

5th October 2018
106/2018

REPORT BY THE CHURCH ENVIRONMENT COMMISSION ON ST RITA PRIORY SITE PROJECT

Introduction

This report has been prepared by the Kummissjoni Interdjoċesana Ambjent (KA) at the request of Archbishop Charles J. Scicluna.

The report refers to development application PA10598/17 for a development on St Rita Priory site which is owned by the Augustinian Order (henceforth referred to as the Order). The application for the development was submitted by Bay Street Hotel Complex Limited (henceforth referred to as the Applicant).

The proposed development is for a 12-storey four-star accommodation building and office complex, with a language school and offices at basement level and a further 5 basement levels for 246 underground parking spaces.

The site is bounded as follows: to the north is the steeply sloping Sqaq Lourdes, to the south is Upper Triq Santu Wistin, to the west is the priory and chapel and to the east is the bowling alley and language school (Annexes 1 and 2).

The KA has drawn up this report¹ by referring to the application that has been submitted to the Planning Authority and the plans that were available to the public as at 30th July 2018. **The KA bases its analysis of a proposed development on publicly available development application documents.**

Is the proposed development according to the Local Plan?

In broad terms, one can initially argue that the proposed development may be compliant with the North Harbours Local Plan when one considers that the site may be subject to the Floor-Area-Ratio (FAR) policy. In later sections, it is however shown that the proposal is not compliant with the FAR policy and therefore not compliant with the Local Plan.

The following is an explanation and clarification of the above statement:

¹ In drawing up its opinion, the KA consulted with Dr John Ebejer, an urban planner and architect with 24 years of experience in the public and private sector.

1. The site falls within the residential buffer zones as designated in Policy NHPV 12 of the Local Plan. The buffer zones separate the commercial area of Paceville (designated as Secondary Town Centre in Map PV 1 of the Local Plan) and a small residential area adjoining the Regional Road.
2. Local Plan policy NHPV 12 allows for terraced development (i.e. it changes the area designation from the previous detached/semi-detached to terraced development). The policy refers to heights “between 2 and 4 floors” for this area. In dealing with a buffer zone, the policy includes various provisions that make it particularly difficult to interpret. **Planning policy is by its very nature subjective and the difficult wording of the policy adds to the subjectivity.**
3. On uses, the policy allows “uses which are of a small-scale and that have a low impact. These uses should complement the nearby tourism activities, and should be located only at ground floor level. MEPA will ensure that these uses will fully safeguard the amenity of adjacent residential units by imposing strict conditions. Uses which inherently entail unacceptable impacts will not be favorably considered”. It seems that there are no uses within the proposed development that would unduly impact nearby residences.

Is the Floor Area Ratio (FAR) policy applicable to this site?

The use of the Floor Area Ratio (FAR) policy cannot be credibly applied to this site, for reasons given in paragraphs 3, 4, 6 and 7 below.

The following is an explanation and clarification of the above statement:

1. The Local Plan policy allows for terraced development. The policy refers to heights “between 2 and 4 floors” for this area. The Floor Area Ratio policy can be applied in areas that are designated for terraced development.
2. A crucial element of the concept of FAR is to create public spaces for pedestrians. This is achieved by allowing higher development over part of the site, compensated for by designating other parts of the site as public open space. The provision of public open space would be an argument in favour of allowing part of the site to be developed as a tall building (i.e. a building more than 10 floors). On the other hand, as demonstrated in Section D below, the proposed development does not provide enough public open space to meet the requirements of the FAR policy.
3. The proposed development does not satisfy the requirements of FAR policy paragraph 5.5(b), which states that for FAR to apply, a site has to be one that “occupies a completely detached urban block surrounded by existing or

planned streets, irrespective of the land area of the site”. If anything, the proposed development demonstrates why the FAR policy is only allowed for a completely detached block. If permitted, the proposed development would give rise to a blank party wall of an area of 870 m², with a height ranging from 6 to 8.5 floors (18 to 25.5m) (see Annex 8).

4. For new developments, party walls are to be avoided. Large areas of blank wall are unsightly and degrade the visual aspect of the streetscape. In many cases, it cannot be avoided where a building is designed in accordance with the height limitation. However, that is not the case here. The site under consideration can be developed without creating large areas of blank party walls. In terms of urban design quality, the large party wall is a strong argument against allowing a tall building on this site.
5. It is worth noting that the FAR policy (page 46) specifies: “All future development applications would need to satisfy all the requirements to be eligible for the adoption of the FAR. MEPA will not give any weight to previous decisions or practices in the determination of such applications.”
6. Policy 5.11 of the FAR policy considers the relation of a proposed tall building to its context: “Tall buildings need to respond positively to their context including natural topography, scale, height, urban grain, streetscape and built form, and the skyline. Tall buildings should be sited where **visual impact on sensitive historic environments and their settings** such as World Heritage Sites, conservation areas and **scheduled buildings** is minimised”. The St Rita Priory and Chapel are scheduled Grade 2. One end of the proposed 12-storey building is just a couple of metres away from the Priory. Clearly, the proposed tall building will be intrusive on and detrimental to the setting of the scheduled building, even though such setting is unrecognisable from the time when the priory was built.
7. It should be noted that in a letter dated 21st June 2018, the Superintendent of Cultural Heritage objected to the proposed development on the grounds that: “The proposed height and proximity of the development will dwarf the scheduled property and continue to detract it from its original context, further rescinding the heritage value of the property” (Annex 9). The KA cannot fail to comment, however, that the original context of the scheduled property has long been lost due to nearby developments.

Is the Floor Area Ratio (FAR) policy being applied correctly?

Notwithstanding the above conclusion, an analysis on whether the FAR policy is being correctly applied for the proposed development is required. **The Floor Area Ratio policy is not being applied in a correct manner, for reasons given in 2 and 3 below.**

The following is an explanation and clarification of the above statement:

1. The Floor Area Ratio policy states: “Tall building schemes should create **high quality, public open space** within the site through proper site layout and arrangements. The development should promote **consolidated outdoor public spaces that are safe and attractive for all, and which meet the needs of both the users of the building and the wider neighbourhood**. Public open space should **encourage people to linger** and incorporate well-designed landscaping and street furniture – lighting, seating, litterbins, signage, public art, etc. – without creating clutter. The management and maintenance of these spaces needs to be specified in a planning gain obligation and agreed to by MEPA. The scale of **public open space** should never be less than **50% of the site area**” (par. 5.12).
2. There is one single access point to this space and this single access point is controlled by a gate. Upon completion, it will be very easy for the operator to keep this gate closed and only allow people making use of the proposed facilities (catering and others) to access this space (i.e. access will be from the other side of the space, through the building). The FAR policy (page 59) defines ‘public space’ as space that “is fully accessible and useable by the general public and its benefits accrue to the general public”. The policy defines ‘private space’ as space where “access is restricted only to the owners/operators/users of the development and its benefits accrue only to the owners/operators/users either as a community or on an individual basis”. **The open space as designed can easily be turned into private space, and not be public space, and therefore cannot be used to justify a building higher than the height limitation.**
3. The FAR policy requires that 50% of the site is public open space. Even if public access to the space is resolved, this requirement will still not be met. Part of the space cannot be considered as public because either (i) it is dedicated to tables and chairs or (ii) it is taken up by sizeable light wells to provide air and light to rooms at level -1 (see Annex 7).

Representations submitted to the Planning Authority

There were submissions to the Planning Authority relating to this proposed development as follows:

Stakeholders:

- Objection letter from Superintendent of Cultural Heritage (referred to in Section C7 above and shown in Annex 9).

External representations:

- Din l-Art Ħelwa objected as follows: “DLH is concerned with the effects of such a large-scale construction, namely the traffic congestion it will cause, the large exposed blank wall created and the grade 2 scheduled building which will be overpowered by this towering structure next to it” (Annex 10).
- Objection letter from Eden Leisure Group (Annex 11).
- Letter by a resident: No objection provided that his property on Sqaq Lourdes will be allocated the same development rights as those that may be given to this development (Annex 12).

Procedural concerns

1. The FAR Policy (page 30) requires the Applicant to submit an ‘urban design study/character appraisal’, a Visual Impact Assessment and a Design Statement. Whether these have been submitted to the required quality and standard is debatable, even if the Applicant may contend that sufficient information has been submitted for the Planning Authority to evaluate the application.
2. According to para 6.5 of the policy: “Applicants also need to provide a written Design Statement that sets out the rationale for the proposal, its architectural concepts and design philosophy, and **the particular qualities of the site that make it suitable for tall buildings ...**”. In other words, the applicant has to provide a justification why a tall building (i.e. a building more than 10 floors) should be allowed on this site. This is an important procedural requirement and it should not be taken lightly. Permitting a tall building is an important decision that will affect a wider area. The requirement for a proper justification from the applicant is essential to minimize the possibility of irreversible negative impacts being committed. No such justification could be found as part of the application’s documentation available to the public.

3. According to the Floor Area policy there are four important parameters, which need to be computed to determine whether development applications are eligible to adopt the FAR policy namely: (i) the site area (ii) the developable site area (iii) the developable gross floor space and (iv) the amount of public open space.
4. The applicant's Project Description Statement (Annex 2) gives a justification for the application of the FAR ratio policy based on the provision of an open space in front of the historic structure and an improved pedestrian experience. In terms of justification this is substantially inadequate. Moreover, computation for the four parameters are required to determine the maximum height of building that would be permitted. If such a computation has been prepared by the applicant, it does not seem to be publicly available.
5. The KA will communicate with the Planning Authority proposing that, whenever the FAR policy is being referred to by an applicant, a statement should accompany the application which shows the computation of the open public space parameters that need to be satisfied to determine the maximum building height. Such a statement has to be publicly available.

Recommendations related to development at St Rita Priory Site

The KA's recommendation relating to the proposed development is that the proposed plans should be revisited for the following reasons:

1. The development is contrary to the Floor Area Ratio policy;
2. The site is not amenable to the development of a tall building (i.e. a building higher than 10 floors).
3. A twelve-storey façade overlooking Upper Triq Santu Wistin is excessive, and badly impinges on nearby residents and users of the street (see Annex 6).
4. The proposed twelve-storey building is excessively close to the priory which is a scheduled Grade 2 building.

If any development at the St Rita site is to be carried out, then the KA believes that this should take place within a public consultation exercise that determines the optimal use of such a site, and not exclusively in terms of future revenue streams for the owners, but in terms of the future benefits that can accrue to the Paceville/Swieqi communities and visitors to the area. Any development in the area will require that the open space to be created will be accessible to the public from both sides (i.e. Sqaq Lourdes and Upper Triq Santu Wistin) and what remains of the context of the Schedule Grade 2 building is respected.

The development of this and similar sites in the St Julian's/Swieqi/Pembroke areas highlight the need for a total review of the Local Plan that incorporates these areas. The last public consultation for the Local Plan of this region was carried out in 2000. Too many changes have taken place since then which require a review of the Local Plan. **The KA has highlighted the need for such a review several times to the authorities, and once again appeals to the authorities to undertake such a review as a matter of urgency.**

Reaction to amended plans of St Rita Priory Project (PA10598/17)

Addendum to the report on St Rita Priory site project

In August, Kummissjoni Interdjoċesana Ambjent (KA) finalised a detailed report on the proposed St Rita Project. The KA presented its case to the landowners and was of the opinion that the project should be revisited on various grounds which are listed in the report.

The KA notes that revised plans for this project have recently been submitted to the Planning Authority. However, in the KA's opinion, these plans are not materially different from the original ones. The main difference is that the height of the building is slightly lower than originally proposed. This means that its allowable height will not be determined by the Floor-Area-Ratio Policy, but through other policies which, through the piecemeal amendments over the years, have the tendency to become strictly more geared to developers' requirements than to communities' needs.

The KA is of the opinion that the process which led to the submission of this project's plans should have centred more on the needs of the community than focusing purely on the financial returns that an ordinary Maltese developer would have sought. Such a community-focussed process could have led to a totally different project than the one proposed, both in terms of height and use.

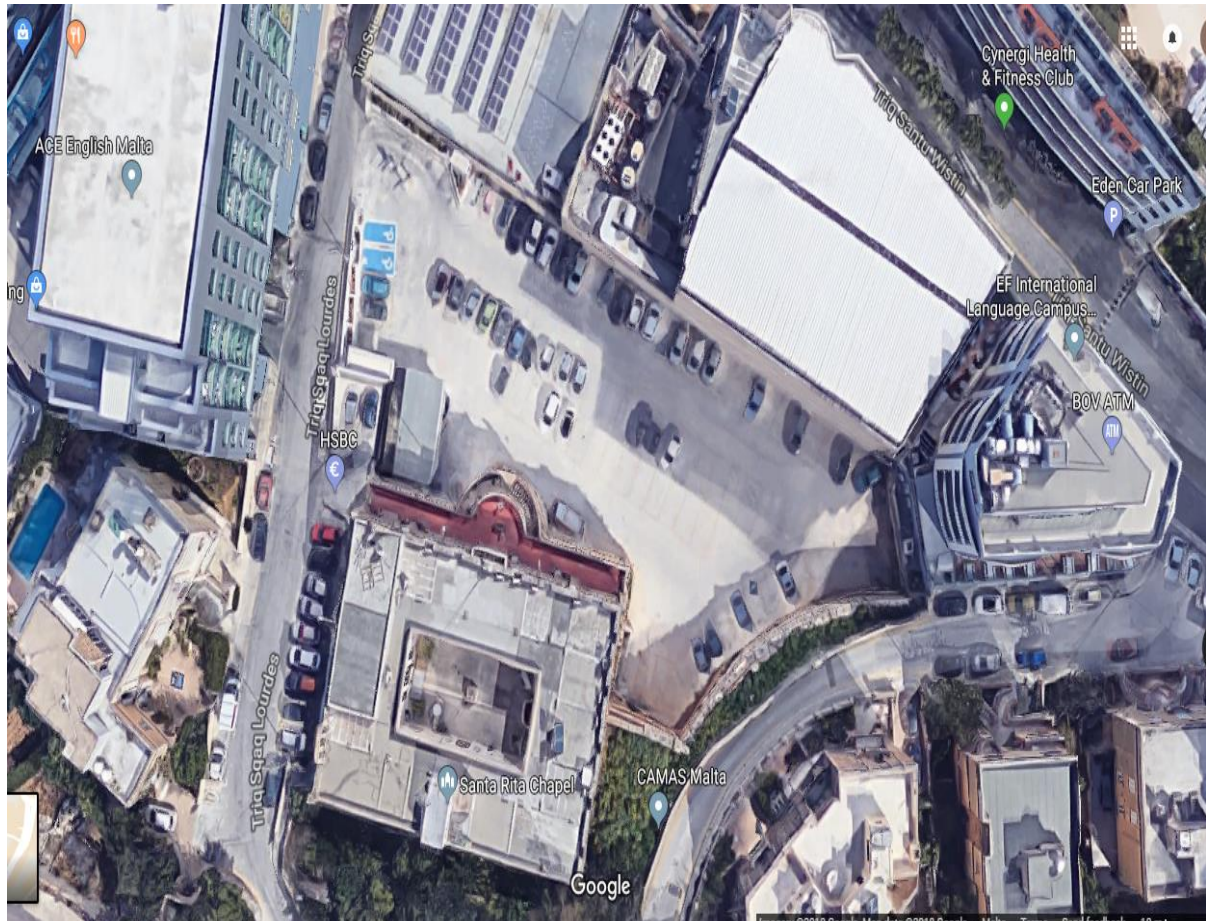
The real regeneration of a site requires a public consultation with the communities that live close to the site. But such consultation has to take place at the initial stages of the concept and design of a project, and not at the end of it when plans are submitted to the Planning Authority and the public consultation is a legal obligation which is largely ineffective in changing the whole concept of a project.

The development of this and similar sites in the St Julian's/Swieqi/Pembroke areas highlight the need for a total review of the Local Plan that incorporates these areas. The last public consultation for the Local Plan of this region was carried out in 2000. Too many changes have taken place since then which require a review of the Local Plan. The KA has highlighted the need for such a review several times to the authorities, and once again appeals to the authorities to undertake such a review as a matter of urgency.

The KA is of the opinion that the proposed project is one that fits in the 'more-of-the-same' category of projects. The concept and design process of the project as well as its future use should have been one that is a beacon of hope in Maltese society which is fast idolising the property market without any other consideration and where the planning system is being eroded by the authorities in order to facilitate unsustainable development practices.

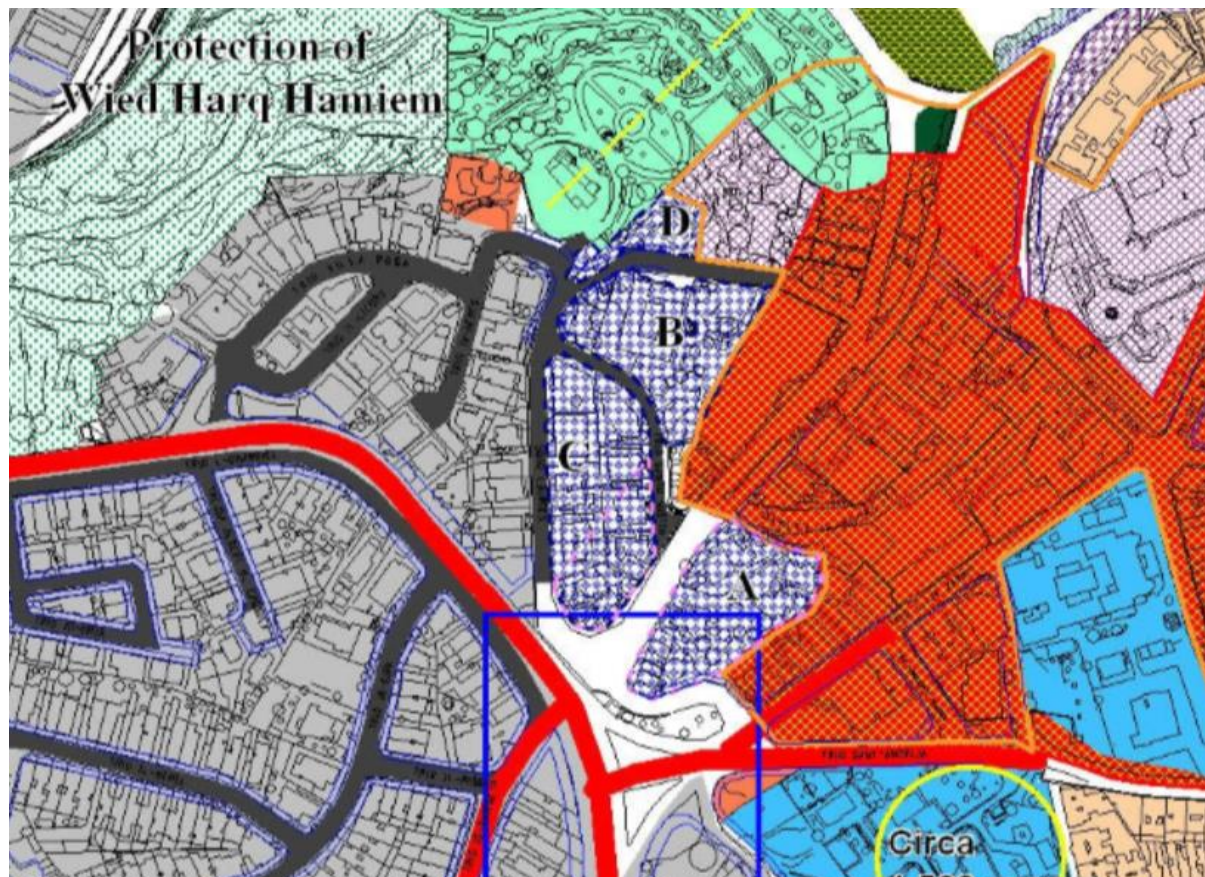
Annex 1

Aerial view of site.



Annex 2

Block plan: The building that will go up to 12-storeys is shaded in dark brown. The light brown shading refers to a structure of two floors.



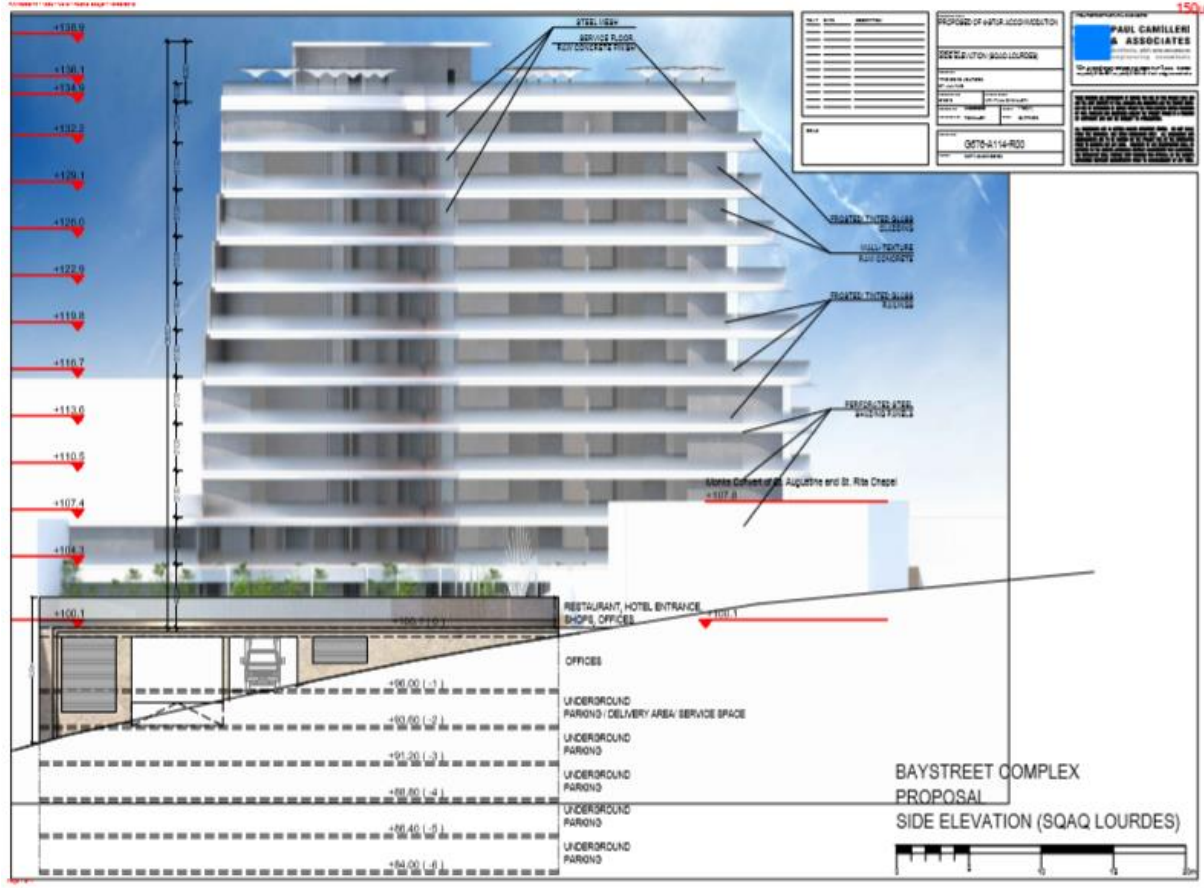
Annex 3

Extract from Local Plan Map PV1. The site is located in B. Sites A, B, C and D are designated as buffer zones. The area in brown is designated Secondary Town Centre. The residential area to be protected is in grey to the left of sites B and C.



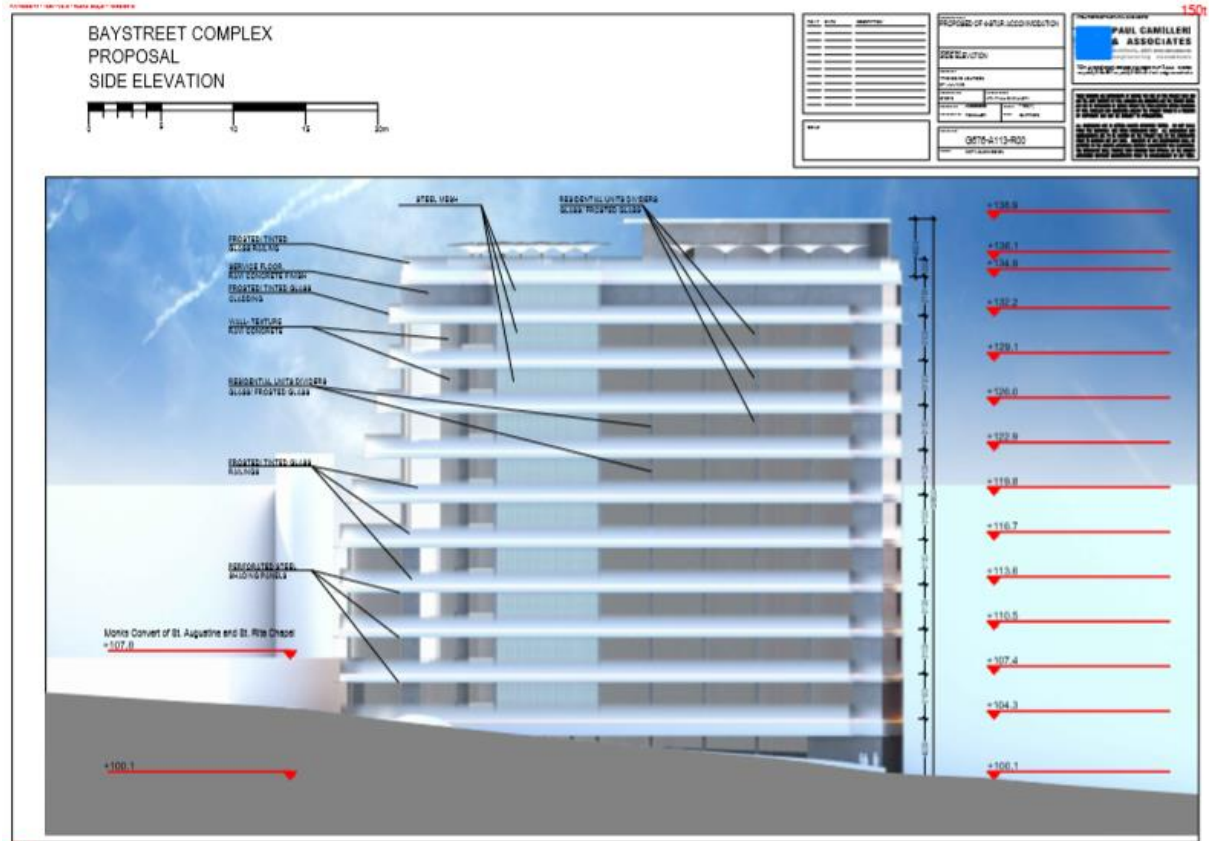
Annex 5

Elevation as seen from Sqaq Lourdes.



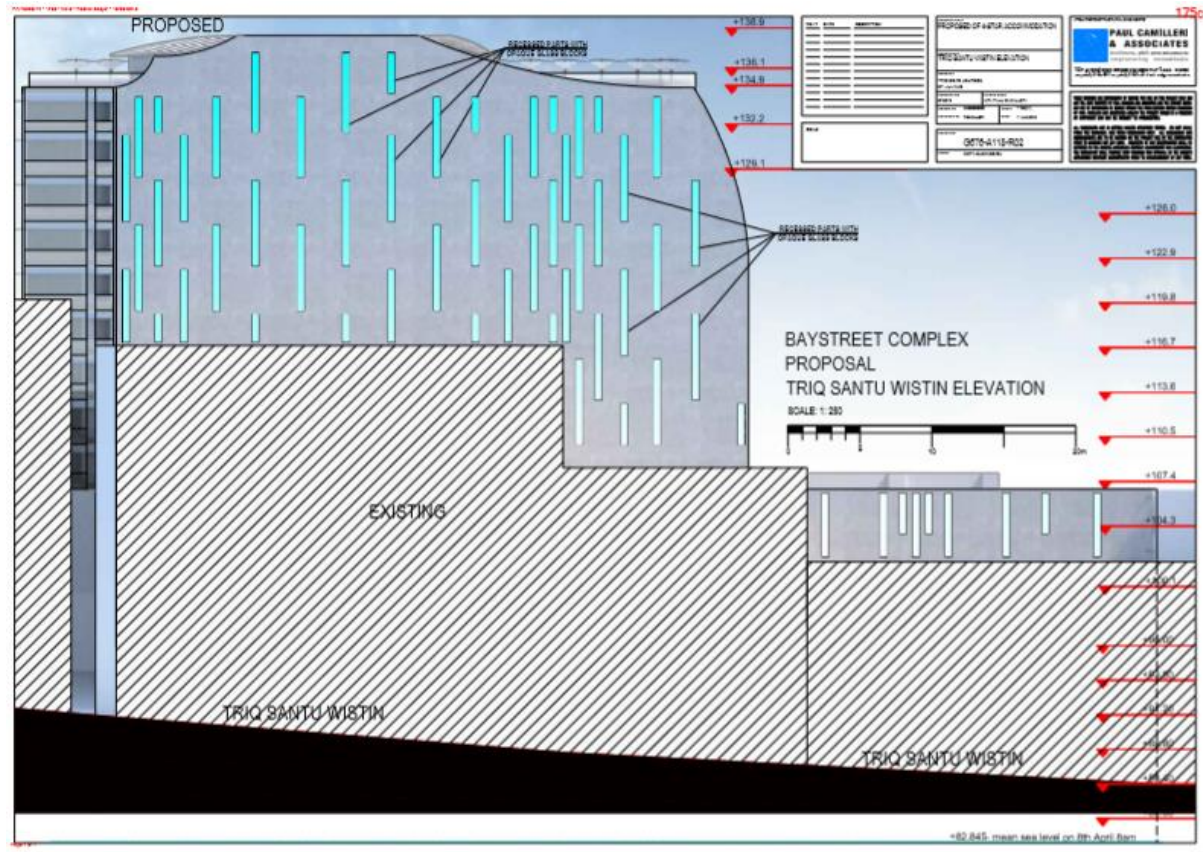
Annex 6

Elevation as seen from Upper Triq Santu Wistin.



Annex 8

Blank party wall as would be seen from buildings on Triq Santu Wistin. Note the section is through **existing** bowling alley and language school on Triq Santu Wistin.



Annex 9

Copy of message from Superintendent of Cultural Heritage.

Message From Stakeholder

Submitted By

Alessandro Cristina - on behalf of
Superintendence of Cultural Heritage

Submitted On

12th June 2018 17:23:47

The Superintendence notes that the proposed development is located in the immediate vicinity of a 'Grade 2' scheduled property of architectural value (Monks Convent of St. Augustine and St. Rita Chapel).

A recently approved development permit (PA 09332/17) approved the dismantling and re-assembly of the scheduled staircase (Phase 1) subject to conditions.

During a joint site inspection on 15 December 2017 by SCH and CHAC in connection with the dismantling of the stairs the applicant and the architect drew attention that the restoration of the scheduled Convent and Chapel also forms part of the wider scope of the 'project.' So far no application has been submitted for the restoration of the Scheduled Grade 2 religious building. It was not clear at the time of inspection as to what the 'project' was, which later materialised to be that of PA 10598/17.

The proposed height and proximity of the development will dwarf the scheduled property and continue to detract it from its original context, further rescinding the heritage value of the property. Adjacent buildings (the Eden Cinema and Bowling Complex) are constructed to a lower level than the building height for the proposed development. The building potential above the bowling complex shown in the 3D views submitted has not yet been committed. Consequently, the impact of the proposed towering structure on the scheduled property and open space will be greater.

As part of its assessment, the Superintendence will also be referring this development application to the Cultural Heritage Advisory Committee, and will be communicating further.

Annex 10

Objection letter from Din I-Art Helwa.

Application no	PA/10598/17
Location	Site at (Temporary parking area), Sqaq Lourdes &, Triq Santu Wistin, San Giljan, Malta
Description	Construction of Class 3B 4-star accommodation building with all related amenities; underlying parking floors and a Class 4A office floor.

To whom it may concern,

Din I-Art Helwa (DLH) would like to express its concern regarding the application in caption.

DLH is concerned with the effects of such a large scale construction, namely the traffic congestion it will cause, the large exposed blank party wall created and the grade 2 scheduled building (Monks Convent of St. Augustine & St. Rita Chapel) which will be overpowered by this towering structure next to it.

Considering the matters discussed above DLH finds this proposal objectionable and would like to be informed about any progress concerning this application.

Din I-Art Helwa

Annex 11

Objection letter from Eden Leisure Group.

A new Objection report has been submitted from the website.

Details of Objector

Name	Simon De Cesare
Address	Eden Leisure Group, Eden Place, St. George's Bay, St. Julians
Postcode	STJ 3310
Telephone	23710100
Mobile	98970000
Email	s.decesare@edenleisure.com

Comments

Reference is made to the proposed development submitted to Planning Authority reference PA/10598/17. We would like to forward our objections to the proposed development. Our main concerns include the following:

- It is noted that the proposed development is located in an area defined as a 'Residential Buffer Zone NHPV12' as per the North Harbour Local Plan and the 'Paceville Policy Map: PV1'. The proposal includes a large development proposed over eleven floor from highest street level. This is above the maximum height allowed as per the current policies. Policy NHPV12 also states that: 'Only if Site B is comprehensively developed, building heights of 2 to 4 floors will be allowed, provided development in Upper Triq Santu Wistin (existing private road) is retained at 2 floors. Otherwise the height limitation on this site is retained at 2 floors.'
- The proposed development results in a large exposed blank party wall facing Triq Santu Wistin and the existing InterContinental Hotel located on Triq Santu Wistin. The exposed party wall is visible from Triq Santu Wistin. It also obstructs the view of the existing Monastery located on the adjacent site along Triq Sqaq Lourdes. The same large exposed party wall is being proposed directly in front of the existing hotel rooms forming part of the five star InterContinental Hotel. This will have a large impact on our hotel. One of the integral objectives of DC2015 is to attain urban and architectural design quality, which precludes blank walls and a fabric that does not consider the consequences it might have on the neighbouring residential amenity. It is noted that the proposed development with its resulting exposed party wall does not satisfy one of the key objectives of the 'Height Limitation Adjustment Policy for Hotels', which states that 'In the case of three/ four/ five star hotels, two additional floors over and above the number of floors permitted in the Local Plan may be considered provided that the resultant design features a high quality product in keeping with the urban context and no blank walls are created.'
- 'The allowable height of the hotel building shall not exceed two additional floors over and above the height limitation permitted in the Local Plan provided that the resultant design features a high quality product in keeping with the urban context and no blank walls are created.'
- We feel that the proposed development does not respect the policy and the definition of the area, identified as 'Residential Buffer Zone' which also excludes entertainment uses. The proposed development includes offices, entertainment areas and a large hotel complex. This development will have a large impact on the area and will not serve as a buffer between the town and the entertainment centre of Paceville. On the contrary it is extending the hotel area and the entertainment area of Paceville adjacent to the residential area. It is also noted that the hotel is being proposed out of the areas defined as 'Area for Hotel development NHPV 04'. The following clause is an extract from the Planning Policy 'Residential Buffer Zone NHPV12'. 'These areas form a key protective buffer between the town and the entertainment centre of Paceville, which is largely committed for leisure and entertainment uses, and the adjoining residential priority areas. In these buffer Zones, the Local Plan will promote development that has a minimal impact on the adjoining villa areas, particularly with regards to noise and operating times. At the same time the development being allowed in the buffer zones will enable existing villa residents

Annex 12

Submission from resident.

From: Albert Xuereb [alxuereb@ajacx.net]
Sent: 26 April 2018 15:46
To: Representations
Cc: Joanna Xuereb
Subject: Declaration of interest re PA/10598/17
Attachments: PA Notification.pdf

Importance: High

Sirs

With reference to the attached notification given to me and my wife which is stated to be in terms of Regulation 6(1) of L.N. 162 of 2016, please accept this as a declaration of interest as contemplated in the notification in that should the policies applied such as to permit of the proposed development being approved are also extended to the adjoining property at 36, Ta'Katur, Lourdes Lane, on a comprehensive development basis, there is no objection as there otherwise would obviously be on the part of both me and my wife (who is in copy) should this not be the case and this on clearly justified grounds as would then be specified in detail, even if, albeit not necessarily primarily or exclusively, only in that, one would quite clearly be effectively denied the Planning Authority's own stated objective to *"enable existing villa residents located adjacent to the existing entertainment area to relocate to a more suitable and quiet residential location"*.

Albert H Xuereb (ID769040M) pro et nom