

Hon Dr Joseph Muscat Prime Minister

Hon Dr Ian Borg Minister for Transport, Infrastructure and Capital Projects

Hon Dr Owen Bonnici Minister for Justice, Culture and Local Government

Hon Mr Chris Agius
Parliamentary Secretary for Planning and the Property Market

Dear Sirs,

Over the past two weeks, the *Kamra tal-Periti*, together with various NGOs, have issued a number of statements regarding the destruction of two specific buildings of architectural and cultural value, namely the ex-Sea Malta / NAAFI building in Marsa, and Villa St Ignatius in St Julian's.

The most concerning aspect of these cases is the fact that the demolition works were carried out with the blessing, or at best the ineptitude, of the Planning Authority, in direct violation of its legal obligations, in a manner which manifests complete disregard of procedure, and a propensity for resorting to false statements and half-truths to defend its own decisions.

## Ex-Sea Malta / NAAFI building in Marsa

The former Sea Malta / NAAFI building is, or rather was, a fine modernist building, which, like the Marsa Power Station, did not make it to the list of scheduled buildings. On the 17<sup>th</sup> November 2017, the *Kamra tal-Periti*, together with *Din l-Art Ħelwa* and *Flimkien Għal-Ambjent Aħjar*, asked for clarifications from the Planning Authority regarding its approval of the demolition of a significant part of the building, on the basis of LN 258 of 2002 Development (Removal of Danger) Order.

This Legal Notice allows the Authority to authorise "emergency remedial works to mitigate or remove existing danger". The Legal Notice requires, inter alia, a clear statement of the degree of danger, and the description

of the "full nature, methodology and extent of the proposed works". In addition, the Authority is only allowed to authorise, by this process, works which are limited to the removal of the danger, and as long as the danger cannot be removed by temporary shoring. The Legal Notice emphasises that the procedure has to be "limited to the minimum emergency works required to remove the source of danger, until any required permission for more lasting interventions is obtained".

Representatives of the *Kamra tal-Periti* and *Din l-Art Ħelwa* met with an official of the Planning Authority who was authorised by the Executive Chairman to allow the viewing of the structural appraisal report submitted with the application. The *Kamra tal-Periti* can state that, nowhere in the structural appraisal report submitted by the consultants of the Applicant, is it stated that any part of the structure was in a state of immediate danger. On the contrary, the report advises that "remedial measures to strengthen the existing building are clearly not financially feasible".

The Kamra tal-Periti, Din l-Art Helwa and Flimkien Għal-Ambjent Aħjar called on the Planning Authority to immediately declare the dangerous structure approval null and void, since the information submitted to it was not sufficient to merit the use of this particular planning procedure. Furthermore, if financial feasibility starts to become a justification for accelerated demolition approvals, we will have an even more serious problem on our hands than we currently have.

This call went unheeded. To add insult to injury, the Planning Authority issued a statement wherein it claimed to have a report which states that the condition of the building was such that it posed a danger to the operation of the Port. The three organisations invited the Planning Authority to publish this report, so as to assure us that, in accordance with the requirements of Legal Notice 258 of 2002, demolition was limited "to the minimum emergency works required to remove the source of danger, until any required permission for more lasting interventions is obtained". The Planning Authority was also invited to confirm that the structural appraisal was carried out by a professional "appointed by the Authority" as required by the Legal Notice. The Planning Authority was also asked to explain how it was satisfied that the proposed remedial works (demolition) did not "affect the integrity of (the) historic, listed or scheduled building". To date no response has been forthcoming.

Moreover, it is to be noted that the *Kamra tal-Periti* submitted a complaint to the Commissioner for Environment and Planning within the Office of the Ombudsman, requesting an investigation of this case. On the 24 November 2017, the Commissioner wrote to the Executive Chairman of the Planning Authority and to the Chairman of the Planning Board, as follows:

- "A preliminary investigation of the relative file approving the part demolition of this building as per DS 212/17 shows various anomalies in the way this permit was issued and hence merits the SUSPENSION OF THIS PERMIT WITH IMMEDIATE EFFECT until the Planning Authority makes certain verifications, namely and in the following order of priority:
- 1. This permit should be rendered null and void as per article 5(1) of the Subsidiary Legislation S.L.552.05 since a detailed site inspection by a Perit appointed by the Authority was not carried out as per Article 4(3) of the same Subsidiary Legislation.
- 2. The structural appraisal report (red 3A in DS 212/17) submitted by the applicant's Architect only indicates that "the building is not structurally sound" and that "remedial measures to strengthen the existing building are clearly not financially feasible" (page 2 of red 3A in DS 212/17) when the same S.L.552.05 allows demolition when strengthening is not possible and not if it is not financially feasible as per Article 2(b).
- 3. This permit should also be revoked as per Article 80 of the Planning Act since the applicant submitted false information when he declared that the site is not scheduled when in fact it is. This has a material bearing on the processing of this application in the light of Article 2(b)(vi) of the same Subsidiary Legislation.
- 4. This permit should also be revoked on the basis of error in the face of the record since the structural appraisal report (red 3A) indicates that only half of the back part of the building is affected with "significant damage" (page 15 in red 3A in DS 212/17) whereas DS 212/17 allows the demolition of the whole back part of the building (see yellow dotted line red 7c in DS 212/17).
- 5. In issuing this permit, the Planning Authority did not request the applicant to submit method statements in shoring the abutting buildings and also in ensuring that the demolition of the back part of the building would not lead to further erosion, by the approach of the sea, which erosion might, in future, lead to danger in the front part of the building as well.

I kindly urgently request your attention and your views and action regarding this matter."

It is our understanding that, to date, the Authority has not responded to this correspondence, let alone acted on the Commissioner's requests.

Sadly, this building is now severely dismemberd as a direct result of the Authority's failure to recognise its error, to ignore repeated calls for the works to be stopped, and to blatantly ignore the findings of the

investigation carried out by the Commissioner. This behaviour can only be described as an utter disgrace, and a clear signal that the Authority believes itself to be above the law.

## Villa St Ignatius in St Julian's

Villa St Ignatius is part of the college that gave "Old College Street" its name, which gave the Sliema people of old the *Tax-Xelin* pseudonym when it served as a Protestant college. It then served as a highly revered Jesuit School and convent, as a home to Russian exiles including the famous Krasnoff who painted it, then as a military hospital during the Great War. It also accommodated the seat of one of Malta's oldest sports clubs. It is also a unique piece of architecture and pioneering in its design (credit: Perit Edward Said).

After almost two centuries, this building is now at risk of being torn down. Videos circulating on social media over the last weekend show the wholesale destruction of parts of the Villa, in clear disregard of building regulations, and health and safety regulations, and in clear breach of permit, which permit, in itself, has a number of failings.

In this case, an application was submitted to the Authority for the "complete demolition of existing dangerous structure including slabs in xorok and internal walls and erection of temporary boundary wall." Such permission was issued in July 2017, and in a statement this week the Authority stated that the "works at Villa Ignatius in St.Julians were ordered to be carried out by the courts in a court sentence handed down last June... Subsequently, the Planning Authority issued its consent 'only for those works indicated in the court decision as interpreted and directed by the nominated court expert who shall be the sole person to dictate the extent of works needed to be carried out in accordance with the court decision. All works shall be directed by the court expert who shall submit a report for record purposes to the Planning Authority on completion of works."

It is to be noted that the Court decision concerned an action regarding the ingress of water into a property through Villa St Ignatius. In its deliberations, the Court quoted from the appointed Court Expert's report, as follows:

- 1. Il-garaxx in kwistjoni fi Triq Scicluna, San Ġiljan, fih ħsarat fis-soqfa u fil-ħitan ikkawżati minn tixrib;
- 2. Dan it-tixrib qed iseħħ minħabba perkolazzjoni ta' ilma mill-mezzanin sovrastanti li jinsab fi stat ta' abbandun, billi parti mis-saqaf tiegħu iġġarraf u l-aperturi ta' barra huma kundizzjoni ħażina;
- 3. Ix-xogħlijiet meħtieġa għandhom l-ewwel isiru fil-mezzanin sovrastanti billi jiġi rikostruwit is-saqaf imġarraf filwaqt li jiġu sostnuti s-soqfa l-oħra li jistgħu

ukoll jiġġarrfu u jsir ukoll il-kontrabejt, u jiġu mbarrati jew irranġati l-aperturi fuq barra. Wara għandhom isiru xxogħlijiet fil-ġaraxx billi jiddaħħlu erba' travi tal-ħadid taħt is-saqaf u jsir it-tindif u t-tibjid tal-ħitan filwaqt illi t-travi tal-injam u x-xorok għandhom jiġu ċċekkjati sewwa sabiex jiġi deċiż x'intervent għandu jsir fuqhom qabel ma dawn jitkaħħlu u jinżebgħu.

In short, the Court Expert indicated that the remedial works to Villa St Ignatius should be limited to the reconstruction of the fallen ceiling, the propping of any other ceilings that may be in danger of collapse, the installation of a waterproofing layer and the blocking off or fixing of the external apertures. The application submitted, however, requested the demolition of a number of ceiling slabs, as well as the facades of the building in question. Notwithstanding that it limited the interventions to what was ordered by the Court, and this is commendable to some extent, the Planning Authority should have ensured that, at the very least, the drawings submitted were to be amended to reflect the actions ordered by the Court. We are now faced with a situation the Applicant appears to be under the impression that the Authority approved all the works indicated in the drawings submitted, when in actual fact the works were to be limited solely to those ordered by the Court.

Furthermore, the Authority is considered to be in breach of the Legal Notice since it did not ensure that "the proposed remedial works do not affect the integrity of a historic building", and the permit was not issued "on the basis of detailed site inspection by an architecture and civil engineering professional (perit) appointed by the Authority".

Reports in the media have confirmed that, over the course of the demolition works carried out, enforcement officer/s were called on site, and ordered that the works be stopped, however once the officer/s left, such works continued in complete disregard of permit and all applicable regulations. Three days have passed since, and there is no evidence that the Planning Authority has taken any action against the Applicant. At the very least it should have issued a formal stop notice and an enforcement notice, and declared the Dangerous Structure permit null and void in accordance with Regulation 5 of the Legal Notice in view of the fact that "the works are not being carried out in strict compliance with the terms of the authorisation." Instead, by failing to take all necessary action, the destruction of this building continued uninterrupted.

The above two examples are nothing short of worrying. The Planning Authority has the responsibility towards society to ensure that the Legislation it operates under is fully respected, and especially to ensure that on-going development does not imperil our diminishing and fragile built heritage. The Planning Authority has the duty and power to declare any approvals issued as null and void, when the qualifying conditions specified in

the Legal Notice do not exist, or where the approved works are not carried out in "strict compliance with the terms of the authorisation".

It is also of grave concern to note that, unless a property is specifically scheduled, the Authority appears to ignore any aspects worthy of conservation, when it is the Authority itself which is responsible for scheduling, and when it should be part of the due consideration undertaken by it at application stage to assess whether there are any parts worthy of preservation. Sadly, the lack of scheduling appears to be considered as a licence for wholesale destruction and obliteration of our vast heritage, which goes well beyond the formal list of scheduled properties.

This country has many rules and regulations on paper, often uncoordinated; it is therefore easy for such rules and regulations to be ignored with impunity. In other countries, when heritage buildings are destroyed in defiance of regulations, the Courts order a reconstruction! Are we ready to go down this route to ensure the protection of our heritage from this kind of vandalism?

We expect that immediate action is taken to ensure that the situations outlined above are reversed, and that the necessary measures are taken to safeguard our built heritage from further destruction under the guise of permitted development. We also request an urgent meeting with your good selves in order to outline further our concerns.

Yours sincerely,

Prof Alex Torpiano President, Kamra tal-Periti