

Fit-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar

Nru. tal-kaz: PA/05753/17
 Tip t'Applikazzjoni: Permess ta' Zvilupp Komplet
 Appell: Minn rifjut tal-izvilupp propost
 Applikant: Dr. Angelo Dalli
 Perit: Mr. Sebastian Grima
 Proposta: *Alterations and extension to fourth floor level and construction of receded floor*
 Sit: De Vilhena Residence, Trejjet il-Fosos/Triq l-Imhazen, Floriana, Malta

Rikors tal-Appell ta' Angelo Dalli



Jesponi bir-rispett:

Illi l-Kummissjoni tal-Ippjanar irrifjutat l-applikazzjoni hawn fuq indikata, liema decizjoni giet ippubblikata nhar it-18 ta' April 2018;

Illi l-appellant hassu aggravat b'din id-decizjoni u ghalhekk qed iressaq dan l-umli appell;

Illi l-aggravji tal-appellant huma s-segwenti;

Illi ghalkemm id-Direttorat irrikmanda l-approvazzjoni tal-applikazzjoni odjerna, l-Kummissjoni tal-Ippjanar sussegwentement irrifjutat l-istess applikazzjoni in kwantu:

(1) l-izvilupp propost imur kontra Urban Objectives 2.3, 2.4 u 3.6 tal-iSPED in vista tal-gholi tal-izvilupp u l-blank party walls li johloq;

(2) l-izvilupp propost imur kontra policy GF11 tal-Grand Harbour Local Plan in vista tal-effett fuq l-iskyline;

(3) l-izvilupp propost imur kontra Policies P35 u P39 u Guidance G2 tad-Development Control Design Policy, Guidance and Standards 2015 in vista tal-effett fuq l-iskyline;

(4) l-oggezzjoni tal-*Superintendence of Cultural Heritage*.

Illi ghalhekk, in succinct, l-applikazzjoni odjerna giet rifjutata in vista tal-allegat impatt negattiv tal-gholi tal-izvilupp propost fuq l-iskyline. Pero' fil-fatt ma jirrizultax li l-izvilupp propost se jkollu dan l-impatt negattiv, tant li l-konkluzjoni fid-DPAR kienet *recommended for approval* u dan ghas-segweni ragunijiet:

(1) *The proposed development is acceptable since the proposal complies with DC2015 and SPED 2015 in terms of internal layout, **building height** and external design;*

(2) *Policy P35 of the Development Control Design Policy, Guidance and Standards 2015 which requires that building heights are based on a streetscape analysis in order not to create unacceptable visual impact. **In terms of such policy, a completed fourth floor level would be in line with that of the adjacent third party building;***

(3) *A significant blank party wall facing the grand harbour was created as a result of the original applications. Nevertheless, the fourth floor is mostly committed by the approved construction. **The addition on both sides of the building for the completion of this floor would be minimal in effect only creating an additional blank surface area measuring 4.6 square metres, the rest being all treated elevations. Hence, it is considered that no significant negative visual impact will be created and no objection is being raised;***

(4) *The proposed setback floor is being considered in view of the **existing commitment on the adjacent third party properties at the same level**. As per block plan submitted by the architect at min 50e, the setback on Trejjet il-Mahzen (which fully faces the Grand Harbour) was revised to be aligned with that of the third party property, hence **satisfies the provisions of DC2015 and Policy P39;***

(5) *The proposed setback from Trejjet il-Fosos is less than that of the adjacent third party, nevertheless, given the configuration of the site, aligning the proposal with that of the third party would not have been practical in terms of layout. **The proposal is lower in terms of height (refer to streetscape elevation at Min 50d) and the eventual alignment of the third party building would have no negative impact on the Area of high landscape value;***

(6) *No objection is found against the proposed design of the addition at fourth floor since this follows the design of the rest of the building and would have **no negative impact on the visual integrity of the building and area. Proposal conforms with Urban Objective 2 of the SPED as well as DC2015 policies and is therefore favourably considered.***

Illi ghalhekk, id-Direttorat u l-Kummissjoni qed jaghtu għall-istess zvilpup propost zewg interpretazzjonijiet dijametrikament opposti. L-applikant appellant jaqbel perfettament ma' l-interpretazzjoni mogħtija mid-Direttorat u jagħmilha tieghu u dan in kwantu, bid-dovut rispettt, l-interpretazzjoni tad-Direttorat tirrifletti aktar fedelment l-ispirtu tal-Policies rilevanti, bħal per eżempju Policy GF11 tal-Grand Harbour Local Plan li jipprovdi *inter alia* li:

(i) *In the consideration of applications which include changes to existing building heights, the Planning Authority will adopt a **flexible approach**, taking into consideration UCA status, streetscape, general massing, roofscape, skyline;*

(ii) *Due to the historic nature of Floriana, and the marked differences in storey heights between old and new buildings, it is considered a very difficult task to try and give a blanket height for the town. **The approach adopted in this instance is to determine requests in changes in heights on an individual basis.***

Illi ai termini tal-Artikolu 72(2)(d) tal-Kap. 552, fid-decizjoni tal-appell odjern, dan it-Tribunal irid jiehu in kunsiderazzjoni wkoll, "*any other material consideration, including surrounding legal commitments*", u dan naturalment oltre l-pjanijiet u l-policies relattivi hawn fuq imsemmija;

Illi ghalhekk, fil-kuntest tal-Policies kollha imsemmija u tal-Local Plan relativ, l-izvilupp propost ghandu jigi approvat in kwantu fattwalment ma jirrizultax li se jkollu effett negattiv fuq l-iskyline. Ghal dan il-ghan, l-appellant jitlob li ssir *site inspection* u li jitressqu provi u sottomissjonijiet ulterjuri waqt is-smiegh tal-appell;

Illi finalment, fir-rigward tal-oggezzjoni tal-Superintendance of Cultural Heritage, jinghad bid-dovut rispettt li fl-ewwel lok l-istess Superintendence innutat li, ***“the new volumes are within the already existing skyline. This proposed extension should not create any impact on the skyline.”*** Illi originarjament l-oggezzjoni tas-Superintendence kienet biss fir-rigward tal-*blank party wall* u kien f’dak l-istadju li irrikmandat li jittiehdu mizuri sabiex jittaffa’ l-impatt viziv u ghalhekk oggezzjonat ghall-izvilupp propost, pero’ sussegwentement saru t-tibdiliet da parte tal-applikant fejn id-Direttorat ikkonkluda li, ***“Fresh drawings submitted on the 22nd February 2018 were considered as acceptable, hence the positive recommendation.”*** Illi ghalhekk, bid-dovut rispettt, m’huwiex korrett li tigi citata bhala raguni ghar-rifjut oggezzjoni da parte tas-Superintendence.

Ghaldaqstant, l-appellant, filwaqt li jaghmel referenza ghas-sottomissjonijiet kollha gia mressqa u filwaqt li jirrizerva d-dritt li jressaq daww il-provi u sottomissjonijiet kollha lilu permess skond il-ligi, jitlob bir-rispettt lil dan it-Tribunal joghgbu jannulla, jhassar u jirrevoka d-decizjoni moghtija mill-Kummissjoni tal-Ippjanar fuq riferita u japprova l-applikazzjoni ghall-izvilupp in kwisjtoni bin-numru PA/05753/17.



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Lista tax-xhieda:

1. Il-Perit Sebastian Grima u periti u nies ohra fl-istess ditta’;
2. L-applikant;
3. Esperti u konsulenti mqabbda mill-applikant;
4. Rapprezentanti tal-Awtorita’ tal-Ippjanar;
5. Rapprezentanti tas-*Superintendence of Cultural Heritage*.



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