194

TRIBUNAL TA' REVIŻJONI TAL-AMBJENT U L-IPPJANAR

ENVIRONMENT AND PLANNING REVIEW TRIBUNAL RECEIVED - 5 JUN 2020 FLORIANA

Rif: PA/04083/19
Ippublikata – 6 ta' Mejju 2020

Rikors tal-appell ta' Paul Calleja
Jesponi bir-rispett:

Fatti fil-Qosor

1. Illi l-appellant huwa l-propjetarju tal-propjetà 8C, fi Triq San Gwann tal-Ghorghar, San Gwann;

2. Illi l-appellant applika għal permess sabiex jiġi is-sanzjonat il-propjetà kif mibnija u sabiex jitnehhew is-strutturi tal-fond 8C, ġewwa Triq San Gwann tal-Ghorghar, San Gwann (referenza tal-permess PA/04083/19);

3. Illi l-Awtorità tal-Ippjanar, permezz ta' deċiżjoni datata 22 April 2020 u ippublikata 6 ta' Mejju 2020, irrufjutat il-permess rif. PA/04083/19 għar-raġunijiet iffraskritti fid-deċiżjoni;

4. Illi l-appellant ħassu aggravat mid-deċiżjoni tal-Awtorità tal-Ippjanar u qed jintavola dan l-appell, fejn l-aggravju huwa ċar u manifest u jikkonsisti fis-segwenti;

Raġunijiet għal-Appell

Nuqqas ta' kunsiderazzjoni tal-proposti

5. Illi l-appellant gie notifikat bid-DPA Report datat 12 ta' Marzu 2020, fejn ir-rakkomandazzjoni ghall-permess kienet li tigi miċħuda ghas-segwenti raġunijiet:

> *"a. The proposal is not considered justified to be located in the Rural Area since the creation of a new dwelling outside development zone does not comply with approved Government policies, plans and programmes for rural areas. Hence, the proposed sanctioning runs counter to the Thematic Objective 1.10 and Rural Objective 3 of the Strategic Plan for Environment & Development which only allow for rural development which is legitimate or necessary.*
>
> *b. The proposed sanctioning runs counter to the provisions of policy 1.2D of the Rural Policy & Design Guidance (RPDG) 2014 in that the extent of hard landscaping is considered excessive and involves the unjustified take up of land, sealing of soil and formalization of the site. The proposal*

is therefore not in line with the Thematic Objective 1 of the Strategic Plan for Environment & Development for limiting the land take up for uses which are not necessary or legitimate in rural areas. Hence, the proposal also runs counter to Rural Objectives 1, 3, and 4 to facilitate sustainable rural development by controlling the location and design of rural development, as well as the cumulative effect of such development.

c. The floor area of the dwelling exceeds the maximum permissible floorspace of 200sqm and therefore runs counter to the provisions in policy 6.3 of the Rural Policy and Design Guidance (2014).

d. The sanctioning of the existing bird cage runs counter to criterion (d) of policy 5.1B of the Rural Policy and Design Guidance since the distance of the site from the development zone is less than 200m."

6. Illi l-perit Kenneth Sultana, permezz ta' ittra datata 20 ta' Marzu 2020 (anness u mmarkata **Dok.B**) ippropona s-segwenti rimedji li jindirizzaw il-konklużjonijiet tal-DPA Report sabiex il-permess u l-applikazzjoni tiġi aċċettata, li huma:

    a. *"The existing birdcage shall be removed and replaced with agricultural soil*
    b. *A reduction in the hard landscaping in front of the existing dwelling shall be replaced with agricultural soil*
    c. *The metal sheets roofed over the front area shall also be removed"*

7. Illi huwa ċar li, l-Awtorità tal-Ippjanar, fid-deċiżjoni tagħha (**Dok.C**), skartat għal kollox dawn il-proposti tal-perit Kenneth Sultana u infatti, id-deċiżjoni tal-Awtorità tal-Ippjanar hija b'kelma b'kelma l-istess bħar-rakkomandazzjoni maħruġa mid-DPA Report (**Dok. A**) minkejja l-fatt li gew imressqa proposti tal-appellant sabiex ikun in konformi mar-rakkomandazzjoni maħruġa mid-DPA Report;

8. Illi dan juri car li l-Awtorità tal-Ippjanar lanqas biss ikkunsidrat il-provi kollha. Di fatti, l-Awtorità tal-Ippjanar fid-deċiżjoni tagħha saħqet li l-gaġeġ tal-għasafar mhux ha jiġu sanzjonati, minkejja li wara DPA Report, l-appellant ippropona huwa stress li li l-gaġeġ tal-għasafar jiġu imnehhija.

9. Illi huwa car li l-principju tal-gustizzja naturali, fejn persuna jkollha smiegh xieraq *(audi et alteram partem)*, ma giex osservat.

Konklużjoni – Rimedju imfittex

10. Għaldaqstant l-appellant, jitlob bir-rispett li dan it-Tribunal jogħġbu jilqa' l-appell tiegħu billi, fil-waqt li jirrevoka d-deċiżjoni tal-Awtorità tal-Ippjanar għar-raġunijiet hawn fuq imsemmija, jordna li terga issir evalwazzjoni xierqa tal-permess PA/04083/19, dan billi jkun hemm apprezzament u kunsiderazzjoni xierqa tal-provi u rakkomandazzjonijiet kollha u dan, salv kull provedimenti ulterjuri li dan it-Tribunal jidhirlu xieraq u opportun.

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Appellant: **Paul Calleja – 8C, Triq San Gwann tal-Ghorghar, San Gwann**

Lista ta' Xhieda:

1. L-appellant ghal konferma tal-fatti
2. Il-Perit Kennith Sultana ghal konferma tal-fatti
3. Il-membri tal-Board tal-Awtorita tal-Ippjanar li kienu involti fid-decizjoni
4. Mariella Haber u Carl Scerri sabiex jixhdu dwar ir-rakkomandazzjoni
5. Xhieda kollha ndikati mil-intimat fir-risposta tagħhom eventwali għall-eżami jew kontro-eżami anke jekk dawn ma jittellgħux jixhdu mil-intimat
6. Xhieda oħra minn issa riservati l-appellant mhux edott minnhom f'dan l-istadju
7. Xhieda oħra minn issa riservati u li l-ħtieġa tagħhom tinqala waqt is-smiegħ tal-kawża

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Lista ta' Dokumenti:

1. DPA Report - Dok.A
2. Ittra/Proposti tal-Perit Kenneth Sultana data 20 ta' Marzu 2020 - Dok.B
3. Decizjoni tal-Awtorita tal-Ippjanar - Dok.C

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