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THE REVISED FUEL STATIONS POLICY: INTENTIONALLY AMBIGUOUS OR JUST NOT PROPERLY REVIEWED?

STATEMENT BY THE CHURCH ENVIRONMENT COMMISSION

The Interdiocesan Environment Commission (KA) holds that the proposed fuel stations policy has not been properly reviewed prior to its publication. If this is not the case, one cannot be blamed for believing it is intentionally ambiguous to provide legal loopholes that could be still be used to sanction future applications. Under the section 'Scope' the proposed policy states the following: "This document is repealing the existing Fuel Service Stations Policy April 2015. Any pending development application shall be assessed according to this policy document".

This implies that pending applications will be decided by the new policy. But how can this be the case if there is no change in the Development Planning Act? Article 72 (2) of the Act clearly states that in determining an application for development permission, "the Planning Board (apart from other considerations) shall only refer to plans, policies or regulations that have been finalised and approved by the Minister (responsible for development planning) or the House of Representatives, as the case may be, and published." It is therefore clear that only such approved policies can be referred to in deciding on a planning application.

The KA fails to understand how whoever was involved in drafting the proposed policy was not aware of this fact. On a point of law, the proposed policy will be dead in the water when applied to applications without such proposed policy being first approved by the Minister and published.

The Minister for Transport, Infrastructure and Capital Projects has been quoted as saying that the Planning Authority cannot postpone pending applications to the stage after the new policy is approved, warning that this could lead to court procedures by applicants.¹ The KA, therefore, asks: how long will the Minister take to approve the new policy for it to be applied to the pending and new applications? Further

¹https://www.maltatoday.com.mt/environment/environment/95476/heritage_watchdog_surprised_fuel_stations_still_considered_despite_policy_review#.XPoKBBYzapo

procrastination in replacing the current policy with the new one will result in the approval of all pending (as well as new) applications. The time taken to prepare a review of the policy has been just too long, leading citizens to think that this was done to accommodate the applications that have been submitted to the Planning Authority to be determined by the 2015 policy.

A long-winding road to the proposed policy

If the intent was to bring about real change in the current situation, then there was no need for such a long-winding process by first having the Environment and Resources Authority (ERA) draw up proposals to the 2015 policy and then, during the never-ending period of 'discussion' over such proposals, other permits for ODZ fuel stations were being approved. The policy review process would have been more credible had the Government or the Planning Authority chose to adopt immediately the proper legal channel under the Development Planning Act to initiate a change in policy. This is the process currently underway. The ERA would have then contributed to the policy change as part of the process in order to expedite the policy review. The negative impacts on the environment that the current policy is causing have been evident to all and sundry since the day it was approved, and it seems there has never been any rush to change the policy.

Definition of relocation is required

The proposed policy should provide a definition of 'relocation' by specifying how far will the new fuel station be from the one it will be replacing. A fuel station provides a service to vehicles passing from a particular area and should continue to provide such a service from approximately the same general locality. The current 2015 policy has opened the doors to flagrant abuse whereby an application for a fuel station outside the development zone in the limits of Birżebbuġa which would include a car wash, cafeteria, mechanical shop, tyre service garage, valeting garage and parking area has been submitted to replace just a single disused fuel pump in Victoria, Gozo! The Superintendence for Cultural Heritage has understandably voiced its objection to such an application.²

²https://www.maltatoday.com/mt/environment/environment/95476/heritage_watchdog_surprised_fuel_stations_still_considered_despite_policy_review#.XPoKBBYzapo

More information was expected in the proposed policy

After so many months of deliberation, with, therefore, ample time for the preparation of a comprehensive document, the KA was expecting the proposed policy to come up with more detail than it actually provides. For example, the policy states that the objectives of this document are to “highlight past, current and future trends in the development of fuel stations”. One would have expected the proposed policy to provide a more-than-just-superficial treatment of this “objective”. One would have expected the document to provide the number of petrol stations that absolutely require relocation, their current location and the level of safety risk that each petrol station poses to residential areas.

Reason for relocation should only be based on safety concerns

The KA feels that the reasons for the need for relocation should only be those related to safety and/or upgrading requirements according to EU standards. Those fuel stations that do not pose any level of safety risk need not be relocated unless their upgrade cannot be carried out due to current site limitations. Fuel stations should not be relocated if there are uses that are rendering them unsafe. It is the permits for such uses that should be reviewed, and if necessary, revoked. This applies especially in the case, as the proposed policy puts it, “of nearby ground fireworks being let off in the vicinity or other similar hazards”.

No firm commitment to safeguard ODZ land from development

The KA is concerned that outside development zones, which are mostly open spaces, do not appear to be appreciated at all by the authorities. Malta is one of the most densely populated countries in the world. Open spaces should, therefore, be safeguarded. A petrol station sprouting up in the middle of nowhere easily compromises the visual integrity of a large open space. Hence, the new policy should clearly state that no fuel stations will be allowed in ODZ areas.

Was the proposed policy drafted in response to public protests?

The KA expected that the document issued for public consultation would have been properly reviewed for the obvious mistakes that it contains. The document gives the impression that its drafting was a very hasty job, possibly driven by the Movement

Graffiti protests that started to cause embarrassment to the authorities. The fact that some sort of long-protracted action is taken only when protests start to irk authorities may be symptomatic of an insensitive attitude towards the safeguarding of outside development zones. For far too long, narrow financial interests have been given precedence over the aspirations of concerned citizens who want to see the natural and cultural landscape safeguarded from such interests.

Such insensitivity is evident through (i) changes that have been made to the Development Planning Act, (ii) the replacement of the Structure Plan by a weak Strategic Plan for the Environment and Development and (iii) the drafting of policies such as the Rural Policy and Design Guidance that continue to eat into Outside Development Zones. The KA has, through several statements, long highlighted the negative impacts that such ill-designed planning instruments are having on the state of the country's environment.

The proposed policy states that if the "fuel station is not used for a period of three consecutive years within thirty years", then the site "has to return to agricultural state." However, earlier the policy states that the fuel station shall not be located on agricultural land. So how can the site "be returned to" the agricultural state if no fuel station was meant to be given a permit on such land?

Conclusion

The KA invites the authorities to safeguard ODZ areas from further development and address the anomalies it is highlighting whilst also bearing in mind that the need for relocating existing fuel stations will gradually become less relevant given the targets that Government is setting itself towards shifting from fossil fuels to other sources of energy for vehicles.