

**Minutes of 1194th Meeting of the
Town Planning Board held on 25.1.2019**

Present

Permanent Secretary for Development
(Planning and Lands)

Chairperson

Ms Bernadette H.H. Linn

Professor S.C. Wong

Vice-Chairperson

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Mr Stephen H.B. Yau

Dr F.C. Chan

Mr David Y.T. Lui

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

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Mr L.T. Kwok

Mr Daniel K.S. Lau

Ms Lilian S.K. Law

Mr K.W. Leung

Professor John C.Y. Ng

Dr Jeanne C.Y. Ng

Professor Jonathan W.C. Wong

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

Principal Assistant Secretary (Transport) 3

Transport and Housing Bureau

Mr Andy S.H. Lam

Director of Planning

Mr Raymond K.W. Lee

Deputy Director of Planning/District

Ms Jacinta K.C. Woo

Secretary

Absent with Apologies

Mr Lincoln L.H. Huang

Mr H.W. Cheung

Dr Frankie W.C. Yeung

Mr Thomas O.S. Ho

Mr Stanley T.S. Choi

Mr Ricky W.Y. Yu

In Attendance

Assistant Director of Planning/Board

Miss Fiona S.Y. Lung

Chief Town Planner/Town Planning Board

Mr Kepler S.Y. Yuen

Senior Town Planner/Town Planning Board
Mr L.K. Wong

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1192nd Meeting held on 11.1.2019

[The item was conducted in Cantonese.]

1. The minutes of the 1192nd Meeting held on 11.1.2019 were confirmed without amendments.

Agenda Item 2

[Open Meeting]

Matters Arising

[The item was conducted in Cantonese.]

(i) **New Town Planning Appeal Received**

Town Planning Appeal No. 1 of 2019

Temporary Open Storage of Construction Materials and Machineries for a Period of 3 Years in “Agriculture” (“AGR”) Zone, Lot 1595 (Part) in D.D. 113, Ma On Kong, Kam Tin, Yuen Tong

(Application No. A/YL-KTS/781)

2. The Secretary reported that a Notice of Appeal was received by the Appeal Board Panel (Town Planning) on 8.1.2019 against the decision of the Town Planning Board (the Board) to reject on review an application No. A/YL-KTS/781 for temporary open storage of construction materials and machineries for a period of 3 years at a site zoned “Agriculture” (“AGR”) in Kam Tin South.

3. The review application was rejected by the Board mainly for the reasons that the development was not in line with the planning intention of the “AGR” zone; the application did not comply with the Town Planning Board Guideline No. 13E in that no previous approval had been granted at the application site and there were adverse departmental comments on the application; the applicant failed to demonstrate that the development would not generate

environmental nuisance and adverse landscape impacts on the surrounding area; and the approval of the application would set an undesirable precedent.

4. 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.

(ii) Updated Appeal Statistics

5. The Secretary reported that as at 24.1.2019, a total of 10 cases were yet to be heard by the Appeal Board Panel (Town Planning).

6. Details of the appeal statistics were as follows:

Allowed	:	36
Dismissed	:	156
Abandoned/Withdrawn/Invalid	:	201
Yet to the Heard	:	10
Decision Outstanding	:	3
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Total	:	406

(iii) Approval of Draft Outline Zoning Plans

7. The Secretary reported that on 8.1.2019, the Chief Executive in Council (CE in C) approved the draft Causeway Bay Outline Zoning Plan (OZP) (renumbered as No. S/H6/17) and the draft Ma Tau Kok OZP (renumbered as No. S/K10/24) under section 9(1)(a) of the Town Planning Ordinance (the Ordinance). The approval of the above draft plans was notified in the Gazette on 18.1.2019.

(iv) Reference Back of Approved OZP

8. The Secretary reported that on 8.1.2019, the CE in C referred the approved Wang Tau Hom and Tung Tau OZP No. S/K8/21 to the Board for amendment under section 12(1)(b)(ii) of the Ordinance. The reference back of the said OZP was notified in the Gazette on 18.1.2019.

Tuen Mun & Yuen Long West District

Agenda Item 3

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/HSK/84

Temporary Cargo Handling and Forwarding Facility with Ancillary Warehouses and Car Parking Facilities for a Period of 3 Years in “Government, Institution or Community” and “Village Type Development” Zones, Lots 1094 (Part), 1095 (Part), 1096 (Part) and 1097 (Part) in D.D. 124 and Adjoining Government Land, Hung Shui Kiu, Yuen Long

(TPB Paper No. 10494)

[The meeting was conducted in Cantonese]

Presentation and Question Sessions

9. The representative of the Planning Department (PlanD), Mr David Y.M. Ng, District Planning Officer/Tuen Mun & Yuen Long West (DPO/TMYLW) and the applicant’s representative, Mr Lam Hung Kwan of Land Chartering Limited, were invited to the meeting at this point.

10. The Chairperson extended a welcome to the PlanD’s and the applicant’s representatives, and briefly explained the procedures of the review hearing. She then invited PlanD’s representative to brief Members on the review application.

11. Mr David Y.M. Ng, DPO/TMYLW, PlanD, drew Members’ attention to a typo in footnote 2 of TPB Paper No. 10494 that the date of the rejection of the previous application No. A/YL-PS/541 by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) should read “13.10.2017”, not “3.10.2017”. With the aid of a PowerPoint presentation, Mr David Y.M. Ng, DPO/TMYLW, briefed Members on the background of the review application including the consideration of the application by RNTPC, departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10494.

[Dr F.C. Chan, Ms Sandy H.Y. Wong, Miss Winnie W.M. Ng and Mr Elvis W.K. Au arrived

to join the meeting during the presentation.]

12. The Chairperson then invited the applicant's representative to elaborate on the review application. Mr Lam Hung Kwan, the applicant's representative, made the following main points:

- (a) the real planning intention for the application site was unclear, given that the site had been previously zoned for low density residential use before its rezoning to "Government, Institution or Community" ("G/IC") and "Village Type Development" ("V"). The site might be rezoned for public housing development in the future. In any case, the current application only sought an approval of temporary use for 3 years which was a very short period of time;
- (b) the tenants of the applicant site had divided their operations into various parts and the site was currently used for temporary storage which would not have adverse impacts on the environment. While the site had been used for brownfield operations for more than 10 years, there were no complaints from neighbouring residents. The nearby Small House applications were an indication that the Small House applicants had no concern about the existing brownfield operations; and
- (c) planning enforcement action against the landowner was not possible as the land was held by a Tso and some managers had passed away. For the tenants, although one was convicted by the Court, the fine was very small. As no one was willing to buy the land for Small House development, letting the land for temporary uses was the only way for generating income. He envisaged that the application site would still be used for brownfield operations irrespective of whether the application was approved.

13. As the presentations from PlanD's and the applicant's representatives had been completed, the Chairperson invited questions from Members.

14. Noting that 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 in the absence of the applicant. The Chairperson thanked the representatives from PlanD and the applicant for attending the meeting, and they left the meeting at this point.

Deliberation Session

15. In response to a Member's enquiry on the planning enforcement action, Mr Raymond K. W. Lee, Director of Planning, explained that if unauthorised development (UD) continued after the compliance period specified in the concerned enforcement notice, prosecution would be instigated. If the defendant was found guilty by the Court, the defendant might then be fined for the UD.

16. The Board noted that the applicant had indicated its intention to continue brownfield operations at the application site, with or without planning approval, and PlanD and Lands Department (LandsD) were taking actions against UD/illegal structures under their purview. Members in general did not support the application and agreed to PlanD's views as set out in TPB Paper No. 10494.

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

- “(a) the planning intention of the “Government, Institution or Community” (“G/IC”) zone on the Outline Zoning Plan is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. The planning intention of the “Village Type Development” (“V”) zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The applied use is not in line with the planning intention of the zones. No strong planning justification has been given in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the applied use is not compatible with the surrounding land uses which are predominantly residential in nature intermixed with cultivated agricultural land and vacant land;

- (c) the application does not comply with the Town Planning Board Guidelines No. 13E in that no previous approval has been granted for the Site, and there are adverse departmental comment and local objection against the application. The applicant fails to demonstrate that the applied development would not generate adverse environmental impact; and
- (d) approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the same “G/IC” and “V” zones. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.”

Sha Tin, Tai Po and North District

Agenda Item 4

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-FTA/184

Proposed Temporary Public Vehicle Park for a Period of 3 Years in “Agriculture” Zone, Lots 558 RP (Part), 559 RP (Part), 561 RP (Part), 562 S.F (Part), 563 (Part) and 564 S.B (Part) in D.D. 89, Sha Ling, Sheung Shui

(TPB Paper No. 10511)

[The meeting was conducted in Cantonese]

Presentation and Question Sessions

18. The Planning Department (PlanD)’s representative, Ms Jessica H.F. Chu, District Planning Officer/ Sha Tin, Tai Po and North (DPO/STN) and the applicant’s representative, Mr Kwok Chi Man, were invited to the meeting at this point.

19. The Chairperson extended a welcome to PlanD’s representative and the applicant’s representative, and briefly explained the procedures of the review hearing. She then invited PlanD’s representative to brief Members on the review application.

20. With the aid of a PowerPoint presentation, Ms Jessica H.F. Chu, DPO/STN briefed Members on the background of the review application including the consideration of the application by Rural and New Town Planning Committee (RNTPC), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10511.

21. The Chairperson then invited the applicant's representative to elaborate on the review application. Mr Kwok Chi Man, the applicant's representative, tabled supplementary information at the meeting and made the following main points:

- (a) he did not agree that the proposal was not in line with the planning intention of the "Agriculture" ("AGR") zone. As demonstrated in the summary of previous planning approvals tabled at the meeting, there had been some 50 planning approvals of parking use in the "AGR" zone in Yuen Long and North Districts, including two approvals in Fu Tei Au area;
- (b) the reason for PlanD's adverse comments was the history of the application site, not the proposal itself. So far, the major adverse departmental comments were made by the Environmental Protection Department (EPD), Agriculture, Fisheries and Conservation Department and PlanD's Urban Design and Landscape Section, primarily on the issue of "destroy first, apply later". The applicant had already clarified that it should not be held responsible for the previous destruction actions not undertaken by the applicant;
- (c) the applicant had proposed to plant two lines of trees along the site boundary as mitigation measures against the previous wrongdoing by others. The trees planted would exceed those previously felled. The applicant had obtained a quotation for the tree planting works as tabled at the meeting and found the costs acceptable. If the application was approved, the proposed tree planting would improve the environment;
- (d) as the application site was used for agriculture long time ago, the presence of trees in the middle part of the site should not be part of the original site condition. In any case, the trees previously felled were not of high landscape value;

- (e) tree planting at the middle part of the application site as required by PlanD to reinstate the site was not meaningful since these new trees might have to be felled again after approval of the current application;
- (f) even if there had not been any de-vegetation at the site, the concerned government departments might still object to the application for tree preservation;
- (g) the proposed parking facility was to serve the local residents; and
- (h) the Government reduced the Frontier Closed Area in 2016. There would be substantial changes in Ta Kwu Ling/Man Kam To area. It was not reasonable to control the development of the application site in such a stringent manner any more.

22. As the presentations from PlanD's and the applicant's representatives had been completed, the Chairperson invited questions from Members.

[Mr Cheng Yee Yan, the applicant's representative, arrived to join the meeting during the question and answer session.]

Ownership of the Application Site

23. Some Members raised the following questions to the applicant:

- (a) the relationship between the applicant and the land owner(s);
- (b) the number of directors and members of the concerned Tso/Tong; and
- (c) any consensus from the Tso/Tong members on the application.

24. In response, Mr Kwok Chi Man, the applicant's representative, explained that the applicant was the tenant of the application site which was owned by a Tso/Tong. The applicant had no information on the number of directors of the Tso/Tong. The concerned

Tso/Tong had more than ten thousand members and there had been only a few objections to letting the application site to the applicant.

Approach to Sites with “Destroy First, Build Later” Background

25. The Chairperson and a Member had the following questions:

- (a) the consideration of the applicant’s proposed planting after damage on the site; and
- (b) the current condition of the site.

26. In response, Ms Jessica H. F. Chu, DPO/STN, advised that the Town Planning Board (the Board) announced in 2011 its approaches to deter “destroy first, build later” activities. Among others, the Board had agreed that when the application site was subject to enforcement action, the Board would take into account the reinstated condition of the site as required in the reinstatement notice issued by the Planning Authority under the Town Planning Ordinance when considering the application. While the applicant proposed planting of trees along the site boundary, compliance with the concerned reinstatement notice was still required.

27. In response, Mr Kwok Chi Man, the applicant’s representative, said that it was unreasonable to deter development of a site due to the “destroy first, build later” principle, particularly when the destruction activities were carried out by a third party. He said that part of the application site was currently paved and there were vehicles parked at the site. However, the applicant had no involvement in the current parking activities on the site. Although the applicant had removed vehicles parked at the site for a number of times, parking activities by other parties still continued.

Similar Applications

28. In response to Members’ questions on the similar applications provided by the applicant at the meeting, Ms Jessica H.F. Chu, DPO/STN, said that as she had only received the information shortly before the meeting, she did not have sufficient time to verify the information. Generally, the Board and RNTPC had approved and also rejected applications for parking in “AGR” zone based on the individual circumstances of each application. Ms

Chu also confirmed that for Column 2 uses of the Notes of the OZP, planning permission from the Board was required. The Board would consider based on its individual merits.

29. In response to a Member's questions, Mr Kwok Chi Man, the applicant's representative, said that the applicant was aware of these similar planning approvals when it rented the land. The applicant had thought that approval of the proposed use at the application site would be granted if it followed the procedures. Mr Kwok added that it would be very undesirable if the application was rejected and the site was left vacant. The applicant hoped that there would be a way out of the situation.

30. 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 in the absence of the applicant. The Chairperson thanked the representatives from PlanD and the applicant for attending the meeting, and they left the meeting at this point.

Deliberation Session

31. Members generally considered that the Board should decide on an application mainly on its planning merits, but not other factors such as the possible commercial gain/loss of the applicant. Some Members pointed out that there had never been any commitment from the Board to approve planning application for temporary public vehicle park in "AGR" zone. The applicant should be aware of the risk of rejection of this application by the Board when it rented the application site.

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

- “(a) the proposed temporary use under application is not in line with the planning intention of the “Agriculture” (“AGR”) zone for the Fu Tei Au and Sha Ling area, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis;

- (b) the applicant fails to demonstrate that the proposed development would not cause adverse environmental impact on the surrounding areas; and
- (c) the approval of the application will set an undesirable precedent for similar applications within the same “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.”

33. The Chairperson noted that the applicant’s representative for agenda item 5 on the review of application No. A/NE-LT/647 had not yet arrived. The meeting agreed to discuss agenda item 6 first.

Kowloon District

Agenda Item 6

[Open Meeting]

Review of the Draft Ngau Tau Kok & Kowloon Bay Outline Zoning Plan No. S/K13/26
(TPB Paper No. 10515)

[The meeting was conducted in Cantonese]

34. The Secretary reported the review was related to the Court’s judgment on a judicial review (JR) lodged by the Real Estate Developers Association of Hong Kong (REDA) against the Town Planning Board’s (the Board’s) decision on REDA’s representation (R2) in respect of the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/26 (OZP 26) and Masterplan Limited (Masterplan) was REDA’s agent for submitting R2. The following Member had declared interests on the item:

- | | |
|-----------------|---|
| Mr Ivan C.S. Fu | - having current business dealings with Masterplan |
| Mr L.T. Kwok | - his employing organization having a number of service units located in Ngau Tau Kok and Kowloon Bay |

35. The meeting noted that Mr Fu had no involvement in the subject matter and Mr Kwok's employing organization had no property interests in Ngau Tau Kok and Kowloon Bay and he had no involvement in any land use planning activities in the area. The meeting agreed that both Mr Fu and Mr Kwok should be allowed to stay in the meeting.

36. Professor John C. Y. Ng noted that the consultancy report attached to TPB Paper No. 10515 as Annex C was prepared by the Institute of Future Cities of the Chinese University of Hong Kong. Professor Ng declared that he was a fellow of the Institute but had no involvement in the subject matter. Members agreed that he should be allowed to stay in the meeting.

37. Ms Johanna W.Y. Cheng, District Planning Officer/Kowloon of Planning Department (DPO/K, PlanD), and Ms. Sandy S.K. Ng, Senior Town Planner/Kowloon of PlanD were invited to the meeting at this point.

38. The Chairperson extended a welcome and invited PlanD's representatives to brief Members on the subject review.

39. With the aid of a PowerPoint presentation, Ms Johanna W.Y. Cheng, DPO/K briefed Members on the background of R2, including the amendments in respect of building height restrictions (BHRs), non-building areas (NBAs) and building gaps (BGs) incorporated in OZP 26, the Court's judgment, and the findings of PlanD's review of the concerned BHRs, NBAs and BGs (the Review) presented to the Board on 9.3.2018. After considering REDA's supplementary information (SI) received on 28.5.2018, the Board requested PlanD to update the technical assessments in respect of OZP 26, including the air ventilation assessment (AVA). Ms Cheng advised that an updated Expert Evaluation of AVA (AVA 2019) was completed in 2019 taking into account the latest planning circumstances. Since there was no amendment to the BHRs and no major change in circumstances, the photomontages updated in the TPB Paper in 2018 were sufficient to demonstrate the changes in the visual context between 2010 and 2018. Other technical assessments were still valid and updating was not needed. Ms Cheng highlighted that based on AVA 2019, PlanD had updated the Review (the updated Review) which revealed that the sites with the current BHRs, NBAs and BGs requirements stipulated under the subject OZP should be able to accommodate the permissible plot ratio (PR)/gross floor area (GFA) under the OZP with reference to the Sustainable Building Design Guidelines (SBDG) requirements. Having reviewed the latest planning circumstances, these restrictions

were considered necessary as they had district wide air ventilation implications . Details of the findings of the updated Review were set out in TPB Paper No. 10515.

40. The Chairperson pointed out that the updated Review had a special background. A JR was lodged by REDA in respect of four OZPs, including Ngau Tau Kok and Kowloon Bay, Wan Chai, Mong Kok and Yau Ma Tei. The Board had adopted the same approach requesting PlanD to review the BHRs and other development restrictions under these four OZPs. If the concerned development restrictions should be amended, as in the case of Wan Chai and Mong Kok OZPs, the amendments would be exhibited under section 7 of The Town Planning Ordinance (the Ordinance). REDA might submit representation on the amended OZP. If amendments to the development restrictions were not required, the Board would invite REDA to submit SI, if any, and then attend a rehearing under section 6B of the Ordinance for re-consideration of its representation. For the Ngau Tau Kok and Kowloon Bay OZP, if the Board agreed that at this stage, there was no need for amendments to the concerned development restrictions taking into account the updated Review, the Board might consider inviting REDA to submit further SI, if any, and attend the forthcoming rehearing before making a decision on R2.

41. At this juncture, Ms Sandy H.Y. Wong declared that she was a Council Member of Hong Kong Baptist University (HKBU) which had rented the former Royal Air Force Officers' Mess at 51 Kwun Tong Road for use as a campus of the Academy of Visual Arts of the university. Professor Jonathan W.C. Wong also declared that he was an employee of HKBU. Members agreed that both Ms Wong and Professor Wong should be allowed to stay in the meeting as their interest was indirect. The Chairperson then invited comments and questions from Members on the updated Review and way forward.

General

42. In response to Members' questions, Ms Johanna W.Y. Cheng, DPO/K, clarified/confirmed the following points:

- (a) for sites subject to BGs above 22 metres above Principal Datum (mPD) as shown on the OZP, no building structures at the concerned locations should exceed 22mPD. The restriction was similar to BHR;

- (b) as revealed in the Review presented to the Board on 9.3.2018, the current BHR, NBA and BG requirements stipulated under the subject OZP should be able to accommodate the permissible PR/GFA under the OZP after taking into account the SBDG requirements;
- (c) according to the AVA 2019, the key areas of concern in the district were Kowloon Bay Business Area (KBBA) and Telford Gardens where the wind condition was generally weak. On the other hand, the air ventilation in the eastern part of the district had been found generally satisfactory due to the presence of large open areas;
- (d) the provision of NBA and BG requirements at KBBA and Telford Gardens would facilitate air flow upon their redevelopment and provide district-side improvement on air ventilation performance; and
- (e) AVA 2019 had taken into account the seasonal wind in the district, including the annual prevailing wind from the east and the summer prevailing wind mainly from the south or southwest, as well as changes in planning environment within the planning scheme area and the adjoining Kai Tak Development. AVA 2019 found that the current NBA and BG requirements were appropriate and necessary from air ventilation perspective on a district wide basis and should be retained.

Interface with Surroundings

43. A Member enquired whether development restrictions should also be stipulated, in the surrounding areas, such as Kwun Tong, in order to improve the air ventilation. The Chairperson reminded Members that the updated Review was undertaken in response to REDA's concern about the development restrictions in the OZP area. It would form part of the process for reconsideration of R2 which proposed to relax/remove the BHR, NBA and BG requirements under the OZP No. S/K13/26. In such context, the Board should focus on whether amendments to the subject OZP should be proposed to meet R2's representation after the rehearing. The Chairperson added that the Board was not asked to make a decision in respect of R2 at this stage. Taking into account PlanD's updated Review, the Board should decide whether the subject OZP should be amended under section 7 of the Ordinance with a

revised set of BHR, NBA and BG requirements for REDA, among others, to make representation or comment, or no amendment to the OZP was required and to invite REDA to the rehearing to be arranged for reconsideration of R2 under section 6B of the Ordinance.

44. In response to the Member's comment, Ms Johanna W.Y. Cheng, DPO/K, supplemented that suitable BHRs and other development restrictions had been stipulated under the Kwun Tong and Kai Tai OZPs. The developments in the surrounding areas had also been taken into account in the AVA 2019 for the review of the subject OZP.

45. Another Member asked whether it was suitable to relax the BHRs on the Ngau Tau Kok and Kowloon Bay area, similar to the relaxation of BHRs agreed by the Board for Kai Tak district. Ms Johann W. Y. Cheng advised that the original PR restrictions and BHRs stipulated in the Kai Tak OZP were relatively low. Taking into account the findings of technical assessments, the BHRs had been relaxed to allow development of higher density in that district. For the Ngau Tau Kok and Kowloon Bay OZP, there was no proposal for increasing the maximum PR allowed under the OZP and the findings of the Review presented to the Board in 2018 was that the BHR, NBA and BG requirements stipulated under the subject OZP should be able to accommodate the permissible PR/GFA under the OZP with reference to the SBDG requirements and there was no need to relax the BHRs.

Minor Relaxation

46. A Member asked whether planning application for minor relaxation of the maximum PR and BHR was possible under the subject OZP to accommodate any increase in PR for redevelopment of old industrial buildings according to the Policy Address 2018. Ms Johanna W.Y. Cheng advised that under the extant OZP, an applicant might submit planning application for minor relaxation of development restrictions and the Board would consider on a case by case basis.

47. After deliberation, the Board noted the findings of the Review that the BHR, NBA and BG requirements stipulated under the subject OZP should be able to accommodate the permissible PR/GFA under the OZP after taking into account the SBDG requirements; the NBA and BG requirements were appropriate and necessary from air ventilation perspective on a district wide basis; and PlanD's recommendation that there was no need to amend the extant OZP No. S/K13/29. The Board also agreed to :

- (a) on the basis of the findings of the updated Review and PlanD's recommendation as mentioned above, invite R2 to a meeting to be convened under section 6B of the Ordinance for reconsideration of its representation (R2) in respect of OZP 26; and
- (b) allow a period of two months for R2 to submit SI to the Board, if any, prior to the reconsideration of R2.

48. The Board also noted that PlanD would prepare a paper for reconsideration of R2's representation, SI received on 28.5.2018 and any SI to be submitted under paragraph 47(b) above for the rehearing.

Sha Tin, Tai Po and North District

Agenda Item 5

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-LT/647

Proposed 2 Houses (New Territories Exempted Houses - Small Houses) in "Agriculture" Zone, Lots 913 S.B ss.1 and 913 S.B RP in D.D. 8, Ma Po Mei, Lam Tsuen, Tai Po
(TPB Paper No. 10513)

[The meeting was conducted in Cantonese]

Presentation and Question Sessions

49. The following government representative, applicant and applicants' representative were invited to the meeting at this point:

Planning Department (PlanD)

Ms Jessica H.F. Chu

- District Planning Officer/Shu Tin, Tai Po and North (DPO/STN)

Applicant

Mr Leung Tsz Ho

Applicants' representative

Mr Tai Ngan Chiu

50. The Chairperson extended a welcome to PlanD's representative, the applicant and his representative, and briefly explained the procedures of the review hearing. She then invited PlanD's representative to brief Members on the review application.

51. With the aid of a PowerPoint presentation, Ms Jessica H.F. Chu, DPO/STN, briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10513.

52. The Chairperson then invited the applicant and his representative to elaborate on the review application. Mr Tai Ngan Chiu, the applicants' representative, and Mr Leung Tsz Ho, one of the applicants, made the following main points:

- (a) the application site was away from streams, springs, wells or beaches for more than 30m. According to the Government's 'Drainage and Health Requirements for Village Type Houses' (the Document) which had been adopted for decades, the proposed septic tank should be acceptable;
- (b) some Small Houses using septic tanks were found near rivers and they were acceptable to the Government. In fact, septic tanks had been used for Small House developments for many years. Such system should be permitted to serve the proposed Small House developments if it would not affect the quality of the water collected in the area;
- (c) the "Village Type Development" ("V") zone to the west of the application site covered both Ma Po Mei and Tai Mong Che. If the land within Tai Mong Che was excluded, the land area of the "V" zone would be significantly reduced. About half of the vacant land within the "V" zone

in Ma Po Mei was owned by Tso/Tong with the remaining owned by developers. The applicants were not able to purchase land from these Tso/Tong and developers. In the past 20 years, there had been only one Small House granted by the Lands Department (LandsD) and completed within the “V” zone; and

- (d) the proposed septic tank might be provided at the eastern corner of the application site such that it would be about 50m away from Lam Tsuen River. It would cause little impact on the water gathering ground (WGG).

53. As the presentations from PlanD’s representative, the applicant and his representatives had been completed, the Chairperson invited questions from Members.

Restrictions in Relation to Water Gathering Ground

54. In response to a Member’s question, Ms Jessica H.F. Chu, DPO/STN said that the application site was located within WGG. Since 23.8.2002, the “Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories” had included a requirement that proposed Small House development within WGG should be connected to the sewerage network in the area. The use of septic tank and soakaway system for sewage treatment for the proposed Small House development located within WGG was not acceptable. As such, the Water Supplies Department (WSD) and Environmental Protection Department (EPD) objected to the current application as the application site fell within WGG but the proposed Small Houses would not be connected to public sewers.

55. Mr Tai Ngan Chiu, the applicants’ representative, reiterated that according to the Document, septic tanks could be used in WGG if it was away from any river/stream course for more than 30m. Mr Leung Tze Ho, the applicant, added that the proposed septic tank was at a longer distance from Lam Tsuen River than the nearby existing Small Houses. Mr Leung further said that the sewerage network in the area was commissioned only 2 or 3 years ago but it failed to serve some Small Houses in the vicinity which had been completed for more than 10 years. If the water quality of the subject WGG was so important, the sewerage network should be extended to those existing Small Houses. Mr Tai Ngan Chiu also queried why the Drainage Services Department (DSD) had not designed the recently completed sewerage network at a level low enough to serve the existing Small Houses outside the “V” zone so as to

protect the water quality. In this regard, septic tank should be an acceptable alternative given that such system was common for Small House development in the New Territories and the site had met the requirements set out in the Document.

56. In response to a Member's question, Ms Jessica H.F. Chu said that she had no information on the source of the Document mentioned by the applicants' representative. Ms Chu then referred to paragraph 5.3.13 of Chapter 9 of the Hong Kong Planning Standards and Guidelines (HKPSG) which stated that all developments within WGG should be connected to public sewers. It was also stated that use of septic tank/soakaway systems should be avoided. PlanD had consulted all relevant departments, including WSD and EPD, on the review application. WSD and EPD maintained their objections to the proposed development on the sewerage connection issue.

57. As requested by Members, Mr Tai Ngan Chiu, the applicants' representative, put the Document, which was a single sheet of paper titled "Drainage and Health Requirements for Village Type Houses" with "ANNEX" at the top right corner, on the visualizer for Members' inspection. Mr Tai referred Members to the fourth paragraph for the required separation between Small House development and river/stream courses he had mentioned. A Member pointed out that the Document, including the fourth paragraph, discussed the required distance from sewage disposal system to stream, spring, well or beach but was not referring to development within WGG.

58. In response to the Chairperson's question on the source of the Document, Mr Tai Ngan Chiu clarified that the Document was an annex to a document promulgated by LandsD on requirements for Small House development.

Small House Development with Septic Tank Installation

59. Some Members had the following questions:

- (a) the presence of existing Small Houses with septic tank installation in the vicinity of the application site;
- (b) the Small House applications approved in 2011 and 2016; and
- (c) the cautious approach adopted by the Board for consideration of application

for Small House development.

60. In response, with the aid of visualizer, Mr Leung Tze Ho, the applicant, pointed out that there were a number of existing Small Houses near the application site and the Government allowed those developments to use septic tanks. In addition, three Small Houses had been approved to the immediate south of the application site.

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

- (a) for existing Small Houses located outside the “V” zone, the Government would tolerate the use of septic tanks sewage treatment;
- (b) for the three approved Small Houses to the south of the application site which were also outside the “V” zone (applications No. A/NE-LT/432, 433 and 434), the applicants had submitted proposals for connection to the sewerage network which had been under planning at that time. Given such background, WSD and EPD had no objection to the applications, which were approved in 2011. These planning approvals subsequently lapsed and another three applications (No. A/NE-LT/582, 583 and 584) for Small Houses at the same sites were approved in 2016 mainly on sympathetic consideration taking into account the previous planning approvals. As conditions attached to the latter three planning approvals, connection to public sewers was still required which had not yet been discharged due to technical issues. The developments had not commenced. However, the current application had not included any sewerage connection proposal. Concerned government departments thus did not consider the current application acceptable; and
- (c) after 2015, the Board had adopted the cautious approach in considering Small House application outside “V” zones, i.e. in considering whether there was general shortage of land in meeting the Small House demand, more weighting had been put on the number of outstanding Small House application provided by LandsD.

Land Availability with “V” Zone

62. In response to questions from the Chairperson and a Member on the land availability within the “V” zone, Ms Jessica H.F. Chu said that land ownership, e.g. whether land was owned by Tso/Tong or developers, was not a major consideration in assessing planning applications as land ownership would be subject to change depending on market conditions. PlanD estimated that about 2.14 ha (equivalent to about 85 Small House sites) of land were available within the subject “V” zone which covered both Ma Po Mei and Tai Mong Che villages. As shown on Plan R-2b in TPB Paper No. 10513, even excluding Tai Mong Che, there was still sufficient land to meet the land requirement of the 14 outstanding Small House grant applications in Ma Po Mei being processed by LandsD.

63. In response to a Member’s question on Small House development within the “V” zone, Ms Jessica H.F. Chu, DPO/STN, confirmed that planning permission from the Board was not required as New Territories Exempted House was always permitted within the “V” zone. However, application to LandsD for Small House grant would still be necessary. According to her understanding, when LandsD processed such application, they would consult the locals and the comments received would be taken into account in deciding whether the Small House grant application should be approved.

64. Noting that 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 in the absence of the applicant. The Chairperson thanked PlanD’s representative, the applicant and his representative for attending the meeting, and they left the meeting at this point.

Deliberation Session

65. Members noted that the requirement of sewerage connection was clearly stated in the HKPSG, and generally considered that the Board should follow the requirement in considering the current application. Mr Elvis W.K. Au, Deputy Director of Environmental Protection (1) of EPD, said that after the promulgation of the guideline on controlling effluent discharge in WGGs under Chapter 9 of the HKPSG, it had been the government policy to require new developments within WGGs to be connected to public sewers. The Government had also briefed the Board on the environmental and health risks arising from septic tank installation in

the areas. In 2002, the Board revised the “Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories” which clearly stated that generally the Board only supported new Small House development in WGG if it was connected to the public sewerage system. Notwithstanding that existing buildings with septic tanks in unsewered areas were tolerated, the requirement for sewerage connection would help avoid worsening the water quality in WGGs. So far, EPD and WSD had consistently followed that requirement in handling similar cases.

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

- “(a) the proposed developments are not in line with the planning intention of the “Agriculture” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is 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 the planning intention;
- (b) the proposed developments do not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that the applicants fail to demonstrate that the proposed developments located within WGGs would be able to be connected to the existing or planned sewerage system and would not cause adverse impact on the water quality in the area; and
- (c) land is still available within the “Village Type Development” (“V”) zone of Ma Po Mei and Tai Mong Che which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small Houses within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.”

Kowloon District

Agenda Item 7

[Open Meeting]

Request for Deferment of Review of Application No. A/K18/325

School (Kindergarten) in “Residential (Group C) 3” Zone, 3 Flint Road, Kowloon Tong, Kowloon

(TPB Paper No. 10514)

[The meeting was conducted in Cantonese]

67. The Secretary reported that the site was located in Flint Road, 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
Mr Ivan C.S. Fu]	MVA
Mr Franklin Yu	-	having past business dealings with MVA
Dr Lawrence W.C. Poon	-	living in City University of Hong Kong’s quarters in Kowloon Tong
Mr Stanley T.S. Choi	-	his spouse being a director of a company which owned properties in Kowloon Tong
Mr Peter K.T. Yuen]	having properties in Kowloon Tong
Mr H.W. Cheung]	
Miss Winnie W.M. Ng]	

68. Members noted that the applicant had requested deferment of consideration of the application and Mr Thomas O.S. Ho, Mr Stanley T.S. Choi and Mr H.W. Cheung had tendered apologies for being unable to attend this session of the meeting. The meeting agreed that the interests of other Members were indirect and they could stay in the meeting.

69. The Town Planning Board (the Board) noted that the applicant's representative requested on 16.1.2019 deferment of the consideration of the review application for two months so as to allow more time to address comments of the Transport Department. This was the second time that the applicant requested deferment of the review application. After the first deferral, the applicant submitted further information (FI) including a Traffic Impact Assessment with revised proposed traffic mitigation measures in support of the review application.

70. After deliberation, the Board agreed to defer a decision on the review application, as requested by the applicant, pending the submission of 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 since the Board had allowed a total of four months for preparation of submission of FI, and no further deferment would be granted unless under very special circumstances.

Agenda Item 8

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese]

71. There being no other business, the meeting was closed at 11:22 a.m.