



QORTI TAL-APPELL

(KOMPETENZA INFERJURI)

(TRIBUNAL TA' REVIZJONI TAL-AMBJENT U L-IPPJANAR)

ONOR. IMHALLEF MARK CHETCUTI LL.D.

Illum L-Erbgha, 20 ta' Marzu, 2019

Numru 8

Appell Nru. 71/2018

John Cilia

vs

**L-Awtorita tal-Ippjanar
(gia l-Awtorita ta' Malta dwar l-Ambjent u l-Ippjanar)**

Il-Qorti,

Rat ir-rikors tal-appell ta' John Cilia tal-24 ta' Dicembru 2018 mid-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tas-6 ta' Dicembru 2018 li biha cahad l-applikazzjoni PA 813/15 'to construct public parking at levels -3, -2, u -1, retail outlets at ground floor and overlying offices at first floor, including fixing of signs' f'Tower Road, San Giljan;

Rat ir-risposti tat-terz oggezzjonant u tal-Awtorita 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:

Preliminari:

Illi fir-risposta ghar-rikors tal-appell, it-terzi persuni nterresati sostnew li l-applikazzjoni in mertu ghandha tigi meqjusa nulla u bla effett tenut illi l-applikant mhux is-sid u ma ghandux il-kunsens mis-sid tal-proprejta necessarja skont il-ligi. Illi gie ukoll prezentat ittra tat-22 ta' Marzu 2017 mill-Patrijiet Karmelitani bhala sidien tal-proprejta u ndirizzata lill-Kummissjoni tal-Ippjanar fejn qed jinformat lill-Kummissjoni li huma ma tawx il-kunsens taghhom ghall-izvilupp 'albeit a lease agreement had been signed.'

Illi l-appellant minn naha tieghu sostna li l-applikazzjoni giet prezentata b'mod korrett b'dan illi huwa ddikjara li mhux is-sid tal-proprejta ghalkemm huwa gie moghti l-kunsens necessarju mis-sid permezz ta' kuntratt privat li fil-fatt gie prezentat fil-process tal-applikazzjoni.

Illi dan it-Tribunal seta' jinnota li rapprezentazzjoni mis-sidien, ossia l-Komunita tal-Patrijiet Karmelitani kienet giet prezentata fil-process tal-applikazzjoni ghalkemm din kienet limitata biss ghar-rigward id-distanza tat-thaffir mill-bini tal-kunvent [Vide e-mail a fol 71 fl-inkartament tal-PA 813/15], filwaqt li ma hemmx evidenza fil-process tal-applikazzjoni odjern tal-ittra prezentata mit-terzi persuni nterresati fil-process ta' dan l-appell. Minn naha l-ohra giet prezentata ittra mill-Kurja tal-Arcidjocesi ta' Malta fejn informat lill-Kummissjoni dwar kawzi pendenit kontra l-appellanti fejn qed jigi kontestat il-legalita' tal-ftehim bejn is-sidien u l-appellanti.

Illi l-Artikolu 71(4) tal-Kap 552 jipprovdi dan li gej:

“(4) Min japplika ghal permess ghall-izvilupp ghandu jiccertifika lill-Awtorità:

- (i) li huwa s-sid tal-art jew li avza lis-sid bl-intenzjoni li japplika b'ittra registrata li l-Awtorità tkun irčeviet kopja u li s-sid ikun ta l-kunsens tiegħu għal dik il-proposta; Jew (emfazi mizjud)
- (ii) li huwa awtorizzat li jagħmel dak ix-xogħol propost permezz ta' xi liġi oħra jew ftehim mas-sid.”

Illi f'kaz ta' applikazzjoni ghall-izvilupp mhux necessarju li l-applikant jipprovdi xi forma ta' kunsens mis-sid gjaladarba hemm ftehim mas-sid ghal tali xogholijiet. Illi fil-kaz odjern, dan it-Tribunal huwa sodisfatt li l-applikant kien prezenta l-applikazzjoni b'mod korrett meta huwa sostna anke permezz ta' prova li kien hemm ftehim mas-sidien ghal tali zvilupp kummercjali, suggett li jigi ottjenut il-permessi mehtiega.

Ta' min izied illi l-legalita' ta' tali ftehim qed jigi kontestat f'fora ohra fil-Qrati ta' Malta, ghalkemm fil-limiti ta' dak li tipprovdi il-ligi tal-ippjanar, l-applikazzjoni tissodisfa l-kriterji mehtiega fejn jidhol kunsens jew ftehim mas-sidien tal-art. Ghalhekk l-applikazzjoni hija wahda korretta fil-limit tal-ligi u anke f'kaz ta' ripensament tas-sidien – u li fil-fatt qed jigi kontestat tali ftehim – dan ma jirrendiex l-applikazzjoni kif prezentata bhala wahda nulla jew invalida.

Mertu:

Illi l-appellant sostna li l-izvilupp kellu jigi kunsidrat a bazi tal-Policy FL-GNRL-1 fil-Partial Review of Subsidiary Plan: General Policy relating to Regeneration/Consolidation Initiatives, tenut illi z-zona fejn jinsab is-sit inezami hija wahda mixed use, fejn hemm numru sostanzjanli ta' stabbilimenti kummercjali ta' kull tip, kif gie indikat fil-process tal-applikazzjoni. Illi f'dan irrigward, il-principju ta' 'commitment' kellu ukoll jigi kunsidrat fid-dawl tal-Artikolu 72(2)(d) tal-Kap 552.

Illi l-Awtorita' spjegat illi skont il-Policy FL-GNRL-1, l-eccezzjoni ghall-policies fil-pjan lokali li tipprovdi tali policy ma tapplikax f'zona ta' Konservazzjoni Urbana skont il-Proviso 'G' tal-istess Policy.

Minn naha l-ohra, il-case officer f'isem id-Direttorat tal-Ippjanar li kien qed jirrakommanda l-hrug tal-permess, spjega dan li gej:

"In line with Policy NHSJ 02 of the North Harbours Local Plan, the site is located within the Residents' Parking Zone. The proposed three storey car park accommodating a total of 84 car parking spaces is in line with the mentioned policy. Additionally, the area in which the proposal is located is designated as residential area in Policy NHHO 01 of the North Harbours Local Plan. The following are permissible:

- Class 4B shops not exceeding 50sqm;
- Class 4A offices not exceeding a floor area of 75sqm and do not increase parking problems in a residential street.

The intended development does not comply with the relative Class Uses area limitations stipulated in Policy NHHO 01 in view that proposal constitutes intensification of commercial use in an area zoned for residential uses. (emfazi mizjud)

During the screening of this application, the issue of having the proposed office block not complying with the designation of Policy NHHO 01 of the North Harbours Local Plan was raised as per letter dated 28th October 2014 (see document 24A).

In his response dated 6th January 2015 (see document 41A), the architect argued that the regeneration policy should apply since Tower Road is full of commercial outlets.

To substantiate his claim, the architect submitted a photographic survey of the area indicating existing commercial outlets (see document at doc 47C). Moreover, the architect stated that considering the existing mixed use of the area it makes more sense to utilize the first floor for offices rather than residential use.

Policy FL-GNRL-1 of the Partial Review of Subsidiary Plans approved in January 2013 introduces a flexibility clause that allows the better assessment of development application proposals which promote growth in tourism localities as well as regeneration and employment consolidation initiatives that may be neighbourhood compatible and in some cases could also positively contribute to the amenity of the areas in question.

In this case, although zoned as a residential area, various commercial outlets, including large scale offices, are located along the same streetscape and within the immediate vicinity. Considering the limited size of the premises, and the specific nature proposed (class 4A and class 4B), the proposal is considered a service to the area, rather than an additional use generating additional traffic and on-street parking. The proposal is thus unlikely to have a negative impact in the area and is thus considered in line with policy FL-GNRL-1.

Further to the above, having accepted the departure from Policy NHHO 01 of the North Harbours Local Plan, in line with criteria (a) of Policy FL - GNRL – 1, there is then a list of objectives which are to be observed in any development permit consideration.

Whilst residential uses are not compatible with a car park, the proposed commercial use will sustain the operational aspect of the public car park.

Taking stock of the abovementioned issues, taking into consideration the uses in the immediate area holistically and in view that in the opinion of the Planning Directorate the proposal is acceptable in principle.”

Illi madankollu, l-Kummissjoni tal-Ippjanar esprimiet il-fatt li l-izvilupp qed jikser il-Policy NHHO 01 tal-Pjan Lokali li tahseb ghall-zvilupp kompatibbli f'zona residenzjali, kif ukoll innotat in-numru ta' oggezzjonijiet minn diversi raprezentazzjonijiet kontra lizvilupp odjern [Minuta numru 234 fl-inkartament tal-PA 813/15].

Illi dan it-Tribunal ezamina l-policy FL-GNRL-1 tal-'Partial Review of Subsidiary Plan: General Policy relating to Regeneration/Consolidation Initiatives' (Jannar 2013 – maghrufa bhala 'Flexibility Policy'), fejn l-Awtorita' tista tikkunsidra zvilupp bhala 'neighbour compatible' ghalkemm jista ma jkunx konformi mal-polices vigenti fil-Pjan Lokali jew Pjan sussidjarju.

Illi l-paragrafu 1.2 fl-istess dokument jispjega l-oggettiv ta' din il-policy hekk kif gej: “MEPA is of the opinion that in certain cases the approved subsidiary policies may not reflect realities which transpired since the said policies' approval. This situation may hinder otherwise commendable and neighbour compatible proposals from obtaining development planning consent. Consequently, MEPA is proposing to introduce in all local plans a general policy to the effect that the interpretation of policies in such instances is rendered more flexible.”

Illi l-policy FL-GNRL-1 f'dan id-dokument telenka seba' (7) istanzi fejn din il-policy tista tigi applikata. F'dan il-kaz din lizvilupp gie meqjus skont il-kriterju (a) li jinkludi zvilupp gewwa;

“Areas within Tourism Localities as identified by the Structure Plan for the Maltese Islands and the Local Plans through the following policies:

- (i) Structure Plan Policy TOU 4 (Mellieha, St. Paul's Bay/Bugibba, St. Julian's/Paceville, Sliema, Marsascala, Marsaxlokk and Birzebbuga in Malta and Marsalforn, Xlendi and Mgarr in Gozo) and
- (ii) Tourism and Entertainment Priority Areas as designated in respective Local Plans.”

F'dan il-kaz il-policy tesigi li kemm il-darba zvilupp ikun meqjus bhala 'neighbour compatible and will not result in unacceptable cumulative adverse impacts on the locality but may not be in line with the detailed provisions of approved Subsidiary Plans', l-Awtorita' tista tikkunsidra 'justifiable departures from policies which can be adequately justified from a planning perspective;'. Illi ghal dan il-ghan, il-policy tinkludi diversi objettivi elenkati fil-paragrafi numru 'i' sa 'vi' li l-Awtorita' stess ghandha tikkunsidra biex tiggustifika divergenza mill-pjanijiet u policies vigenti. Dawn huma s-segweni:

- i) The proposed development does not exceed the height limitation of the area as stipulated in local plans and as guided by the respective policies in the Policy and Design Guidance 2007; and
- ii) In the more sensitive locations (eg. Ridge Lines, Ridge Edges Development Zone Edges, in scheduled property or in properties identified as qualifying for scheduling as indicated in clause C of this policy); adjacent or in the proximity of UCAs, near landmark buildings etc.), special care would need to be taken to ensure that the conservation attributes and the surrounding context are fully respected; and
- iii) The proposed development would not create an environment which goes diametrically against the thrust of the local plan policy. Particular attention would need to be paid to the traffic and parking carrying capacity of the surrounding transportation network, neighbour compatibility issues as well as surrounding existing and planned uses; and
- iv) Proposals will be strongly encouraged to cater for all its parking as well as loading/unloading requirements on site unless heritage conservation considerations drastically curtails this possibility;
- v) Measures are taken to satisfactorily address infrastructural service provision shortcomings identified to result from the implementation of the proposal; and
- vi) In cases covered by a legitimate development permit which apply for a proposal which is not in line within the relevant Subsidiary Plan Policy but which is more compatible than that contemplated in the original permit may in certain circumstances also be given favorable consideration.

Illi ghalhekk mhux bizzejjed li jigi kunsidrat li zvilupp jikkwalifika bhala zvilupp taht xi wiehed mill-proviso immarkati 'a' sa 'g' tal-Policy sucitata, imma kellhom jigu kunsidrati ukoll dawk l-objettivi fl-ahhar parti tal-policy sabiex il-Kummissjoni tkun tista tiggustifika d-dipartenza mill-Policy fil-Pjan Lokali.

Illi l-kwisjtoni in mertu tirrigwardja l-fatt li s-sit jinsab f'zona residenzjali skont kif identifikat fil-Pjan Lokali. Minn naha l-ohra, il-Pjan Lokali jidentifika l-lokalita' ta' Sliema/San Giljan bhala zona Turistika [Part 10 tan-North Harbour Local Plan. Ara ukoll paragrafu 10.1.1. tal-Pjan Lokali] fejn l-istess pjan qed jirrikonoxxi l-kunflitt bejn zvilupp favur tal-attrazzjoni turistika u dak residenzjali. Fil-kaz odjern il-Pjan Lokali jipprovdi tali osservazzjonijiet hekk kif gej:

"10.2.4 The main concern for residents in the area, according to Local Councils is that, although tourism represents a major economic asset, it causes considerable congestion, generates noise and increases the amount of refuse deposited. Entertainment and tourist uses (particularly in Paceville) create considerable strain on the existing infrastructure and cause disturbance to local residents, who largely comprise of elderly people. The pressure on the road network has a knock-on effect on neighbouring residential areas of Swieqi and St. Julian's since these areas are used extensively for parking and access into Paceville.

[...]

10.2.6 It should be noted that although these problems are partly a consequence of tourism activity, there are various policies that aim to address them through this plan and not solely through general policies for Tourism. Policies such as NHHO01 (Residential Areas), NHHO02 (Residential Priority Areas), NHRL02 and NHRE01 (relating to the location of visitor attractions, bars and restaurants) and the various Area Policies for Paceville play an important collective role in controlling the type of development within and on the boundaries of main tourist areas." (emfazi tat-Tribunal)

Illi fil-fehma kunsidrata ta' dan it-Tribunal l-izvilupp in merto, qieghed johloq "an environment which goes diametrically against the thrust of the local plan policy", meta fil-kaz odjern il-Pjan Lokali qed jiddentifika dawk iz-zoni specifikament fejn qed jinkoraggixxi zvilupp ghat-turismu, billi minn naha l-ohra qed jipprotegi dawk iz-zoni residenzjali minn tali zvilupp.

Illi ta' min izied ukoll, illi s-sit indezamina huwa specifikament indikat bhala zona ta' parkegg off-street ghar-residenzi bhala parti mill-pjan ta' resident parking zones skont il-Pjan Lokali [Policy NHSJ02 u Mappa SJ2 tan-North Harbour Local Plan]. Illi filwaqt huwa minnhu li l-izvilupp qed jahseb ghal parkegg ghall-uzu pubbliku, l-izvilupp kummercjali huwa ntiz li jiggenera ammont ta' traffiku li l-istess parkegg ser ikun qed jahseb ghal tali domanda, u ghaldaqstant ma hemm ebda hsieb jew pjan kif il-parkegg ser ikun intiz bhala parti mir-resident parking zone kif qed jahseb il-Pjan Lokali, meta dak propost huwa parkegg ghall-uzu kummercjali, u mhux necessarjament intiz ghar-residenti. F'dan irrigward l-izvilupp ta' parkegg ma uzu kummercjali qieghed johloq ukoll 'an environment which goes diametrically against the thrust of the local plan policy' u ghaldaqstant qed jikser il-providiment tal-Pjan Lokali li qed jahseb ghat-titjeb fl-amenita residenzjali u mhux zieda estensiva ta' uzu kummercjali.

Illi l-appellant sostna li fil-kaz odjern kellu jigi kunsidrat il-commitment ta' zvilupp kummercjali fiz-zona tal-madwar, skont id- dispot tal-Artikolu 72(d) tal-Kap 552.

Illi ta' minn jinnota li l-Artikolu 72(2) tal-Kap 552 jipprovdi lill-Bord tal-Ippjanar sabiex iqies diversi konsiderazzjonijiet meta jigi biex jiddetermina applikazzjoni ta' zvilupp u dan jinkludi kemm il-pjanijiet u policies kif ukoll konsiderazzjonijiet ta' natura regolamentari, kontestwali, estetici u ambjentali kif ukoll rapprezentazzjonijiet. Hawn it-Tribunal irid jemfasizza li l-oggezzjonijiet kontra zvilupp li jitressqu quddiem l-Awtorita' jridu jigu dejjem meqjusa mill-Bord tal-Awtorita' fid-determinazzjoni ta' applikazzjoni, imma ma jfissirx li numru ta' oggezzjonijiet ghandhom iwasslu b'mod awtomatiku ghar-rifjut tal-permess. Lanqas irreferenza ghall-artikolu sucitat m'ghandu jigi meqjus bhala raguni ta' rifjut kif gie nnotat mill-Kummissjoni, ghalkemm minn naha lohra r-ragunijiet ta' rifjut kif finalment gie deciz huma korrettament ibbazati fuq pjannijiet u policies u li dan it-Tribunal qieghed mitlub jirrevedi.

Illi fil-kaz odjern, il-kwistjoni ta' commitment ta' zvilupp legali adjacenti ghandu jigi kwalifikat sabiex jista jigi meqjus konsiderazzjoni ta' sustanza. Huwa minnhu li fiz-zona hemm diversi stabbilimenti kummercjali li mhux necessarjament huma kompatibbli ma zona residenzjali u dan tenut 'il fatt li s-sit jinsab f'zona tal-promenade ta' Sliema/San Giljan, b'numru ta' stabbilimenti tal-ikel u xorb b'mod partikolarli fil-pjan terran. Illi minn naha l-ohra l-izvilupp huwa wiehed strettament kummercjali, u estensiv, f'sit li jinasb ukoll f'zona ta' Konservazzjoni Urbana u biswit bini Skedat.

Illi fil-kaz odjern, l-Kummissjoni qieset bhala bazi ta' rifjut il-policies tal-Pjan Lokali, kif ukoll l-oggezzjonijiet minn numru sostanzjali ta' raprezentazzjonijiet u li tali konsiderazzjonijiet hadu precedenza fuq konsiderazzjoni ta' commitment kif qed jesigi lappellant. F'dan ir-rigward il-Kummissjoni kienet korretta li tqies u tirrifjuta l-izvilupp anke a bazi tal-Policies fil-Pjan Lokali – u dan ukoll skont id-dispost tal-

Artikolu 72(2) – u li huma applikabbli ghas-sit odjern, b'mod partikolarli kif indikat fl-ewwel raguni ta' rifjut, u li dan it-Tribunal ezamina fid-dettal hawn fuq f'din id-decizjoni.

Ghal dawn il-motivi, dan it-Tribunal qed jichad l-appell u jikkonferma r-rifjut tal-PA 813/15.

Ikkunsidrat

L-aggravji tal-appellant huma s-segwenti:

1. It-Tribunal hass li konsiderazzjonijiet ohra kellhom jissuperaw l-aspett tal-commitment pero naqas li jiggustifika kif l-applikazzjoni kellha titqies differenti minn permessi ohra fil-vicinat;
2. It-Tribunal interpreta hazin il-policies applikabbli ghax filwaqt li qies li z-zona hi skedata ghal parking iwarrab din il-konsiderazzjoni ghax hass li l-parkegg ma kienx necessarjament intiz ghar-residenti meta l-parkegg hu wiehed pubbliku u ghalhekk disponibbli ghar-residenti. Hi infondata l-osservazzjoni kif il-pjan ghal parkegg pubbliku jikser il-pjan lokali ghax johloq 'an environment which goes drastically against the thrust of the local policy plan';
3. Mhux il-kompitu tat-Tribunal li jissostitwixi l-apprezzament ta' entitajiet li ghandhom kompitu preciz li jaghti l-fehma taghom fuq zvilupp.

L-aggravji

Il-Qorti rat li t-Tribunal qies li l-izvilupp l-ewwel u qabel kollox kien qed jikser policy specifika cioe NHHO 01 li tahseb ghal zvilupp kompatibbli f'zoni residenzjali billi filwaqt li tinkoragixxi zvilupp kummercjali f'zoni turistici bhal ma hu San Giljan pero fl-istess waqt tipprotegi dawk iz-zoni residenzjali bhal ma hu dan in kwistjoni minn tali zvilupp permezz ta' policies specifici NHHO 01 (residential areas) u NHHO 02 (residential priority areas) senjatament 10.2.6 tal-pjan lokali. It-Tribunal qies il-flexibility policy fejn (FL-GNRL-1) wiehed jista' jiddipartixxi mill-esigenzi tal-pjan lokali jekk l-izvilupp jitqies bhala 'neighbour compatible and will not result in unacceptable cumulative adverse impacts on the locality'. Meta ikkunsidra l-izvilupp in relazzjoni maz-zona u specifikament ma' binja skedata Grade 2 biswitu, qies li dan l-izvilupp ser jikkreja ambjent li jmur kompletament kontra l-intenzjoni wara l-pjan lokali fejn jirrigwarda traffic u parking, neighbour compatibility kif ukoll uzu ezistenti fl-akkwati [ara (FL-GNRL-1) kriterju (a) (iii)].

It-Tribunal spjega li dan l-argument hu gustifikat ghax fejn jidhol il-parkegg, l-izvilupp kummercjali intiz qed jahseb ghal bzonn ta' parkegg generat bl-ammont ta' traffiku li l-istess zvilupp qed jiggenera u ma hemmx hsieb fl-izvilupp ghal resident parking zone kif irid il-pjan lokali f'zoni residenzjali.

In oltre ghalkemm fil-vicinanze hemm binjiet ohra kummercjali u l-applikant qed juza dan il-fatt bhala raguni ta' sustanza li ghandha titiehed in kunsiderazzjoni fl-ewwelwazzjoni ta' applikazzjoni, it-Tribunal, bla ma skarta dan l-argument, ikkunsidra li ghalkemm hemm stabbilimenti ohra fil-vicinanze mhux kompatibbli ma' zoni residenzjali, pero dan l-izvilupp hu divers mill-ohra ghax hu wiehed estensiv u jinsab f'sit ta' konservazzjoni urbana u biswit bini skedat. Ghalhekk it-Tribunal ikkonkluda li l-pjan lokali ma setghax jigi skartat u la l-flexibility policy u anqas il-konsiderazzjoni tal-commitment ma setghu jipprevalu.

Wara ezami tar-ragunijiet li taw lok ghad-decizjoni tat-Tribunal il-Qorti tqis illi l-ewwel aggravju ma fihx mis-sewwa billi t-Tribunal ikkunsidra l-element tal-commitment u ghaliex ma kellux jipprevali fuq il-pjan lokali u anqas setghet tigi invokata fic-cirkostanzi l-flexibility policy li biha t-Tribunal seta' ma jqis dak li jrid il-pjan lokali f'policy NHHO 01. Il-Qorti izzid illi l-ligijiet ta' ippjanar huma intizi biex jigu osservati. L-artikolu 72 tal-Kap. 552 jelenka diversi elementi li l-Awtorita jew it-Tribunal iridu jikkunsidraw pero dawn l-elementi jikkomplimentaw dak li jghidu l-ligijiet ta' ippjanar mhux jissostitwuh jew ixekklu l-applikazzjoni taghhom. F'dan il-kaz it-Tribunal applika b'mod korrett dan il-principju.

In kwantu ghat-tieni aggravju, it-Tribunal ma ghamilx interpetazzjoni hazina ta' policy dwar il-parkegg izda ikkunsidra fattwalment u teknikament l-izvilupp propost u wasal ghal konkluzjoni li l-parkegg ma kienx intiz ghal resident parking izda biex isostni biss l-izvilupp kummercjali. Kwindi ma hemmx punt ta' ligi x'jigi deciz u fi kwalunkwe kaz it-Tribunal uza d-diskrezzjoni afdana lillu biex jevalwa mill-lat ta' ippjanar l-izvilupp propost u wasal ghal konkluzjoni li mhix sindikabli mill-Qrati ghax ibbazata fuq punt ta' fatt, illi minn dan l-aspett il-parkegg kummercjali krejat imur kontra l-ispirtu tal-pjan lokali ghal resident parking.

Finalment, it-Tribunal, ghalkemm ghandu jqis l-opinjoni tal-entitajiet rilevanti fil-materja ma jfissirx li ghandu jdejh marbuta bihom jekk jikkunsidra u jiggustifika b'ragunijiet bazati fuq ligijiet, pjanijiet u policies ta' ippjanar ghaliex ghandu jiddistakka ruhu minn tali opinjonijiet. Del resto t-Tribunal ma qies l-opinjonijiet bhala irrelevanti izda ikkonkluda li l-pjan lokali f'dan il-kaz tenut kont l-izvilupp partikolari kellu jipprevali ghar-ragunijiet minnu moghtija.

Ghalhekk anki it-tielet aggravju ma hux siewi.

Decide

Ghal dawn ir-ragunijiet il-Qorti taqta' u tiddeciedi billi tichad l-appell ta' John Cilia u tikkonferma d-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-ippjanar tas-6 ta' Dicembru 2018. Spejjez ghall-appellant.

Onor. Mark Chetcuti LL.D.

Imhalled

Anne Xuereb

Deputat Registratur