



MALTA

QORTI TA' L-APPELL

ONOR. IMHALLEF

MARK CHETCUTI

Seduta tad-9 ta' Lulju, 2015

Appell Civili Numru. 5/2015

Il-Kunsill Lokali ta' Pembroke

vs

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

l-kjamat in kawza, lan Wirt ghan-nom ta'

Pembroke Rackets Tennis Club

Il-Qorti,

Rat ir-rikors tal-appell tal-Kunsill Lokali Pembroke tas-16 ta' Frar 2015 mid-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tad-29 ta' Jannar 2015 li laqghet l-applikazzjoni

Kopja Informali ta' Sentenza

ta' Pembroke Rackets Tennis Club 'construct (1) additional tennis courts with basement ancillary facilities' PA 559/2013;

Rat ir-risposti tal-Awtorita u ta' Pembroke Rackets Tennis Unit li ssottomettew 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:

Ra r-ragunijiet ta' l-appell li huma s-segwenti:

"The undersigned architect and civil engineer, in conjunction with Dr Noel Camilleri of MBC Advocates, have been asked to submit an application for a third-party appeal to the Environment and Planning Review Tribunal, on behalf of the Pembroke Local Council - in the name of the Mayor, Dr Dean Hili and the Executive Secretary, Mr Kevin Borg - in terms of article 41 and the Second Schedule of the Environment and Development Planning Act, 2010.

The appeal is being respectfully submitted in respect of the application and subsequent approval, issued by the Malta Environment and Planning Authority under PA 559/13 which allows the construction of an additional two tennis courts with basement ancillary facilities in an open area used by the community of Pembroke.

Background

The Pembroke Local Council has been following the development going on in and around this site for a number of years. This is evident from the Report prepared by the Case Officer for the Application PA 559 /13 which states:

Kopja Informali ta' Sentenza

"Outline Planning Permission PA 2532/04 for the construction of additional open air tennis court was granted on the 11th October, 2004. The decision was appealed by the Pembroke Local Council and the next appeal hearing is suspended until an unspecified date. The planning permission is now expired and no longer valid. Kindly note the current proposal contains two tennis courts while that approved in the outline planning permission only included one."

The decision of the Appeals Board at the time (PAB 355/04 TSC) was postponed to ensure that the Planning Authority can explain with certainty the policy background for the site in question - "illi ma jistax ighaddi sabiex jiddeciedi 1 appell fil-mertu qabel ma jigi nfurmat dwar dawk il-policies in vigore llum dwar is sit in kwistjoni".

The Local Council has always maintained that the area is used by the public and the community as an informal picnic area and is in fact referred to as such. This reference has been reinforced in the Local Plan covering the area - The North Harbours Local Plan. This is evident in the Case Officer's Report which states that:

The site falls within an area zoned for Formal Gardens as indicated at map PE1 and described by Policy NHPE03 of the North Harbours Local Plan. This policy states that "MEPA will not permit development that would have an adverse effect on the open spaces that contribute to Pembroke's distinct townscape character." The policy also states that promote the public use of these open areas, proposals for landscaping and management schemes and related suitable ancillary development such as appropriately located public conveniences, picnic areas, footpaths and seating will be favourably considered by MEPA."

The report continues:

The proposed development entails two tennis courts with ancillary facilities which would facilitate these courts' use. That the tennis courts provide formal recreational facilities rather than informal recreational spaces is not prohibited by the Local Plan which seeks only to preserve the open character of Pembroke (which will be preserved) and to support the use of such open spaces with ancillary facilities.

These ancillary facilities come in the form of a storage space and sanitary facilities below street level. The storage space is seen to be reasonable, especially in view of the size of the existing club house (see drawing 86E) which provides very little in terms of storage space for sports equipment and other equipment which may be necessary for running the club. The shower facilities and changing directly enable

Kopja Informali ta' Sentenza

the public use of the tennis courts, such that they are acceptable in terms of the Local Plan."

It is here that the primary divergence of opinion resides between the Local Council and the way that the policy is being interpreted by MEP A. It is maintained by the Pembroke Local Council that the policy protects the open space character of the area whilst MEPA is interpreting the policy as one which allows the development in question.

Grounds for the Appeal

The Pembroke Local Council is not in agreement with Decision dated 26th March 2014 and its objection is based on the following:

that the proposal and permit approved runs counter to the spirit of the planning policies and in particular the North Harbours Local Plan for the area in terms of Policy Map PE1 and Policy NHPE 03:

NHPE03 Protection and Upgrading of Open Spaces

In accordance with Policy NHRL 01, MEPA will not permit development that would have an adverse effect on the open spaces that contribute to Pembroke's distinct townscape character. These spaces are identified on Map PE 1, and these include:

- i. Garden and Recreational Areas (Existing/Proposed Green Areas and Informal Recreational Spaces);
- ii. The proposed St. Patrick's Park; and
- iii. Priority Areas for Tree Planting/Protection of Existing Trees.

To promote the public use of these open areas, proposals for landscaping and management schemes and related suitable ancillary development such as appropriately located public conveniences, picnic areas, footpaths and seating will be favourably considered by MEPA.

Kopja Informali ta' Sentenza

14.4.4 It is essential that high priority is given to the protection of informal and formal open spaces which contribute significantly to the unique character of Pembroke. Through this policy the local plan prioritises key sites for upgrading as public gardens. Other areas are protected from further development for the valuable and essential role they will play as an amenity to future generations of residents in this area. Provision of children's play areas, picnic sites, together with the provision of toilet facilities and other appropriate amenities by competent authorities will be supported by MEPA. Picnicking opportunities with support facilities are relatively scarce in Malta and a need exists to introduce suitably equipped picnic areas in key open spaces. Preference will be given to areas that are currently in a dilapidated state.

The site is clearly marked in Map PE 1 as one that is an Informal Recreational Area to be protected under Policy NHPE 03.

The proposal to build tennis courts is not in line with the spirit of the Policy, which clearly states that the area should be left open to the public and that picnicking opportunities should be made available. In fact, the Council had commitments from Enemalta to upgrade this area as a picnic area for the public. In this case, an already existing informal picnic area is being converted to tennis courts for a restricted paying public.

- that the proposal runs counter to the policies as regards aesthetics in that the nature of the development, through its hard surfaces and high protective nets will detract from the aesthetic value of the landscape. The council has commissioned a 3d graphic model of the proposal, which is being shown below and which will be shown to the members of the tribunal in a larger format during the hearings along with previous photos of the site.

This means that the proposal runs counter to Policy BEN 2 of the structure Plan.

- the Local Council reserves the right to submit further grounds for appeal during the hearings.

The request of the appellant

The appellant respectfully requests that the decision taken on the 10th of October by MEPA is reversed and that the subsequent permit, published in the Press on the

Kopja Informali ta' Sentenza

29th March 2014, is revoked to allow the use of the land by the community of the locality and for the site to be upgraded by the Local Council for the purposes of family informal recreation.”;

Ra r-risposta tal-Awtorita' li giet prezentata fit-3 ta' Lulju 2014 li taqra' kif gej;

5.2 The Directorate has the following comments to make:

5.2.1 Introduction

In comments submitted, the appellant is arguing that the proposed development runs counter to the spirit of the planning policies and in particular the North Harbour Local Plan for the area in terms of Policy Map PE1 and Policy NHPE 03. This states that that the area should be left open to the public and that picnic opportunities should be made available.

Proposal also runs counter to the policies as regards aesthetics in that the nature of the development, through its hard surfaces and high protective nets will detract from the aesthetic value of the landscape. In the following report, the Authority will re-visit the merits of this case and examine why the decision EPC Board in May 2012 was correct.

5.2.2 Local Plan Designation

The Tribunal is notified that the site lies within limits of development and is in an area zoned for Formal Gardens (existing/proposed) as per map PE1 and Policy NHPE 03 of the Pembroke of the North Harbour Local Plan. Part of the site falls within an area dedicated to junction improvement but the Transport Malta did not object to the proposal (doc. 39A). Below is the site history of the application which clearly shows that that there is already a full permit for one tennis court and an outline for an additional open tennis court:

Full Planning Permission PA1822/99 for the sanctioning of one of the tennis courts on site was approved on the 13th August, 1999.

Outline Planning Permission PA2532/04 for the construction of additional open air tennis court was granted on the 11th October, 2004. The decision was appealed by the Pembroke Local Council and the next appeal hearing is suspended until an unspecified date. The planning permission is now expired and no longer valid.

Kopja Informali ta' Sentenza

Kindly note the current proposal contains two tennis courts while that approved in the outline planning permission only included one.

This proposed development in this application entails two tennis courts with ancillary facilities which would facilitate these courts' use. The Authority does not agree with appellant that development runs counter to the spirit of NHPE 03 since the tennis courts provide formal recreational facilities rather than informal recreational spaces and is not prohibited by the Local Plan which seeks only to preserve the open character of Pembroke (which will be preserved) and to support the use of such open spaces with ancillary facilities. These ancillary facilities come in the form of a storage space and sanitary facilities below street level. The storage space is seen to be reasonable, especially in view of the size of the existing club house (see drawing 86E) which provides very little in terms of storage space for sports equipment and other equipment which may be necessary for running the club. The shower facilities and changing directly enable the public use of the tennis courts, such that they are acceptable in terms of the Local Plan.

5.2.3 Re- Aesthetics

With regards to aesthetics, the Authority does not agree with appellant since the elevations indicate that the proposed development is relatively discreet and built with respect to the existing structures on site. A number of trees are to be planted on site which would mask the development from surrounding streets and help to maintain the Pembroke's verdant character. These are in line with the planning directorate's request to have a line of trees along the site's periphery. The proposal therefore complies with Structure Plan Policy BEN 2 and is acceptable from an aesthetic point of view.

5.2.5 Justification for Permitting Development

The same appellant of the permit issued was also a registered objector during the processing stages of this application; where the Authority was informed that it believes that the space should be left open for all the residents of Pembroke and its surrounding localities to enjoy. Appellant also stated that the Local Council has an agreement with the Enemalta Corporation for the rehabilitation of the site after the digging of the interconnector. The letter also refers to PA2532/04, which it is stated was withdrawn by the applicant following an appeal lodged by the Local Council - see documents 67 and 88. The Planning Directorate responded that there exists no evidence that the file was withdrawn following the submission of the appeal and that the appeal is still pending. This outline application has however expired and is therefore no longer valid.

Kopja Informali ta' Sentenza

MEPA therefore reiterates that it acknowledges and confirms permit issued on 17 March 2014 is justified and is valid on sound planning considerations in which the Authority took into considerations all the relevant facts, planning policies, legislation and submissions and thus, respectfully requests the Environment and Planning Review Tribunal to confirm the decision taken by the Authority and to confirm the decision taken by the Authority and to refuse this appeal.”;

Ra r-risposta ghal dan l-appell tal-Perit Dieter Falzon ghall-applikanti prezentata fl-24 ta' Gunju 2014 hekk kif gej :-

“We are writing on response to an appeal lodged against the issuing of the above mentioned permit and as such would like to re confirm the details of the project which lead to the MEPA Board to favourably vote on said application by a clear 11 votes to 1.

The Proposal

The proposal in PA 0559/13 includes the construction of two (2) tennis courts with ancillary basement facilities. Said ancillary compliment the already existing club house (built by the British Forces) and will include:

- Storage space
- Sanitary facilities and showers for gents /ladies / disabled.

The application has been through a thorough filter and has been recommended for approval following consultations with various entities. The recommendation of said permits comes with restrictions.

- A planting, landscaping and maintenance proposal had to be given on the surrounding areas governed by Bank Guarantees (€ 4800.00). The Club were asked to plant a number of indigenous trees around our proposed tennis courts and these are shown on the plans.

- The permit is also subject to a contribution of € 4659.00 to MEPA's UIF for the locality, a healthy injection for Council to utilise.

Kopja Informali ta' Sentenza

One aspect of the project that must be highlighted is the fact that most of the existing open spaces will be retained. We have included two plans;

Plan A - indicating the existing-area with open spaces-marked (yellow)

Plan B - the proposal is highlighted with the retained open spaces marked (yellow)

One will also note that the area for open space in Plan B also includes the area where the Landscaping management is to take place thus creating a true open space fit for uses by the public. The Club believes that both distinct uses (sport and recreation) can continue to cohabitate in this area as they have done over the last twenty five years or more.

The only closed spaces will be the existing two tennis courts and clubhouse (already non accessible to non members) and the new tennis courts with the ancillary facilities. All other areas are readily accessible.

Site History

The site in question has a long history. One must clearly identify the dilemma the EPC board faced when it came to a deadlock situation. The Local Plan earmarks the site as an open space however the Local Planning Unit has categorically stated that our proposal may not be precluded on such site. We also believe this and the site history clearly indicates this.

The British Forces (early 20th century) built two tennis courts and the original Clubhouse together with a small cricket pitch (in the area today marked as an open space).

Our office processed the application for an additional (sanctioning) tennis court to be built once one of these tennis courts had to be destroyed due to the widening of the road nearby. Permit was granted under PA 1822/99 and duly built.

Kopja Informali ta' Sentenza

The Club subsequently applied again for an additional tennis court (outline application) through PA 2532/04. Permit was approved however the Club itself withdrew the permit at a later stage.

Finally PA 559/13 was applied for, the permit is recommended for approval only for the EPC Board to be deadlocked on a decision.

Respectfully we believe that the Local Plan does not reflect the true situation on site. The area has been in its former state since the British left. We feel that having a large patch of soil with no facilities does not constitute a picnic area. At our first EPC meeting we were asked to investigate the site history and it is here that the undersigned can now confirm that the site was originally a cricket pitch. This is visible on our photos in the application and clearly identifiable from the MAP SERVER aerial photos which have been enclosed.

The dimensions of the PITCH on map server (24.72metres) correspond to standard dimensions downloaded from www.dsr.gov.au. the official Department of Sport and Recreation Australia. These will be presented at the meeting.

Thus we believe that if one had to be technical the site was always of a sporting nature commencing as a cricket pitch together with the fact that there is PRTC and ATHLETA nearby (five aside / basketball pitches / clubhouse and parking area). Similar Permits granted

In this section we will refer-ta-two permits processed by our office and which have been granted.

Marsa Local Council embarked on a project to construct a five a side football pitch in Spencer Garden, Marsa. The permit (PA 632/06) was granted on 9th October 2007 thus clearly indicating that proposals of a sporting nature may be developed in open spaces.

The permit is identical in nature to ours and has more weighting as it is being proposed by a LOCAL COUNCIL.

Swieqi Local Council is moving forward with a similar project in nature. PA 131 0/12 granted to embellish an existing clubhouse annexed to a tennis court in a public

Kopja Informali ta' Sentenza

garden. The permits have been granted and its basis is in the fact that the entire proposal is based on access for all. Again the dualism where both natures (recreation / sport) can clearly work. Of particular note is that to date the proposal is also being considered for VIP funding. Again a project being promoted by a LOCAL COUNCIL.

We reserve the right to research more on similar permits and present them if the need

Conclusion

As seen above both Councils have identified the importance of sports although they clearly do not boast the open spaces Pembroke is blessed with in their locality. Our proposal in itself will eliminate a negligible amount of open space (the area of the two additional tennis courts amounting to 1434.00 square metres) but replace it with a sport open to ANYONE willing to learn and enjoy.

Pembroke Rackets Tennis Club is an affiliate to the Malta Tennis Federation and to Kunsill Malta Sport. The Club want to embark on this ambitious proposal as it intends to grow. This growth is no way capricious in nature or guided by business - making ambitions alone.

It must be clear that records show that club memberships have never changed over twenty five years. The Club may not restrict memberships but has a long list of prospective members.

Having two additional tennis courts to the required standards opens doors for the club and ultimately to a wider base of people.

These include:

The very important window on our youngsters. Having 4 courts will help the Club to organise (local) junior and (international) junior events.

Kopja Informali ta' Sentenza

Additional facilities for coaches and coaching schemes both for the younger and not so younger generations

The possibility of organising OPEN events locally and internationally.

Tennis is one of a very few sports which can be practised competitively well into one's older ages. It is healthy, pro active and locally has been sponsored by leading doctors/surgeons (CARDIO TENNIS).

We feel that the proposal should be favourably considered and we look forward to your positive reply.”;

Ra s-sottomissjoni ulterjuri tal-appellanti preżentata fl-20 t'Awissu 2014;

Ra l-Policy BEN 2 tal-Pjan ta' Struttura;

Ra l-policies NHRI 01 u NHPE 03 u l-mappa PE 1 fin-North Harbours Local Plan;

Ra l-PA file 559/13;

Ra l-atti kollha ta' dan l-appell.

Ikkunsidra ulterjorment:

Illi l-ilment principali tal-appellanti, il-Kunsill Lokali ta' Pembroke, kontra l-hrug ta' dan il-permess numru PA 559/13 għal bini ta' zewg tennis courts, huwa bbazat fuq il-Policy NHPE 03 tal-Pjan Lokali (North Harbour Local Plan), fejn l-appellanti qeghdin jinsistu li dan l-izvilupp approvat imur kontra l-oggettivi kif elenkati f'din il-policy suċitata.

Illi l-Policy NHPE 03, (Protection and Upgrading of Open Spaces), tipprovdi dan li geġ:

Kopja Informali ta' Sentenza

“In accordance with Policy NHRL01, MEPA will not permit development that would have an adverse effect on the open spaces that contribute to Pembroke’s distinct townscape character. These spaces are identified on Map PE1, and these include:

i. Garden and Recreational Areas (Existing/Proposed Green Areas and Informal Recreational Spaces);

ii. The proposed St. Patrick’s Park; and

iii. Priority Areas for Tree Planting/Protection of Existing Trees.

To promote the public use of these open areas, proposals for landscaping and management schemes and related suitable ancillary development such as appropriately located public conveniences, picnic areas, footpaths and seating will be favourably considered by MEPA.”

Illi l-appellant qeghdin jinsistu li skont din il-policy, is-sit mertu ta’ dan l-appell ghandu jibqa’ wiehed miftuh u protett minn zvilupp sabiex jitgawda mill-pubbliku bhala spazzju miftuh u ta’ rikreazzjoni. Fil-fatt il-Kunsill Lokali rrileva l-hsieb sabiex dan is-sit jigi mibdul f’picnic area wara li jitlesta x-xoghol mill-Enemalta marbut mal-progett tal-interconnector.

Illi minn ezami tal-policy fil-pjan lokali sucitata, huwa evidenti li din il-policy ma tistax tigi kunsidrata b’mod izolat minn dak li tipprovdi Policy NHRL 01, kif wara kollox l-istess policy inkwistjoni taghmel referenza ghal din tal-ahhar billi tibda bil-kliem: “In accordance with Policy NHRL01...”

Illi l-Policy NHRL01 (Loss of Urban Open Space and Playing/Sports Spaces) tipprovdi dan li gej:

“Planning permission will not be granted for development resulting in the loss of urban public open spaces, sports areas or areas previously designated as green areas in the TPS (1988) unless:

i. Public open space or sports areas as applicable of equivalent or greater area are provided in the same locality within the development zone; or,

Kopja Informali ta' Sentenza

- ii. Its use is complementary to the function of the public open space or sports area where the development occurs and occupies only a part of the open space; or,
- iii. The space has been re-zoned for community or other uses through other policies within this Local Plan."

F'dan il-kaz, l-izvilupp mertu ta' dan l-appell seta' jigi kunsidrat biss a bazi tat-tieni kriterju tal-policy msemmija supra, meta dawn iz-zewg tennis courts huma estensjoni ta' facilitajiet relatati mal-isports tat-tennis ezistenti li jinsabu fuq in-naha tal-Griegal-Tramuntana tas-sit inezami. Kif anke gie osservat mill-Bord tal-Awtorita' waqt il-laqgha fejn giet deciza din l-applikazzjoni odjerna, dan il-kumpless sportive jaghmel parti minn erja ferm ikbar ta' zona miftuha ta' gonna kif huwa evidenti fil-mappa PE1 tal-Pjan Lokali.

Illi f'dan ir-rigward, dan it-Tribunal huwa tal-fehema li l-Awtorita' applikat b'mod korrett il-policies fil-pjan lokali li jirrigwardaw zvilupp fil-gonna u spazzji pubblici fil-lokalita' ta' Pembroke, u ghaldaqstant qieghed jichad l-ewwel aggravju fl-appell.

It-tieni aggravju huma marbut mal-estetika u d-dehra tal-izvilupp fil-kuntest tal-gonna fejn jinsab is-sit, fejn l-appellanti qeghdin jinsistu li dan l-izvilupp ser iwassal ghall-impatt negattiv fuq id-dehra u l-landscaping tal-madwar. In sosten ta' dan, gie prezentat photomontage li skont l-appellanti jaghti hjiel car tal-impatt negattiv fuq id-dehra tal-madwar, u ghaldaqstant qieghed jigi sostnut li l-izvilupp imur kontra Policy BEN 2 tal-Pjan ta' Struttura.

Illi fil-fehma ta' dan it-Tribunal, l-argument dwar l-impatt viswali huwa fih innifsu argument suggettiv, meta minn l-ohra l-Awtorita' u l-applikanti qeghdin isostnu li l-izvilupp ta' tennis courts ser izommu l-element ta' ftuh u arja f'dan is-sit.

Illi l-appellanti qeghdin jibbazaw dan l-aggravju fuq photomontage li fil-fehma ta' dan it-Tribunal mhux necessarjament qieghed jaghti stampa ezatta ta' dak li gie approvat f'dan il-permess. Dawn it-tennis courts huma fil-fatt mdawwra b'numru ta' sigar li jinsabu mad-dawra tas-sit, u l-permess jahseb ukoll ghat-thawwil ta' numru ta' sigar fuq in-naha esposta tat-tennis courts, partikolarment lejn in-naha tan-Nofsinhar u Lvant skont il-pjanta numru PA 559/13/86B u kundizzjoni numru 2 fil-permess. Dan il-fatt ma giex inkluz fil-photomontage prezentat fl-appell. Certament iz-zieda ta' sigar ser inaqqas l-impatt viswali li dawn it-tennis courts possibilment jistghu jikkawzaw. F'dan ir-rigward il-permess jindirizza dan l-ilment imressaq f'dan l-appell, u ghaldaqstant it-tieni aggravju ma giex sostnut u qieghed jigi michud ukoll.

Kopja Informali ta' Sentenza

Ghal dawn il-motivi, dan it-Tribunal qieghed jichad l-appell.

Ikkunsidrat

L-aggravji tal-appellant huma s-segwenti:

1. It-Tribunal injora l-principju legali marbut mal-izvilupp billi z-zona tinsab fil-NHLP fejn is-sit in kwistjoni hu desinjat fil-mappa PE 1 fejn il-policy taghti x'tifhem li z-zona trid tibqa' spazju miftuh u hieles minn zvilupp salv dak li tindika l-policy biss, u dan l-izvilupp ma jaqax f'dawn il-parametri. Minn zona pubblika, il-proposta qed taghti lok ghal zvilupp ghal uzu ta' ghaqda u tal-membri taghha biss;
2. It-Tribunal applika hazin il-policy NHRL 01 (loss of urban open space and paying/sports spaces) billi l-istess policy hi intiza ghal protezzjoni ta' open spaces.

L-aggravji mehudin flimkien

Il-Qorti tirreleva l-ewwel nett li dawn l-aggravju huma l-istess aggravji mressqa quddiem it-Tribunal u li keinu s-soggett tal-appell quddiemu. Din il-Qorti tqis illi l-aggravji huma infondati. Ghalkemm hu minnu illi l-izvilupp in kwistjoni jaqa' fil-mappa PE 1 skond il-NHLP u skond policy NHPE 03 Protection and Upgrading of Open Spaces, zvilupp mhux permess f'dawn is-siti li jista jkollhom impatt negattiv fuq daww il-ispazji miftuha, il-Qorti tirreleva wkoll illi kif tenna t-Tribunal din il-pjan irid jinqara mil-policy NHRL 01 cioe l-policy rigwardanti loss of urban open space and paying/sports spaces. F'din il-policy li tirreplika l-principju li ebda zvilupp ma jigi permess li jsir li jista' jirrizulta f'telf ta' spazji miftuha pero hemm tlett eccezzjonijiet ghar-regola fosthom fejn l-uzu ghall-izvilupp mitlub hu kumplimentari ghal funzjoni tal-ispazju pubbliku jew arja sportiva u fejn jikkupa biss parti mill-ispazju pubbliku.

It-Tribunal interpreta din l-eccezzjoni bhala wahda li tapplika ghal dan l-izvilupp li gia jikkomprendi kumpless sportiv u jaghmel parti minn arja ferm akbar ta' zona miftuha ta' gonna skond il-mappa PE 1.

Kopja Informali ta' Sentenza

Din il-Qorti tqis illi dak li qed jitlob l-appellant hu ezami tal-interpretazzjoni moghtija mit-Tribunal tal-policies fuq citati. Din il-Qorti ma tqis li ghandha din id-diskrezzjoni li tiddisturba interpretazzjoni ta' policy jew f'dan il-kaz policies kumplimentari sakemm l-interpretazzjoni mhix necessarja ghax il-policy hi cara u skjetta jew fejn l-interpretazzjoni hi tant assurda li tista' taffettwa decizjonijiet futuri ta' applikazzjonijiet simili. F'dan il-kaz il-Qorti tqis li ma jezistu ebda wahda mill-estremi biex din il-Qorti tiddisturba l-gudikat tat-Tribunal li interpeta z-zewg policies u wasal ghal konkluzjoni ta' dak li kien l-iskop wara l-policies u l-eccezzjonijiet ghalihom liema eccezzjonijiet, alemnu wahda in partikolari tapplika ghal dan l-izvilupp. Ghalkemm wiehed jista' ma jaqbilx mill-interpretazzjoni izda hi wahda ragonevoli minn qari tal-assiem tal-policies u ma jstax jinghad li saret applikazzjoni hazina tal-policies rilevanti.

Decide

Ghalhekk il-Qorti taqta' u tiddeciedi billi tichad l-appell tal-Kunsill Lokali Pembroke u tikkonferma d-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tad-29 ta' Jannar 2015, bl-ispejjez kontra l-appellant.

< Sentenza Finali >

-----TMIEM-----