

## Delegating planning decisions



Planning application PA 04437/16 to develop this ODZ plot in the hamlet of Santu Rokku in Kalkara is set to be decided by the Planning Commission.

Amid the Planning Authority's convoluted internal organisation, which features numerous boards, committees and units, the Planning Board is somewhat of a household name, probably because it is the punching bag of choice for the media. In fact, the alert mainstream media subject the Planning Board's actions to regular scrutiny and frequently lambast its pro-development decisions and take the board members to task.

Not so for the so-called Planning Commission. In fact, many are probably oblivious of its existence. The Development Planning Act (Chapter 552) states: "The decisions of the Commission on any development permission issued by it shall be deemed to be, and shall have the same force and effect as, the decisions of the Planning Board, except in respect of matters which the Planning Board expressly reserves to itself or requires to be referred to it for determination, and the expression 'decision of the Planning Board', wherever it appears in this Act, shall be construed accordingly."

This effectively means that the Planning Commission has the same executive powers as the Planning Board to decide whether to accept or reject development applications that are delegated to it for a decision.

It transpires that any Planning Board member can request that a development application is deliberated by the board rather than by the Planning Commission. However, this so-called 'undelegation' procedure has rarely been availed of by the Planning Board.

What the Act does not explain is the procedure followed to decide which applications are delegated to the Planning Commission and which therefore do not make it to Planning Board stage and to the intense media scrutiny this would entail. Explaining this procedure is essential as the composition of the Planning Commission is totally different to that of the Planning Board.

While on the latter there are representatives of various sectors of society, including NGOs, the former is composed of just three members, including the chairperson, who are all architects. The only non-architect on the Commission is a supplementary member.

This means that a development application may be decided upon either by the Planning Commission, whose decisions are rarely reported in the media, or by the Planning Board, which is subjected to much more taxing scrutiny.

The fate of a development application seemingly hinges, at least in part, on which board deliberates on it. Even with all the good faith and compliance with planning policies in the world, the members of both entities cannot use the same yardstick when deliberating on the applications since differences in human judgement invariably kick in at some stage.

All sensitive development applications, such as those involving Outside Development Zone (ODZ) development

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or those impinging on a heritage site, should be determined by the Planning Board so as to ensure consistency in decision-making for the same type of development applications, even if this entails increasing the burden disproportionately on the board.

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For example, take development application PA 04437/16, which is proposing the development of four residences and underlying garages in an ODZ area in the hamlet of Santu Rokku in Kalkara.

The site has the dubious honour of being in the crosshairs of developers for at least the past seven years. Previous applications (PA 01509/09, followed with a request for reconsideration) proposed the construction of a terraced house and underlying garage at the same site in Triq Santu Rokku, Kalkara.

Mepa had spared the ODZ area from development in 2012. The case officer's report for the application was damning, explaining in detail why the application should be refused. These reasons had been summarised in a previous edition of this column (see link below).

Fast forward to 2016 and application PA 04437/16 has been submitted by the same applicant (and is being support by his architect) for the construction of four residences and underlying garages at the same site. As the accompanying photo shows, the ODZ site hosts a large, old carob tree. On the site there is also an entrance to underground wartime shelters dating back to WWII.

One hopes that common sense will again prevail this time round, especially since the Planning Directorate is recommending a refusal. This would also drive home the message that developers should steer clear of ODZ sites, whichever board or commission is taking the decision.

[www.timesofmalta.com/articles/view/20121007/environment/Some-applicants-have-no-shame.439975](http://www.timesofmalta.com/articles/view/20121007/environment/Some-applicants-have-no-shame.439975)

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