

OPINION & LETTERS

Toothless appeals process

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As amply demonstrated in one of the photos accompanying this column, the recently approved fuel station in Burmarrad has emerged like a phalanx out of the ashes and has very much come of age.

The advanced state of works at Burmarrad jars with the ongoing planning appeal process, instituted by the Environment Resources Authority and the St Paul's Bay local council, lending veracity to the claim, emblazoned on a sign on site, that the station is opening soon.

This is downright outrageous, especially when one considers the anomalous situation (a *fait accompli* which would need to be demolished once all legal avenues have been exhausted) that will arise if the appeal against the development is indeed lost.

Can anyone actually peg any hopes on the prospect of seeing the site being returned to its original condition if the same appeal were indeed to be lost, incurring considerable financial damage in the process? Or is it more of a case that the outcome of the same appeal is a foregone conclusion, such that the developer is nonplussed by the appeals process, which he views as simple delaying tactics?

Alternatively, this could be part of a devious game by the developer, bent on attracting commiseration from the public who would sympathise with an individual who invested considerable effort in developing a site (despite knowing the risks involved in the face of an active appeal), only to see his 'investment' go up in smoke.

Yet another prospect is having a built structure on site for months and years on end if the appeal is lost, in a battle of nerves that the developer would engage in with planning authorities, such that the sanctioning of the development would be the only alternative left as a means to eliminate a garish 'eyesore'. Time will tell which scenario will be fleshed out in the coming weeks and months.

Works on the Town Square site in Sliema (which have now ground to a standstill) and on the Mriehel towers had similarly been kickstarted upon permit approval, despite the institution of appeals against both applications. The Planning Authority will counter that an issued permit is a legally recognised document which empowers an applicant to proceed with the development, but if the appeals process is to assume a veneer of credibility, then the execution of the permit should be put on hold until instituted appeals proceedings are exhausted.

The planning saga at Hondoq

One can fully empathise with the anguish pervading the Qala community once the decision by the Environment and Planning Review Tribunal (EPRT), which effectively obliges the Planning Authority to re-consider the destination port application at Hondoq ir-Rummien, saw the light of day.

After all, the case has been dragging on for a contorted 17 years, sapping the energies of all those mounting a legitimate and reasoned objection to the proposal, with every juncture bringing the promise of closure but instead being characterised by a lifeline given to the developers.



Hondoq ir-Rummien: There seems to be no end to the 17-year-long planning saga, with the EPRT throwing the case back into the Planning Authority's lap.



Burmarrad petrol station: Despite an ongoing appeal against the development, the new fuel station in Burmarrad is a *fait accompli*. Are we to understand that the appeal outcome is a foregone conclusion?

“The sanctioning of the development would be the only alternative left as a means to eliminate a garish eyesore

Those in the know contend that the decision by the EPRT was simply a natural one, delivered on the merits of planning legislation and simply granting the right for a fresh assessment to the developers on the back of fresh plans they submitted. In a nutshell, the previous DPAR (Development Planning Application Report), which carried an unequivocal opposition to the proposed development, recommending refusal on six major counts, is rendered null by the submission of fresh plans and a fresh DPAR should be formulated.

The EPRT's decision might be consistent with procedural protocols but it also opens the umpteenth can of worms – the 'submission of fresh plans' has all too frequently been used as a ruse by the developer to sway in his favour planning decision-making boards.

What safeguards are there against the endless perpetuation of this Catch 22 situation – i.e. publication of negative DPAR, thumbs down by the Planning Authority, submission of fresh plans by developer, EPRT supports developer's call for a re-assessment?

Just to jog our memories, the DPAR released in June 2016 on the development recommended refusal on the back of the following sacrosanct motivations:

The proposal consists of a dense urban development within a designated coastal rural area and thus goes against the principles of the Strategic Plan for Environment and Development (SPED) which seeks to locate urban development within committed built areas and to protect rural and coastal areas from incompatible uses. The application is also counter to the SPED's vision of Gozo as an ecological island.

The proposed development runs counter to Thematic Objective 1.10 and to Rural Objective 4 of the Strategic Plan for Environment and Development in terms of land-use, in that the proposal is not considered legitimate or necessary within the rural area.

The type, scale and density of the proposed development by far exceeds the interventions considered acceptable by Policy GZ-Qala-3 of the Gozo and Comino Local Plan to rehabilitate the damaged landscape resulting from the past quarrying activity in Hondoq ir-Rummien and to provide basic beach amenities in the area.

The development is incompatible with the natural characteristics of the area and with the current informal recreational use of Hondoq ir-Rummien Bay, and thus goes against the Coastal Objective 3 of the Strategic Plan for Environment and Development.

Transport Malta objects to the proposed development because during both the construction and the operational phases, the proposal would generate a high volume of vehicular movements which would have a significant and unacceptable impact on the road network as well as on the Qala residents and the users of the area, thus running counter to the principles of good transport planning.

The proposed urban development within the designated rural coastal area is not acceptable from an environmental point of view since there is no overriding justification in terms of net environmental improvement or similar public benefit.

The mind boggles as to how the new proposal can possibly be reconciled with and overturn such an entrenched position. A positive recommendation within the updated DPAR would surely represent a Damascene change in the PA's position on the proposed development, unless one (certainly not the undersigned) considers the 'fresh development plans' to represent a sea change on the previous ones.