



**QORTI TA' L-APPELL**

**ONOR. IMHALLEF  
MARK CHETCUTI**

Seduta tat-2 ta' Mejju, 2013

Appell Civili Numru. 14/2012

**Karmenu Farrugia**

**vs**

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

**Il-Qorti,**

Rat ir-rikors tal-appell ta' Karmenu Farrugia tat-22 ta' Frar 2012 mid-decizjoni tas-7 ta' Frar 2012 tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar li cahdet l-applikazzjoni PA 2681/08 tal-appellant 'to sanction changes to approved drawings (increase in footprint, changes to elevation as per attached drawings)' gewwa farmhouse tal-Providenza, Triq Lapsi, Siggiewi.

Rat ir-risposta tal-appell tal-Awtorita ta' Malta dwar l-Ambjent u l-Ippjanar li sostna li din id-decizjoni ghandha tibqa' fis-sehh.

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 ta' l-Ambjent u l-Ippjanar, fit-2 ta' Frar 2011, irrifjutat l-applikazzjoni ghall-permess tal-izvilupp PA 2681108 "Farmhouse tal-Providenza, Triq Lapsi, Siggiewi: To sanction changes to approved drawings (increase in footprint, changes to elevation as per attached drawings) Farmhouse."

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

"1. The proposed sanctioning counters Policy PLP 20 Section 8.2(iii) in view that the residential unit as built exceeds the permitted floorspace of 150m<sup>2</sup>, and is not justified in view that PA5416/04 had already allowed a larger floorspace.

2. 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 cannot be located in an area designated for development or in an existing built up area.

3. 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.

4. The well proposed for sanctioning is not considered justified in view that an old well already exists on the site in question and thus the well proposed for sanctioning has led to the removal of agricultural soil and thus counter to Structure Plan policy AHF 4.

5. The development proposed for sanctioning has introduced alien features that are not acceptable in such a rural area. The development therefore counters Structure Plan policy RCO 4 which does not allow developments that do not complement the rural environment. The proposal is not essential to, nor does it enhance agricultural, ecological, or scenic interests."

B. In-nota tal-Perit David Pace għall-Appellant, ipprezentata fil-11 ta' Marzu 2011, senjatament il-punti segwenti:

"The main reason for the dismissal is the increase in the footprint and floorspace.

The increase in area was brought about by the construction of the building 2 metres deeper than approved. The general appearance remains unchanged. Furthermore, most of the footprint increase is taken up by the central courtyard and a side patio which was formed due to the drop in the level of the land on this side of the building, ... as also by the fact that an increase of 74 square metres in footprint has only resulted in an increase of 50sq.m in total floorspace, spread out over two floors. The general aesthetic appearance of the building remains unchanged.

It is therefore being submitted that the increase does not create an unacceptable urban intensification of the site. The building stands alone in a very large site, apart from a couple of old rooms. It is sited against an adjoining group of buildings in order to blend it with the surroundings and minimise the visual impact.

Other permits for buildings over 150sq.m, and with a similar area, have been granted, such as:

FA 4331/04 approved 17.10.05 - 200 sm floorspace

FA 4036/03 approved 24.02.04 - 275 sm floorspace (outline)

PA 3028/04 approved 16.11.04 - 275 sm floorspace (full)

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PA 1744/07 approved 23.07.09 - 354 sm footprint (full)"

C. In-nota ta' Mario Scicluna ghall-Awtorita, ipprezentata fl-20 ta' Gunju 2011, inter alia l-punti segwenti:

#### "5.1.3 Additions and alterations

The proposal includes the increase in the total floorspace by 63. 5m<sup>2</sup> from that which was previously approved in as follows

Floorspace [including any internal yards]	Approved in PA5416/04	Existing to be sanctioned
Ground floor	155m <sup>2</sup>	188m <sup>2</sup>
First floor	60m <sup>2</sup>	104m <sup>2</sup>
Total	215m <sup>2</sup>	292m <sup>2</sup>

The footprint proposed for sanctioning is not acceptable in view that PA5416/04 permitted a total floorspace of 215m<sup>2</sup> already exceeding the floorspace permitted through Policy PLP 20 Section 8.2(iii) of 150m<sup>2</sup>. Therefore the further increase in footprint and floorspace is not considered acceptable [and] ... counters Structure Plan Policies SET 11 and SET 12 in view that this illegal development has contributed to the further urbanization and unnecessary land take up in this rural area.

#### Well

A well is being proposed for sanctioning which does not have a layer of soil (refer to block plan Red 1C and Plan Red 1D). This is considered unjustified since an old well already exists on site and this entails further land take up and loss of agricultural land, thus counter to Policy AHF 4 of the Structure Plan.

#### Design [of the] boundary wall

PA 5416/04/15A allowed for a boundary wall of a maximum height of 2m (as per Condition 6), however this was not adhered to and the height of the boundary wall was increased to 2.2m as per drawing Red 1C, the boundary thus cannot be considered favourably since it has further contributed to a design that is out of place in such a rural area, and thus counters to provisions of Structure Plan Policy RCO 4.

#### Design of the elevations

The approved elevations of PA 5416/06/30B showed a more rural character (including arched openings) however the elevation proposed for sanctioning have omitted these rural designs (Red 1G and 1H) and have included terraces (Red 1G and 1H) which have contributed to a more urban aspect. The design thus cannot be considered favourably since the proposed sanctioning has introduced urban features (terraces and excessive use of wrought iron railings especially at roof level) in an area located Outside the Development Zone which does not permit developments that introduce alien features in rural areas as per Structure Plan Policy RCO 4.

5.1.5 Whilst appellant is claiming that the variations to the previous permit are minimal, the Authority disagrees since the total floorspace has increased to nearly 300 sq.m.

5.1.6 As regards to the cited permits by appellant, the Authority ... states that:

PA 4331/04 had granted additions to a building which is now recognized as having so much commitments of residential development that the Local Plan has officially designated the area of this cited permit as a Category 2 Rural Settlement (case under appeal is ODZ with no similar buildings in the area).

PA 4036/03 This second permit relates to a building located adjacent to the first cited permit.

PA 3028/04 This site is the same as quoted PA 4036/03.

PA 1744/07 The official approval minute of the DCC states that:

DCC 1501109 held on 04 March 2009

Architect shall submit fresh plans to eliminate the proposed first floor structure and the formal landscaping including the tennis court. ... Application to proceed to SEO.

DCC 2701109 held on 21 April 2009: Approved 5-2. Elizabeth Ellul voted against and David Smith voted against. Condition: Bank guarantee of EUR 50,000 for the removal of the tennis court. Justification in relation to the recommended refs: site is committed as per 1967 survey sheet and aerial photos and previous permits on site. same as 1.

Hence, this particular site was committed with pre[-19]67 structures and still, the DCC rejected the 1<sup>st</sup> floor level and imposed a heavy bank guarantee for the removal of a tennis court which took up unjustified land. Such special and unique circumstances cannot be extrapolated for any other ODZ structure which attempts to defy Policy PLP 20 in such a manner and without any justification."

D. In-nota risposta tal-Perit David Pace ghall-Appellant, ipprezentata fid-19 t'Awwissu 2011, precizament il-punti segwenti:

"Design of elevation

Appellant has already submitted that the details such as shape of openings, massing etc, are in line with what is generally deemed acceptable in a rural setting. This is borne out by the fact that in the permit already quoted (PA 1744/07), which is a stone's throwaway from appellant's site, and is similarly ODZ, the Board found no objection to sanctioning the elevations ... Appellant is submitting that his submitted design is more in keeping with a rural setting than that approved in PA 1744/07.

Permits quoted

notwithstanding that some of the development quoted is in a Category 2 settlement, as the MEPA report states, the development is still bound by the same conditions as quoted in appellant's case. Therefore the approval in excess of the maximum set out in the policy supports the justification submitted by appellant.

In the case of PA 1744/07 which is a permit approved in 2009, MEPA tries to give the impression that this approval

was given under unique and special circumstances, such as previous commitments and a heavy bank guarantee to remove an illegal tennis court in an ODZ area. These 'unique and special circumstances' in MEPA 's stated opinion, were sufficient to justify the sanctioning of an illegal building with an area larger than appellant's, and with a formally landscaped garden, among other things.

In that case, appellant's appeal should that much more be acceptable. The site was previously committed by various structures, some of which were of two-storey height, (copy of 1967 aerial photograph attached). Some buildings were demolished as part of a road widening project. The original footprint of the buildings clearly surpasses that of appellant's present one. By the same reasoning applied in PA 1744/07, and since it is even smaller than the building approved in the same permit, appellant is submitting that there should be no problem to approve his request."

Ma' n-nota gew annessi kopji ta' dokumenti u ritratt mill-ajru tal-1967 (run 29, film 10, part of photo 2248), in sostenn tal-aggravji mressqa mill-istess Appellant.

E. Ir-rikors tal-Perit David Pace ghall-Appellant, ipprezentat fis-27 ta' Jannar 2011.

F' dan ir-rikors, l-Appellant issottometta talba sabiex tigi sfilzata nota ulterjuri pprezentata mill-Awtorita. Jigi rilevat li skond il-verbal tas-Seduta numru 46, mizmuma fit-23 ta' Gunju 2012, l-istess Appellant inghata xahrejn zmien sabiex jipprezenta nota risponsiva ghar-rapport tal-Awtorita kif indikat supra, u l-istess Awtorita kellha l-fakulta li tirrispondi fl-istess terminu.

Gara li l-Appellant ipprezenta in-nota tieghu fid-19 t'Awwissu 2012, izda l-Awtorita ipprezentat ir-riposta taghha fis-16 ta' Jannar 2012, u dan kwazi tlett xhur tard (mhux bames xbur kif dikjarat mill-Appellant). Ghalhekk, peress li din in-nota giet ipprezentata fuori termine, it-Tribunal, b'digriet tat-2 ta' Frar 2012, laqgha t-talba tal-Appellant u ordna l-isfilz taghha.

Ikkunsidra ulterjorment:

Il-mertu ta' dan l-appell jirrigwarda proposta sabiex jigu ssanati l-modifiki li saru fuq bini residenzjali, liema bidliet jirrizultaw inter alia f'firxa ta' zvilupp akbar minn kif indikar fil-permess originali.

Ir-ragunijiet ghar-rfjut jistrieħu fuq il-fatt li l-izvilupp jissupera l-footprint ta' 150 metru kwadru kif indikati permezz tal-paragrafu 8.2(iii) tal-policy PLP 20. Skond l-Awtorita, il-bini ezistenti hu wkoll in kontravvenzjoni tal-policies SET 11, SET 12, BEN 5, RCO 4 u l-paragrafu 7.6 tal-Pjan ta' Struttura, ghaliex m'hemmx ragunijiet ghaliex tali zvilupp ma jistax jitqiegħed f'areas aktar idoneji għall-uzu residenzjali - minflok f'arja li tinsab il-barra miz-zona tal-izvilupp.

In oltre, id-disinn tal-bini li qed jigi ssanat huwa skadenti u ma jikkumplimentax l-arja ta' nteress xenografiku li jinsab fiha. L-Awtorita ssib ukoll oggezzjoni għal-fatt li nbena bir jew gieba kbira li hadet post il-hamrija agrikola, u għalhekk anke din il-parti tal-izvilupp tmur kontra l-policy AHF 4 tal-Pjan ta' Struttura.

L-aggravji tal-appellant huma bbazati fuq il-fatt li l-izvilupp prezenti huwa ftit akbar minn kif kien gie approvat, u dan minhabba l-fatt li kellhu jinbena xi zewg metri aktar fil-fond milli kien previst. Fuq kollox, skond l-appellant, id-dehra tiegħu ma tantx inbidletx minn kif kienet originarjament proposta u barra min hekk, il-footprint addizzjonali tirrizulta minhabba bitha li tinsab fin-nofs u li wkoll inbniet akbar minn kif kienet approvata bil-permess.

Gew citati wkoll erba' permessi allegatament simili għal dan in ezami u in sostenn tal-argumenti mressqa mill-Appellant.

Permezz tan-nota risponsiva tagħha, l-Awtorita tispjega li l-effective floorspace prezenti, tammonta għal 292 metru kwadru, cjoe madwar sebghin metru kwadru aktar milli originarjament kien approvat. Il-pjan terren wahdu jammonta għal 188 metru kwadru, ben 33 metru kwadru



aktar mill-150 indikati mill policy; cjoe b' zieda ta' 25 fil-mija fuq il-footprint massirnu kif koncess mill-istess policy PLP 20.

Jirrizulta li jekk ghall-grazzja tal-argument jigi sorvolat il-punt tal-oggezzjonabilita tad-disinn, jibqa' l-fatt li nbnew bir u boundary wall li m' humiex skond il-permess. Di pju, jigi rilevat ukoll li ma sar l-ebda tentattiv sabiex dawn iz-zewg elementi jigu regolarizzati.

Kif diga gie rilevat supra permezz tan-nota ta' sottomissjonijiet tal-konsulent difensur, l-Appellant kien nizer madwar zewg metri aktar fil-fond sabiex iwaqqaf is-sisien tal-binja. Punt li jista jitqies irrilevanti ghal mertu in ezami. izda meta mwiezen mal-fatt li dak inhar, l-Appellant seta' almenu jindenja ruhhu u jaghmel l-istess bil-bir - u ghalhekk meta jsaqqfu, kien jghattieh b'almenu 0.75 metri hamrija - tali dikjarazzjoni titghabba b'piz sostanzjali.

In oltre, anke meta jigi mwiezen il-fatt li l-hajt ta' barra nbena oghla minn kif indikat fl-istess kundizzjonijiet tal-permess, mhux talli ma sar l-ebda tentattiv sabiex jigi rrangat dan in-nuqqas, talli ma gie sottomess l-ebda argument biex jissostanzja din l-illegalita.

Johrog car li anke permezz tal-permessi ccitati mill-Appellant bhala kazistika, jittrattaw zvilupp li jappartjenu jew ghal permessi f'category 2 rural settlements (u allura differenti minn dak in ezami) , jew inkella huma ghal-zvilupp fejn il-bini gie mrazzan u rridimensjonat. Billi jirrizulta li fil-mertu tal-appell odjern, dan mhux il-kaz, din il-proposta ma timmeritax kunsiderazzjoni favorevoli.

Ghalhekk, in vista tal-kunsiderazzjonijiet kollha hawn fuq maghmula, u fuq kollox sabiex ikun konformi mal-policies tal-ippjanar vigenti, dan it-Tribunal qed jiddisponi minn dan l-appell billi jichad l-istess u jikkonfenna r-rifjut ghall-PA 2681/08 mahrug mill-Kummissjoni ghall-Kontroll ta' l-lzvilupp ta' l-Ambjent u l-Ippjanar, fit-2 ta' Frar 2011.

## **Ikkunsidrat**

L-appellant iressaq zewg aggravji kontra d-decizjoni tat-Tribunal ta' Revizjoni:

1. Illi l-applikazzjoni tieghu ma gietx trattata bl-istess mod bhal kazijiet simili senjatament PA 01744/07, PA 4036/03, PA 4331/04 u PA 3027/04 li jikkoncernaw rziezet fil-vicinanze;
2. Id-decizjoni giet ibbazata fuq zball li jirrizulta mill-atti rigward bir u boundary wall u ma nghatax rimedju ghal modifiki bhal f'kazijiet ohra.

### **L-ewwel aggravju**

L-appellant jilmenta illi gie diskriminat meta f'applikazzjonijiet ohra t-Tribunal mexa b'mod diffeenti. Din il-Qorti hi marbuta biss tissindaka appelli minn punti ta' ligi trattati u determinati mit-Tribunal.

L-aggravju tal-appellant li saret mieghu diskriminazzjoni b'mod generiku hi fil-fehma ta' din il-Qorti punt ta' fatt li mhux komputu ta' din il-Qorti li tinvestiga. Kif qalet il-Qorti tal-Appell fil-kawza fl-ismijiet **Joseph Bezzina vs Kummissjoni ghall-Kontroll tal-Izvilupp**, deciza fil-11 ta' Gunju 2001:

Huwa evidenti li dana l-aggravju basiku ta' l-appellant ma jista' qatt jinkwadra ruhu fil-parametri strettissimi mposti mil-ligi fil-frazi "punti ta' ligi decizi mill-Bord", liema frazi tistabilixxi b'mod definit il-gurisdizzjoni ta' din il-Qorti taht l-imsemmi Att ta' l-1992 dwar l-lppjanar ta' l-Izvilupp.

Ghalkemm din id-decisjoni tirreferi ghal ligi fl-1992 l-appell quddiem din il-Qorti baqa' kif kien cioe fuq punti ta' ligi u r-ragunament precitat baqa' jigi osservat mill-Qorti (ara **Ted Mizzi vs L-Awtorita ta' Malta dwar l-Ambjent u L-lppjanar**, App. Inf. 29/01/2009, **Joseph Bezzina vs Kummissjoni ghall-Kontroll u ta' l-Izvilupp**, App. Inf. 30/03/2006 fost ohrajn).

Nonostante dan pero din il-Qorti kienet issib nuqqas fl-operat tat-Tribunal verso l-appellant li jimmeritah smigh xieraq li kieku rinfaccjat b'ezempji konkreti ta' premissi ohra mill-appellant in sostenn tat-talba tieghu, l-istess Tribunal injora li jqishom, jikkunsidrahom u jiddeciedi

dwarhom fl-ambitu ta' dak mitlub fl-applikazzjoni in konsiderazzjoni. F'dan il-kaz, it-Tribunal fid-decizjoni tieghu qies l-argumenti dettaljati tal-appellant u dak tal-Awtorita u fid-determinazzjoni tieghu ta' aktar piz lil argumenti tal-Awtorita dwar il-portata ta' dawn il-premessi fil-konsiderazzjonijiet tieghu rigward din l-applikazzjoni. It-Tribunal qal hekk:

Johrog car li anke permezz tal-permessi ccitati mill-Appellant bhala kazistika, jittrattaw zvilupp li jappartjenu jew ghal permessi f'*category 2 rural settlements* (u allura differenti minn dak in ezami), jew inkella huma ghal-zvilupp fejn il-bini gie mrazzan u rridemensjonat. Billi jirrizulta li fil-mertu tal-appell odjern, dan mhux il-kaz, din il-proposta ma timmeritax kunsiderazzjoni favorevoli.

Mhux lecitu ghal din il-Qorti li tindahal fid-diskrezzjoni tat-Tribunal li jaghti piz akbar lil argument ta' parti aktar minn ta' ohra ghax dan jezorbita mill-poter ta' din il-Qorti billi jkun qed jissindaka kwistjonijiet fattwali.

Lanqas ma hu lecitu ghal Qorti li jidhol fil-mertu ta' decizjonijiet ohra tat-Tribunal imsemmija mill-appellant fl-ewwel aggravju tieghu billi l-permessi li ghalihom jirrefru ma gewx mqajma bhala aggravji quddiem it-Tribunal mid-decizjoni tal-Awtorita. Similment is-sentenza kkwotata mill-appellant (5/2010 deciza fit-28 ta' Gunju 2011) ma hiex pertinenti ghal fattispecie ta' dan il-kaz.

Ghalhekk dan l-aggravju qed jigi michud billi mhux minnu li s-sottomissjonijiet fuq din il-kwistjoni gew injorati mit-Tribunal.

### **It-tieni aggravju**

L-appellant jilmenta illi t-Tribunal ibbaza d-decizjoni tieghu fuq fatti zbaljati. Dan l-aggravju jimmeritah konsiderazzjoni jekk id-decizjoni tat-Tribunal kienet mibnija esklussivament jew almenu principalment fuq dawn l-allegati fatti zbaljati u kienu determinanti ghad-decizjoni tieghu ghax jekk dan jirrizulta li hu l-kaz allura l-bazi legali li fuqha tkun issawret id-decizjoni hu 'unsound' minhabba

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kostatazzjoni ta' fatti zbaljati li waslu ghad-decizjoni u kwindi ghandha tigi mwarrba.

L-appellant isostni illi z-zewg fattispecie li waslu ghal dan l-izball manifest hu l-konsiderazzjoni dwar il-boundary wall u bir.

Rigward il-boundary wall l-appellant isostni li kien hu stess li biddlu minn wiehed tal-konkos ghal wiehed tas-sejjieh biex jaghtih dehra estetika aktar konformi mal-ambjent ghalkemm jammetti li fil-fatt issupera bi ftit l-gholi fil-permess. Hu jzid li dan gie rattifikat. Pero din il-Qorti ma jirrizultatliex dan bhala fatt mill-atti u l-kontravvenzjoni safejn jidher mill-atti ghadha hemm.

Rigward il-bir l-appellant jikkontesta li hu ghamel bir u ghalhekk barra minn loku illi dan qed jintalab sanzjoni tieghu u li t-Tribunal jilmenta li seta' baxxih u ghattih bil-hamrija. Imkien pero fl-atti ma jidher li l-appellant qed jikkontesta jew cahad li ghamel bir. Harsa lejn ir-rifjut tal-Awtorita tat-2 ta' Frar 2011 wara talba ghar-rikonsiderazzjoni ghall-applikazzjoni ghas-sanzjonar, l-Awtorita issemmi esplicitament dan il-bir u n-nuqqas ta' gustifikazzjoni tieghu peress li fuq is-sit kien hemm gia wiehed ezistenti. Fl-appell quddiem it-Tribunal, l-appellant ma jghid xejn dwar dan il-bir u l-kostatazzjonijiet tal-Awtorita.

Hu minnu illi t-Tribunal ikkummenta dwar dawn in-nuqqasijiet pero apparti li ma jirrizultax li fil-fatt gie ppruvat li l-bir ma ghamlux l-appellant u li kien hemm kontestazzjoni dwar dan mill-appellant u l-boundary wall hu oghla f'certi partijiet tieghu aktar milli hu permess din il-Qorti ma tistax taqbel mall-appellant li gie ppruvat li dawn il-fatti kienu zbaljati mit-Tribunal.

Pero aktar minn hekk u aktar pertinenti ghall-appell dawn il-fatti ma kienux wahedhom jew principalment dak li ddeterminaw lit-Tribunal jichad l-applikazzjoni tal-appellant.

It-Tribunal ikkonsidra wkoll hekk:

Ir-ragunijiet ghar-rifjut jistrieħu fuq il-fatt li l-izvilupp jissupera l-footprint ta' 150 metru kwadru kif indikati permezz tal-paragrafu 8.2(iii) tal-policy PLP 20. Skond l-Awtorita, il-bini ezistenti hu wkoll in kontravenzjoni tal-policies SET 11, SET 12, BEN 5, RCO 4 u l-paragrafu 7.6 tal-Pjan ta' Struttura, għaliex m' hemmx ragunijiet għaliex tali zvilupp ma jistax jitqieghed f'areas aktar idoneji għall-uzu residenzjali - minflok f'arja li tinsab il-barra miz-zona tal-izvilupp.

Għalhekk, in vista tal-konsiderazzjonijiet kollha hawn fuq magħmula, u fuq kollox sabiex ikun konformi mal-policies tal-ippjanar vigenti, dan it-Tribunal qed jiddisponi minn dan l-appell billi jichad l-istess u jikkonfenna r-rifjut għall-PA 2681/08 mahrug mill-Kummissjoni għall-Kontroll ta' l-Izvilupp ta' l-Ambjent u l-Ippjanar, fit-2 ta' Frar 2011.

Jidher car mill-assiem tad-decizjoni illi l-appellant ecceda l-footprint permissibbli li kellu fil-permess ta' 215 metru kwadru għal 292 metru kwadru, u dan mhux 'daqsxejn' kif issottometta l-appellant. Din kienet konsiderazzjoni magguri li waslet lit-Tribunal jasal għad-decizjoni tiegħu tar-rifjut u kwindi l-Qorti, anki jekk għal grazzja tal-argument kellha tqis it-trasgiessjonijiet l-oħra bhala minimi, kif allega l-appellant, u facilment risolvibbli, zgur illi l-eccess tal-footprint mhux traskurabbli bl-istess mod u għalhekk l-aggravju tal-appellant ma jsibx konfort la bhala fatt ppruvat cioe zbalji tat-Tribunal li ddeterminaw id-decizjoni u anqas, anki jekk għal grazzja tal-argument kienu pruvati, kienu l-fatturi determinanti għad-decizjoni tat-Tribunal.

## **Decide**

Għalhekk il-Qorti taqta' u tiddeciedi billi tichad l-appell ta' Karmenu Farrugia, u tikkonferma d-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tas-7 ta' Farr, 2012. Bl-ispejjez kontra l-appellant.

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