

TOWN PLANNING BOARD

**Minutes of 604th Meeting of the
Metro Planning Committee held at 9:00 a.m. on 18.5.2018**

Present

Director of Planning
Mr Raymond K.W. Lee

Chairman

Mr Sunny L.K. Ho

Mr Stephen H.B. Yau

Dr Frankie W.C. Yeung

Dr Lawrence W.C. Poon

Mr Wilson Y.W. Fung

Mr Alex T.H. Lai

Professor T.S. Liu

Ms Sandy H.Y. Wong

Mr Stanley T.S. Choi

Mr Daniel K.S. Lau

Ms Lilian S.K. Law

Professor John C.Y. Ng

Professor Jonathan W.C. Wong

Assistant Commissioner for Transport (Urban),
Transport Department
Mr Peter P.C. Wong

Chief Engineer (Works), Home Affairs Department
Mr Martin W.C. Kwan

Principal Environmental Protection Officer (Metro Assessment),
Environmental Protection Department
Mr W.C. Yuen

Assistant Director (Regional 1), Lands Department
Mr Simon S.W. Wang

Deputy Director of Planning/District
Ms Jacinta K.C. Woo

Secretary

Absent with Apologies

Mr Lincoln L.H. Huang

Vice-chairman

Mr Thomas O.S. Ho

Mr Franklin Yu

In Attendance

Assistant Director of Planning/Board
Ms April K.Y. Kun

Chief Town Planner/Town Planning Board
Mr Kepler S.Y. Yuen

Town Planner/Town Planning Board
Ms Anita M.Y. Wong

Agenda Item 1

Confirmation of the Draft Minutes of the 603rd MPC Meeting held on 4.5.2018

[Open Meeting]

1. The draft minutes of the 603rd MPC meeting held on 4.5.2018 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Open Meeting]

2. The Secretary reported that there were no matters arising.

Tsuen Wan and West Kowloon District

Agenda Item 3

Section 16 Application

[Open Meeting]

A/TW/492 Proposed Vehicle Repair Workshop in “Residential (Group E)” Zone, G/F (Part) and M/F (Part), Safety Godown, Kwai Chung Town Lot 165, 132–140 (even numbers only), Kwok Shui Road, Kwai Chung, New Territories

(MPC Paper No. A/TW/492C)

3. The Secretary reported that the application site was located in Tsuen Wan. The following Members had declared interests on the item:

Mr Stanley T.S. Choi - his spouse being a director of a company which owns a property in Tsuen Wan; and

Professor John C.Y. Ng - his spouse owning a flat in Tsuen Wan.

4. The Committee noted that the applicant had requested deferment of consideration of the application and Mr Stanley T.S. Choi had yet to arrive to join the meeting. As the property owned by Professor John C.Y. Ng’s spouse did not have a direct view of the application site, the Committee agreed that he could stay in the meeting.

5. The Committee noted that the applicant’s representative requested on 7.5.2018 deferment of the consideration of the application for a period of one month in order to allow time for preparation of further information to address the comments from the Transport Department (TD). It was the fourth time that the applicant requested deferment of the application. Since the last deferment, the applicant had submitted previous records of vehicle repair services frequency in the past years in response to the comments of TD.

6. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the

applicant. The Committee agreed that the application should be submitted for its consideration within two months from the date of receipt of further information from the applicant. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the application could be submitted to an earlier meeting for the Committee's consideration. The Committee also agreed to advise the applicant that one month was allowed for preparation of the submission of the further information. Since it was the fourth deferment and a total of four months had been allowed for preparation of submission of further information, this was the last deferment and no further deferment would be granted.

[Mr K.S. Ng, Senior Town Planner/Tsuen Wan & West Kowloon (STP/TWK), was invited to the meeting at this point.]

Agenda Item 4

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/TW/497 Proposed Minor Relaxation of Plot Ratio for Proposed Hotel Supporting Facilities (Restaurant) in "Commercial" Zone, Nina Tower, 8 Yeung Uk Road, Tsuen Wan, New Territories
(MPC Paper No. A/TW/497)

7. The Secretary reported that the application site was located in Tsuen Wan and Kenneth To & Associates Limited (KTA), Meinhardt and WSP Parsons Brinckerhoff (WSP) were three of the consultants of the applicant. The following Members had declared interests on the item

Mr Alex T.H. Lai - his firm having current business dealings with Meinhardt;

Mr Daniel K.S. Lau - his firm having current business dealings with KTA;

- Mr Franklin Yu - having past business dealings with WSP;
- Mr Stanley T.S. Choi - his spouse being a director of a company which owned a property in Tsuen Wan; and
- Professor John C.Y. Ng - his spouse owning a flat in Tsuen Wan.

8. The Committee noted that Mr Franklin Yu had tendered apology for being unable to attend the meeting, and Mr Stanley T.S. Choi had yet to arrive to join the meeting. Since Messrs Alex T.H. Lai and Daniel K.S. Lau had no involvement in the application and the property of Professor John C.Y. Ng's spouse did not have a direct view of the application site, the Committee agreed that they could stay in the meeting.

Presentation and Question Sessions

9. With the aid of a PowerPoint presentation, Mr K.S. Ng, STP/TWK, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) the proposed minor relaxation of plot ratio (PR) restriction from 9.5 to 9.6143 for proposed hotel supporting facilities (restaurant);
- (c) departmental comments – departmental comments were set out in paragraph 8 of the Paper. Concerned government departments had no objection to or no adverse comment on the application;
- (d) during the first three weeks of the statutory publication period, no public comment was received; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments set out in paragraph 10 of the Paper. The proposed hotel supporting facilities (restaurant) was in line with the planning intention of the “Commercial” (“C”) zone and was considered not

incompatible with the existing commercial uses within the same development and the proposed minor relaxation in PR restriction would not result in an increase of the overall development bulk and building height of the existing development. Concerned government departments had no objection to or no adverse comment on the application.

[Mr Stanley T.S. Choi arrived to join the meeting at this point.]

10. The Chairman and some Members raised the following questions:

- (a) the background of the application premises as an exhibition hall and what kind of exhibition was held in there;
- (b) whether it was required under the lease conditions for the provision of an exhibition hall at the site;
- (c) the floor area and number of seats of the proposed restaurant, and whether there were kitchen facilities at the proposed restaurant;
- (d) noting that the internal pedestrian walkway (IPW) in the application site was accountable for gross floor area (GFA) under the Buildings Ordinance (BO) but exempted from GFA calculation under lease, whether the IPW was GFA accountable under the Outline Zoning Plan (OZP), whether the different practices in GFA calculation among Buildings Department (BD), Lands Department (LandsD) and PlanD were common, and whether there were mechanisms to seek GFA exemption from BD such that minor relaxation of PR restriction for the proposed restaurant would not be necessary;
- (e) noting Commissioner for Transport's (C for T) comment in paragraph 8.1.5 of the Paper, the rationale for not suggesting a relevant approval condition to restrict the proposed hotel facilities from being used for conference and/or banquet purposes, and whether such approval condition was enforceable if imposed;

- (f) the current car parking space requirement for the existing hotel use at the site and whether C for T had required the applicant to provide additional parking spaces and loading/unloading spaces for the proposed restaurant use;
- (g) whether there would be traffic impact should the restaurant be opened for use by the general public; and
- (h) whether the Food and Environmental Hygiene Department (FEHD) would consider traffic implication in processing an application for food licence.

11. Mr K.S. Ng, STP/TWK, made the following responses:

- (a) according to the occupation permit (OP) issued by the Building Authority, Level 5 of the subject building was used as an exhibition hall, which had a headroom of 9m. The existing Level 6 of the subject building was used as building management office and stores. In view of the high headroom of the exhibition hall at Level 5, the applicant proposed to undertake addition and alteration (A&A) works at Level 6 by decking over the existing Level 5 for the proposed hotel restaurant, which would have a floor area of 2,547.529m²;
- (b) according to their site inspection, the exhibition hall at Level 5 was currently used as a sales centre for selling of flats;
- (c) there were no requirements under lease for provision of an exhibition hall at the site;
- (d) the applicant had not provided information on the number of seats for the proposed restaurant. There was no indication on the floor plan provided by the applicant at Drawing A-5 of the Paper that kitchen facilities were provided at Level 6. However, according to the OP, there were kitchen

facilities at Level 7 of the subject building;

- (e) according to the building plans submitted, the IPW in the application site was included in the GFA calculation. Under the established practice, PlanD would generally follow BD's practice in GFA calculation. There was no information on whether the applicant had applied to BD for GFA exemption of the IPW or whether the IPW could be exempted from GFA calculation in future building plan submissions;
- (f) according to the applicant, the proposed restaurant would only serve hotel guests and participants of exhibition/convention activities, and the hotel and its guests would not use the proposed restaurant for conference and/or banquet purposes. As this formed part of the applicant's proposal, it was considered not necessary to suggest an approval condition in this regard. Even if relevant approval conditions were imposed, there would be difficulty in enforcing it as no lease modification would be required;
- (g) according to the Hong Kong Planning Standards and Guidelines, for hotels located in main urban areas, the car parking space (CPS) provision was 1 CPS per 100 rooms. For hotels with conference and/or banqueting facilities, an additional 0.5 to 1 CPS per 200m² of GFA for such use was required. Should the proposed restaurant be used for conference and/or banqueting facilities, an additional 7 to 13 CPS would be required. However, as the proposed use was to serve hotel guests, C for T did not require the applicant to provide additional parking and loading/unloading facilities;
- (h) C for T did not provide any comment on whether there would be adverse traffic impact should the proposed restaurant be opened for public use; and
- (i) there was no information available on whether traffic implications would be considered by FEHD when processing a food licence application.

12. In response to a Member's question on the difference in GFA calculation

amongst BD, LandsD and PlanD, the Chairman said that in the 2017 Policy Address, the Chief Executive had announced that a steering group would be formed under the Planning and Lands Branch of the Development Bureau to explore how best to consolidate and rationalise the standards and definitions adopted by BD, LandsD and PlanD in scrutinising development projects such that the approval process could be streamlined without prejudicing the relevant statutory procedures and technical requirements, and to engage the trade in the process.

13. Members had no further question on the application.

Deliberation Session

14. The Chairman said that the subject application was for minor relaxation of PR restriction by making use of the double height headroom of the existing exhibition hall at Level 5 of the subject building to create a new deck at Level 6 for the proposed restaurant to serve hotel guests. Referring to the Paper, the Chairman said that according to the lease, the maximum permissible GFA for the site was 185,250m². As the IPW was not GFA accountable under lease, the total GFA of the subject building under lease was 182,702.471m². The proposed A&A works for the restaurant at the existing building, which resulted in an additional GFA of 2,547.529m², was still within the maximum permissible GFA under lease, but had exceeded the PR restriction of 9.5 under OZP.

15. The Secretary supplemented that some facilities, such as IPW, might be exempted from GFA calculation under lease. However, there was no provision for such exemption under the OZP and PlanD generally would follow BD's practice in GFA calculation. For this case, the GFA of the IPW had been included in the GFA calculation on the General Building Plans (GBP).

16. A Member enquired whether land premium would be charged should a development exceed the GFA restriction stipulated in the lease. In response, Mr Simon S.W. Wang, Assistant Director (Regional 1), LandsD, said that in general, lease modification would be required should a development exceed the maximum GFA permitted under lease and payment of additional land premium would be required.

17. With regards to Members' concern on the traffic impact of the proposed hotel restaurant, Mr Peter P.C. Wong, Assistant Commissioner (Urban), Transport Department (TD) said that the Traffic Impact Assessment (TIA) report submitted by the applicant was based on the assumption that the proposed restaurant was to serve solely the hotel guests, and therefore concluded that there would be no additional traffic induced. No assessment was conducted on whether the proposed restaurant, if opened to public, would have traffic impact on the area and affect the internal transport facilities at the site. The TIA report submitted by the applicant was insufficient for TD to determine whether additional internal transport facilities would be required for a general restaurant.

18. A Member noted that although the applicant was entitled to develop the subject building up to the maximum permissible GFA under the lease, the TIA conducted by the applicant was not sufficient to demonstrate whether the provision internal transport facilities were adequate.

19. Members also noted that, regardless of whether relevant approval condition was imposed, there was no effective control mechanism on restricting the proposed restaurant for use by hotel guests only and banquet facilities would not be provided.

Planning Merits

20. A Member said that unlike similar applications considered by the Committee in the past, where the minor relaxation of PR restriction sought was for the provision of public passageway for public use, the IPW at the subject building was already built. The applicant wished to claim the additional GFA permitted under lease through minor relaxation of the PR restriction under the OZP. Although the increase in PR could be considered minor, the additional GFA was for a hotel restaurant and not for public interest. As such, this Member had reservation on the application.

21. A Member did not support the application as the proposed additional floor area did not bring about any public benefits. This Member noted that the IPW at the application site had already been included in the PR calculation in the GBP and considered that there was no strong justification for minor relaxation of the PR restriction stipulated on the OZP.

22. A Member noted that there were hotel function rooms on other levels of the subject building which would be capable of providing floor spaces for food and beverage facilities for the hotel guests. This Member also did not support the application as the applicant had not provided strong justifications to demonstrate whether there were any merits or genuine need for the relaxation in PR restriction.

[Dr Frankie W.C. Yeung arrived to join the meeting at this point.]

Traffic Impact

23. Members generally considered that the application should not be approved since there was no strong planning and design merits to justify the proposed minor relaxation of PR restriction. Taking note of TD's advice, Members also considered that there was insufficient information to demonstrate that the proposed minor relaxation of PR for providing additional restaurant facilities would have any adverse implication on the provision of internal transport facilities at the hotel. This should also be one of the rejection reasons.

24. After further deliberation, the Committee decided to reject the application. The reasons were:

- “(a) no strong planning and design merits have been demonstrated to justify the proposed minor relaxation of plot ratio (PR) for the site; and
- (b) the applicant fails to demonstrate that the proposed minor relaxation in PR would not result in adverse traffic impacts.”

[The Chairman thanked Mr K.S. Ng, STP/TWK, for his attendance to answer Members' enquiries. He left the meeting at this point.]

[Ms Jessie K.P. Kwan, Senior Town Planner/Kowloon (STP/K), was invited to the meeting at this point.]

Kowloon District

Agenda Item 5

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K14/754 Proposed Shop and Services in “Other Specified Uses” annotated
“Business” Zone, Car Parking Space No. 1, G/F, Po Yip Building, 23
Hing Yip Street, Kwun Tong, Kowloon
(MPC Paper No. A/K14/754A)

Presentation and Question Sessions

25. With the aid of a PowerPoint presentation, Ms Jessie K.P. Kwan, STP/K, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) the proposed shop and services;
- (c) departmental comments – departmental comments were set out in paragraph 9 of the Paper. The Commissioner for Transport (C for T) has reservation on the application as the existing parking spaces at the site could not satisfy the minimum parking and loading/unloading requirement of the Hong Kong Planning Standards and Guidelines (HKPSG) and the applied use would lead to a loss of goods vehicle parking space, thus further worsening the parking space provision in the district. Other concerned government departments had no objection to or no adverse comments on the application;
- (d) during the first three weeks of the statutory publication period, five public comments from the Incorporated Owners of the subject building, a Kwun Tong District Council member, an individual owner and individuals were received. Amongst them, four objected to and one provided views on the

application. Major grounds and views were set out in paragraph 10 of the Paper; and

- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments set out in paragraph 11 of the Paper. Although the applied use was considered generally in line with the planning intention of the “Other Specified Uses” annotated “Business” zone and compatible with the changing land use character of the Kwun Tong Business Area, the proposed conversion of a light goods vehicle (LGV) parking space for the applied use would aggravate the overall shortfall in parking provision in the subject building. The application did not comply with the Town Planning Board Guidelines No. 22D in that the applicant failed to demonstrate that the proposal could be implemented without adversely affecting the parking provision of the subject building. C for T had reservation as the loss of a LGV parking space would further worsen the parking space provision in the district. Regarding the public comments, the comments of government departments and the assessments above were relevant.

26. Members had no question on the application.

Deliberation Session

27. After deliberation, the Committee decided to reject the application. The reasons were:

- “(a) the application does not comply with the Town Planning Board Guidelines No. 22D for ‘Development within “Other Specified Uses (Business)” Zone’ in that the proposed conversion of a parking space for commercial use would adversely affect the parking provision of the subject building and would further worsen the parking space provision in the district; and
- (b) the approval of the application will set an undesirable precedent for similar applications and the cumulative impact of approving such applications

would worsen the traffic conditions of the area.”

[The Chairman thanked Ms Jessie K.P. Kwan, STP/K, for her attendance to answer Members’ enquiries. She left the meeting at this point.]

[Ms Johanna W.Y. Cheng, Senior Town Planner/Kowloon (STP/K), was invited to the meeting at this point.]

Agenda Item 6

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K18/325 School (Kindergarten) in “Residential (Group C) 3” Zone, 3 Flint Road,
Kowloon Tong, Kowloon
(MPC Paper No. A/K18/325A)

28. The application site was located in Kowloon Tong and MVA Hong Kong Limited (MVA) was one of the consultants of the applicant. The following Members had declared interests on the item:

- Mr Thomas O.S. Ho - having current business dealings with MVA;

- Mr Franklin Yu - having past business dealings with MVA;

- Dr Lawrence W.C. Poon - working in the City University of Hong Kong and living in its quarters in Kowloon Tong; and

- Mr Stanley T.S. Choi - his spouse is a director of a company which owned properties in Kowloon Tong.

29. The Committee noted that Messrs Thomas O.S. Ho and Franklin Yu had tendered apologies for being unable to attend the meeting. Since the quarters of Dr Lawrence W.C. Poon and the properties owned by the company of Mr Stanley T.S. Choi’s spouse did not

have a direct view of the application site, the Committee agreed that they could stay in the meeting.

Presentation and Question Sessions

30. With the aid of a PowerPoint presentation, Ms Johanna W.Y. Cheng, STP/K, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) the school (kindergarten);
- (c) departmental comments – departmental comments were set out in paragraph 8 of the Paper. The Commissioner for Transport (C for T) had strong reservation on the application as there was grave concern on the traffic condition of the locality and the applicant could not provide appropriate mitigation measures in the traffic impact assessments. The Commissioner of Police (C of P) had reservation on the application as the traffic volume at Kowloon Tong area had already reached saturation point and the applied use would worsen the present traffic flow and cause adverse traffic impacts. Other concerned government departments had no objection to or no adverse comments on the application;
- (d) during the first three weeks of the statutory publication period, three public comments from the Headteacher of Diocesan Preparatory School and individuals were received. Amongst them, one objected to and two provided views on the application. Major grounds and views were set out in paragraph 9 of the Paper; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments set out in paragraph 10 of the Paper. The applied use was not in line with the planning intention of the “Residential (Group C)” zone, which was primarily for low to medium-rise, low-density residential development. Both C for T and C of P had

reservation on the application from the traffic point of view. The application site was subject of a previous application for the same use rejected by the Town Planning Board (the Board) upon review. Since the rejection of the previous application, there was no change in planning circumstances, and the traffic measures proposed in the current application failed to address the concerns of C for T and C of P. Approval of the application without adequately addressing the traffic problem would set an undesirable precedent for similar applications in the area and the cumulative effect of approving such similar applications would aggravate the traffic congestion problem at school peak hours. Regarding the public comments, the comments of government departments and the assessments above were relevant.

31. Some Members raised the following questions:

- (a) whether the applicant of the current application was the same as that of the previously rejected application;
- (b) how long had the subject kindergarten been in operation and the number of students currently enrolled;
- (c) the use of the area zoned “Open Space” (“O”) to the north of the application site;
- (d) whether the Education Bureau (EDB) would consider the comments of the Board when processing school registration applications; and
- (e) whether the Lands Department had taken any enforcement action on the breach of lease conditions.

32. Ms Johanna W.Y. Cheng, STP/K, made the following responses:

- (a) the applicant of the current planning application was the same as that of the previous application;

- (b) the Ground Floor of the subject kindergarten was in operation since 2000 while the First Floor was in operation since 2004. Currently it had a total of 158 students;
- (c) the area zoned “O” to the north of the application site was currently used as a playground by the Diocesan Preparatory School;
- (d) the subject kindergarten had obtained a valid Certificate for Registration for a School (the Certificate) since 2000. EDB would seek comments from relevant government departments, but the issuance of the Certificate at that time was based on the considerations under the Education Ordinance. EDB was aware that the previous planning application was rejected by the Board on review, and had been requesting the school operator to provide information on exit arrangements for the affected students should the kindergarten cease operation; and
- (e) with regards to lease enforcement action, a warning letter had been registered at the Land Registry on the breach of lease.

33. Members had no further question on the application.

Deliberation Session

34. A Member did not support the application and opined that it was unacceptable that the subject kindergarten had been in operation since 2000 without a valid planning approval. This Member noted that there were no significant changes to the traffic arrangements proposed in the last application and the current one, and suggested that the “O” zone to the north of the application site, which was being used as a playground for the Diocesan Preparatory School, could be opened up to allow manoeuvring of vehicles.

35. Another Member also did not support the application and opined that the submission of planning application to the Board should not be used as an excuse for government departments to postpone carrying out necessary enforcement action.

36. A Member said that the application site was not appropriate for kindergarten use. EDB could exercise its authority to cancel the school registration and the school operator should find another suitable location to operate the kindergarten. This Member considered that such views should be conveyed to EDB.

37. Members generally did not support the application and considered that it was unacceptable for the subject kindergarten to be in operation without a valid planning permission and that the planning application system should not be used as a means to delay enforcement action of relevant government departments. Members also agreed to urge EDB to observe the Board's above views and take necessary action.

38. After deliberation, the Committee decided to reject the application. The reasons were:

- “(a) the development is not in line with the planning intention of the “Residential (Group C)3” zone, which is intended primarily for low to medium-rise, low-density developments;
- (b) the development is located at Flint Road/Chester Road with narrow width and busy traffic at school peak hours. The applicant fails to demonstrate that the traffic impact of the development on the area is acceptable and the proposed traffic improvement measures will be effective in minimising the traffic impact on the area and ensuring pedestrian safety; and
- (c) approval of the application without adequately addressing the traffic problem will set an undesirable precedent for similar applications in the area. The cumulative effect of approving such similar applications will aggravate the traffic congestion problem of the area at school peak hours.”

[The Chairman thanked Ms Johanna W.Y. Cheng, STP/K, for her attendance to answer Members' enquiries. She left the meeting at this point.]

Agenda Item 7

Any Other Business

39. There being no other business, the meeting closed at 11:10 a.m..