

PA Ref: PA/06360/22

**The Chairman,
Environmental and Planning Review Tribunal,
Floriana.**



5th April, 2023

PA Reference:	PA 06360/22
Project:	To sanction changes to approved basement level garages over site covered by PA/01406/03. Sanctioning includes changes to garage layouts and complete level -2 which was not built making a loss of 3 garages in total.
Location:	Garages at 74/76, Vjal il-Labour, Naxxar

Appeal Submission against the Planning Authority’s Decision to Refuse PA 06320/22

We, the undersigned Architect and Civil Engineer Nicholas Mallia and lawyers Dr. Edward Gatt LL.D and Dr. Mark Vassallo LL.D, have been instructed by Mr. Joseph Camilleri on behalf of Transmec Services Limited to lodge an appeal against the decision by the Planning Authority to refuse the proposed development as per PA 06320/22.

Attached to this appeal submission, the following documents are being attached:

- **Document 01:** Plans;
- **Document 02:** Site plan;
- **Document 03:** Section;
- **Document 04:** DPA Report;
- **Document 05:** PA06360/22 – 69b
- **Document 06:** PA06360/22 – 69c
- **Document 07:** Section Elevation

- **Document 08:** Letter to the Authority dated the 30th January, 2023.
- **Document 09:** Decision Notice dated 22nd February, 2023;
- **Document 10:** Receipt of Appeal's fee;

1. BACKGROUND

- 1.1 The full development application with reference PA 06360/22 was submitted on the 13th of September, 2022 requesting the authority to “*sanction changes to approved basement level garages over site covered by PA/01406/03. Sanctioning includes changes to garage layouts and complete level -2 which was not built making a loss of three garages in total*”.
- 1.2 The application was refused based on the following two reasons:
 - (i) The domestic store to be sanctioned runs counter to the provisions of policy P17 of the Development Control Design Policy, Guidance and Standards 2015 since access width exceeds 1.5 metres and it has direct access onto a public road. 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.
 - (ii) The proposed sanctioning of the removal of basement level -2 has resulted in the loss of previously approved required parking running counter to Thematic Objective 10.6 of the Strategic Plan for Environment and Development Policy and runs counter to the Vehicle Parking Standards of the Development Control Design Policy, Guidance and Standards 2015 (Annex 1). It will also give rise to unacceptable additional on-street car parking which would not be in the interests of the amenity of the area.

Appellant feels aggrieved by this decision and is hereby submitting its appeal in terms of Article 13 of the Environment and Planning Review Tribunal Act, 2016

2. Grievances

(i) **The removal of the domestic store**

- (a) By means of a letter dated the 30th January, 2023, appellant addressed the issue of the domestic store indicated in the DPO report by informing the Authority that the domestic store had been removed and the area interconnected to garage number “2” as evidenced on drawings PA06360/22 – 69c and PA/063602/22 – 69b.
- (b) Contrary to what is stated in the decision, access to the area in contention is through a private access ramp and not directly from the public road.
- (c) The width of the opening was previously approved in PA/01406/03. Notwithstanding this, if the EPRT requests a reduction, then the applicant is prepared to reduce the opening to less than 1.5m.

(ii) **Previously approved required parking.**

- (a) The existing development requires seven unobstructed and one obstructed parking spaces, six parking spaces for the six apartments, and another two parking spaces for the three-bedroom penthouse.
- (b) The existing basement layout consists of six garages in total, three of which cater for two vehicles as shown on PA/06360/22 - 69c and PA/06360/22 - 69b, hence having a shortfall of only one parking space for the whole existing development.
- (c) Reference is made to PA/07262/07 which approved the construction of a penthouse over existing building. This application indicated and included nine garages in total spread over two basement levels. The lower basement level was never built and therefore PA/07262/07 was approved following the submission of misleading or even false information. This information may be viewed on the DPAR report marked PA/07262/07 – 12.
- (d) In view of the above it is evident that the shortfall of parking spaces is a direct result of the approval PA/07262/07 and not a consequence of the omitted basement being sanctioned in PA/06360/22.

- (e) The parking shortfall was not addressed during the processing of PA/07262/07 due to a misrepresentation of information. This misrepresentation should not prejudice applicant's application but if anything, it should be addressed to the applicant of PA/07262/07.
- (f) It is clear that the actions of third parties extraneous to this application have affected the outcome in an unjust and unfair manner. Applicant should not be held accountable or be made to answer for potential mistakes or illegalities of third parties.

3. Appeal requests

Therefore, appellant is hereby asking the Tribunal to favourably consider this appeal and overturn the Planning Commission's decision after reviewing any submissions and other documentation / evidence submitted during the process of the application.

The appellant reserves the right to request a site inspection by the Tribunal.

In addition, the appellant reserves the right to produce witnesses and evidence necessary to substantiate the grievances indicated in this appeal.

Kind Regards,

Perit Nicholas Mallia

Av. Edward Gatt

Av. Mark Vassallo

