

28th February 2023



The Environment and Planning Review Tribunal

Nru. ta' l-Applikazzjoni: PA/6085/22

Lokazzjoni: 131, Triq il- Wied Tal-Imsida, Imsida

Proposta: Change of use at second floor of approved (PA 3633/00) showroom (Class 4B) to personal training fitness studio (Class 3C) to sanction slight variation to approved permit and installation of sign to existing façade.

Ref. Taghna:

Ref. Tribunal:

Montebello Jeffrey

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 8th February 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 fact that the building in question is a legitimate building which is also covered by permits PA 3633/00 and PA 4194/05;
- 1.2 Most importantly reference is made to PA 7316/97 which was issued further to a decision of the Planning Appeals Board in PAB 420/98, wherein the alignment issue was raised but superceded by the Tribunal. This permit referred to the outline permit on the strength of which PA 3633/00 was then approved precisely to build the floor on which the change of use in the current application was being sought. In PA 7316/97 the Authority had specifically argued as follows:

5.6 The Board may also note that the existing building on which the proposed 2nd floor is affected by a service road as indicated on a scheme plan blue22 in PA7316/97 subject to this appeal. The permit already issued on site (alterations at 1st floor) has already jeopardized the possible provision of a service road according to the scheme. Further development on site is likely to aggravate this situation even more."

Yet the Tribunal overruled this reasoning and approved the Permit.

- 1.3 Prior to that PA 2002/95 was issued in relation to the first floor of the same building. This permit likewise had approved the ground floor and first floor of the said building within the same footprint as the same building is today.
- 1.4 The second reason of refusal is completely irrelevant and the Malta Tourism Authority has no say in the proposed use.
- 1.5 It is thus evident that the proposed development is acceptable in the area in question and should be approved.

In view of the above, and further submissions that the appellant reserves to make, the appellant requests the Tribunal to annul the decision of the Commission, and order the approval of the application in 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.



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