



ENVIRONMENT AND PLANNING REVIEW TRIBUNAL

Case Ref: PA/00085/21

Application type: Full development permission

Applicant: Titan Developments Limited Attn: Mr Victor Hili

Architect: Perit Ray Demicoli

Proposal: Proposed excavation of site to required levels, proposed construction of basement garages to accommodate 61 car spaces and 38 overlying residential apartments including landscaping.

Location: Site at, Triq il-Qortin, Nadur

Appellant: Din I-Art Helwa

THIRD PARTY APPEAL

Whereas the appellant humbly submits, and premises as follows:

The following document is an appeal from the Planning Commission's decision to approve this application, which decision was published in the Government Gazette on the 15th of February 2023.

The appellant is a third-party registered objector and interested party for all intents and purposes at law.

The appellant feels aggrieved by the decision referred to above, and by means of this application is requesting this Tribunal to revoke the Planning Commission's decision on the development permission referred to.

GROUND OF APPEAL:

1. Flawed application of GZ-EDGE-1 through incorrect consideration and interpretation of DC15 P35 - Number of floors approved exceeds the number of floors permitted in the applicable Local Plan policy.
2. Disregard of further provisions of DC15 – P26, P33, P45
3. Baseless dismissal of applicable policies in breach of CHP 552, Art. 72(2)
4. Planning Commission's decision based on misleading photomontages
5. Issues regarding ownership of site which may impinge upon the process

1. Flawed application of GZ-EDGE-1 through incorrect consideration and interpretation of DC15 P35 - Number of floors approved exceeds the number of floors permitted in the applicable Local Plan policy.

The site is subject to policy GZ-EDGE-1. The policy sets a height limitation of 2 floors. A setback floor may only be permitted if the site does not qualify as a ridge edge. Any permitted setback floor would have to be recessed by 4.25m from each façade.

The development was approved having 3 floors plus a recessed floor stepping down to 2 floors along Triq il-Qortin, and three floors plus two recessed floors stepping down to three floors along the ODZ facing façade. The recessed floors along Triq il-Qortin were approved with a setback of only 3.4m from the façade.

The sole consideration of Annex 2 without due consideration for the maximum number of floors permitted under policy GZ-Edge-1, has resulted in the approved development having between one to two additional floors over and above that which should have been permitted. The proposal additionally fails to respect the clear requirement for any permitted recessed floor to have a 4.25m setback from each façade.

It is being held that adherence to the numerical interpretation provided in Annex 2 cannot be assumed to permit an increase in the number of floors over and above that specified in the Local Plans so long as the minimal internal height is respected. Such an interpretation is in breach of the Local Plan as well as P35 and should be overturned for this reason.

2. Disregard of further provisions of DC15 – P26, P33, P45

The approval of this development was additionally in breach of P26, P33 and P45 given that the Commission approved long and narrow units, with some having no frontage on a public road, and should be overturned for this reason.

3. Baseless dismissal of applicable policies in breach of CHP 552, Art. 72(2)

The Planning Commission failed to correctly interpret and apply DC15 P35 as well as Local Plan policy GZ-Edge-1 and went on to completely dismiss further applicable policies of DC15. The failure to adhere to the clear and specific applicable policies was not based on any valid planning grounds nor other material considerations that could justify such a departure from policy. As such it is being held that the decision was in breach of Art. 72(2) of CHP 552 and should be overturned for this reason.

4. Planning Commission's decision based on misleading photomontages

It is being held that the photomontages presented by the applicant failed to adequately represent the true extent of the visual impact of the proposal. The Commission's decision to approve the development was directly influenced by these photomontages and therefore cannot be considered to have been based on correct information and should be overturned for this reason.

5. Issues regarding ownership of site which may impinge upon the process

For these reasons the appellants are humbly requesting this Honourable Tribunal to overturn the decision taken by the Planning Commission and refuse the development.



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List of witnesses:

1. The appellants and the applicant
2. The Planning Authority
3. Employees of and consultants to the Planning Authority
4. Architects and field experts
5. The Lands Authority
6. Employees of and consultants to the Lands Authority
7. Objectors
8. Owners of sites and companies related to the site
9. Public Registry representatives
10. Other witnesses