

Case updates

PA 2573/03 - the construction of a bungalow at Gebel Ghawzara at Bidnija (the construction high up on the ridge above Burmarrad and which this column had featured prominently). Enforcement notice ECF 159/03 is still operational on site but, following the favourable DCC 93-01A/04 decision taken at a meeting on October 5, this would cease to be operative as soon as PA 2573/03 is issued.

In the DCC's opinion, the applicant complied with its requests and landscaping is no longer needed; besides, planning gain was also gleaned from the entire case.

One of the most controversial planning cases concerns the development of a stretch of land very close to the oldest standing building in St Paul's Bay (cfr. Fr Eugene Paul Theuma, *The Sunday Times*, June 20, 1999) - the Ta' Tabibu Dejma guard tower.

The 15th century towers are purported to be the oldest of its kind in the Maltese Islands and dominates the last remaining uncommitted coastal cliff area in the St Paul's Bay area, that of il-Maqtugh rocks. Despite this, the site abutting on the tower is located within the Temporary Provisions Scheme for St Paul's Bay (TPS no. 6), and is zoned for the development of terraced houses with front garden. In fact, this comprises the gist of the appellant's case.

What the appellant fails to mention is that the site is within an area designated as a Level 2 Area of Ecological Importance as part of the coastal cliffs along St Paul's Bay coastal shore and that the site lies in an area where several cultural heritage properties exist. In fact, cart ruts were identified in the area upon a site inspection, remains that qualify for Class B protection. Hence, the development runs counter to at least Structure Plan policies, namely:

RCO 15, which states that the Authority shall safeguard existing features of scientific importance (through a presumption against development) even if such features lie within existing or proposed built-up areas;

ARC 2 - Class B archaeological protected areas are those which must be preserved at all costs, and where adequate measures shall be taken to preclude any damage from immediate development;

ARC 3 states that planning permission for development affecting ancient monuments and important archaeological areas and sites, including areas and sites having such potential, will normally be refused if there is an overriding case for preservation.

In view of the above, the DCC strongly recommended to the Appeals Board the refusal of such an application and the NWLP (North West Local Plan) also recommends that the development site be removed from the Temporary Provision Schemes boundary, and therefore to retain the natural state of the site.

Given such overriding arguments, one hopes that the Appeals Board does not raise too many eyebrows with an incongruent decision.

PA 07617/03 - referring to a blatant conflict of interest, involving a development sited in an ODZ area (i.e. on the upper reaches of Wied il-Lunzjata, Munxar). MEPA assures us that in such cases the person involved is not allowed to play a role in the decision-making process, but any doubts can only be fully dispelled by precluding practising architects from such boards, especially when a stark conflict with the board's terms of reference is on the cards.

How can media-conscious MEPA really hope to project an image of transparency to the man in the street when architects are continuously sitting on both sides of the fence (i.e. applying on their clients' behalf and sitting on decision-making boards)? I am referring to public perceptions, which are rarely based on hard facts. MEPA should stave off any lingering doubts in the public by instructing its staff to avoid such conflicts of interest in the first place.

PA 2747/01 refers to the sanctioning of a construction verging on a vantage point on a valley in Wardija (see photo). The same construction, which is an eyesore, to put it mildly, is the object of enforcement notice ECF 332/96, which will remain operative until the Appeals Board decides on the sanctioning on January 12. The same site is certainly not a shining example of landscaping and rural compatibility, as is evident from an inspection of the site - so one cannot see how the Appeals Board can ever sanction such an eyesore.

ENF 1050/98 belongs to the memoirs of protracted enforcement cases in these islands. The enforcement notice refers to a site in Luqa and was issued on October 2, 1998! The site bears the brunt of cut trees and the illegal development of a scrapyard. The enforcement clout is

currently grounded in view of an appeal court decision. MEPA is reviewing the case but another application (PA 6138/02) for the compilation of a master plan of the entire area has been filed. Will the area finally be injected with a much needed tonic?

(I am grateful to the MEPA PRO office for supplying most of the above information).