioned reasons of refusal:

#### **Reason of Refusal 1**

The first reason of refusal relates to the rubble walls which are being proposed for sanctioning. It is to be pointed out that these walls have been constructed in a similar method to those which have been constructed on the immediately adjacent site as can be seen on the photos being presented with this submission (vide Annex 1 of this submission). Such walls on the adjacent site have in fact been sanctioned by virtue of PA/6098/17, doc 95a. At doc. 95a, one can see the rubble walls along the site frontage shown in a blue colour, which therefore means that these rubble walls have been accepted by the Planning Authority "as built".

Hence it is the undersigned's opinion that the rubble walls around the applicant's fields should be sanctioned, as were the identical rubble walls situated on the adjacent site.

#### **Reason of Refusal 2**

The second reason of refusal relates to a "42sq.m beaten earth ramp", although it is not specified where this ramp is located.

However, despite this lack of clarity in the reason of refusal, it is being proposed that the ramp which is found at the site entrance and which has been formed in beaten earth and concrete, is removed as can be seen on the demolition plan being submitted with this appeal.

One can also find another ramp towards the middle part of the site. Due to a difference in levels between the front and back parts of the site, this ramp was formed so as to connect the upper field to the lower field. This ramp, which has been formed in agricultural soil, is considered to be necessary in order to access the upper field with agricultural machinery required to till the land, and hence cannot be removed as otherwise the upper level would be rendered inaccessible.

#### **Reason of Refusal 3**

This reason of refusal relates to the proposed reservoir and pump room, whereby the reason of refusal states that the proposal "*is not considered legitimate or necessary within the area.*"

The undersigned cannot comprehend how a water reservoir and pump room are "not considered legitimate or necessary" in an agricultural field where the cultivation of crops requires water in order to be successful.

It is be pointed out that the size of the reservoir has already been reduced considerably than what was originally proposed. Furthermore, the pump room is being re-located as shown on the attached fresh plans so as not to interfere with agricultural activity.

The undersigned would also like to point out that a reservoir had already been approved on part of the same site through DN/1626/14, however this had never been constructed. The reservoir being proposed in this application is essential for the applicant in order to irrigate the crops being cultivated on his agricultural land, and is therefore necessary for the agricultural activity taking place on the site.

#### **Reason of Refusal 4**

The illegal structure mentioned in this reason of refusal has already been removed, as can be seen on the attached photos, see Photo 8, Annex 2. Hence this reason of refusal is no longer applicable.

#### **Reason of Refusal 5**

This reason of refusal refers to alleged illegalities in the form of:

- A wide passageway from the site entrance leading to the existing ramp proposed for sanctioning which is partly paved in concrete
- Installation of a timber gate at site entrance
- Construction of walls with fence and planters along the entrance
- Dumping of inert material next to the noted illegal structure

Regarding the passageway which connects the ramp at the site entrance to the ramp connecting the two fields, this has in fact already been removed (see Photo 7, Annex 2). As also previously stated, the ramp at the site entrance is also being proposed to be removed as per the demolition plan and hence this illegality is being removed.

The timber gate at the site entrance is being proposed for sanctioning. The width of the gate is not wider than 4.5m and hence in line with policy 2.9 of RPDG2014, whilst in terms of height, although admissibly higher than 1.2m, it is identical to that found at the entrance of the adjacent development, see photo 2, Annex 1. In fact, doc. 95a of PA/6098/17 on the adjacent site shows the gate marked in a blue colour. Hence the gate on the adjacent development has been sanctioned through PA/6098/17. Hence the undersigned is of the opinion that if such a gate can be approved on the adjacent site, then an identical gate on the appellant's site should also be approved.

The planters along the site frontage are also similar to those on the adjacent site. Such planters were constructed following the reconstruction of the road fronting the development, as can be seen from

photo 1, Annex 1. Once again, the planters in front of the adjacent site have also been shown on the plans approved in PA/6098/17, doc. 95a. Hence once again the Planning Authority is being inconsistent and discriminatory against the appellant in its assessment of this application, whilst blatantly favouring the applicant in PA/6098/17.

Regarding the dumping of inert material next to the illegal structure, there is in fact no inert material in this part of the site as can be seen in Photo 8, Annex 2. Hence it cannot be understood how the Planning Authority arrived at this conclusion and therefore this alleged illegality is not applicable.

Therefore, it is hereby being respectfully requested that the above submissions are duly considered by the Environment and Planning Review Tribunal during its assessment and adjudication of this appeal such that the Planning Authority's decision to refuse this application is overturned and the proposed development may be approved.

Yours faithfully,



PERIT  
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**Attached:**

- *Annexes 1 & 2 showing site photos*
- *Planning Authority's Refusal Decision Notice*
- *Site Plan*
- *Fresh Plans showing demolition plan, and proposed re-location of agricultural store and pump room*
- *Proof of payment of appeal fees*