



QORTI TA' L-APPELL

**ONOR. IMHALLEF
MARK CHETCUTI**

Seduta ta' l-14 ta' Novembru, 2013

Appell Civili Numru. 94/2012

Joseph Ciantar

vs

L-Awtorita ta' Malta dwar l-Ambjent u l-Ippjanar

Il-Qorti,

Rat ir-rikors tal-appell ta' Joseph Ciantar tad-29 ta' Mejju 2012 mid-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tal-10 ta' Mejju 2012 fejn cahad talba ghal 'construction of two maisonettes at end of site. Blank wall to be hidden by way of proposal' PA 2190/08;

Rat ir-risposta tal-Awtorita li ssottomettiet li l-appell ghandu jigi michud u d-decizjoni tat-Tribunal konfermata;

Rat l-atti kollha u semghet lid-difensuri tal-partijiet;

Rat id-decizjoni tat-Tribunal li tghid hekk:
Ikkunsidra:

A. Il-Kummissjoni ghall-Kontroll ta' l- Izvilupp, fit-3 ta' Novembru 2010, irrifjutat l-applikazzjoni ghall-permess tal-izvilupp PA 2190/08 "Site off Triq Misrah Suffara, Dingli: Construction of two maisonettes at end of site. Blank wall to be hidden by way of proposal."

Il-hames ragunijiet ghar-rifjut kienu s-segwent:

"1 The site lies outside the rationalised limits for development defined in the North West Local Plan for Dingli and so it is located in an area which should remain undeveloped and open. The proposed development would run counter to this scheme and would represent unacceptable urban development in the countryside.

2 The proposed development conflicts with Structure Plan Policy SET 11, which does not permit urban development outside existing and committed built-up areas. The development does not fall into a category of non urban development which may be permitted outside existing or committed built-up areas in accordance with Paragraph 7.6 of the Structure Plan. The proposed development also therefore runs counter to policy BEN 5.

3 There is no justification for the development of this site as required by Structure Plan policy SET 12. It is apparent that there are no reasons from a planning point of view why the proposed development can not be located in an area designated for development or in an existing built up area.

4 The site lies in a Rural Conservation Area (as designated by the Structure Plan and indicated on the Key Diagram). The proposal does not comply with Structure Plan policy RCO 2 which clearly states that no form of urban development will be permitted within Rural Conservation Areas.

5 The development proposed is unjustified and is not favourably considered in view that the site is an agricultural field which according to the Structure Plan is to be protected as per policies RCO 22 and AHF 4.”

B. In-nota tal-Perit David Vassallo għall-Appellant, ipprezentata fit-3 ta' Dicembru 2010, senjatament iz-zewg punti segwenti:

“1. [...] MEPA has approved several similar applications over the past years all of which, for obvious reasons, are located outside the limits of development and just outside committed built-up areas. Hence, reasons for refusal 1, 2 and 3 are not to be applied in this case in the same way that these policies were not applied to the various other approvals issued in identical circumstances. Similar cases include PA1214/07, PA50/07. PA6366/06. PA996/05 and PA4384/04.

2. Reasons for refusal 4 and 5 refer to the Structure Plan key diagram and policies. Now, the key diagram being referred to (Appendix B), earmarks all of Gozo and practically two thirds of Malta as a Rural Conservation Area. The interpretation of this seems to be that no development is to occur in all the areas identified as such in the Structure Plan Key Diagram, which decision we are herewith contesting.”

C. In-nota risposta ta' Mario Scicluna għall-Awtorita', ipprezentata fl-20 ta' Jannar 2011, inter alia l-erba' punti segwenti:

“5.1.4 As regards to the arguments of the appeal itself, [...] the adjacent building has been now been included in PC 85/07 which, in MEPA decision of 8 03.10 designated this area (adjacent area, not including site under appeal) as having an official alignment on its main frontage (not forming part of site under appeal), its use as residential and a height limitation of 2 floors plus 3 crs basement. If the site under appeal merited to be included as part of the Rationalization process, it would have been included in the first place. Appeal's request is in fact requesting an

extension to the PC boundaries on the argument of concealing a blank wall which is in fact no so much visible from the public road (in fact, appellant had to resort to an aerial photo and not to a photo taken from a public road). Furthermore, it must be stressed that the site under appeal does not abut a public road and hence cannot be given an official alignment.

5.1.5 As regards to the permits as cited in this appeal, the Authority has taken note and states that none had identical planning and environment considerations as to the site under appeal. The following is a small summary of each case cited:

PA 1214/07:

The assessment of the Directorate rendered this application for a positive recommendation since the site falls within a Category 2 Rural Settlement.

PA 50/07:

In this case, when the LPU were consulted to verify whether Policy SMSE 07 could consider such development, the LPU stated that since the adjacent building was a Rural Settlement Category 2, Policy SMSE 07. Site lies adjacent to a CAT 2 settlement (refer to MAP RS 6) and the policy allows for the development of an edge plot to close off a blank party wall. However no such policy exists relevant to the site in question since the adjacent building is not in a Category 2 Rural Settlement but is part of a Rationalization scheme which limits development within its approved boundaries.

PA 6366/06:

Site is located in Luqa and abuts Valletta Road which is one of the main roads which connects Luqa to Marsa. This outline development only approved a one storey building above road level and the subsequent full development application PA 3152/10 has in fact proposed a one floor dwelling above road level (case still not decided).

PA 996/05:

According to the Mapserver, this site is within a Rural Settlement Category 2. ie is subject to totally different policies as to those applicable to the site in question which is ODZ. Part site plan below shows extend of Cat 2 Settlement and site.

PA 4384/04:

This Outline Permit only approved a site plan and the DPA described the proposed plans (although not approved since it is an outline and only a site plan can be approved) as:

‘This outline development application is for the construction of a basement garage and ground floor dwelling. A washroom at first floor level is also proposed.’

The site plan also shows that the site fully abuts Triq il-Gandlora in Zebbug (Malta) which is a public and schemed main road and which thus enables the existing blank wall to be full visible from this public road.

5.1.6 The above clearly show that none of the above cited permits had identical planning and environment considerations mainly that none of the adjacent buildings were included in a Rationalization Exercise, all abutted and public and schemed road, all were highly visible from the public road on which they abut. The facts remain that the site under appeal does not abut a public or schemed road, is ODZ. would extend the Rationalization Scheme Boundaries, is not that much (if any at all) visible from a public (which has to be a main road) road and is proposing (through this Full Development Application) 2 full floors above road level.

5.1.7 Furthermore. reference is made to several decisions by the PAB on similar request to extend the scheme boundary on the argument of concealing blank party walls and that the Local Plan (and other related policy documents) did not conduct a holistic assessment. The following are a few of such decisions which all dismissed similar request for ODZ developments.”

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Din in-nota taghmel ukoll riferenza ghall-assessment li jinsab fid-DPA Report, b' mod partikolari il-minuta 10 u 11 et seq. Issir ukoll riferenza ghall-kazistika' fir-rigward ta' proposti allegatament simili; decizjonijiet moghtijja mill-Bord ta' l-Appell dwar l-lppjanar kif gej:

PAB 161/07 (PA 5727/05): Fenech Victor – Attard, deciza fl-4 ta' Frar 2009.

PAB 136/07 (PA 4037/05): Muscat Anthony – l/o Mgarr, deciza fis-6 ta' Marzu 2009.

PAB 46/06 (PA 6039/05): Bondin Malcolm - Mqabba, deciza fl-24 ta' Lulju 2009.

PAB 21/06 (PA 2388/05): Apap John – Gharb, deciza fid-29 ta' Lulju 2009.

PAB 205/06 (PA 1154/05): Agius Bernard – Paola, deciza fid-29 ta' Lulju 2009.

D. In-nota finali tal-Avukat Richard Sladden ghall-Appellant, ipprezentata fit-22 t'Awissu 2011, inter alia s-sitt punti segwenti:

“4. Illi l-Awtorita qed issostni li, l-hajt vojta hu ta' binja approvata razjonalizzazzjoni pero jidher tibqa' fuq interpretazzjoni razjonalizzazzjoni li jidher sempliciment ghadda linja karatteristici li ghandhom specjalment fl-istess triq!;

5. Illi Appendix B kkwotata fin-nota tal-Awtorita tindika lil Ghawdex kollu u prattikament zewg terzi ta' Malta bhala "Rural Conservation Area" meta fil-prattika mhux hekk u ma tistax tigi kkunsidrata bhala hekk u mhemmx ghalfejn tkun espert biex tinduna li s-sit u t-triq kollha in kwistjoni m'ghandha ebda karatteristika partikolari;

6. Illi s-sit kollu jrid jittiehed b'mod holistiku bil-karatteristici tal-'area' fuq naha tat-triq u mhux jithallew griehi vizivi bhal dak adjacenti mas-sit tal-appellanti;

7. Illi kieku t-tezi tal-Awtorita ta' Malta dwar l-Ambjent u l-lppjanar tigi accettata minn dan l-Onorabbli Bord, dan ikun ifisser zbilanc fl-estetika tal-istess triq kif jidher ben tajjeb mir-ritratti pprezentati;

8. Illi il-principju ta' end of development hu ben stabbilit fid-decizjonijiet ta' l-ippjanar nostrani. Dan il-kuncett jirrizulta meta zvilupp propost se jaghlaq l-ahhar appogg f' commitment ezistenti, anke jekk tali commitment jikkonsisti sahsitra minn abitazzjoni wahda. Dan il-principju huwa applikat indipendentement jekk il-commitment ezistenti jinsabx fl-iskema ta' l-izvilupp jew f'xi wahda mill-Category Settlements bhal fil-kaz odjern, u dan anke jekk il-commitment ezistenti huwa sahsitra ta' abitazzjoni wahda kif jirrizulta fid-decizjonijiet segwenti:

PA 996/05: To erect a basement garage with an overlying two storey residential unit as an end of scheme development.

Dan il-permess kien approvat stante li skont il-Kummissjoni, l-izvilupp propost kien se jirrizulta f' "end of development", anke jekk il-kumpliment tal-'commitment' ma jinsabx fl-iskema ta' l-izvilupp u wisq anqas f'xi wahda mill- "category settlements" fil- Pjani Lokali.

PA 4384/04: To construct a basement garage and overlying residential unit.

Dan il-permess kien approvat stante li skont il-Kummissjoni, l-izvilupp propost kien se jirrizulta f' "end of development", anke jekk il-kumpliment tal-'commitment' ma jinsabx fl-iskema ta' l-izvilupp u wisq anqas f'xi wahda mill- "category settlements" u fil-Pjani Lokali.

PA 795/06: Outline application to construct residential development in infill site.

Dan il-permess kien approvat stante li skont il-Kummissjoni, l-izvilupp propost kien se jirrizulta f' "end of development", anke jekk il-kumpliment tal-'commitment' jikkonsisti f'dar wahda li ma tinsabx fl-iskema ta' l-izvilupp u wisq anqas f'xi wahda mill-"category settlements" fil-Pjani Lokali.

PA 2799/05: To construct basement garages and residential units.

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Dan il-permess kien approvat stante li skont il-Kummissjoni, l-izvilupp propost kien se jirrizulta f' "end of development".

PA 1938/05: Construction of terraced house.

Dan il-permess kien approvat stante li skont il-Kummissjoni, l-izvilupp propost kien se jirrizulta f' "end of development" anki jekk il-'commitment' ezistenti kien jikkonsisti f'abitazzjoni wahda.

PA 2505/03: Construction of terraced house.

Dan il-permess kien approvat ghax skont il-Kummissjoni, l-izvilupp propost kien se jirrizulta f' "end of development" anki jekk il-'commitment' ezistenti kien jikkonsisti f'abitazzjoni wahda.

9. Illi mid-decizjonijiet sucitati, jirrizulta li l-principju ta' end of development huwa wiehed wiesgha u japplika stante li l-bini propost se jmiss ma' appogg ezistenti minghajr twieqi, filwaqt li jkun assigurat li l-appogg naxxenti mill-bini propost ikun mghammar bl-aperturi u b' hekk il-commitment jinghalaq darba ghal dejjem. Jirrizulta wkoll minn dawn id-decizjonijiet li l-principju ta' end of development japplika wkoll indipendentement minn dak li jipprovdu il-Pjani Lokali;

Ikkunsidra ulterjorment:

Il-mertu ta' dan l-appell jirrigwarda proposta sabiex jinbnew zewg maisonettes f' tarf ta' sit li jinsab f' rural conservation area, precizament barra miz-zona tal-izvilupp (ODZ) u biswit arja li kienet identifikata sabiex tiffirma parti mill-ischeme rationalisation ta' Had Dingli; kif ukoll sabiex blank party wall jigi mghotti b' tali kostruzzjoni. Bhalissa il-font jikkonsisti f'ghalqa agrikola minghajr l-ebda access minn triq skematizzata.

L-Awtorita' tirrileva li s-sit qatt ma gie dentifikat li jiffirma parti mill-ischeme rationalisation. Kienet giet intavaolata applikazzjoni (PA 334/04) ghal-modifiki u estenjoni ta' razzett ghat-trobbija tan-naghag, fejn is-sit in ezami kien propju jaghmel parti (zghira) minn dik il-proposta li kienet

giet approvata biss fil-fazi tar-rikonsiderazzjoni. Apparti minn hekk pero', l-Awtorita' tirrileva li ma' jirrizulta l-ebda peremss ghall-blank party wall kif indikat fil-proposta in ezami.

Ir-raguni ghar-rfjut jistrieħu fuq il-fatt li skond il-policy tal-Pjan Lokali, dan is-sit irid jibqa' miftuh u mhux zviluppat; u li l-proposta hi in kontravvenzjoni tal-policies BEN 1, BEN 5, SET 11, SET 12, RCO 2, RCO 22 u AHF 4 tal-Pjan ta' Struttura, li ma jippermettux zvilupp urbanizzanti f' areas li mhumiex committed meta jista' facilment jigi akkomodat f' areas urbani, u galadarba l-izvilupp jinbena, jintilef l-uzu agrikolu tal-ghalqa.

Fl-aggravji tieghu, l-Appellant jirrimarka li l-Awtorita' kienet harget almenu hames permessi simili barra committed built-up areas fl-ODZ. Jargument wkoll li skond il-Pjan ta' Struttura, prattikament Ghawdex kollhu u zewg terzi minn Malta huma ddesinjati bhala rural conservation areas u allura fl-opinjoni tieghu, din il-policy tal-Pjan ta' Struttura ser tohnoq l-izvilupp.

L-Awtorita' tirribatti dawn l-argumenti billi taghmel riferenza ghad-DPAR, inter alia li m'ghandomx jigu kkonsidrati residential units f' arja ta' dan it-tip; li l-izvilupp ser jgharraq il-kwalitajiet kulturali u xjentifiki taz-zona; u li l-proposta hi in kontravvenzjoni tal-policy PLP 20 ghax ghalkemm ser ikun hemm footprint ta' 105 metri kwadri, l-effective floorspace ser ikun ta' 210 metri kwadri fuq zewg sulari. Tirrileva wkoll li l-bini biswit is-sit in ezami gie nkuz f'Planning Control Application PC 85/07 fejn illum jirrizulta li ghandu faccata ma' triq skematizzata, pero' is-sit mertu ta' dan l-appell, qatt ma gie nkuz f'tali rationalisation.

Hawnhekk, tajjeb li jigi osservat li dan mhux il-forum sabiex jigi attackat l-ischeme rationalisation exercise li kienet hejjiet l-Awtorita'. L-Appellant kien imisshu (dakinhar) talab sabiex jigu estizi l-PC boundaries, skond kif qed jigi argumentat f' dan l-appell; cjoe' sabiex jigi stabbilit official alignment ma' triq pubblika u biex jitghatta hajt mikxuf.

Fir-rigward tal-kazistika ccitata mill-Appellant, jigi rilevat li hawn si tratta ta' category 2 rural settlements fejn skond il-policy jistghu inter alia, jinbnew edge plots sabiex jitghattew blank party walls; kif ukoll applikazzjonijiet koperti biss b' outline development permits u li ghandhom iridu jigu segwiti jew qed jigu segwiti minn full development applications. Jirrizulta ghalhekk li ma' jista jsir l-ebda paragun bejn il-kazistika ccitata u l-applikazzjoni in ezami.

L-Appellant isostni li l-argument tal-blank party wall, kif rilevata mill-Awtorita' hi dejqa hafna; partikolarment in vista tal-istrateja rationalisation, ghaliex; "min ghamlu semplicement ghadda linja, u ma tax kaz tal-karatteristici li ghandhom ikunu kumplimentari speċjalment fl-istess triq", u li kellu jittied kunsiderazzjoni tal-fatt li l-proposta hi ghal end of development, u sabiex jitghatta hajt tal-appogg mikxuf. Gew citati sitt permessi ohra, li primarjament jirrigwardaw end of development. Jigi rilevat pero', li apparti permess wiehed li jikkonsisti f' outline development application, ilkoll gew intavolati jew decizi qabel ma dahal fis-sehh il-Pjan Lokali. Vigenti

Mill-banda l-ohra, l-Awtorita' ticcita diversi decizjonijiet tal-Bord tal-Appell dwar l-ippjanar, fejn propju jirrizulta li anzi, l-Pjan Lokali kien intiz sabiex jittied kunsiderazzjoni ta' kwalsiasi zvilupp fiz-zona (inkluzi commitments antiki li kienu diga' jezistu qabel ma dahal fis-sehh l-istess Pjan), u li ma jkunx opportun li wiehed jitbieghed mill-policies hekk definiti, sahsitra meta l-kaz kien jinkludi hitan mikxufa. Dan it-Tribunal mghandux il-gurisdizzjoni li jbidel il-Pjan Lokali. Li kieku, bl-istess argument tal-Appellant, siti - ghax imissu ma' siti ohra li qedin fl-istrateja - jistghu ukoll jigu zviluppanti, kieku, jirrizulta l-maqlub ta' dak li nnota l-Perit tal-istess Appellant; li ma jibqax aktar rural conservation areas, ghax gziritna jinbnew minn tarf sa tarf. F' dan ir-rigward, qed jigu ccitati skorta ta' decizjonijiet tal-Bord tal-Appell dwar l-ippjanar kif indikati mill-Awtorita'; PAB 161/07 (PA 5727/05), PAB 136/07 (PA 4037/05), PAB 46/06 (PA 6039/05), PAB 21/06 (PA 2388/05), u PAB 205/06 (PA 1154/05).

Ghalhekk, in vista tal-konsiderazzjonijiet kollha hawn fuq maghmula, u fuq kollox sabiex ikun konformi mal-policies tal-ippjanar vigenti, dan il-Tribunal qed jiddisponi minn dan l-appell billi jichad l-istess u jikkonferma ir-rifjut ghall-PA 2190/08 mahrug mill-Kummissjoni ghall-Kontroll ta' l-Izvilupp, fit-3 ta' Novembru 2010.

Ikkunsidrat

L-aggravji tal-appellant huma s-segwenti:

1. It-Tribunal interpreta hazin il-kuncett ta' 'end of development', wara diversi sentenzi tal-Qorti dwar dan il-punt, liema kuncett mhux marbut ma' zona partikoli;
2. Ma intuzax l-istess kejl ghal din l-applikazzjoni kif intuza ghal premessi ohra. Pjan lokali ma jeliminax il-kuncett ta' 'commitment', u 'end of development' ghandu japplika indipendentement minn dak li jipprovdi l-pjan lokali;
3. Il-proposta ma kienet ser tikkreja ebda impatt negattiv izda wiehed pozittiv u t-Tribunal naqas li jidhol fil-punti sollevati mill-appellant, senjatmanet l-explanatory note fid-DZ rationalisation maps li jaghti diskrezzjoni lit-Tribunal li jezamina kull kaz fuq il-mertu tieghu.

L-ewwel aggravju

Dan l-aggravju ghalkemm ghandu sembjanza ta' punt ta' ligi, fil-fatt hu biss tentattiv biex din il-Qorti terga' tiftah il-fatti u tiddeciedi hi jekk taqbilx jew la mat-Tribunal jekk f'dan il-kaz kienx hemm gustifikazzjoni biex jinhareg permess ghal binja ohra barra miz-zona ta' zvilupp f'rural conservation area u biswit arja li kienet identifikata biex tiffirma parti mill-ischeme rationalisation ta' Had-Dingli fejn il-PC boundaries gew stabbilitti tant li l-ischemed road tasal sal-ahhar binja cioe dik biswit tal-proposta soggett ghall-appell u fejn is-sit in kwistjoni ma jiformax parti mir-rationalisation scheme u jaqa' bara miz-zona ta' zvilupp. It-Tribunal, li kkunsidra l-permessi citati mill-appellant fejn qal li hlief ghal wiehed outline, kollha gew decizi qabel il-pjan lokali. It-Tribunal kkwota lill-Awtorita li ccitat divrsi premessi fejn il-pjan lokali kien intiz biex jittiehed in konsiderazzjoni kull zvilupp fiz-zona inkluz commitments ezistenti qabel ma dahal fis-sehh il-pjan lokali u li mhix

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opportun li t-Tribunal jitbieghed mill-policies cari sa fejn ghandu jasal il-bini anki f'kaz ta' hitan mikxufa altrimenti jkun qed ibiddel il-pjan lokali fejn ma ghandux jedd li jaghmlu.

Dan hu l-argument legali li fuqu bbaza t-Tribunal, argument li din il-Qorti ma tistax tindahal ghax hu applikazzjoni korretta tal-ligi fejn it-Tribunal ddecieda illi ma ghandux ikollu diskrezzjoni jinterpreta jew japplika kuncetti li jmorru kontra l-pjan lokali.

Kwindi din il-Qorti ma ghandhiex tissindaka kif qed jitlob l-appellant, jekk it-Tribunal kellux, fuq il-fatti tal-kaz, jiskarta l-pjan lokali u l-ligi u jaghti soppravent lil kuncett tal-'end of development'. L-interpretazzjoni u l-piz li ta tal-varji aspetti ta' natura ta' pjanar tat-Tribunal mhux sindakabli minn din il-Qort.

Ghalhekk dan l-aggravju qed jigi michud.

It-tieni aggravju

Dan l-aggravju ma jreggix legalment. Fl-ewwel lok it-Tribunal ha konizjoni u kkonsidra l-permessi kollha li ssemew mill-appellant u l-Awtorita u ghmel l-osservazzjonijiet tieghu dwarhom. Kwindi la darba t-Tribunal ikun ikkunsidra l-aggravju, din il-Qorti ma ghandhiex tirrevedi jekk kinitx tasal ghall-istess konkluzzjoni o meno purché ma jkun sar xi zball grossolan fuq il-fatt innifsu li jkun wiehed sostanzjali ghall-ezitu u li jirendi d-decizjoni monka. F'dan il-kaz ma gara xejn minn dan u t-Tribunal spjega kif il-permessi msemmija mill-applikant ma kellhomx is-sahha li ppretenda l-appellant billi dawn il-permessi nghataw qabel ma dahal fis-sehh il-pjan lokali u f'diversi minnhom anki l-fattispecie kienu differenti.

In kwantu ghal kwistjoni tal-commitment, it-Tribunal ukoll dahal fil-kwistjoni b'mod legalment korrett u ddecieda illi pjan lokali ma jeliminax kull haga ta' sustanza fosthom 'commitment' pero zied li ebda commitment jew kuncett iehor bhal end of development ma jista' jiskarta dak li

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jipprovdli pjan lokali billi l-pjan lokali jikkostitwixxi ligi li t-Tribunal ma ghandhux dritt jivjola jew jinjora sakemm ma jkunx inghata diskrezzjoni b'xi policy partikolari. Ma' dan il-Qorti izzid illi l-istess Tribunal ma strahx biss fuq il-pjan lokali cioe in-North West Local Plan izda fuq diversi policies specifici fosthom BEN 1, BEN 5, SET 11, SET 12, RCO 2, RCO 22 u AHF 4 tal-Pjan ta' Struttura li ma jippermettix bini urbanizzanti f'area mhix committed u fejn jintilef l-uzu agrikolu tal-ghalqa, mertu tal-applikazzjoni.

Ghalhekk anki dan l-aggravju qed jigi michud.

It-tielet aggravju

Dan hu purament aggravju ta' fatt fejn il-Qorti ma ghandhiex tidhol fil-mertu tal-apprezzament fattwali maghmul mit-Tribunal. Dak li pero jinghad mill-Qorti hu illi t-Tribunal ghamilha cara li l-kuncett ta' 'end of development' tintuza biss jekk il-pjanijiet u policies ihallu diskrezzjoni lit-Tribunal u l-Qorti zzid li l-Local Plans Boundaries Rationalisation of Development Zone Boundaries Approved Document ighid li kull kaz irid jittiehed skond il-fattispecie tieghu, u ma jikkreja ebda dritt. Dan hu konsonini ma' dak stabbilit fl-artikolu 69 tal-Kap. 504 fejn it-Tribunal irid japplika rigorozament il-pjanijiet u policies filwaqt li jqis affarijiet ta' sustanza. Pero ebda kwistjoni ta' sustanza ma tista' qatt tasal biex tmur kontra pjan jew policy, u hekk jidher li ghamel korrettament it-Tribunal.

Ghalhekk dan l-aggravju qed jigi michud.

Decide

Ghalhekk il-Qorti taqta' u tiddeciedi billi tichad l-appell ta' Joseph Ciantar u tikkonferma d-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tal-10 ta' Mejju 2012. Spejjez ghall-appellant.

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