

## The Environmental and Planning Review Tribunal

**Application No.:** PA/02972/22  
**Location:** *Seascape Court, Flat 10, Triq De Rohan, Marsaskala*  
**Proposal:** *Construction of pool and planters at roof level*  
**Our Ref:** 00758  
**Date:** 7 February 2023



To whom it may concern,

The appellant is hereby objecting to the refusal of issuing a development permit for the above-captioned site. The application was submitted on the 20<sup>th</sup> of April 2022 and subsequently refused on the 27<sup>th</sup> of April 2023. The reason for the refusal given by the Planning Authority was as follows;

*The proposed swimming pool at the uppermost roof level may potentially trigger privacy issues due to overlooking and may give rise to eventual request to increase the height of party walls to mitigate these issues. This space should be solely reserved for the placing of services, as outlined in DC 2015, policy P35, and thus, the proposed pool is objectionable. The proposal therefore also runs counter to the Urban Objective 3 of the Strategic Plan for Environment and Development which aims to protect and enhance the character and amenity of urban areas.*

- We are of the opinion that the above runs counter to any logic considering the site's configuration.
- In the terrace situated below the proposed pool, is a pool that was approved via permit PA/02685/19, where the approved pool was never scrutinized as causing overlooking.
- The refusal decision specifies that this permit may give rise to the eventual increase of the height of party walls. The pool as was proposed is not next to a party wall but rather on the edge of the building.
- A 1.00m planter is being proposed to be constructed at the edge of the pool to act as a safety barrier as well as no mitigate overlooking issues.
- All services (water tanks) are to be placed at basement level on a shelf of 750mm left over during the excavation of the block and water pumped to the apartments above the basement.
- The Planning Authority's case officer never consulted the client/Architect regarding the pool. In fact, the target date for this file was on the 10<sup>th</sup> of September 2022 and the DPA report was finalized on the 21<sup>st</sup> of December 2022, never giving us any feedback whatsoever.
- Below is a list of approved permits having pools at the roof level. Some of which do not have any setbacks from edges or party walls. It is to be noted that all pools that are approved at roof level, will always cause overlooking since no part of the development can be higher than the stipulated maximum allowable building height for the area. Hence, only a 1.00m parapet wall can be constructed which will certainly not mitigate overlooking issues.

Case Number	Proposal	Location
PA/00248/18	Extension and internal alterations at level 8 along with the sanctioning of balconies at this same level. Construction of an additional floor (penthouse) at level 9 (1 unit) and proposed pool at roof level.	202 Flat 15 Triq it-Torri c/w Triq il-Creche Sliema Malta
PA/06837/18	Construction of basement garages maisonette at elevated ground floor three apartments and duplex penthouse including pool at roof level with a different layout from that approved in permission PA 3565/15.	57 Triq il-Kattidral Sliema Malta
PA/06104/19	To demolish existing residential unit at first floor level including also staircase from ground floor to first floor. Construction of three 3-bedrooms units and a 2-bedroom unit at penthouse level along with construction of pool at roof level. In addition the installation of a lift from first floor level upwards.	11 Rustique Triq tal-Qares Mosta
PA/00048/19	To propose variations from PA/08414/17 which includes; the demolition of existing first and second floors the construction of 6 typical apartments and a penthouse (total of 7 units) along with a pool at roof level and lift at all levels.	70 Berlin Dawret il-Gzejjer Bugibba San Pawl il-Bahar
PA/06007/19	Demolition of existing building. Minor excavation and construction of basement level with a 2 car garage and basement. Construction of three levels of residential units consisting of a triplex maisonette one apartment and one duplex penthouse with pool at roof level.	56 Triq Santa Liena Triq Alessandra Cospicua (Bormla)
PA/03480/20	Demolition of existing residential unit and construction of a semi basement garage and construction of 5 residential unit a penthouse and a pool at roof level	10 St.Laurent Triq in-Nadur Marsascala
PA/04798/20	To demolish existing dwelling and construct basement garage four apartments and onepenthouse including excavation of basement and construction of swimming pool at roof level.	221 Sharazan Triq Tumas Chetcuti Attard
PA/04494/20	Demolition of existing terraced house excavation of garage construction of 5 apartments over 5 levels and a pool at roof level.	5 Mr. Paul Triq Giorgio Mitrovich Pembroke
PA/06546/20	Additions and alterations to existing dwelling and construction of two apartments at 2nd to 3rd floor with a different layout from that approved in permission PA/8043/19 and a receded duplex three-bedroomed apartment at 3rd and 4th floor with pool at roof level	14 Regina Maris Triq Mikiel Abela Qajjenza Birzebbuga
PA/02918/22	To demolish existing residences; Construction of garages at basement level overlying 9 residential units and pool at roof level.	125 127 Triq Leli Falzon Naxxar
PA/04732/22	Demolition of existing dwelling excavation and construction of 3 basement garages 1 maisonette 3 apartments (first second and third) and 1 receded apartment including pool at roof level.	3 Triq Emmanuel Schembri Birkirkara

PA/04638/22	Proposed demolition of existing terraced house excavation of basement reservoir and lift pit and construction of reservoir under basement basement garages 1 maisonette at ground floor with pool in back yard 3 overlying apartments a penthouse at receded level and services and terrace with pool at roof level.	26 & 28 Amorevolezza Triq San Gwann Bosco Dingli
PA/02718/21	To construct pool at roof level	L'Edera Court 4 (Penthouse) Triq il-Kulleġg Mosta
PA/06501/21	To demolish existing residence and construct 3 basement garages and overlying 5 residential units. Receded unit has a pool at roof level.	Hope Triq il- Ferrovija l- Qadima Birkirkara
PA/08534/21	Uprooting of existing vegetation excavation of site construction of three basement garages 1 maisonette at ground floor level 3 overlying apartments at first second and third floor and 1 penthouse at penthouse level including the construction of a pool at roof level.	Vacant Site Triq il-Mahsel Marsascala
PA/04056/22	Proposed demolition of existing dwellings and construction of 2 car garage at street level 1 duplex maisonette at ground floor and basement level apartments at first second and third floor and penthouse at recessed floor with pool at roof level.	Peter 31 Triq Dun Manwel Grima Manikata Mellieha

In view of the above statements and further submissions that the appellant reserves to make, we ask the Tribunal to revoke the decision of the Planning Authority and consequently order the said Authority to issue the relative permit, and this under the conditions that the Tribunal deems appropriate.

Sincerely,

**Karl Borg,**

B. E. & A. (Hons.)(Melit.), A. & C.E.  
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