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Ref. 22-40072PA_001

PARTALOA CITY COUNCIL APPLICANT

FILE REPORT OF ALLEGATIONS SITUATION POLYGON 7, PLOT 132. T.M. PARTALOA INTERESTED EXCMO. CITY COUNCIL OF PARTALOA

TECHNICAL REPORT

Document

1. BACKGROUND:

At the request of EXCMO. CITY COUNCIL OF PARTALOA this report is made on the assessment of the allegations presented to the "PROJECT ACTION OF AGRICULTURAL SHIP FOR THE BREEDING OF BROILER CHICKENS." to be carried out in POLYGONO 7 PLOT 132 of the T.M. of Partaloe promoted by D. BARTOLOME MORENO GARCIA

2. DOCUMENTATION PRESENTED:

The undersigned Technician analyzes the following documentation:

- 2.1.- Allegation presented by Dna Holly White
- 2.2.- Allegation presented by Mr. Samuel Paul Brierley
- 2.3.- Allegation presented by D. Julie Sullie
- 2.4.- Allegation presented by Mr. Jennifer Anne Sheridan
- 2.5.- Allegation presented by Mr. Craig Davey
- 2.6.- Allegation presented by Mr. Jose Gonzalez Rodriguez
- 2.7.- Allegation presented by D. Linda Davey
- 2.8.- Allegation presented by Mrs. Sheila Fordham
- 2.9.- Allegation presented by D. Frederick Joseph Neil Frodsam
- 2.10.- Allegation presented by Mrs. Carol Ann Lawson
- 2.11.- Allegation presented by D. Grant Poyner Foster
- 2.12.- Allegation presented by Mrs. Patricia Greatorex
- 2.13.- Allegation presented by D. Stephen John Tucker.
- 2.14.- Allegation presented by Mr. Paul Jackman
- 2.15.- Allegation presented by Mr. Paul Michael Driscoll
- 2.16.- Argument presented by Mr. Paul King
- 2.17.- Allegation presented by Mrs. Dennis and Janet Yerrel
- 2.18.- Allegation presented by Mr. Sean Kelly
- 2.19.- Allegation presented by Mrs. Ashley Swift
- 2.20.- Argument presented by Mr. Dirk Manhaeve
- 2.21.- Argument presented by Mr. Patrick Charles McLaughlin
- 2.22.- Argument presented by D. Christiaens John
- 2.23.- Argument presented by Mr. Roy Alan Edkins

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3. APPLICABLE URBAN REGULATION. COMPLIANCE WITH URBAN REGULATIONS:

(Number that is included in application of the provisions of section b) of article 175 of the Real Decree 2568/1986, of November 28, which approves the Organization Regulations, Functioning and Legal Regime of Local Entities, BOE 12/22/1986).

APPLICABLE REGULATIONS AND PLANNING.-

The urban planning regime applicable at the date of issuance of this report, it is:

- ✓ Subsidiary norms of municipal planning and complementary in soil not Urbanizable provincial area of Almeria. (resolution of August 31, 1987, BOJA September 25, n° 80), hereinafter NNSSP.
- ✓ Partaloea Urban Land Delimitation Project definitively approved According to publication in BOP dated 04-07-1979, hereinafter PDSU.
- ✓ Legislative Royal Decree 2/2008 of June 20, approving the text revised land law, published in BOE No. 154 of June 26, 2008; modified by Law 2/2008 and by RDL 6/2010, 8/2011 and 20/2011, hereinafter RDL 2/2008.
- ✓ Law 7/2002 of December 17 on Urban Planning of Andalusia, published in BOJA No. 154 dated December 31, 2002; modified by Laws of Andalusia 18/2003, 13/2005, 1/2006, 11/2010, 13/2011 and 2/2012, and by Decrees-Laws 5/2012 and 1/2013, hereinafter LOUA
- ✓ Urban Discipline Regulations of the Autonomous Community of Andalusia, published in BOJA No. 66 dated 04-07-2.10, hereinafter RDUa.
- ✓ General Urban Development Plan for Partaloea, provisional approval-correction, published in the B.O.P No. 62 dated 04-01-2014
- ✓ Special plan for the protection of the physical environment and catalog of spaces and goods protected from the province of Almeria (BOJA n° 50, March 12, 2007)
- ✓ Order of October 19, 2017, which establishes, through actions of stakeout, the identification data of the line that delimits the municipal terms of Cantoria and Partaloea, both belonging to the province of Almeria.(BOJA n°204 dated October 24, 2017)
- ✓ Royal Legislative Decree 7/2015, of October 30, approving the text Consolidation of the Land and Urban Rehabilitation Law (LSRU)
- ✓ Law 7/1985, of April 2, Regulating the Bases of the Local Regime (LBRL).
- ✓ Law 39/2015, of October 1, on the Common Administrative Procedure of Public Administrations (LPACAP).
- ✓ Law 7/2021, of December 1, promoting the sustainability of the Andalusian territory (LISTA).

LEGAL CONSIDERATIONS:

Previous question.

On December 23, 2021, the LIST entered into force, whose third transitory provision establishes that the procedures related to planning instruments planning, as well as the instruments of management and execution of planning, which are initiated before its entry into force may continue processing in accordance with

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to the rules of organization of the procedure and the regime of competences established by the sectoral and urban legislation in force at the time of initiating it.

Although the Action Projects, given the singularity of their legal nature, are not properly instruments of planning, gestkin or execution, for their processing (admission to process, submission to information 'Jubilee and audience affected, report mandatory of the Ministry, approval by the Plenary and publication in the Official Gazette) and for its purpose, which is none other than to allow the future execution of actions urbanistics constituting the weight prior to the granting of the corresponding licences, have an important similarity with the instruments referred to in the indicated transitory provision.

To the above we must add that the Development Regulation has not been approved yet of the LIST, so following a criterion of legal certainty, and taking into account also that the present procedure began with the admission for processing of the Project of action on November 18, 2021, the LOUA being in force at that time, it is appropriate to continue processing the same in accordance with this law.

4. SOIL CLASSIFICATION. APPLICABLE REGULATIONS:

In relation to the file, it has been verified that the aforementioned plot is classified according to the Partaloea PDSU as NON-DEVELOPABLE LAND, of NATURAL OR RURAL CHARACTER.

As established in article 52 of Law 7/2002, of December 17, of Urban Planning of Andalusia, in the plot in question they can only be taken to perform the following acts:

1. The works or facilities required for the development of the activities listed in article 50.B.a, which are not expressly prohibited by the applicable legislation by reason of the matter, by the Land Management Plans, by the General Urban Planning Plan and by the Special Plans.

In these categories of land, actions that entail a risk are prohibited.

foreseeable and significant, direct or indirect, flooding, erosion or degradation of the floor. The administrative acts that authorize them, that contravene the provisions of the applicable legislation by reason of the matter or in the urban plans.

Segregations, buildings, constructions, works or installations that, being expressly permitted by the General Urban Development Plan or Special Plan of development, are consequences of:

The normal operation and development of agricultural holdings.

The justified need for an isolated single-family dwelling, when it is linked to a destination related to agricultural, forestry or livestock purposes.

The conservation, rehabilitation or reform of buildings, constructions or existing facilities.

The characteristics of the areas of Disseminated Rural Habitat.

The execution and maintenance of infrastructures and services, endowments and public facilities.

These acts will be subject to municipal license, prior approval, when it comes to acts that have isolated single-family homes as their object, of the corresponding

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Action Project by the procedure prescribed in articles 42 and 43 of the this Law for the Actions of Public Interest in lands that have the regime of undeveloped land.

They are excepted from the previous regulation, in the terms determined regulations, those segregations of a rustic nature whose purpose is not the implementation of urban uses, and for which the corresponding municipal declaration of unnecessary license.

Actions of Public Interest() on land that have the land regime not urbanizable in this Law, prior approval of the corresponding Special Plan or Action Project.

2. On non-developable land with special protection, they may only be carried out segregations, works and constructions or buildings and facilities planned and permitted by the General Urban Development Plan or Special Plan, which are compatible with the protection regime to which it is subject, being subject to its approval and, if applicable, license, in accordance with the provisions of the previous section.

5. RESOLUTION OF THE ALLEGATIONS

Considering the foregoing, and in terms of the allegations presented, given that the content of all of them is essentially the same, we will proceed to solve the questions raised jointly by stakeholders. In this way, the fundamentals of The claims can be summarized as follows:

Allegations about the location of the Action Project.

Subsidiary regulations for municipal planning and complementary regulations on land do not Urbanizable provincial area of Almeria. (resolution of August 31, 1987, BOJA September 25, n° 80), hereinafter NNSSP, establish a series of limitations for buildings located on undeveloped land, related to permitted uses, the same allow those works intended for agricultural holdings.

Thus, its adequate location is confirmed, regardless of the fact that there may be other also suitable locations, and that adjusts to the normative limits for the sake of the destination end of works.

Due to the foregoing, it is appropriate to dismiss the allegations related to the location and site of the intended action.

Allegations about environmental issues.

In the Action Project, the urban planning-incidence is justified and substantiated.

territorial and environmental of the intended activity, as well as the measures for the correction

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of the territorial or environmental impacts, in accordance with article 42.5 of the LOUA, as indicated in the aforementioned municipal technical report.

Likewise, in the license granting procedure, the activity will be subject to environmental qualification, given its inclusion in category 10.10 "Installations of the category 10.8 and 10.9 below the thresholds indicated in it, which are not destined to self-consumption" of the Annex of the LGICA.

However, after the action project, the project must be carried out execution and environmental qualification project and they must be approved by the competent administration.

Consequently, the rejection of the allegations that deal with the environmental suitability of the Action Project, while they will be analyzed in the subsequent license process and its environmental qualification.

Allegations about the passage of vehicles.

It is not up to the municipal technical services to limit the passage or not of vehicles heavy to the facilities. vehicles over 3,500 kg on the south road to the farm, from the road to Partaloea to Albox, either by the A-339 road from Cantoria to Chirivel or by the Poligono Industrial de Albox (it is limited to vehicles less than 3,500 kg) The same for the execution of the work states that it will access the farm through its northern boundary along a path that runs through a public channel and that starts at the industrial estate of Cantoria and its route is along Rambla Charcones and Rambla el Parador until reaching the farm.

Consequently, the rejection of the allegations that deal with the impact on existing roads for access to the farm

Allegations about electricity, water and sewerage services residuals.

In the Action Project, the urban planning-incidence is justified and substantiated. territorial and environmental of the intended activity, as well as the measures for the correction of the territorial or environmental impacts, in accordance with article 42.5 of the LOUA.

In this phase of the project, the supplies to the farm should not be justified, whose justification must be made in the Execution Project and Qualification Project Environmental (INTEGRATED ENVIRONMENTAL AUTHORIZATION AII), by the Agency corresponding and NOT by the municipal Technical Services.

However, the Water Law establishes that the order of priority for water supply of water is first the human and then the animal.

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Consequently, the rejection of the allegations that deal with the impact on the supplies for access to the farm, since the agency will determine if they are valid or not.

Allegations about the depreciation or devaluation of properties

Submit that the action to be carried out is compatible with the use of the land (Undeveloped Land), unlike the existing homes, which were built not being compatible with the character of the land where they were built.

Due to the foregoing, it is appropriate to dismiss the allegations related to the location and site of the intended action.

1. CONCLUSION:

Based on all of the above, precedes the DISMISSAL of the allegations presented to the PROJECT OF ACTION AGRICULTURAL SHIP FOR THE BREEDING OF BROILER CHICKENS." to be carried out in POLYGONO 7 PLOT 132 of the TM of Partaloe promoted by D. BARTOLOME MORENO GARCIA

Such is the opinion of the undersigned Technician; However, the Local Corporation, with higher criterion will decide.

In Partaloe on March 15, 2022

Signed: Andres Oller Rodriguez

MUNICIPAL TECHNICIAN OF THE PARTALOE CITY COUNCIL