



11th February 2023

**The Environment and Planning Review Tribunal**

*Nru. ta' l-Applikazzjoni:* PA/4726/22

*Lokazzjoni:* 28, Billabong Bar, Triq Andrew Cunningham, San Pawl il-Bahar

*Proposta:* To remove existing concrete build-out and to fix a demountable timber platform to place tables and chairs with protective bollards.

*Ref. Taghna:*

*Ref. Tribunal:*

**Lawrence Grech**

**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 25<sup>th</sup> January 2023.
- III) The appellant feels aggrieved by the 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 It is clear that the application should have been considered acceptable to the Authority on the strength of the applicable policies which are clear in enabling the proposed development and also on the strength of identical permits issued on sites within touching distance from the site in question.
- 1.2 The Authority could not and should not have refused the application simply because it intensifies the use, since the current use is a legitimate use and hence the current application consolidates and compliments the said use.
- 1.3 Reference is made to PA 3817/17 which refers to an identical permit on the very same site. In that application, which was approved, but was later dismissed for non compliance with post decision requirements, the Authority argued as follows:

*The North West Local Plan designates the area as Residential. Catering establishments are not one of the allowable uses in policy NWUS3 of the North West Local Plan. However, given that: (a) the premises is already legally operating as a catering establishment; (b) the premises under consideration is located in an area characterised with mixed use development such as hotels. then, the provisos E and G of Partial Review of Subsidiary Plans: General Policy relating to Regeneration/Consolidation Initiatives can be applied for this proposal on this particular site.*

*Therefore, the intensification of use including the outdoor tables and chairs are deemed acceptable. Existing Tables and Chairs The proposed outdoor tables and chairs together with the platform and railings conform with S1, S5, P1, P8, P11, P17 of Policy, Guidance and Standards for Outdoor Catering Areas on Public Open Spaces in terms of unobstructed free flow of pedestrians, location, extent of platform, safety, setback from garage door jamb and design.*

- 1.4 Furthermore, in that same application, the TM endorsed the proposal.
- 1.5 The application was dismissed because of non-compliance with an unrelated matter, which matter was then subject to permit PA 8976/21.

- 1.6 It is inconceivable how the Authority, or any consultee, argues and decides identical cases in a different manner eventhough the policy framework did not change.
- 1.7 This current application should have been considered in the same way that the previous application (as approved) was determined and decided by the same Commission within the Authority.
- 1.8 The Considerations that lead the Transport Authority not to favourably consider this proposal are manifestly wrong and contain facts that do not represent tha actual facts of the application
- 1.9 It is this evident that the proposed development is acceptable in the area in question.

In view of the above, and further submissions that the appellant reserves to make, the appellant requests the Tribunal to annull the decision of the Commission, and order the approval of the application ins question and hence the issue of 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.



**Av. Ian J. Stafrace**  
**9/4 Britannia House**  
**Old Bakery Street**  
**Valletta**