

12th November 2020

The Environment and Planning Review Tribunal

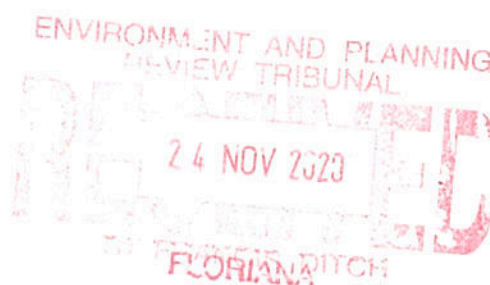
Nru. ta' l-Applikazzjoni: PA/7686/19

Lokazzjoni: Cape Sorrell, Triq Blat il-Qamar, Siggiewi
Proposta: *Erection of 1 no. New dwelling and removal of disused livestock farm*

Ref. Taghna:

Ref. Tribunal:

Caroline Aquilina
vs
L-Awtorita' ta' l-Ippjanar



The appellant respectfully submits:-

- I) The applicant made the submission of this application in 2019.
- II) This application was rejected by the Commission and the decision was published on the 28th October 2020.
- III) The appellant feels aggrieved by this decision and is hereby submitting this appeal.

Together with this appeal, the appellant is submitting:-

- o A copy of the decision notice (Dok JA1).
- o Receipt of Payment:

The appellant respectfully submits the following:

- 1.1 The Authority wrongly applied the provisions of the law and policy regulating this site.

- 1.2 The property is vested with a permit no. 3218/82. At the time, whilst he appellant did refer to the said permit, appellant could not present an actual copy of the said permit. In the meantime a copy of same has been retrieved from the original owners and a copy is in hand.
- 1.3 Having said that, the appellant, in the course of the application did present sufficient evidence to prove that the property consisted of a disused farm. This included a copy of the deed of purchase and also the consultation with the AAC. Furthermore, even previous applications on the site referred to a disused farm.
- 1.4 *The Court of Appeal, in its decision of the 19th February 2014 in the names Vella vs. L-Awtotita ta' Malta dwar l-Ambjent u l-Ippjanar (Appeal 189/2012) held:*

“Peress li dan hu kamp amministrattiv u sa certu punt b’aspetti civili, it-Tribunal hu mistenni li l-grad tal-prova ghal allegazzjoni biex tigi stabbilita bhala fatt ppruvat ghndu jkun dak fuq bilanc ta’ probabilita. Allegazzjoni mhux opposta u mhux messa f’dubju minn fatturi ohra ghandha tinghata l-importanza misthoqgħa.

It-Tribunal zbalja meta accertat li xi darba l-fond in kwistjoni kien residenza jippretendi li bhala mizura l-prova ‘inkonfutabbli’ li kellha tigi mressqa li din kienet residenza principali minn lok ta’ djar uzata bhala residenzi. It-Tribunal zbalja fil-ligi ghax il-grad ta’ prova ma tridx tkun bhal kamp kriminali ‘inkonfutabbli’, qisu ‘beyond reasonable doubt’ kif jesigi l-kamp kriminali izda biss li t-Tribunal ried ikun moralment konvint li l-fatti urew li l-allegazzjoni kienet giet ppruvata u ma kienx hemm provi ohra li jitfghu f’dubju serju dik il-prova. Sa hemm kellu u ghandu jasal it-Tribunal fid-determinazzjoni tal-aspett fattwali kollu tal-vertenza li jkollu quddiemu. Dan ma ghamlux u tali grad ta’ prova fil-qies ta’ ‘inkonfutabbli’ poggiet lil applikant fi zvantagg li l-ligi procedurali komuni fis- sostantiv ma tesigix fil-kamp amministrattiv u civili.”

- 1.5 The main reason why this application was refused (reason 1) relates to the previous permitted use of the property. Appellant submits that the documentation that is available (and now further enhanced by the previous permit on the site) proves that the proposal is in line with the policies regulating the site and hence should be approved.
- 1.6 The other reasons of refusal are all ancillary to the main reason of refusal and hence the decision of the Authority must be re-evaluated on the basis of the

main reason why same was refused. Obviously this without prejudice the right of the Tribunal to impose those amendments to the plans that it may deem necessary and appropriate.

1.7 The proposed development satisfies all other applicable criteria and requirements that are necessary for this development to be favourably considered and approved.

In view of the above, and further submissions that the appellant reserves to make, the appellant requests the Tribunal to revoke the decision of the Commission to refuse the permit, and consequently order the Authority to issue the relative permit, and this under those terms and conditions that the Tribunal may deem appropriate.

With Respect



Av. Ian J. Stafrace

Witnesses:

1. Appellants, and consultants and consultees and officers of the Authority to confirm the facts.



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