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22 ta' Marzu 2022

ENVIRONMENT AND PLANNING REVIEW TRIBUNAL
RECEIVED
- 1 APR 2022
ST. FRANCIS DITCH
FLORIANA

Lic-Chairman
Tribunal ta' Revizjoni dwar l-Ambjent u l-Ippjanar
PO Box 172
Furjana

Sur Borg,

RE: PA 3675/21

Nikteb fuq inkarigu ta' Antoine Sciberras u bil-prezenti, qed nappella mir-rifjut moghti mill-Kummissjoni fir-rigward tal-applikazzjoni illi huwa pprezenta u li jkopri sit gewwa Triq il-Haddedin, Mgarr. L-applikazzjoni tal-appellant huwa ghas-segwenti zvilupp propost:

"Construction of sheep farm. Proposal includes the excavation for basement level, the relocation of soil within same field and to install pv panels on proposed farm."

L-applikazzjoni giet rifjutata ghas-segwenti ragunijiet:

1. The proposed farm will result in an adverse visual impact on the surround environment. Hence proposal runs counter to the provisions of policy 1.2H and 2.3B(2) of the Rural Policy & Design Guidance (RPDG) 2014 which seek to protect, conserve, maintain & enhance important landscape features, SPED policy R01,which seeks to protect good quality agricultural land from development ad policy R04 which seeks to protect and enhance the positive qualities of the landscape and the traditional components of the rural landscape by protecting the most sensitive landscapes of cultural importance and natural beauty.
2. The installation of the photovoltaic panels cannot be justified and accepted since they will create an intrusive visual impact. Thus the PV panels counter to policy 2.11 of the Rural Policy and Design Guidance, 2014.
3.

Is-sit jinsab gewwa l-konfini tal-lokalita tal-Imgarr 'l barra miz-zona tal-izvilupp. L-izvilupp li qieghed jigi propost huwa razzett ghat-trobbija tan-naghag, li huwa uzu mhuwiex idoneu li jsir gewwa z-zona urbana minhabba l-inkonvenjenza li wiehed jassocja ma tali uzu. Ghalhekk, wiehed ma jistax jifhem ir-raguni il-ghala din il-proposta giet rifjutata ghaliex wiehed bilfors irid jitlaq mil-premessa illi tali zvilupp irid isir 'l barra miz-zona ghall-izvilupp.

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Mhuwiex minnu illi r-razzett propost ser ikollu impatt vizwali negattiv

Illi skond l-ewwel raguni ghar-rifjut, qieghed jinghad illi r-razzett propost ser ikollu impatt vizwali negattiv fuq il-madwar. Ghal din ir-raguni qed jinghad illi l-proposta tmur kontra policies 1.2H u 2.3B(2) ta' Policy & Design Guidance 2014 u SPED policies RO1 u RO4.

L-appellant jissottometti illi dan mhuwiex minnu fis-sens illi sar kull sforz sabiex il-binja tigi proposta ezatt mat-triq fl-iktar parti baxxa tas-sit sabiex, kemm jista' jkun, ma taghtix tant fil-ghajn u l-impatt vizwali taghha jigi mitigat kemm jista' jkun, anke bl-inkluzzjoni ta' soft landscapting sabiex il-binja kemm jista' jkun ma tidhirx mit-triq.

Fit-tieni lok, ghandu jinghad ukoll illi l-Agricultural Advisory Committee ma sabet ebda oggezzjoni ghall-proposta tal-appellant. Oltre dan u kif ikkonfermat anke mid-Direttorat fir-rapport tieghu, is-sit ma jinsabx gewwa zona ta' xi importanza nazzjonali minhabba xi fdalijiet arkeologici, ecc

Dwar il-policies citati mill-Kumissjoni fl-ewwel raguni ghar-rifjut taghha, l-appellant ghandu s-segwenti x'jissottometti:

Il-policy 1.2H tar-Rural Policy & Design Guidance 2014 timponi fuq l-Awtorita l-impenn sabiex landscape features important jigu kkonservati u mantnuti. Tenut kont ta' dan, jigi sottomess illi ma gew identifikati ebda features fuq is-sit illi jimmeritaw tali protezzjoni. Oltre minn hekk, il-policy ighid hekk:

> Proposals which would have an adverse impact on important landscape features, including their integrity or character, will not be permitted, unless the adverse impact is avoided or mitigated to the satisfaction of the Authority

L-appellant jissottometti illi ma nghatat ebda spjegazzjoni sodisfacjent dwar x'inhuma dawk l-important landscape features u x'inhu l-impatt negattiv fuqhom. Pero, fl-istess hin, jigi osservat illi, fi kwalunkwe kaz, tali proposti jistghu jigu accettati jekk l-impatt negattiv huwa evitat jew mitigat u, fil-kaz prezenti, sar kull sforz biex dan isir u ghalhekk, wiehed ma jifhimx id-decizjoni ta' rifjut da parti tal-Kummissjoni.

L-istess jista' jinghad fir-rigward tal-policy 2.3B(2) tal-Policy & Design Guidance citat mlll-Kummissjoni fl-ewwel raguni ghar-rifjut illi tipprovdi s-segwenti:

> the proposed development is of a high quality rural design and must respect the rural context. Scheduled locations (Class A or Class B Area/Site of Archaeological Importance, and/or Level 1 or 2 Area of Ecological Importance/Site of Scientific Importance) are in principle considered inappropriate locations, unless it can be duly demonstrated through the necessary assessment that the Rural Policy and Design Guidance.

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Illi għandu jingħad illi, fuq ammissjoni stess tal-Awtorita, hemm konferma illi s-sit ma jinsabx ġewwa xi zona protetta jew zona skedata u l-uniku raġuni illi ngiebet hija illi "Considering the surrounding site context, which is characterized by few scattered greenhouses, it is almost free from legally-established structures and there are no other similar commitments in the vicinity, the proposed farm will be a standalone development in such area and will result in an adverse visual impact on the surrounding environment"

Illi l-appellant bi ħsiebu jitlob illi jsir site inspection sabiex it-Tribunal stess jara illi din id-deskrizzjoni tal-madwar tas-sit certament ma tispjegax sew dak illi jeżisti fil-viċinanzi anke immedjati tas-sit fejn altru illi l-appellant għamel kull sforz sabiex jimmitiga l-impatt tal-binja illi qiegħed jipproponi filwaqt illi certament ma jirrizultax illi l-kunsest tas-sit huwa kkaratterizzat minn "a few scattered greenhouse", kif qed jingħad u l-membri tat-Tribunal ikun jistgħu jaraw dan b'għajnejhom stess.

Illi dwar il-policies tal-ISPED citati mill-Kummissjoni fir-raġuni għar-rifjut tagħha, l-appellant umilment jissottometti illi l-oggettivi RO1 u RO4 bl-ebda mod mhuma qegħdin jinkisru fis-sens illi, kif diġa ngħad, it-tip ta' razzett bħalma ppropona ma tistax issir f'post urban imma bilfors illi trid issir 'l barra miż-żona għall-iżvilupp. Ssir riferenza wkoll għar-rapport tad-Direttorat fejn intqal illi

> In terms of external appearance, the farm structures are proposed to be finished in weathered stone and timber apertures while the external height shall not exceed 3m as depicted in doc. 50c, which construction methodology is typical of similar livestock farm structures.

Illi għaldaqstant, il-proposta nnifisha u l-pjanti proposti saru bl-intiża ċara illi dan ir-razzett għandu jirrispetta l-kuntest rurali tas-sit u tal-madwar u għalhekk, tenut kont illi tali żvilupp bilfors għandu jsir fuq tali art, il-features tad-disinn tal-binja huma konformi ma' dak illi wieħed tipikament jistenna minn żvilupp bħal dak illi qiegħed jiġi propost.

Il-pannelli huma accettabbli skond il-policy 2.11 tal-RPDG 2014

Illi b'riferenza għat-tieni raġuni għar-rifjut illi l-proposta illi jsiru PV panels sejjer jikkrea impatt viżwali negattiv, issir riferenza għar-rapport tad-Direttorat fejn gie rikonoxxut illi tali żvilupp jista' jkun permess skond il-policy 2.11 tal-RPDG 2014. Pero, jidher illi r-raġuni illi ngiebet mid-Direttorat għar-rakkomandazzjoni tiegħu dwar il-pannelli u li giet addottata mill-Kummissjoni hija illi billi d-Direttorat qies illi l-binja proposta sejjer ikollha impatt viżwali negattiv, kien isegwi illi anke l-pannelli proposti kienu ser ikollhom l-istess tip ta' impatt.

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Illi l-proposta ghat-tqeghid tal-pannelli hija konformi mal-policies generali ta' energija alternattiva u ma' dawk illi jippermettu t-tqeghid ta' pannelli fuq strutturi rurali. Bir-rispett kollu, il-proposta tal-pannelli kellha tigi meqjusa fuq il-merti taghha stess u mhux minhabba l-opinjoni tad-Direttorat dwar l-istruttura nnifisha.

Illi ghalhekk, dwar il-pannelli, l-appellant jissottometti illi dawn ghandhom jigu kkunsidrati favorevolment peress illi huwa tal-fehma illi l-binja hija accettabbli ghar-ragunijiet gja esposti.

Bhala xhieda, l-esponenti jixtieq iressaq lis-segwenti:

1. Rapprezentant tad-Dipartiment tal-Agrikoltura
2. L-appellant stess

Ghal dawn ir-ragunijiet kollha, l-appellant jitlob sabiex dan it-Tribunal joghgbu jirrevoka id-decizjoni tal-Kummissjoni tas-16 ta' Frar 2022 u jinhareg il-permess relattiv skond dawk il-kundizzjonijiet illi dan it-Tribunal jidhrilu xierqa u opportuni.

Avv Tanya Sciberras Camilleri LL.D.