

St. George's Park Owners' Association

The Office, Rohan Block

St. George's Park,

Dragonara Road, St. Julians.

24th November 2016.

The President and Committee of St George's Park Owners' Association in representation of all the owners representing the 121 owners and 400 residents that together make up residential complex of St George's Park are hereby submitting the following submissions;

The residents respectfully submit that, with regards to Site 04 (St George's Park) and Site 03 (Villa Rosa), the Masterplan is fundamentally flawed on two grounds, namely (i) that it appears that the experts appointed to draft the Masterplan were not informed that a large part of St George's Park is composed of a substantial number of privately owned independent units; and (ii) the same experts were also not made aware of the implications of Article 311 and the Third Schedule to the Civil Code, defining the coastal perimeter as being public domain, with respect to the Villa Rosa site adjacent to St George's Park.

The draft masterplan, in its present format, is therefore objectionable in principle due to the fact that at its point of departure it ignores the existence of the present residential and commercial communities at St George's Park. The draft Masterplan assumes that it can play around with existing residences and assigns them other uses or else plans their demolition in order that the property of others is enhanced in its development potential.

The Masterplan proposes the possible demolition and redevelopment of the park as a key space and a centre of activity. At page 109, the Masterplan envisages the main business cluster in the centre of Paceville being around the St George's Park and Mercury sites. The present layout of St George's Park is considered by the Masterplan as being an obstruction to permeability and as a result it proposes that the private open space which forms an integral part of St George's Park is converted into an open public space. The whole park is viewed as a development parcel as a result ignoring the fact that it is an established residential area.

The draft masterplan proposes the change of use of St George's Park from a residential area to a "multifunctional space for gathering, local events, festivals, etc.". This is to be "active both day and night".

This proposal essentially means that the residents will be squeezed out of their residential property to make way for commercial/leisure development.

To date, it is respectfully submitted, it is not legally possible to implement the compulsory purchase of St George's Park as the projected use is not one in the public interest but one which is completely in the interest of developers and speculators.

The Masterplan erroneously assumes that Site 04 can be treated as *carte blanche* since it is evident that the Masterplan takes no account of the fact that such a large number of residential properties situated at St George's Park must be expropriated for the implementation of the proposed use for Site 04. Naturally, neither does the Masterplan envisage any of the fundamental principles dealing with expropriation, amongst which, that the protection of private property is also in the public interest and that one must maintain a, "fair balance between the demand of the general interest of the community and the requirements of the protection of the individual's fundamental rights"¹, whilst also noting that, "a deprivation of property effected for no reason other than to confer a private benefit on a private party cannot be 'in the public interest'."²

The residents at St George's Park strongly contend that it is highly doubtful as to whether the proposed development on Site 04 is in fact 'in the public interest', particularly when considering the prejudice to be suffered by each of the numerous individual owners who would be dispossessed of their properties. In any event, such an act of expropriation *en masse* (assuming that it is legally permissible) would leave all owners in great uncertainty, amongst other things, as to the compensation they would be entitled to, whether this would be in the form of a replacement property and the time by when such compensation would be made available to them. All this could lead to various Court procedures between the residents and the Government. The proposed development on St George's Park is all the more unfair on its residents when it appears that the proposed developments on the other development parcels identified in the Masterplan do not require such extensive expropriation (if at all) for their implementation.

The Masterplan also envisages that the area immediately in front of StGeorge's Park, lying between the said park and the bay (commonly referred to as the Cresta Quay Area, denoted as Site 03 Villa Rosa on the Masterplan), will be developed with three highrise buildings. In this respect, it is also evident that the draft Masterplan ignores the public domain provisions of the Civil Code, enacted in May 2016, which provide for the protection of the coastal perimeter (defined as being the distance up to 15 metres from the shoreline) as well as the foreshore (defined as extending up to the reach of the largest wave). Attention is drawn to the fact that the said Cresta Quay area is the only remaining part of the coast in the Paceville area which is not intensively developed and as such it is the only remaining coastal area which can be afforded the protection of the public domain provisions of the Civil Code.

In addition, the proposal to have high rise buildings on the Cresta Quay site runs counter to the basic philosophy of the Masterplan which seeks to group the high buildings towards the centre of Paceville, with the heights being reduced as one moves closer to the coast. The Cresta Quay highrise proposal contradicts this basic argument of the Masterplan and as a result obstructs viewpoints and creates unnecessary shadowing on existing residential

¹ Sporang and Lonroth vs Sweden, ECHR, 23rd September 1982, para 69,

² James vs United Kingdom (1986) ECHR

areas. Such proposal therefore runs counter to paragraph 5.11 of the Floor Area Ratio (FAR) Policy (May 2014), which provides that: *"Tall buildings need to respond positively to their context including natural topography, scale, height, urban grain, streetscape and built form, and the skyline. Tall buildings should be sited where visual impact on sensitive historic environments and their settings such as World Heritage Sites, conservation areas and scheduled buildings is minimised and should retain and enhance key strategic, long distance views and important vistas at a national and at the local level."*The same applies to the proposed tower on Site 05 – Westin Dragonara.

Moreover, the Cresta Quay high rise proposal does not appear to consider various other fundamental criteria of the FAR Policy (May 2014) amongst which is policy 5.15 which provides that: *"The siting and design of tall buildings should consider **the effects on the microclimate and seek to reduce overshadowing, diversion of high-speed winds to ground level, heat islands and glare, especially on public spaces and neighbouring properties.**"* Such policy is also in line with *Thematic Objective 6* of the *Strategic Plan for Environment and Development, 2015*, namely, *"To safeguard environmental health from air and noise pollution by controlling the location, design and operation of development."*

In view of the abovementioned flaws in the Masterplan, it is the opinion of the St. George's Park residents that the draft Masterplan should be sent back to the drawing board. When a second draft not objectionable on points of principle is produced it would be possible to also discuss in detail other issues which although important are considered secondary at this stage and until such time that the basic issues are addressed.

These issues would include traffic management, the development of the basic infrastructure in a timely fashion as well as the due diligence of developers.

On behalf of the Committee of St George's Park Owners' Association.



Grace Bonello



Noel Buttigieg Scicluna



Moira Delia



Matthew Camilleri