

FIT-TRIBUNAL TA' REVIŻJONI TAL-AMBJENT U L-IPPJANAR

Wara illi l-applikazzjoni bin-numru ta' riferenza PA1890/20 giet miċhuda b'decizjoni tal-24 ta' Marzu 2021 ippublikata fl-14 ta' April 2021, qieghed jigi intavolat appell mill-applikant fl-ismijiet ta':

Philip Mifsud

vs

Awtoritá tal-Ippjanar

ENVIRONMENT AND PLANNING
REVIEW TRIBUNAL

RECEIVED
12 MAY 2021
ST. FRANCIS DITCH
FLORIANA

RIKORS TAL-APPELL ta' Philip Mifsud

Jesponu bir-rispett ILLI:

INTRODUZZJONI

Permezz tal-applikazzjoni numru PA1890/20, l-appellant Philip Mifsud intavola proposta għal 'Demolition of existing property, excavation and construction of basement garages, an overlying ground floor maisonette, three apartments and two penthouses' gewwa 77 u 79, Triq il-Qolla, Haż-Żebbuġ.

B'decizjoni tal-24 ta' Marzu 2021, ippublikata fl-14 ta' April 2021, il-proposta giet rifjutata għa-segweni raġunijiet:

The proposed development runs counter to the provisions of policy P05 of the Development Control Design Policy, Guidance and Standards 2015 which specifies that when considering development application for demolition of traditional buildings, regard must be given to various criteria. The Superintendence of Cultural Heritage objected to the demolition as proposed.

The proposal does not comply with the provisions of Legal Notice 227 of 2016: Development Planning (Health and Sanitary) Regulations, 2016, in terms of Internal height of garage 1 to be at least 2.4m.

The proposed height of development runs counter to Urban Objectives 2.3 and 2.4 of the Strategic Plan for Environment and Development which promote a context driven approach for the control of building heights within Urban Conservation Areas in order to protect the traditional urban skyline. The proposal also runs counter to policies P35 and P39 of the Development Control Design Policy, Guidance and Standards 2015 which require that building heights are based on a streetscape analysis in order not to create an unacceptable visual impact.

The proposed development is incompatible with the urban design and environmental characteristics of the Urban Conservation Area. It would not maintain the visual integrity of the area and so does not comply with Urban Objectives 2 and 4 of the Strategic Plan for Environment and Development.

L-esponenti qiegħed jinterponi umili appell minn din id-deċiżjoni.

POLICY P05 TAD-DC 15

Għandu jingħad mill-bidu nett illi il-proposta hija *within policy*, u l-gholi propost huwa wkoll permess. Lil'hinn minn hekk, l-istat tal-binja huwa tali li jiġġustifika l-adozzjoni tal-kriterja li jippermettu l-ghoti tal-permess kif mfissra fil-P5 tad-DC15, u dan stante illi l-binja ma għandha l-ebda sinifikat partikolari jew elementi strutturali jew arkitettoniċi illi jimmeritaw preservazzjoni. Hawnhekk si tratta ta' binja li b'ammissjoni tal-SCH nnifisha 'it is understood that some of the rooms may not be in a good state of preservation' (84a). Dan fatt li d-DC15 iqis illi għandu jiġi ikkunsidrat, hekk kif x'hemm adjeċentement għas-sit mertu tal-proposta. Jekk wieħed iħares lejn ir-ritratti (1b), jintebaħ immedjatament illi immedjatament ħdejn is-sit propost, hemm blokka oħra relattivament ġdida, u allura ċertament ma jistax jingħad illi din il-proposta sejra tistona mal-bqija tat-triq. Tabilhaqq, hija l-umili fehma tal-esponenti illi japplikaw b'mod inekwivoku l-kriterji illi kellhom iwasslu lill-Awtorità titbiegħed mil-linja ġenerali provduta fil-P5, DC15.

L-GHOLI TAL-GARAGE

Din ir-raġuni hija manifestament hażina, għaliex il-Legislazzjoni Sussidjarja 552.22 kienet ġiet emendata u llum tipprovdni illi l-livelli tal-parkegġ m'għandhomx ikunu ta' anqas minnżewġ (2) metri u għaxar (10) ċentimetri. Huwa probabli illi r-raġuni għar-rifjut għada qed tiċċita l-Avviż Legali, u mhux il-liġi vera u proprja.

URBAN OBJECTIVE 2, 4, 2.3 u 2.4 SPED u P29 DC15

Dwar ir-raġuni għar-rifjut li tirreferi għall-Urban Objectives 2, 4, 2.3 u 2.4 tal-iSPED u l-P29 tad-DC15, l-esponenti terġa tagħmel riferenza għar-ritratti (1b) u

għal-muntaġġi li sejra tesebixxi, fejn jidher miċ-ċar illi l-kuntest tat-triq proprju jimmilita favur l-ghoti tal-permess u mhux bil-kontra. Is-sit huwa digà *committed* bis-sit ta' hdejh u sidien ohra fil-vicin, u allura ma jistax jinghad illi l-kuntest tat-triq jiggustifika r-rifjut. Tabilhaqq, l-applikant wettaq *transitioning* tajjeb li kellu jnehhi kwalunkwe inkwiet li setgħet kellha l-Awtorità.

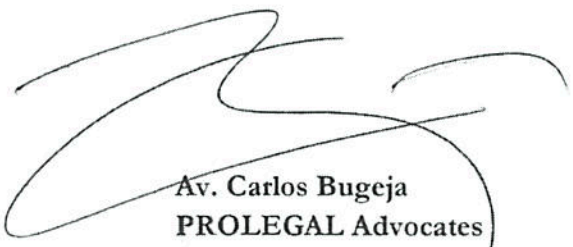
Ghaldaqstant, in vista tas-suespost u filwaqt li tiriserva li tressaq ragunijiet, provi u sottomossjonijiet ulterjuri skont il-każ, l-appellanti jitolbu li dan l-Onorabbli Tribunal jogħgħbu jilqa l-appell u dan billi jhassar u jirrevoka l-avviz biex tieqaf u ta' twettiq maħrug fil-21 ta' Dicembru, 2020, bir-riferenza numru EC/00158/20, bl-ispejjeż kontra l-Awtorità appellata.

Lista ta' Dokumenti

Dok. 'A' – Ir-rifjut tal-permess

Xhieda

L-appellanti;
L-okkuppanti tal-fond mertu tal-appell;
Sidien precedenti;
Nutara, biex jikkonferma ir-riċerki u jixhdu;
Ġara tal-fond;
Xhieda ohra, skont il-bżonn.



Av. Carlos Bugeja
PROLEGAL Advocates
Vjal Ir-Rihan, Triq il-Balal
San Ġwann, Malta SĠN9016
carlos@prolegal.mt