

CARMELO GALEA & ASSOCIATES
ADVOCATES

83, Sir Luigi Camilleri Street, Victoria, VCT 2706,
Gozo, Malta

Tel: (+356) 2156 3348

**ENVIRONMENT AND PLANNING
REVIEW TRIBUNAL**

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02 MAY 2023

**ST. FRANCIS DITCH
FLORIANA**

28th April 2023

The Environment and Planning Review Tribunal
St Francis Ravelin,
Floriana

Re Case Number: PA/01503/22
Location of Development: Site at, Triq I-Imgarr, Xewkija
Description of Works: To construct ten (10) stables with ancillary facilities together with underground reservoir, rubble walls and installation of a timber gate.

I write on behalf of my client of Brian Magro holder of Identity Card number 26179(G) residing at Plot 61, Triq tal-Hamrija, Xewkija, Gozo and make reference to the Planning Authority Decision to refuse the aforementioned application published on the 12th of April 2023. My client was the applicant in this proposed application.

That the Planning Authority refused the permission for the development for the following reasons:

1 The proposal is considered to alter the rural characteristics of this open and undeveloped rural landscape (identified panoramic route), in that it shall result in adverse visual and environmental impacts on the surrounding landscape, which is relatively free from similar commitments. Hence the proposal (both stables and boundary rubble wall) runs counter to the provisions of policy 1.2H and 5.2 (4d) of the Rural Policy & Design Guidance (RPDG) 2014 which seek to protect, conserve, maintain & enhance the rural areas. The proposal also runs counter to Rural Objective 4 of the Strategic Plan for Environment & Development to protect the landscape by controlling the location and design of rural development.

2 The proposed development runs counter to the provisions of policy 5.2 of the Rural Policy & Design Guidance (RPDG) 2014 in that the stable complex lies within the 100m from public groundwater abstraction sources. The proposal thus goes against the Thematic Objectives 4, 6 and 8 of the Strategic Plan for Environment and Development 2105, which seek to protect water quality.

On behalf of my client, the applicant, I am hereby submitting an appeal against this decision since he is feeling aggrieved by the decision and the appeal is being lodged on the following grounds:

That originally the case officer's report submitted in the present application was recommended for refusal for the exact same two (2) reasons given by the Planning Authority to refuse this permit.

i) Addressing the First Reason for Refusal

It is factually incorrect that the site relative to this application is free the similar commitments. That the applicant's architect has already indicated before the Planning Authority the area surrounding the site subject to this present application is full of commitments which are pre-1968 structures including agricultural stores, poultry farms and pig farm. The architect has submitted a block plan which is marked as document 69b indicating these structures.

Consultation with third parties were made including the AAC. No objection was made and in fact the same AAC gave its recommendation by stating that the "applicant is obliged to plant and maintain at least 3 tumolo of his holding with indigenous / endemic or local varieties of fruit trees such as olives at a maximum distance of 4m from each other or a minimum of 210 indigenous trees within his holding".

The applicant never objected to plant the requested indigenous trees which will screen the proposed timber stables. He is willing to observe and respect any recommendation given by the consultation groups. Thus, there will be no adverse visual and environmental impacts on the surrounding landscape as the applicant will adhere strictly to the recommendation given by the AAC.

Thus, the first reason for refusal should be overturned.

ii) Addressing the Second Reason for Refusal

The applicant had originally applied to build the stables at a distance of more than 100 metres from a groundwater abstraction source and thus in line with the provisions of policy 5.2 of the Rural Policy & Design Guidance (RPDG) 2014.

Subsequently upon ERA's recommendation the structures were shifted and due to that it is true that factually the stables are now within 100m from groundwater abstraction sources.

However, the Policy does not outright prohibit such type of applications. In fact, Policy 5.2 of RPDG 2014, point e. states that:

"Applications located within the groundwater protected zone will adopt mitigation measures against the pollution of groundwater."

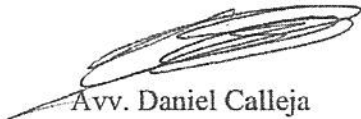
Thus, the interpretation of this policy should be that if the applicant provides sufficient mitigating measures the development is permissible. The applicant in document 62b duly indicated a section A-A of an impervious membrane layer which was proposed below the ground slab of the stables to avoid any penetrations that could be harmful to the ground water.

Thus, these mitigating measures are more than adequate and will protect the water quality. Thus, the Thematic Objectives 4, 6 and 8 of the Strategic Plan for Environment and Development 2015 will be respected since its aim will be achieved with the proposed impervious membrane layer.

Thus, the second reason for refusal should be overturned.

In view of the foregoing it is being respectfully requested that this Board overturns the decision reached by the Planning Commission on the 28th March 2023 and published on the 12th April 2023 and grants the permit being sought by applicant.

Evidence of the payment of the relative fee is attached to this appeal.



Avv. Daniel Calleja

Notifika: Awtorita' tal-Ippjanar – St Francis Ravelin, Floriana, Malta