

BEFORE THE ENVIRONMENT AND LAND USE APPEAL TRIBUNAL

ELAT 369/13

In the matter of:

Narrainen Gayjairajen

Appellant

v/s

District Council of Moka

Respondent

DETERMINATION

The present appeal is against a decision taken by the District Council (hereinafter referred to as "the Council"), for having rejected an application made by the Appellant for a Building and Land Use Permit (BLUP) for the conversion of an existing building found at Pont Souillac, Moka, to be used as slaughter house . The two grounds for refusal of the Council as set out in a letter dated 25th February 2013 are that the site lies within the settlement boundary and that the development permit does not adhere to policy ID4.

The Appellant deponed under solemn affirmation and was cross-examined by Mr. Gunesh, attorney, for the Respondent. Mr. Mootooveeren, senior inspector of works, subsequently deposed on behalf of the Council and was also subjected to cross-examination by the Appellant.

We have duly considered all the evidence placed before us. The grounds of appeal of the appellant essentially rested on the fact that this business, which he has been carrying out for several years without a permit, is his only source of income and that he needs a permit to operate until he finds another place. He did not dispute the fact there are several residential buildings that have recently been constructed in his neighbourhood. His argument however was that he had settled down in that locality several years ago, at a time when the area was not developed.

The Council's stand is that the site is within Development Settlement Boundary as per the **Moka-Flacq Outline Scheme**. This in essence means that the site is within a residential zone. The Council motivated its decision on the basis of the application being in non-compliance of **Policy ID4** of the relevant Outline Scheme.

Policy ID4 relates to Bad Neighbour Development and in essence it provides guidance on the location of bad neighbour development and the relevant buffer zones required depending on the potential nuisance generated. Poultry rearing and slaughter activities are classified as bad neighbour developments. The Planning Policy Guidance's indicative distance between bad neighbour industry and sensitive land uses is 500 metres. A slaughter house is believed to best located away from residential zones for mainly biosecurity reasons, as per the environmental guidelines issued by the Ministry of Environment, but also for the nuisance associated. This being the state of affairs, having a slaughter house in such close proximity to the residences of people would be a misallocation. After all, due diligence must be exercised when carrying out development which is likely to have an impact on the neighbourhood.

For all the reasons set out above, the Tribunal finds that this appeal is devoid of merit. The appeal is dismissed.

Determination delivered on 20th February 2015 by

Mrs. J. RAMFUL

Mr. S. Karupudayan

Mr. P. Thandarayan

Vice President

Assessor

Assessor