

**Minutes of 1163rd Meeting of the
Town Planning Board held on 2.2.2018**

Present

Permanent Secretary for Development
(Planning and Lands)
Ms Bernadette H.H. Linn

Chairperson

Professor S.C. Wong

Vice-Chairperson

Mr Lincoln L.H. Huang

Mr H.W. Cheung

Professor K.C. Chau

Dr Wilton W.T. Fok

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Mr Dominic K.K. Lam

Mr Patrick H.T. Lau

Ms Christina M. Lee

Mr Stephen H.B. Yau

Dr F.C. Chan

Mr David Y.T. Lui

Dr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Mr K.K. Cheung

Mr Wilson Y.W. Fung

Dr C.H. Hau

Mr Alex T.H. Lai

Dr Lawrence K.C. Li

Mr Stephen L.H. Liu

Professor T.S. Liu

Ms Sandy H.Y. Wong

Mr Franklin Yu

Deputy Director (1)
Environmental Protection Department
Mr. Elvis W.K. Au

Director of Lands
Mr. Thomas C.C. Chan

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

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

Absent with Apologies

Ms Janice W.M. Lai

Mr H.F. Leung

Mr Thomas O.S. Ho

Miss Winnie W.M. Ng

Director of Planning
Mr Raymond K.W. Lee

Principal Assistant Secretary (Transport) 3
Transport and Housing Bureau
Mr Andy S.H. Lam

In Attendance

Assistant Director of Planning/Board
Miss Fiona S.Y. Lung

Chief Town Planner/Town Planning Board
Ms April K.Y. Kun (a.m.)
Mr Kepler S.Y. Yuen (p.m.)

Senior Town Planner/Town Planning Board
Mr Alex C.Y. Kiu (a.m.)
Mr Raymond H.F. Au (p.m.)

Agenda Item 1

[Open meeting]

Confirmation of Minutes of the 1161st Meeting held on 19.1.2018

[The item was conducted in Cantonese.]

1. The minutes of the 1161st Meeting held on 19.1.2018 were confirmed without amendments.

Agenda Item 2

Matters Arising

- (i) [Confidential Item] [Closed Meeting]

2. The item was recorded under confidential cover.

- (ii) New Town Planning Appeal Received
Town Planning Appeal No. 1 of 2018
Proposed House (New Territories Exempted House – Small House) in “Green Belt”
Zone, Lot 713 RP in D.D. 9, Yuen Leng Village, Tai Po, New Territories
[Open Meeting] [The item was conducted in Cantonese.]

3. The Secretary reported that a Notice of Appeal was received by the Appeal Board Panel (Town Planning) on 20.12.2017 against the decision of the Town Planning Board (the Board) on 6.10.2017 to reject on review the application No. A/NE-KLH/528 for proposed house (New Territories Exempted House (NTEH) – Small House) at Lot 713 RP in D.D. 9, Yuen Leng Village. The site was zoned “Green Belt” (“GB”) on the Kau Lung Hang Outline Zoning Plan (OZP). The application was rejected by the Board for the reasons that (a) the proposed development was not in line with the planning intention of “GB” zone; (b) the proposed development did not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories; (c) land was still available within the “Village Type Development” zone of Yuen Leng and Kau Lung Hang; and (d) approval of the application would set an undesirable precedent for other similar applications

in the area. Members noted that the hearing date of the appeal was yet to be fixed and agreed that the Secretary would act on behalf of the Board in dealing with the appeal in the usual manner.

(iii) Updated Appeal Statistics

[Open Meeting] [The item was conducted in Cantonese.]

4. The Secretary reported that as at 24.1.2018, ten appeals were yet to be heard and one appeal's decision was outstanding. Details of the appeal statistics were as follows :

| | |
|-----------------------------|-----|
| Allowed | 36 |
| Dismissed | 152 |
| Abandoned/Withdrawn/Invalid | 199 |
| Yet to be Heard | 10 |
| Decision Outstanding | 1 |
| <hr/> | |
| Total | 398 |

(iv) Approval of Draft Outline Zoning Plans

[Open Meeting] [The item was conducted in Cantonese.]

5. The Secretary reported that on 9.1.2018, the Chief Executive in Council approved Cheung Sheung Outline Zoning Plan (OZP) (renumbered as S/NE-CS/2); South Lantau Coast OZP (renumbered as S/SLC/21); and Tai Po Kau OZP (renumbered as S/NE-TPK/2) under section 9(1)(a) of the Town Planning Ordinance. The approval of the said OZPs was notified in the Gazette on 19.1.2018.

(v) Letter from the Save Our Country Parks Alliance

[Open Meeting] [The item was conducted in Cantonese.]

6. The Secretary reported that a letter from the Save Our Country Parks Alliance (the Alliance) dated 26.1.2018 was received and tabled at the meeting for Members' reference. The Alliance enquired about follow-up action subsequent to the Judgment on the Judicial Review in relation to the approval of the draft Outline Zoning Plans of Hoi Ha, Pak Lap and

So Lo Pun. Members were invited to note the letter, and the Secretariat of the Board would follow up upon seeking legal advice.

Agenda Item 3

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-LT/618

Proposed House (New Territories Exempted House - Small House) in “Agriculture” and “Village Type Development” Zones, Lot 1534 S.F in D.D. 19, Ha Tin Liu Ha, Lam Tsuen, Tai Po, New Territories
(TPB Paper No. 10381)

[The meeting was conducted in Cantonese.]

7. The Secretary reported that the following Member had declared an interest on the item :

Mr Alex T.H. Lai - his firm might have business dealing with the applicant

8. As Mr Lai had no involvement in the subject application and his interest was indirect, he was allowed to stay at the meeting.

Presentation and Question Sessions

9. The following representative from the Planning Department (PlanD) and the applicant’s representative were invited to the meeting :

Ms Jessica H.F. Chu - District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), PlanD

Mr Li Kin Ming Vincent - applicant’s representative

10. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited DPO/STN, PlanD to brief Members on the review application.

11. With the aid of a PowerPoint presentation, Ms Jessica H.F. Chu briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Board, enforcement actions

related to the Site, departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10381 (the Paper).

12. The Chairperson then invited the applicant's representative to elaborate on the review application.

13. Mr. Li Kin Ming Vincent pointed out that all departments had no objection to the application except the Agriculture, Fisheries and Conservation Department (AFCD) which considered the Site to have a high potential for rehabilitation into agricultural use and that there were active agricultural activities in the vicinity of the Site. However, as shown in the aerial photo, the active agricultural uses were far away from the Site. Areas around the Site were either woodland or occupied by houses. Part of the Site had also been concrete-paved for vehicle parking. He was puzzled as to why AFCD would consider the Site as having high potential for rehabilitation into agricultural use. Furthermore, 26% of the Site fell within the "Village Type Development" ("V") zone, and 100% of it fell within the 'Village Environ' ('VE'). No adverse impact was anticipated.

14. Mr. Li Kin Ming Vincent further stated that the proposed development complied with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories (the Interim Criteria) in that there was existing sewerage system within 10m of the Site, and the applicant had obtained consent from the owners concerned for sewer connection. The proposed development would help resolving housing problem while the Site could no longer be put into agricultural use. Although there was land within the "V" zone for development of some 144 Small Houses, the Site was the only piece of land owned by the applicant. The applicant did not own any other property and had a genuine housing need. The applicant was willing to comply with any approval condition that the Board might impose.

15. As the presentation from DPO/STN, PlanD and the applicant's representative had been completed, the Chairperson invited questions from Members.

16. In response to a Members' enquiry, Ms Jessica H.F. Chu advised that according to the Interim Criteria, sympathetic consideration might be given if over 50% of the Site fell within the 'VE' and there was a general shortage of land to meet the Small House demand within the "V" zone. However, there was no shortage of land in the subject "V" zone, and hence the application did not comply with the Interim Criteria. With the aid of a PowerPoint

slide, she showed the distribution of government land and private land within the “V” zone, but reminded that land ownership was not a planning consideration as it would be subject to change over time

17. In response to another Member’s question, Ms Jessica H.F. Chu advised that applications No. A/NE-LT/344 and 489 were approved in 2005 and 2013 when at the material time the Board, having taken into account the circumstances and criteria prevailing then, considered that there was a general shortage of land to meet the Small House demand within the “V” zone. Members noted that the 10-year Small House demand forecasts were provided by the Village Representative (VR) through the District Lands Office.

18. A Member asked about the type of unauthorized development (UD) involved on the Site. Ms Jessica H.F. Chu advised that the UD involved was filling of land. Although the UD was discontinued, the Site had only been partially reinstated, and the majority of the Site was not yet grassed as required by the Reinstatement Notice (RN).

19. As Members had no further question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application. The Chairperson thanked DPO/STN, PlanD and the applicant’s representative for attending the meeting, and they left the meeting at this point.

Deliberation Session

20. The Chairperson said that Members should assess whether there were any new justifications that warranted a departure from the RNTPC’s decision in considering this review application. A Member, while supporting the rejection of the review application, noted that similar applications were approved in the past. The Chairperson remarked that the Board had adopted a more cautious approach in recent years and more weight had been put on the number of outstanding Small House applications rather than the 10-year forecast demand. In the present case, land available within the “V” zone was sufficient to cater for both the outstanding applications and 10-year forecast demand.

21. After deliberation, the Board decided to reject the application on review for the following reasons :

“ (a) the proposed development is not in line with the planning intention of

the “Agriculture” zone for the area which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from this planning intention;

- (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that there is no general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone of Ha Tin Liu Ha, Sheung Tin Liu Ha and Ko Tin Hom; and
- (c) land is still available within the “V” zone of Ha Tin Liu Ha, Sheung Tin Liu Ha and Ko Tin Hom which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services. ”

Agenda Item 4

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE- TK/611

Proposed Temporary Toilet for a Period of 3 Years and Excavation of Land in “Conservation Area” Zone and an area shown as ‘Road’, Government Land in Tai Mei Tuk, Tai Po, New Territories

(TPB Paper No. 10382)

[The meeting was conducted in Cantonese.]

22. The Secretary said that the following Members had declared interests on the item :

Dr Lawrence W.C. Poon - co-owning a house in Lung Mei Tsuen, Ting Kok

with his spouse

Mr Alex T.H. Lai - his firm might have business dealing with one of the applicants and three of the applicants' representatives

23. Members agreed that as the concerned house of Dr Lawrence W.C. Poon had no direct view of the application site, and Mr Alex T.H. Lai had no involvement in the subject application, the above Members could stay in the meeting.

24. The following representatives from the Planning Department (PlanD) and the applicants were invited to the meeting :

Ms Jessica H.F. Chu - District Planning Officer/Shia Tin, Tai Po and North (DPO/STN), PlanD

Goldrich Planners & Surveyors Ltd

Mr Francis Lau]

Mr Roke Cheung]

Mr Raymond Fung] applicants' representatives

Ms Amy Mak]

Mr John Tse]

Mr Tsz Yin Yu]

Presentation and Question Sessions

25. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited DPO/STN, PlanD to brief Members on the review application.

26. With the aid of a PowerPoint presentation, Ms Jessica H.F. Chu briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Board, departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10382 (the Paper).

27. The Chairperson then invited the applicants' representatives to elaborate on the review application.

28. With the aid of a PowerPoint presentation, Mr Francis Lau briefed Members on the location of the Site, the layout of the proposed temporary toilet and the applicants' justifications for the application. He made the following main points :

- (a) the proposed toilet was not for visitors, but solely for daily use by staff;
- (b) the pond to the south of the Site (the subject pond) was under active fish farming;
- (c) workers now had to walk 360m to the public toilet, which was very harsh and inconvenient during adverse weather conditions;
- (d) paragraphs 5.3.4 and 5.3.5 of Chapter 9 of the Hong Kong Planning Standards and Guidelines (HKPSG) stipulated that adequate supporting infrastructure including toilets should be provided to support fish farming activities;
- (e) no toilet was provided previously as there was no public sewer. With the availability of the public sewerage system nearby, the proposed toilet would be connected to the system and would not cause adverse sewerage and drainage impacts on the surrounding area;
- (f) despite the application for the toilet use was only temporary, the design and construction would follow all regulations. Appropriate measures would be adopted by the applicants' contractor to minimize any air, noise, landscape and visual impacts during construction;
- (g) the applied use was a 'designated project' under the Environmental Impact Assessment Ordinance (EIAO). The applicants would apply for an Environmental Permit accordingly and make formal building plan submission;

- (h) government departments including the Agriculture, Fisheries and Conservation Department (AFCD), the Food and Environmental Hygiene Department and the Environmental Protection Department had no objection to/adverse comment on the proposed toilet;
- (i) the applicants had considered the option of using portable toilets. However, portable toilets were made of plastic and not durable against weather. They were not hygienic to use due to a lack of washing/flushing/waste water disposal facilities. There would be leakages, which would be a source of contamination themselves. Citing an incident in July 2017 of a car being flushed down a pond in Tai Mei Tuk, the much lighter portable toilets could easily be flushed down /blown away by heavy rain or typhoon and cause pollution; and
- (j) the proposed temporary toilet, while small in scale, was therefore a necessary and proper facility to protect the “Conservation Area” (“CA”) zone from pollution in the long term.

[Mr Philip S.L. Kan left the meeting during the presentation by the applicants’ representative.]

29. As the presentation from DPO/STN, PlanD and the applicants’ representatives had been completed, the Chairperson invited questions from Members.

30. The Chairperson and Members raised the following questions :

- (a) the walking time from the Site to the nearest public toilet;
- (b) whether the concern on the proposed development would be the applied use itself or its impacts on the subject “CA” zone;
- (c) whether portable toilet would be acceptable for the Site from conservation point of view; and
- (d) the land tenure of the Site.

31. In response, Ms Jessica H.F. Chu made the following points:

- (a) she had recently visited the Site and walked from there to the public toilet. It took her 4 minutes, and her walking pace was about average. There were many restaurants in Tai Mei Tuk Village on the opposite side of Ting Kok Road where toilet facilities were also available;
- (b) the applicants' intention to provide a convenient toilet for workers and properly conserve the subject "CA" zone was noted, but PlanD's concerns were on the scale, location and landscape impact of the proposed development. The proposed location was on a narrow piece of land in between two fish ponds, and the proposed toilet would impact significantly on the landscape. Also, there was doubt on the scale of the proposed temporary toilet if it was intended to serve the workers only;
- (c) portable toilets could perhaps be placed at more inconspicuous location(s) and reduce the impacts. Portable toilet was self-contained and should not have any unacceptable impacts on the environment if cleansed and maintained properly; and
- (d) the subject pond had an area of 3.27 ha and was granted to the Village Representatives (VRs) of Tai Mei Tuk Village in 1988 for a tenure of 11 years, renewable thereafter annually for fish farming.

32. In response to Members' questions as regards the number of workers; daily operation of the fish farm and the use of the existing structures within the Site, Mr. Francis Lau made the following points:

- (a) the fish farm was not opened to the public, and there was no recreational fishing activity at the subject pond, while there would be group visits occasionally;
- (b) fresh water fishes, including Anchovy (鯇魚), were being reared in the pond;
- (c) there were normally six to ten workers manning the fish pond. These included 24-hour guards to prevent the fishes from being stolen, workers

feeding fishes, clearing wild grasses, patrolling the pond regularly to make sure that oxygen supply to the pond was functioning, etc;

- (d) during fish harvest, there were up to 150 workers working in the very large pond to spread the nets;
- (e) the proposed toilet, comprising a male toilet (with two cubicles and three urinals), a female toilet (with three cubicles) and one disabled person toilet, would be necessary to support the operation of the fish pond; and
- (f) the applicants' tool storage facility was a canvas-cover structure located at the eastern end of the pond bund separating the two fish ponds. The structures at the southwestern end of the "CA" zone near the public toilet were under an approved planning application (No. A/NE-TK/605) for temporary depositing of two containers for selling of refreshment, and hiring of fishing-related accessories. They were for storage uses not related to the subject pond/application.

33. In response to the Chairperson's follow-up question, Ms Jessica H.F. Chu confirmed that she had not observed any recreational fishing at the subject pond during her recent visit, but according to her conversation with a person met on-site, no fish was currently being reared in the pond.

34. A Member asked about the profile of the workers corresponding to the design of the toilet. Mr. Francis Lau said the applicants had not provided him with the male/female ratio of their employees, but they had not employed any disabled persons. The proposed toilet was designed according to the minimum provisions stipulated under the regulation, which required a disabled toilet and a 1:1.5 male/female toilet provision ratio. At present, workers sometimes used inconspicuous spot to address their toilet needs. As employer, however, the applicants had a responsibility to provide toilet facilities for employees.

35. In response to the Chairperson's follow-up question, Ms Jessica H.F. Chu advised that the 1:1.5 male/female toilet provision ratio was stipulated in the Buildings Department's Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers ADV-28 regarding 'Provision of Sanitary Fitments in Offices, Shopping Arcades, Department Stores, Places of Public Entertainment, Cinemas and Other Public Places'. However, the subject fish farm did not fall within any of those developments.

The proposed toilet was a private sanitary facility for a private project, and could not be considered as 'essential infrastructure projects with overriding public interest' that might be permitted under the "CA" zoning.

36. Some Members also asked whether the HKPSG requirements quoted by the applicants' representative were applicable for the subject Site. Ms Jessica H.F. Chu advised that paragraph 5.3.5 and the last sentence of paragraph 5.3.4 of Chapter 9 of the HKPSG were not applicable to the subject fresh water fish ponds which were not designated 'fish culture zones'. A Member also noticed that there was specific mentioning of 'seabed' and 'piers' in these paragraphs, which could not be applicable to fresh water fish ponds. It followed that the requirement for provision of toilet facilities under Chapter 9 of the HKPSG was specifically applicable to marine fish culture zones only. The said paragraphs of the HKPSG did not stipulate the provision of toilet facilities for fresh water fish ponds, and was irrelevant to the application.

37. In response to Members' questions, Mr. Francis Lau advised that the applicants applied for temporary toilet because there was no provision under the "CA" zoning to apply for a permanent toilet. Besides, the Site was government land and construction of a permanent toilet thereon would necessitate a land exchange. The Site was chosen based on a number of considerations, including proximity to Ting Kok Road, the manoeuvring space required for a small vehicle to access the Site for the construction works, and the presence of a large tree to provide screening for the Site. He stressed that there was no alternative suitable site for the development of a toilet.

38. As Members had no question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application. The Chairperson thanked DPO/STN, PlanD and the applicants' representatives for attending the meeting, and they left the meeting at this point.

[Mr Patrick H.T. Lau and Dr Wilton W.T. Fok left the meeting at this point.]

Deliberation Session

39. A Member expressed sympathy to the applicants, and considered that there were needs to provide toilet facilities at the working place for workers. He further opined that the

proposed toilet was a better solution than portable toilets in environmental terms. However, he had concerns on the scale of the proposed toilet.

40. Other Members also expressed concern about the excessive scale of the proposed toilet. Drawing on his own experience in fish farming, a Member said that literally all fish farms in Hong Kong, particularly those in Mai Po, were highly mechanized (e.g. feeding fishes with timer-operated machines rather than manually). Another Member who had resided next to a fish pond for six months also concurred that the mode of operation described by the applicants' representative was not typical of the current fish farming practice in Hong Kong. He further pointed out that the Site was zoned "CA" and there was a need to consider the precedent effect of approving the application on "CA" zone in future.

41. A Member said that even if the pond was put into fish farming with six to ten workers as the applicants' representative claimed, the proposed size of the toilet was still considered excessive. Noting that the Site was within a "CA" zone, he did not support the review application.

[Mr Stephen L.H. Liu left the meeting during the deliberation.]

42. The Chairperson summed up the discussion. The Site was located in a "CA" zone where there was a presumption against development. Although the Board recognized the workers' needs for sanitary provision, Members were not convinced that a proposed toilet of this scale was necessary to support the operation of the subject fish pond.

43. Members then went through the reasons for rejection as stated in paragraph 7.1 of the Paper and considered that they should be suitably amended.

44. After deliberation, the Board decided to reject the application on review based on the following reasons :

- “ (a) the proposed development is not in line with the planning intention of the “Conservation Area” (“CA”) zone which is intended to protect and retain the existing natural character or ecological features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Site of Special Scientific Interest or Country Park from the adverse effects of development. There is a general

presumption against development in this zone. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;

- (b) while recognizing the workers' needs for sanitary provision, there is no information in the submission to justify that a temporary toilet of the proposed scale is needed to support the operation of the subject fish pond and the conservation of the existing natural landscape or scenic quality of the area; and
- (c) the approval of the application would set an undesirable precedent for similar applications within "CA" zone resulting in disturbance to the existing natural character of the area and the surrounding areas."

Sai Kung & Islands District

Agenda Item 5

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/SK-TMT/61

Proposed Filling of Land for Permitted Agricultural Use in "Green Belt" Zone, Lots 402, 403, 408, 409 S.A (Part), 410, 411, 412, 427 and 430 RP in D.D. 216, Long Keng, Sai Kung, New Territories

(TPB Paper No. 10383)

[The meeting was conducted in Cantonese.]

45. The Secretary said that the following Member had declared an interest on the item :

Ms Janice W.M. Lai - her spouse owning a shop in Sai Kung Town,
Sai Kung

Mr Alex T.H. Lai - his firm might have business dealing with the
applicant's representatives

46. Members noted that Ms Janice W.M. Lai had tendered apologies for not being able to attend the meeting. Members agreed that as Mr Alex T.H. Lai had no involvement in the subject application, he could stay in the meeting.

47. The following representative from the Planning Department (PlanD) and the applicant were invited to the meeting :

Ms Donna Y.P. Tam - District Planning Officer/Sai Kung & Islands
(DPO/SKIs), PlanD

Ms Lam Ching] applicant's representatives
Ms Wong Sin Yee]

48. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited DPO/SKIs, PlanD to brief Members on the review application.

49. With the aid of a PowerPoint presentation, Ms Donna Y.P. Tam briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Board, enforcement actions related to the Site, departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10383 (the Paper).

50. The Chairperson then invited the applicant's representatives to elaborate on the review application.

51. Ms Lam Ching made the following main points :

- (a) cows were wandering around the Site, leaving behind much wastes. Construction wastes were also dumped at the Site by trespassers. Their neighbour also complained about water accumulating and mosquito breeding at the Site. The applicant had reported the incident to Food and Environmental Hygiene Department but was told to fence off their land;
- (b) without knowing that land filling would require planning permission, and with a view to making good use and improving the hygienic condition of the Site, the applicant proceeded to fill the Site with organic soil for cultivation. The applicant was subsequently prosecuted and fined;
- (c) subsequently, the applicant applied for permission to fill the Site but was rejected. There were complaints received from a nearby resident due largely to the suspicion that the applicant was forming the Site for constructing houses;

- (d) local villagers were generally supportive of their application to beautify the Site for their enjoyment but the RNTPC chose to listen to the green groups' views only. The applicant was frustrated by the RNTPC's decision, and therefore submitted a review application; and
- (e) all that the applicant wanted to do was to turn the Site into an organic farm and education centre for school kids.

52. As the presentation from DPO/SKIs, PlanD and the applicant's representative had been completed, the Chairperson invited questions from Members.

53. In response to some Members' questions, Ms Lam Ching advised that the applicant would like to level the sloping site, with the lowest part being filled by 1.7m of organic soil. She said that palm trees, which required a deep layer (1.2m to 1.5m) of soil for their roots, would be planted along the periphery of the Site for landscape purpose. If the Board considered the 1.7m filling not acceptable, the applicant would plant other trees to reduce the filling. The majority area of the Site was intended for cultivation of organic lettuce, eggplant and strawberries, etc.

54. In response to the Chairperson's and some Members' enquiries, Ms Donna Y.P. Tam advised that planning permission was required for both filling and excavation of land in "GB" zones according to the Notes of the OZP. As the applicant had not indicated in the application the type of crops to be grown at the Site, AFCD had no information to assess whether there was a need to fill up the land, the depth and the kind of fill material needed.

55. As Members had no question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application. The Chairperson thanked DPO/SKIs, PlanD and the applicants' representatives for attending the meeting, and they left the meeting at this point.

Deliberation Session

56. A Member considered that farming activity on sloping ground was possible and there was no need for land filling. The quality/quantity of harvest also depended on inputs rather than the use of organic soil alone. The types of crops that the applicant's representative mentioned did not require thick soil. The applicant should provide the types of crops to be grown in the submission to facilitate concerned departments' assessment, and no justification

had been given for planting palm trees at the Site. Members generally concurred with his view and did not support the review application.

57. The Chairperson said that there was also no change in planning circumstances that warranted a departure from the RNTPC's decision.

58. After deliberation, the Board decided to reject the application on review based on the following reasons :

- “ (a) the applicant fails to demonstrate that there is a need for filling of land for agricultural use at the Site;
- (b) the applicant fails to demonstrate that the proposed filling of land would not cause adverse drainage and landscape impacts on the surrounding areas; and
- (c) approval of the application would set an undesirable precedent for similar applications within the “Green Belt” zone. The cumulative effect of approving such similar proposals would result in a general degradation of the environment and bring about adverse impact on drainage and landscape of the area. ”

[The meeting was adjourned for lunch break at 13:15 p.m.]

59. The meeting was resumed at 2:30 p.m.

60. The following Members and the Secretary were present at the resumed meeting:

Permanent Secretary for Development
(Planning and Lands)
Ms Bernadette H.H. Linn

Chairperson

Professor S.C. Wong

Vice-Chairperson

Mr Lincoln L.H. Huang

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Mr Dominic K.K. Lam

Mr Stephen H.B. Yau

Dr F.C. Chan

Dr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Dr Lawrence W.C. Poon

Mr K.K. Cheung

Mr Wilson Y.W. Fung

Dr C.H. Hau

Mr Alex T.H. Lai

Professor T.S. Liu

Ms Sandy H.Y. Wong

Mr Franklin Yu

Deputy Director of Environmental Protection (1)

Mr Elvis W.K. Au

Director of Lands

Mr Thomas C.C. Chan

Chief Engineer (Works), Home Affairs Department

Mr Martin W.C. Kwan

Fanling, Sheung Shui & Yuen Long East District

Agenda Item 6

[Open Meeting]

Request for Deferment of Review of Application No. A/KTN/34

Temporary Warehouse of Industrial and Construction Materials and Ancillary Workshop for a Period of 3 Years in “Open Space” and “Other Specified Uses” annotated “Nature Park” Zones and an area shown as ‘Road’, Lots 744 and 749 in D.D. 92 and Adjoining Government Land, Yin Kong, Sheung Shui

(TPB Paper No. 10384)

[The item was conducted in Cantonese]

61. The Secretary reported that Mr K.K. Cheung and Mr Alex T.H. Lai had declared interest in the item as the applicant’s representative might have business dealing with their firm. As Mr K.K. Cheung and Mr Alex T.H. Lai had no involvement in the subject application, their interests were indirect and Members agreed that they could stay at the meeting.

62. The Secretary briefed Members that on 25.1.2018, the applicant’s agent wrote to the Town Planning Board (the Board) and requested the Board to defer making a decision on the review application to allow about two months’ time to address departmental comments. This was the first request for deferment of the review application.

63. Members noted that the justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33) in that the applicant needed more time to prepare further information to respond to departmental comments, the deferment period was not indefinite; and that the deferment would not affect the interest of other relevant parties.

64. After deliberation, the Board agreed to defer a decision on the review application, as requested by the applicant, pending the submission of further information (FI) by the applicant. The Board also agreed that the review application would be submitted to

the Board for consideration within three months upon receipt of FI from the applicant. If the FI submitted by the applicant was not substantial and could be processed within a shorter time, the review application could be submitted to an earlier meeting for the Board's consideration. The Board also agreed to advise the applicant that the Board had allowed two months for preparation of submission of FI, and no further deferment would be granted unless under very special circumstances.

Kowloon District

Agenda Item 7

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/K9/269

Temporary School (Private Primary School) for a Period of 5 Years in "Comprehensive Development Area (2)" Zone, G/F, 1/F and R/F, Cheung Kei Center Tower B, One Harbourgate, 18 Hung Luen Road, Hung Hom, Kowloon

(TPB Paper No. 10385)

[The item was conducted in Cantonese]

65. The Secretary reported that the following Members had declared interests in the item for owning properties in the Hung Hom area or having business dealing with Lanbase Surveyors Limited (Lanbase) or the representatives of the applicant:

- | | | |
|---------------------|---|---|
| Mr Patrick H.T. Lau | - | having current business dealings with Lanbase Surveyors Limited |
| Ms Christina M. Lee | - | co-owning a flat with spouse at 8 Oi King Street, Hung Hom |
| Dr F.C. Chan | - | owning a flat at Laguna Verde, Hung Hom |
| Mr K.K. Cheung |] | two of the applicant's representatives might |
| Mr Alex T.H. Lai |] | have business dealing with their firm |

66. Members noted that Mr Patrick H.T. Lau and Ms Christina M. Lee had already left the meeting. As the property of Dr F.C. Chan had no direct view of the application premises, and Mr K.K. Cheung and Mr Alex T.H. Lai had no involvement in the subject application, their interests were indirect and Members agreed that they could stay at the meeting.

Presentation and Question Sessions

67. The following representative of the Planning Department (PlanD) and the applicant's representatives were invited to the meeting at this point:

Mr Tom C.K. Yip - District Planning Officer/Kowloon (DPO/K),
PlanD

Mount Kelly School Hong Kong

Dr Leung Kam Fong] Applicant's Representatives
Mr Nick Rothwell]
Mr Coleman Chau]
Ms Johanne Ho]
Mr Stan Yip]

Lanbase

Mr C.K. Chan]
Mr Anson Lee]

CKM Asia Limited

Mr Kim Chin]

WMKY Limited

Ms Helen Leung]
Mr Richard Lankshear]

68. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited DPO/K to brief Members on the review application.

69. With the aid of a PowerPoint presentation, Mr Tom C.K. Yip, DPO/K, briefed Members on the background of the review application including the consideration of the application by the Metro Planning Committee (MPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10385 (the Paper).

[Dr Frankie W.C. Yeung arrived to join the meeting during the presentation of DPO/K.]

70. The Chairperson then invited the applicant's representatives to elaborate on the review application. With the aid of a PowerPoint presentation, Mr C.K. Chan and Dr Leung Kam Fong made the following main points:

- (a) the relevant government departments including PlanD had no objection to the application at the section 16 stage. All the concerns including traffic and environmental matters had been adequately addressed;
- (b) the main concerns of MPC were related to the lack of information in terms of the availability of permanent school premises for accommodating the students after expiry of 5-year temporary planning permission, and the availability of long-term school development plan;

Planning Intention

- (c) the proposed school use was not incompatible with the surrounding which was characterised by a mix of residential developments, primary school, offices, hotels and open space uses. Although the planning intention of the "Comprehensive Development Area(2)" ("CDA(2)") zone was for retail and office uses, the temporary nature of the proposed school for a period of 5 years would not affect the long-term planning intention of the zone;
- (d) One Harbourgate was completed in 2016 and comprised two 14-storey office blocks (i.e. China Life Center and Cheung Kei Center) and two

2-storey free-standing blocks for retail/restaurant uses abutting the Hung Hom Promenade. Since its completion in 2016, the occupancy rate of the office blocks had not been high and all shop units were vacant. While the Hung Hom Promenade was well designed, its usage by the general public was on the low side and the demand for retail/restaurant use had not yet been built up. The proposed school would create opportunity for students and family members to bring vitality to the Hung Hom waterfront and enhance the vibrancy of the harbourfront area;

- (e) should the application for the proposed temporary school be approved, the applicant had committed not to apply for renewal of the planning permission, and such commitment could be imposed as one of the approval conditions. Moreover, the owner of the Application Premises had written to confirm that the subject premises would not be let to the applicant upon expiry of the current tenancy in April 2023. As such, there should not be any concern regarding the possible extension of the temporary planning permission for more than 5 years;

Precedents

- (f) private schools in retail premises were commonly found in Hong Kong. Some examples were The Harbour School at 23 Belcher's Street and Delia School of Canada at Tai Koo Shing. As the Application Premises was a free-standing block abutting the waterfront, it would provide even better learning environment than the above schools and no interface problem with the office and commercial uses would be anticipated;

School operation

- (g) the proposed school would be operated by Mount Kelly School Hong Kong (MKSHK), an international sister school of Mount Kelly School United Kingdom (MKSUK). MKSUK would offer a globally recognised curriculum to students characterised by small class teaching. Graduates of MKSHK would automatically proceed to MKSUK for high school

education in the United Kingdom;

- (h) MKSHK was operated under experienced educational management and by world class educational staff, including Dr Leung Kam Fong, former Chief Executive of Tung Wah Group of Hospitals and Mr Peter Kenny, a founding Principal of Renaissance College Hong Kong and Global Head of Projects of the International Baccalaureate;

Long Term School Plan and Transitional arrangement

- (i) MKSHK would develop its city campus at Austin Tower, Tsim Sha Tsui. The works for Phase I (about 556 sq.m.) comprising part of G/F (80 sq.m.) and part of 2/F (about 476 sq.m.) of Austin Tower had already completed. Provisional registration of school for Phase I was approved by the Education Bureau (EDB) on 15.1.2018;
- (j) MKSHK would expand the city campus at Austin Tower to the whole 2/F and 3/F in coming years. While the remaining parts of 2/F and 3/F were currently occupied by other tenants, both the owners of 2/F and 3/F had provided written confirmation on their support to the expansion programme of MKSHK and agreed to let out the units to MKSHK in the coming years once available. Taking into account the tenancies of the remaining occupants, it was anticipated that the Austin Tower campus would be completed by 2022-2023;
- (k) as prescribed under the provisional school licence, Phase I of MKSHK at Austin Tower would accommodate 119 students. Further expansion of MKSHK would be carried out from May 2018 to June 2022 in three remaining phases (i.e. Phases II, III and IV). Upon completion of all four phases by 2022-2023, the total floor area of the Austin Tower campus would be about 2,254 sq.m., which could accommodate a total of 389 students; and
- (l) it was necessary to make arrangement for the proposed temporary school at

the Application Premises in order to provide adequate capacity to accommodate the students before completion of the Austin Tower campus. As transitional arrangement, the proposed temporary school at One Harbourgate could provide school places for a maximum of 240 students in 2020-2021, and all students would be transferred to the Austin Tower campus to continue their study by 2022-2023. The Austin Tower campus should be able to accommodate all the students transferred from the proposed school.

71. As the presentation of the applicant's representatives was completed, the Chairperson invited questions from Members.

Planning Intention

72. A Member asked DPO/K whether the visitors of Hung Hom Promenade were from the surrounding developments. In response, Mr Tom C.K. Yip, DPO/K, said that the Hung Hom Promenade was well connected to the surrounding developments by pedestrian linkage and footbridges and thus easily accessible by local residents and hotel guests. That said, since the promenade was extended all along to Tsim Sha Tsui, it was also used by other members of the public for leisure and jogging activities.

73. In response to the question of a Member, Mr C.K. Chan, the applicant's representative, said that the Application Premises had been vacant since its completion in 2016. While the planning intention for the Application Premises was agreeable, development along the Hung Hom waterfront was not yet mature and patronage of the promenade was on the low side. The proposed school could optimise the use of land resources and help improve the vibrancy of the waterfront.

The Proposed School

74. Some Members raised the following questions to DPO/K:

- (a) whether the public comments were in support of the proposed school or the Austin Tower campus;

- (b) what the concerns of the Harbourfront Commission were on the proposed school; and
- (c) how the applicant's commitment on not applying for renewal of planning permission for the proposed temporary school, if granted, could be enforced.

75. In response, Mr Tom C.K. Yip made the following main points:

- (a) in relation to the review application for the proposed school, a total of 168 public comments were received including 150 supporting/in favour of the application;
- (b) the Harbourfront Commission's Task Force on Harbourfront Developments in Kowloon, Tsuen Wan and Kwai Tsing was consulted on the application (Task Force) and its views were summarised in a letter of 21.9.2017. In gist, members of Task Force opined that while the proposed school would only attract students and parents to the waterfront during school hours, the Application Premises should be used for providing food and beverage and retail services that could attract more members of the public to the promenade and bring vibrancy to the waterfront. The Task Force also casted doubt on the suitability of the Application Premises for school use, and raised concerns on the security and safety aspects of young students since the Application Premises had adopted a curtain wall design; and commented on insufficient space in the premises to provide adequate facilities such as sports ground or play area for students. The above views and concerns were shared by MPC during consideration of the application at the section 16 stage; and
- (c) upon expiry of planning permission for the proposed temporary school for 5 years, the applicant was entitled to apply for renewal of the planning permission and the relevant planning considerations and prevailing circumstances would be taken into account in considering the renewal

application. In the current case, the applicant's commitment would be clearly recorded in the minutes of meeting which would form part of the considerations in any future renewal application. Should the application be approved, the Board could also consider including an advisory clause in the planning approval so as to spell out the Board's intention in that regard.

76. Some Members raised the following questions to the applicant's representatives:

- (a) why the applicant was so keen on providing a school at the Application Premises when the applicant could have confined its operation within spaces secured in Austin Tower;
- (b) whether student admission at the proposed school had commenced; and
- (c) whether the students and parents would be made aware of the temporary nature of the proposed school.

77. In response, Dr Leung Kam Fong, Mr C.K. Chan and Mr Anson Lee, the applicant's representatives, made the following main points:

- (a) the Application Premises was considered by the applicant suitable for the proposed school given it was located within a free-standing building and set within a tranquil environment near the waterfront;
- (b) since the announcement of launching MKSHK in Hong Kong, the response from parents alike had been overwhelming and the demand for school places in MKSHK had far exceeded the 119 available places at the Phase I school in Austin Tower. The proposed temporary school could provide adequate capacity to meet the strong demand for school places before completion of the school campus at Austin Tower;
- (c) the proposed school had not yet admitted any student. As the Application Premises was already vacant, should planning permission be obtained, the general building plan would be submitted soon and it was

expected that the proposed school could obtain the school licence and start operation in about six months' time;

- (d) the maximum capacity of the proposed school would be lowered to 240 and hence the potential adverse impact would be further reduced; and
- (e) MKSHK would diligently inform and explain to parents and students about the temporary nature of the proposed school and the expansion programme at Austin Tower, possibly during the student enrolment stage.

Long-term School Plan and Transitional Arrangement

78. The Chairperson asked whether school licence had been granted to MKSHK for the whole 2/F and 3/F of Austin Tower. In response, Mr Tom C.K. Yip said that MKSHK's application for provisional registration for a school of 8 classes and 119 students at part of G/F and 2/F of Austin Tower (about 556 sq.m.) was approved by EDB on 15.1.2018. The school could commence operation upon being provisionally registered. The Certificate of Provisional Registration was valid for one year and the school should comply with the other relevant requirements before full registration for a longer term. The remaining parts of 2/F and 3/F of Austin Tower were not covered by the Certificate of Provisional Registration.

79. The Chairperson, Vice-Chairperson and some Members raised the following questions to the applicant's representatives:

- (a) whether MKSHK had a long-term plan for finding a permanent school campus;
- (b) whether students of MKSHK could automatically proceed to MKSUK and what curriculum they would study?
- (c) whether student enrolment at the Austin Tower campus had commenced;
- (d) the number of students at Austin Tower in terms of grade and class size

should be elaborated;

- (e) whether the applicant or MKSHK had entered into any formal agreement with the owners for renting the remaining parts of 2/F and 3/F of Austin Tower;
- (f) when the school licence covering the remaining phases of the school campus at Austin Tower would be obtained;
- (g) whether the expansion of the Austin Tower campus would be affected if the subject application was rejected by the Board; and
- (h) should the proposed school be approved by the Board, whether there was any fall back plan if the remaining phases of the Austin Tower campus could not be implemented as planned by the applicant.

80. In response, Dr Leung Kam Fong and Mr C.K. Chan made the following main points with the aid of some PowerPoint slides:

- (a) it had not been easy for MKSHK to find a permanent school campus in Hong Kong. Unlike other international schools, MKSHK had not been allocated land by the Government for school development. The school investor of MKSHK had originally identified a site in the New Territories for permanent school campus but had failed to obtain the necessary planning permission. As MKSHK had already admitted some students at that time, the school investor had sought to develop a school campus within commercial buildings as an interim arrangement;
- (b) there was a long-term plan to develop a permanent school campus in Hong Kong although its location could not be confirmed at the current stage;
- (c) MKSHK had the long-term vision and enthusiasm to provide diversified education in Hong Kong. That was reflected by the trust conferred by

MKSUK in providing continuation study for graduates of MKSHK. Those students who had completed primary study in MKSHK would automatically proceed to MKSUK in the United Kingdom for high school education under the GCSE curriculum;

- (d) the 119 school places in Phase I of the city campus at Austin Tower had been filled up, and most of the students had already registered and paid school fees. There were a total of 8 classes (from Year 1 to Year 8) each with about 15 students in the Phase I school at Austin Tower. About 55 students were already attending school there;
- (e) school licence had not yet been obtained for Phases II, III and IV of the campus at the remaining parts of 2/F and 3/F of Austin Tower. Since some of the units on 2/F and 3/F were still being occupied by the existing tenants, a longer lead time was needed for expansion of the school campus given the time involved in acquisition, renovation work and the making of submissions to the Government;
- (f) some vacant units involved in the later phases of the campus had been leased to MKSHK on a 10-year term and the associated renovation works had already commenced. For the remaining units, the owners had agreed to let them out to the school once the existing tenants moved out, and the rental level had already been agreed with the owners;
- (g) as the applicant had experience in obtaining school licence for the Phase I campus at Austin Tower, it should have no difficulty in obtaining school licence for the subsequent phases given that the premises were located within the same building with a similar physical layout, and that the curriculum of MKSHK had already been approved by EDB;
- (h) it was expected that those units involved in Phases II and III would be available by end 2018, and submission of building plans and application for school licence would be made as soon as practicable afterwards. The whole school campus at Austin Tower should be completed by

2022-2023 accommodating a total of 389 students;

- (i) the expansion of school campus at Austin Tower would still proceed even if planning permission could not be obtained for the proposed temporary school at Hung Hom. However, in that case, no new student intake for MKSHK would be possible until completion of the Phase II campus at Austin Tower in 2020-2021; and
- (j) in the unlikely situation that the later phases of the Austin Tower campus could not proceed as planned, which should be known by the applicant in end 2018, there would still be sufficient time to identify other suitable premises to cater for the school intake programme. The student intake at the proposed school could also be reduced or put on hold correspondingly until implementation of the later phases of the Austin Tower campus was confirmed.

Undesirable Precedent

81. In response to a Member's question on whether approving the application would set an undesirable precedent for similar cases, Mr Tom C.K. Yip made the following main points:

- (a) there was another 2-storey building within One Harbourgate next to the Application Premises which fell with the same "CDA(2)" zone and was also intended for retail/restaurant uses. Approving the proposed temporary school would set an undesirable precedent on that building and other retail spaces within One Harbourgate; and
- (b) the precedent cases quoted by the applicant were mainly related to tutorial schools in commercial buildings within "Residential (Group A)" zone. The nature and scale of those tutorial schools were different from the proposed school under application. In the light of the specific planning intention of the Application Premises in the "CDA(2)" zone for retail/restaurant use to enhance attractiveness and vibrancy of the

waterfront, those cases were not applicable for consideration of the subject application.

Traffic Impact

82. Some Members raised the following questions:
- (a) whether the proposed provision of school bus lay-bys was sufficient to meet the needs of the proposed school; and
 - (b) whether the proposed school would have adverse traffic impact on the surrounding.

83. In response, Mr Tom C.K. Yip said that five school bus lay-bys at One Harbourgate had been proposed by the applicant to serve the proposed school. According to the traffic impact assessment submitted by the applicant, the applicant had undertaken to implement a number of mitigation measures including adoption of staggered school hours in two time-frames, mandatory school bus policy such that students were not allowed to go to school by private cars or taxis, and deployment of school buses with a minimum seating capacity of 28. The applicant would also submit bi-monthly monitoring reports on the implementation of the proposed mitigation measures to the Transport Department (TD). In view of the above, TD had no adverse comment on the application.

84. As Members had no further question, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in the absence of the applicant's representatives and inform the applicant of the Board's decision in due course. The Chairperson thanked the representatives of the applicant and PlanD for attending the meeting. They left the meeting at this point.

Deliberation Session

85. The Vice-Chairperson and some Members had the following views on the application:

- (a) as the Application Premises was located at the waterfront with a specific planning intention, retail and restaurant uses were considered more appropriate to promote patronage of the promenade and enhance vibrancy of the harbourfront. While school use might not provide the necessary vitality to realise the planning intention, there should be other alternative site/premises suitable for the proposed school. The proposed school, even temporary in nature for a period of 5 years, would jeopardise the realisation of the planning intention of the “CDA(2)” zone;
- (b) though the shortage of school places in international school was acknowledged, there was a mismatch between the claim of the proposed school premises being temporary in nature and the lack of certainty regarding the transfer of the students to more permanent premises in due course. The applicant’s argument for the proposed transitional arrangement was unconvincing given that the commitments made by the concerned owners of Austin Tower and One Harbourgate were not legally binding and could not be considered as secured and certain;
- (c) whilst the expansion programme at Austin Tower still carried some uncertainty, the proposed temporary school would help the Applicant achieve a total student intake of 389 within a shorter timeframe;
- (d) if the application was approved, the students at the proposed school would be required to relocate to the Austin Tower campus upon expiry of the planning permission midway through their study. Such arrangement was considered undesirable from the perspective of parents and students. Besides, if the later phases of expansion at Austin Tower could not proceed, there was a possibility that those students of the proposed temporary school could not return to study at Austin Tower upon expiry of the planning permission for the Application Premises at One Harbourgate. Under such circumstances, the Board might find it difficult to reject any future application for renewal of the planning

permission, which would further delay the realisation of planning intention of the Application Premises; and

- (e) the precedent cases quoted by the applicant were not comparable to the current case given the different natures of school under application, the types of premises, land use zonings and planning intentions involved. Approving the application would set an undesirable precedent for the similar premises in One Harbourgate within the same “CDA(2)” zone. Although the relevant government departments had no objection to the application, the Board would not be bounded to approve the application should there be sound reasons and justifications to reject it.

86. The Chairperson summed up the above discussion. Members generally considered that, in the absence of information convincing the Board that the proposed school would remain on site only on a temporary basis, approving the application might jeopardise the planning intention of the subject “CDA(2)” zone which was for retail/restaurant use to enhance the attractiveness and vibrancy of the Hung Hom waterfront. The school expansion programme could take place after implementation of the later phases of the Austin Tower campus providing a more permanent solution. As there was no major change in planning circumstances since the rejection of the section 16 application, there was no strong planning justification for a departure from the previous decision of MPC.

87. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they should be suitably amended.

88. After further deliberation, the Board decided to reject the application on review. The reasons for rejection were:

- “(a) the application is not in line with the planning intention of the “Comprehensive Development Area(2)” zone which is for retail and office uses and the intention to provide shop use at the premises to enhance the attractiveness and vibrancy of the Hung Hom waterfront. Whilst the possibility of other temporary uses would not be ruled out, there is doubt as to whether the proposed school would remain on site

only on a temporary basis such that the realisation of the planning intention would not be jeopardised; and

- (b) approval of the application will set an undesirable precedent for similar applications in the area. The cumulative effect of approving such similar applications will affect the attractiveness and vibrancy of the Hung Hom waterfront.”

General

Agenda Item 8

[Open Meeting]

Proposed Amendments to the Town Planning Board Guidelines No. 36A for Class A and Class B Amendments to Approved Development Proposals
(TPB Paper No. 10380)

[The meeting was conducted in Cantonese.]

Presentation and Question Sessions

89. The following representatives of the Planning Department (PlanD) were invited to the meeting at this point:

Miss Fiona S.Y. Lung - Assistant Director of Planning/Board (AD/B),
PlanD

Ms W.H. Ho - Senior Town Planner/Town Planning Board
(STP/TPB), PlanD

90. The Chairperson extended a welcome and invited the representatives of PlanD to brief Members on the proposed amendments to the Town Planning Board Guidelines No. 36A (TPB PG-No. 36A).

91. With the aid of a PowerPoint presentation, Miss Fiona S.Y. Lung, AD/B, and

Ms W.H. Ho, STP/TPB, briefed Members on the background and principles of review, proposed amendments to TPB PG-No. 36A, consultation, promulgation of the revised guidelines and the transitional arrangements as detailed in TPB Paper No. 10380 (the Paper).

[Mr Stephen H.B. Yau and Mr Alex T.H. Lai left the meeting during the presentation of STP/TPB.]

92. As the presentation of PlanD's representatives was completed, the Chairperson invited questions from Members.

93. The Chairperson remarked that the proposed amendments to TPB PG-No. 36A were mainly intended to provide clarity to users of the guidelines and to streamline the procedural matters whilst safeguarding the interest of the general public. That said, further relaxation of control was considered inappropriate at the current stage as it might result in adverse traffic, visual, landscape and environmental implications and such changes to the approved development proposals would need to be scrutinized by the Town Planning Board (the Board) in accordance with the provision of the Town Planning Ordinance (the Ordinance).

General

94. The Vice-Chairperson and some Members raised the following questions:

- (a) whether all Class A amendments were exempted from scrutiny by the Board;
- (b) whether the amended controls under the revised guidelines would create additional burden on PlanD in assessing the amendments; and
- (c) whether the deletion of government, institution and community (GIC) facilities or reduction in size in the provision of non-building areas (NBAs), setbacks and building gaps (BGs) under an approved application would be subject to control by the Board.

95. In response, the Secretary and Miss Fiona S.Y. Lung, AD/B, made the following main points:

- (a) in general, Class A amendments to approved schemes involved minor changes with no significant planning implications. Such amendments were always permitted under the Ordinance and did not require further application to the Board;
- (b) for Class B amendments, they were subject to the approval of the Director of Planning under the delegated authority of the Board upon application made under section 16A of the Ordinance. To expedite the approval process, section 16A applications to be approved by the Director of Planning were processed within a shorter timeframe than section 16 applications, i.e. within six weeks upon application;
- (c) while section 16A applications were exempted from publication requirements under the Ordinance, they would still be circulated for the concerned government departments for comment. In the event that the Class B amendments were considered unacceptable by the concerned departments or where the Director of Planning considered appropriate, those amendments would be submitted to the Board for consideration within two months' time upon application;
- (d) the revised Schedule of Class A and Class B Amendments would be published in the Gazette for public inspection. As most of the controls under Class A and Class B amendments were clearly defined in quantitative terms, the processing of amendments would not normally require exercising of discretion by PlanD staff;
- (e) deletion of GIC facilities, if initiated by relevant government department, would be submitted to the Board for consideration, while those not initiated by government departments would require fresh application under section 16 of the Ordinance; and

- (f) any changes in the location and/or size of the NBA, setback and/or BG not initiated by the Government were Class B amendments and could be processed by the Director of Planning under the delegated authority of the Board.

Revised Category 3 – Number of Units and Original Category 4 – Unit Size

96. Some Members raised the following questions:
- (a) the rationale for the proposed deletion of control on unit size;
 - (b) whether any control in the revised guidelines on those amendments which involved only changes in the range of unit sizes but the average unit size and number of units remained unchanged; and
 - (c) whether the deletion of control on unit size would encourage the development of tiny flats.
97. In response, Miss Fiona S.Y. Lung made the following main points with the aid of the visualiser:
- (a) assuming that the total gross floor area remained unchanged, changes in average unit size were related to changes in number of units. As the latter was already covered by Category 3 in the Schedule, separate control on size of units was considered not necessary;
 - (b) according to the proposed amendments to Category 3, unless specified in planning brief or approval conditions, any reduction in number of units and any increase in number of units not exceeding 100 units or 10% of the approved provision (whichever was the less) would fall within Class A amendments. For increase in number of units not exceeding 200 units or 20% of the approved provision (whichever was the less), it would fall within Class B amendments which were subject to application made under section 16A(2) of the Ordinance;

- (c) if the proposed increase in number of units exceeded 200 units or 20% of the approved provision, a fresh application under section 16 of the Ordinance would be required;
- (d) the proposed amendment to the allowable percentage of increase in number of units under both Class A (from 5% to 10%) and Class B amendments (from 10% to 20%) were intended to cater for small-scale developments, which had relatively smaller number of units, while the maximum cap of 100 units and 200 units under Class A and Class B amendments respectively had remained unchanged to avoid substantial changes in number of units in large-scale developments; and
- (e) in general, only the average unit size and a range of unit sizes would be provided in the planning applications for consideration by the Board. In those cases which the Board intended to maintain control over the number of units or the types or sizes of units, appropriate approval conditions could be imposed in the planning permission.

98. The Secretary supplemented that the proposed amendments were formulated after taking into account the planning implications and with a view to expediting the development process instead of from the angle of controlling unit size per se. It had been assessed that the proposed amendment would not result in adverse traffic, visual, landscape and environmental implications and no adverse comments from the relevant government departments and stakeholders were received.

Revised Category 9 - Provision of GIC Facilities

99. A Member asked whether any GIC facilities originally initiated by one government department and later proposed to be deleted by another department would be subject to control by the Board under the revised guidelines and Schedule.

100. In response, the Secretary and Miss Fiona S.Y. Lung made the following main points:

- (a) Category 9 generally applied to those GIC facilities required by specific government departments and to be provided by private developer within a mixed development such as those within “Comprehensive Development Area” zones. The category was not intended for stand-alone development solely for GIC facilities;
- (b) GIC facilities to be provided within government projects usually fell within the “Government, Institution or Community” zone and did not require planning permission from the Board at the outset;
- (c) under Category 9, any deletion of GIC facilities initiated by the Government would be regarded as Class B amendments subject to section 16A application and the matter should be submitted to the Board for consideration;
- (d) if the deletion of GIC facilities was not initiated by Government, a fresh application under section 16 of the Ordinance was required; and
- (e) if GIC facilities were initially required by a government department in an approved planning application and deletion of the facilities was later proposed by another government department, the matter would also be submitted to the Board for consideration. If the proposed amendment caused confusion, the original wording could be reinstated.

101. Regarding item (e) of paragraph 100 above, Members agreed that the original wording, i.e. ‘initiated by the relevant Government departments’, for Class B amendments under Category 9 of the revised Schedule, should be maintained.

Revised Category 12 - Provision of Carparking, Loading/unloading, and Other Transport Facilities

102. A Member asked why changes in the number of ingress/egress point(s) were classified as Class B amendments under the revised Schedule which might no longer be

subject to scrutiny by the Board. In response, Miss Fiona S. Y. Lung said that the number of ingress/egress point(s) was usually governed by an approval condition the compliance of which was to be assessed by the Transport Department (TD). Under the current Schedule, if TD raised objection to the proposed changes during the process of compliance of approval conditions, such matter would be submitted to the Board for consideration. In the revised Schedule, it was proposed to include changes in the number of ingress/egress point as Class B amendments such that they would be processed under section 16A applications. Similarly, if TD raised objection to the proposed changes during the s.16A application process, such matter would be submitted to the Board for consideration.

Other Observations

103. The Vice-Chairperson and some Members had the following views on the proposed amendments:

- (a) the principles of reviewing TPB PG-No. 36A, i.e. providing clarity to users of the guidelines and to avoid ambiguity; and simplifying the procedural matters whilst safeguarding the interest of the general public, were supported;
- (b) while noting that most of the proposed amendments were technical refinements in nature, the general direction of clarifying definitions and issues, increasing flexibility and streamlining procedures was supported with a view to increasing the efficiency of control and reducing the workload of the Board. The proposed amendments would also enhance the smooth supply of land for development and hence would be welcome by the development sector;
- (c) in general, a broad-brush approach could be adopted in exercising planning control on amendments to approved schemes. Should the Board consider that there was a need to control the relevant development parameters, such control could be exercised through the imposition of approval conditions; and

- (d) in considering Class B amendments, visionary statements such as Hong Kong 2030+ should be duly taken into account and where appropriate, any contentious issues should be submitted to the Board for consideration.

104. In response to a Member's enquiry on the statistics in respect of s.16A applications, Miss Fiona S.Y. Lung said that according to record, about 96% of section 16A applications for Class B amendments were related to proposed extension of time for commencement of development or compliance with approval conditions. Where appropriate, the Secretariat would report to the Board on the statistics and issues involved in processing section 16A applications.

[Mr Peter K.T. Yuen, Mr F.C. Chan, Dr Frankie W.C. Yeung, Dr C.H. Hau and Mr Franklin Yu left the meeting during the Q&A session.]

105. After deliberation, Members agreed to:

- (a) the draft TPB PG-No. 36B on Class A and Class B Amendments to Approved Development Proposals at Appendix I of the Paper, including the Gazette Notice and the Schedule of Class A Amendments and Class B Amendments at Annex 1 of Appendix I, subject to revision in paragraph 101 above; and
- (b) the transitional arrangement as set out in paragraph 6.3 of the Paper.

106. Members noted that, as a general practice, the Secretariat of the Board would undertake detailed checking and refinement of the proposed amendments before their publication. Any major revision would be submitted for the Board's consideration.

107. The Chairperson thanked PlanD's representatives for attending the meeting. STP/TPB left the meeting at this point.

Procedural Matters

Agenda Item 9

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments in respect of the Draft Tai Po Outline Zoning Plan No. S/TP/27

(TPB Paper No. 10386)

[The meeting was conducted in Cantonese.]

108. The Secretary reported that the following Members had declared interests in the item for having affiliation/business dealings with Ms Mary Mulvihill (R2/C2), Masterplan Limited (R3), MTR Corporation Limited (MTRCL)(R29), Henderson Land Development Co. Ltd. (HLD) which was the mother company of Ford Word Development Ltd. (R30), or owning properties in the Tai Po area:

- | | | |
|--|---|--|
| Mr Ivan C.S. Fu | - | having current business dealings with Masterplan Limited, MTRCL and HLD |
| Ms Janice W.M. Lai |] | having current business dealings with |
| Mr Patrick H.T. Lau |] | MTRCL and HLD |
| Mr Thomas O.S. Ho | - | having current business dealings with MTRCL |
| Professor S.C. Wong (<i>The Vice-Chairperson</i>) | - | being employee of the University of Hong Kong (HKU) which had received donation from a family member of the Chairman of HLD before, and member of the Advisory Committee for Accredited Programme of MTR Academy |
| Mr H.F. Leung | - | being employee of HKU which had received donation from a family member |

of the Chairman of HLD before, and a convenor of the Railway Objections Hearing Panel

Dr Wilton W.T. Fok] being employees of HKU which had
Dr C.H. Hau] received donation from a family member
of the Chairman of HLD before

Professor K.C. Chau - being employee of the Chinese
University of Hong Kong which had
received donation from a family member
of the Chairman of HLD before

Dr Lawrence K.C. Li - being the Treasurer of the Hong Kong
Polytechnic University which had
obtained sponsorship from HLD before

Ms Christina M. Lee - being Secretary General of the Hong
Kong Metropolitan Sports Event
Association which had obtained
sponsorship from HLD before

Mr Peter K.T. Yuen - being a member of the Board of
Governors of the Hong Kong Arts Centre
which had collaboration with MTRCL on
arts projects and had received donation
from a family member of the Chairman
of HLD before

Mr Wilson Y.W. Fung - being a Director of the Hong Kong
Business Accountants Association which
had obtained sponsorship from HLD
before

Mr Franklin Yu] having past business dealings with
Mr Stephen L.H. Liu] MTRCL and HLD

Mr. K.K. Cheung] their firm having current business
Mr Alex T.H. Lai] dealings with MTRCL and The Hong
Kong and China Gas Co. Ltd, a
subsidiary of HLD, and hiring Mary
Mulvihill on a contract basis from time to
time;

Mr H.W. Cheung - owning a flat at Heung Sze Wui Street

Dr Frankie W.C. Yeung - his company owning a flat at On Chee
Road

Dr Lawrence W.C. Poon - co-owning with spouse a house in Lung
Mei Tsuen, Ting Kok

109. As the item was procedural in nature, the Board agreed that the above Members should be allowed to stay in the meeting. Members noted that Mr H.W. Cheung, Professor K.C. Chau, Dr Wilton W.T. Fok, Mr Patrick H.T. Lau, Ms Christina M. Lee, Mr Peter K.T. Yuen, Dr Lawrence W.C. Poon, Dr C.H. Hau, Dr Frankie W.C. Yeung, Mr Alex T.H. Lai, Mr Franklin Yu, Dr Lawrence K.C. Li and Mr Stephen L.H. Liu had already left the meeting, and Mr H.F. Leung, Ms Janice W.M. Lai and Mr Thomas O.S. Ho had tendered apologies for being unable to attend the meeting.

110. The Secretary briefly introduced the Paper. On 4.8.2017, the draft Tai Po Outline Zoning Plan (OZP) No. S/TP/27 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). The amendments mainly involved rezoning of a site at Pok Yin Road from “Government, Institution or Community” (“G/IC”) to “Residential (Group B)9” (“R(B)9”), a site at Yau King Lane from “Residential (Group C)” (“R(C)”) to “R(C)10” and a site at Ma Wo Road from “Green Belt” to “R(B)10” (Items A, B and D respectively), and revision to the stipulated building height restriction for a “G/IC” site at On Pong Road (Item C). A total of 1,304 representations and 15 comments were received.

Representations and Comments

111. Out of the 1,303 valid representations, a total of 37 representations were related to Item C while 1,268 representations were related to the housing sites.

Meeting Arrangements

112. It was proposed to structure the hearing of the representations and comments into two groups to be considered by the full Board. Group 1 would consider the 37 representations (R1 (part), R2 (part) and R1270 to R1304) and one related comment (C1 (part)) which were related to Item C (relaxation of BH restriction for the “G/IC” site), and another comment (C2 (part)) providing general comments on the draft OZP. Group 2 would consider the 1,268 representations (R1(part), R2 (part), R3 to R391, R393 to R1269) and 14 related comments (C1 (part), C3 to C15) which were related to Items A, B and/or D (rezoning for private housing developments), and another comment (C2 (part)) providing general comments on the draft OZP.

113. In view of the large number of representations and comments received and to ensure efficiency of the hearing, it was recommended to allot a maximum of 10 minutes presentation time to each representer/commenter in the hearing session, subject to confirmation of the number of representatives and commenters attending the hearing and the aggregated presentation time required.

114. Consideration of the representations and comments by the full Board under section 6B of the Ordinance was tentatively scheduled for March 2018.

115. After deliberation, the Board agreed that:

- (a) representation R392 could be disregarded as mentioned in paragraph 2.3 of the Paper; and
- (b) the representations and comments should be considered in the manner as proposed in paragraph 3 of the Paper.

Agenda Item 10

[Open Meeting]

Application to the Chief Executive under Section 8(2) of the Town Planning Ordinance for Extension of Time Limit for Submission of the Draft Ping Chau Outline Zoning Plan No. S/NE-PC/1 to the Chief Executive in Council for Approval
(TPB Paper No. 10387)

[The item was conducted in Cantonese.]

116. The Secretary reported that Dr C.H. Hau had declared interest in the item for being a member of The Hong Kong Bird Watching Society (HKBWS)(R1) and a past member of the Conservation Advisory Committee of World Wide Fund for Nature Hong Kong (WWF-HK)(R2). Members noted that Dr C.H. Hau had already left the meeting.

117. The Secretary briefly introduced the Paper. On 20.10.2017, after giving consideration to the representations under section 6B(1) of the Town Planning Ordinance (the Ordinance), the Town Planning Board (the Board) decided not to propose any amendment to the draft Ping Chau Outline Zoning Plan (OZP) No. S/NE-PC/1 to meet the representations. On 17.11.2017, the Board agreed that the draft OZP was suitable for submission under section 8 of the Ordinance to the Chief Executive in Council (CE in C) for approval. According to the statutory time limit, the draft OZP should be submitted to the CE in C for approval on or before 24.2.2018.

118. On 24.11.2017, the Court of First Instance handed down its judgment on the judicial review (JR) in relation to the approval of the draft OZPs of Hoi Ha, Pak Lap and So Lo Pun, and ordered that those three OZPs had to be remitted to the Board for reconsideration. The Secretariat of the Board was studying the Court's judgment on the JR including its implications on proceedings of other draft OZPs, and seeking advice from the Department of Justice.

119. It was unlikely that the plan-making process for the draft Ping Chau OZP No. S/NE-PC/1 could be completed within the 9-month statutory time limit for submission of the draft OZP to the CE in C for approval (i.e. before 24.2.2018). There was a need to

apply to the CE for an extension of the statutory time limit for six months to allow sufficient time to complete the plan-making process of the draft OZP prior to submission to the CE in C for approval.

120. After deliberation, the Board agreed that the CE's agreement should be sought under section 8(2) of the Ordinance to extend the time limit for submission of the draft Ping Chau OZP No. S/NE-PC/1 to the CE in C for a period of six months from 24.2.2018 to 24.8.2018.

Agenda Item 11

[Open Meeting]

Application to the Chief Executive under Section 8(2) of the Town Planning Ordinance for Extension of Time Limit for Submission of the Draft Tai Ho Outline Zoning Plan No. S/I-TH/1 to the Chief Executive in Council for Approval
(TPB Paper No. 10388)

[The item was conducted in Cantonese.]

121. The Secretary reported that the following Members had declared interests in the item, for being a member of the Hong Kong Bird Watching Society (HKBWS)(R3); having business dealings/affiliation with Kadoorie Farm and Botanic Garden (Kadoorie Farm)(R6), Sun Hung Kai Properties Limited (SHK), Swire Properties (Swire) and Hongkong Land (HKL) (R1063/C2) or their representatives/consultants, Masterplan Limited (Masterplan), Ronald Lu & partners (HK) Limited (RLP) and MVA Hong Kong Limited (MVA).

- | | | |
|---------------------|---|--|
| Mr Ivan C.S. Fu | - | having current business dealings with SHK, Swire, HKL, MVA and Masterplan |
| Ms Janice W.M. Lai | - | having current business dealings with SHK and her firm being a tenant of the properties of Swire |
| Mr Patrick H.T. Lau | - | having current business dealings with SHK and MVA and past business dealings |

Swire

- Mr Thomas O.S. Ho - having current business dealings with SHK, Swire, HKL, RLP and MVA

- Miss Winnie W.M. Ng - being a Director of the Kowloon Motor Bus Co. (1933) Ltd. (KMB) which SHK was one of the shareholders

- Mr Franklin Yu - having past business with MVA and SHK, and his spouse was currently an employee of SHK

- Mr K.K. Cheung] their firm having current business dealings
- Mr Alex T.H. Lai] with SHK, Swire, HKL, Kadoorie Farm

- Professor S.C. Wong - being the Chair Professor of Department
(*the Vice-Chairperson*) of Civil Engineering of the University of Hong Kong (HKU) which SHK had sponsored some activities before

- Ms Christina M. Lee - being the Secretary-General of the Hong Kong Metropolitan Sports Events Association which had obtained sponsorship from SHK before

- Mr Wilson Y. W. Fung - being a Director of the Hong Kong Business Accountants Association which had obtained sponsorship from SHK before

- Dr C.H. Hau - being a member of HKBWS and Honorary Associate Professor and Principal Lecturer of the School of Biological Sciences of

HKU which had received donations from Swire Trust before

- Mr. Stephen L.H. Liu - having past business with SHK, Swire and HKL
- Mr H.F. Leung - being an employee of HKU which had business dealings with Swire on training matters
- Dr Lawrence K.C. Li - being the Treasurer of the Hong Kong Polytechnic University which had received donation from Swire before

122. As the item was procedural in nature, the Board agreed that the above Members should be allowed to stay in the meeting. Members noted that Mr Patrick H.T. Lau, Ms Christina M. Lee, Dr Lawrence K.C. Li, Mr Stephen L.H. Liu, Dr C.H. Hau, Mr Alex T.H. Lai and Mr Franklin Yu had already left the meeting, and Mr H.F. Leung, Ms Janice W.M. Lai, Mr Thomas O.S. Ho and Miss Winne W.M. Ng had tendered apologies for being unable to attend the meeting.

123. The Secretary briefly introduced the Paper. On 3.11.2017, after giving consideration to the representations under section 6B(1) of the Town Planning Ordinance (the Ordinance), the Town Planning Board (the Board) decided not to propose any amendment to the draft Tai Ho Outline Zoning Plan (OZP) No. S/I-TH/1 to meet the representations. According to the statutory time limit, the draft OZP should be submitted to the Chief Executive in Council (CE in C) for approval on or before 24.2.2018.

124. On 24.11.2017, the Court of First Instance handed down its judgment on the judicial review (JR) in relation to the approval of the draft OZPs of Hoi Ha, Pak Lap and So Lo Pun, and ordered that those three OZPs had to be remitted to the Board for reconsideration. The Secretariat of the Board was studying the Court's judgment on the JR including its implications on proceedings of other draft OZPs, and seeking advice from the Department of Justice.

125. It was unlikely that the plan-making process for the draft Tai Ho OZP No. S/I-TH/1 could be completed within the 9-month statutory time limit for submission of the draft OZP to the CE in C for approval (i.e. before 24.2.2018). There was a need to apply to the CE for an extension of the statutory time limit for six months to allow sufficient time to complete the plan-making process of the draft OZP prior to submission to the CE in C for approval.

126. After deliberation, the Board agreed that the CE's agreement should be sought under section 8(2) of the Ordinance to extend the time limit for submission of the draft Tai Ho OZP No. S/I-TH/1 to the CE in C for a period of six months from 24.2.2018 to 24.8.2018.

Agenda Item 12

[Open Meeting]

Any Other Business

[The item was conducted in Cantonese.]

127. There being no other business, the meeting was closed at 5:45 p.m.