

7th July 2022

The Environment and Planning Review Tribunal



Nru. ta' l-Applikazzjoni: PA/4439/21

Lokazzjoni: Site at Triq ix-Xwejni, c/w Triq il-Qbajjar Marsalforn, Zebbug (Gozo)

Proposta: To sanction open air boar storage facility in select area of the site. Works include landscaping scheme along part of the perimeter of the site – no boat maintenance to be carried out on site. Proposal to also include proposal of reservoir, storage, mobile toilets, skip area and replacement of timber gate.

Ref. Taghna:

Ref. Tribunal:

Emilio Azzopardi
vs
L-Awtorita' ta' l-Ippjanar



The appellant respectfully submits:-

- I) The applicant made the submission of this application in 2021.
- II) This application was refused by the Commission and the decision was published on the 8th June 2022.
- III) The appellant feels agrieved 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 (Dok JA2).

The appellant respectfully submits the following:

- 1.1* The Authority wrongly applied the provisions of the law and policy regulating this site.
- 1.2* In refusing this application on the basis of a wrong interpretation and application of the policy, the authority failed to apply the provisions of article 72(2) of Chapter 552 of the Laws of Malta and also failed to apply other relevant provisions of Sped which mitigate in favour of enhancing and consolidating development in developed areas.
- 1.3* The proposed development is in line with the local plan policies regulating the site, and is not contrary to the provisions of the applicable policies.
- 1.4* The proposed development satisfies all other applicable criteria and requirements that are necessary for this development to be favourably considered and approved.
- 1.5* The development requiring sanctioning is mainly concentrated in use of the site for boat storage in an area that is accessible and close to launch facility/ies. The use for boat storage will not prejudice the future use of the site.
- 1.6* The first reason of refusal and the third reason for refusal are highly contradictory since on one hand the Authority is rejecting the use in a rural area, whereas on the other hand the same use is being rejected because of its close proximity to a residential area. Within the context of the urbanisation of Gozo, it is highly impossible to address these two issues concurrently.
- 1.7* One also fails to understand the indiscriminate use of policies out of context when storage is regulated by an ad hoc policy, namely the Open Storage Policy of 2005. The proposed development fulfills all the criteria of this policy and hence one must assess this application on the basis of this policy.

1.8 Similar and identical proposals were approved in numerous cases. Hence even by applying the principle of paribus ceribus, and namely that similar situations ought to be determined in the same manner, the Authority was manifestly wrong in refusing this proposal.

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, 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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