

**Minutes of the 1201<sup>st</sup> Meeting of the  
Town Planning Board held on 24.5.2019**

**Present**

Permanent Secretary for Development  
(Planning and Lands)

Ms Bernadette H.H. Linn

Chairperson

Professor S.C. Wong

Mr Lincoln L.H. Huang

Vice-chairperson

Mr H.W. Cheung

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Mr Stephen H.B. Yau

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Mr K.K. Cheung

Mr Wilson Y.W. Fung

Dr C.H. Hau

Mr Thomas O.S. Ho

Mr Alex T.H. Lai

Mr Stephen L.H. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Mr Stanley T.S. Choi

Mr Daniel K.S. Lau

Professor John C.Y. Ng

Dr Jeanne C.Y. Ng

Professor Jonathan W.C. Wong

Mr Ricky W.Y. Yu

Principal Assistant Secretary (Transport) 3

Transport and Housing Bureau

Mr Andy S.H. Lam

Deputy Director of Environmental Protection (1)

Mr Elvis W.K. Au

Chief Engineer (Works), Home Affairs Department

Mr Martin W.C. Kwan

Director of Lands

Ms Karen P.Y. Chan

Director of Planning

Mr Raymond K.W. Lee

Deputy Director of Planning/District

Miss Fiona S.Y. Lung

Secretary

**Absent with Apologies**

Dr F.C. Chan

Mr David Y.T. Lui

Dr Frankie W.C. Yeung

Dr Lawrence W.C. Poon

Dr Lawrence K.C. Li

Professor T.S. Liu

Mr L.T. Kwok

Ms Lilian S.K. Law

Mr K.W. Leung

**In Attendance**

Assistant Director of Planning/Board

Ms April K. Y. Kun

Chief Town Planner/Town Planning Board

Mr Kevin C.P. Ng

Senior Town Planner/Town Planning Board

Miss Anissa W.Y. Lai

## **Opening Remarks**

1. The Chairperson introduced Miss Fiona S.Y. Lung as the new Secretary of the Town Planning Board. Members noted and extended a welcome.

## **Agenda Item 1**

[Open Meeting]

### Confirmation of Minutes of the 1200<sup>th</sup> Meeting held on 10.5.2019

[The item was conducted in Cantonese.]

2. The draft minutes of the 1200<sup>th</sup> meeting were sent to Members before the meeting and tabled at the meeting. Subject to no proposed amendment by Members on or before 27.5.2019, the minutes would be confirmed without amendment.

[Post-meeting Note : The minutes were confirmed on 27.5.2019 without amendment.]

## **Agenda Item 2**

[Open Meeting]

### Matters Arising

[The item was conducted in Cantonese.]

#### (i) Reference Back of Approved Plan

3. The Secretary reported that on 14.5.2019, the Chief Executive in Council referred the approved Ma Tau Kok Outline Zoning Plan (OZP) No. S/K10/24 to the Town Planning Board for amendment under section 12(1)(b)(ii) of the Town Planning Ordinance. Members noted that the reference back of the OZP was notified in the Gazette on 24.5.2019.

(ii) New Town Planning Appeal Received

Town Planning Appeal No. 3 of 2019

Proposed House (New Territories Exempted House (NTEH) – Small House) in “Agriculture” Zone, Lot 1356 S.B in D.D. 39, Ma Tseuk Leng San Uk Ha, Sha Tau Kok, New Territories

(Application No. A/NE-LK/114)

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4. The Secretary reported that a Notice of Appeal was received by the Appeal Board Panel (Town Planning) on 2.5.2019 against the decision of the Town Planning Board (the Board) on 15.2.2019 to reject on review an application No. A/NE-LK/114 for proposed house (New Territories Exempted House (NTEH) – Small House) at Lot 1356 S.B in D.D. 39, Ma Tseuk Leng San Uk Ha. The site was zoned “Agriculture” (“AGR”) on the approved Luk Keng and Wo Hang Outline Zoning Plan No. S/NE-LK/11.

5. The application was rejected by the Board for the following reasons:

(a) the proposed development was not in line with the planning intention of the “AGR” zone in the Luk Keng and Wo Hang area which was 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 was no strong planning justification in the submission for a departure from the planning intention; and

(b) land was still available within the “Village Type Development” zone of Ma Tseuk Leng, Ma Tseuk Leng San Uk Ha and Shek Kiu Tau village cluster where land was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructures and services.

6. The hearing date of the appeal was yet to be fixed. The Secretary would act on behalf of the Board in dealing with the appeal in the usual manner.

(iii) Appeal Statistics

7. The Secretary reported that as at 24.5.2019, a total of 10 cases were yet to be heard by the Appeal Board Panel (Town Planning). Details of the appeal statistics were as follows:

|                             |   |     |
|-----------------------------|---|-----|
| Allowed                     | : | 36  |
| Dismissed                   | : | 159 |
| Abandoned/Withdrawn/Invalid | : | 202 |
| Yet to be Heard             | : | 10  |
| Decision Outstanding        | : | 1   |
| <hr/>                       |   |     |
| Total                       | : | 408 |

**Sha Tin, Tai Po & North District**

**Agenda Item 3**

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-TKL/600

Temporary Vehicle Repair Workshop with Ancillary Site Office for Contractor Vehicles serving Public Works for a Period of 3 Years in “Agriculture” Zone, Lot 1 (Part) in D.D. 84, Ping Che, Ta Kwu Ling

(TPB Paper No. 10541)

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[The item was conducted in Cantonese.]

8. The Secretary reported that the application site was located in Ping Che. Mr Alex T.H. Lai had declared an interest on the item for his father co-owned 2 lots of land in Ping Che, Ta Kwu Ling. If the land of Mr Lai’s father had no direct view to the site, he should be allowed to stay at the meeting. Members noted that Mr Lai had not yet arrived.

Presentation and Question Sessions

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

- |                       |   |
|-----------------------|---|
| Ms Jessica H.F. Chu   | - District Planning Officer/Shu Tin, Tai Po & North District (DPO/STN), PlanD |
| Ms Michelle L.T. Chan | - Town Planner/North (TP/N, PlanD)  |
| Mr Li Fu Kin          | ]   |
| Mr Li Yee Mui         | ]   |
| Mr Leung Chung Fung   | ]   |
| Mr Wong Chi Cheung    | ]   |
- Applicant's representatives

10. The Chairperson extended a welcome and briefly explained the procedure of the hearing. She then invited PlanD's representative to brief Members on the review application.

11. With the aid of a PowerPoint presentation, Ms Jessica H.F. Chu, DPO/STN, PlanD, 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 Town Planning Board (the Board), public comments, planning considerations and assessments for the application as detailed in TPB Paper No. 10541 (the Paper).

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

13. With the aid of the visualizer, Mr Li Fu Kin, the applicant's representative, made the following main points:

- (a) the site, previously a piece of agricultural land, had long been hard paved. It was part of a larger site dissected by a rural road constructed by the British for military use long time ago. The site conditions were similar to

those shown in the aerial photo taken in 2018 and described in paragraph 4.2.7 (b) of the Paper. It had been used for vehicle repairing works rather than agriculture use prior to the gazettal of the statutory town plan for the area in 1990;

[Mr Franklin Yu and Miss Winnie W.M. Ng arrived to join the meeting at this point.]

- (b) the aerial photo taken in August 1990 was used as a reference for the existing use of the site but it was only a snapshot taken at a time when the site happened to be vacant. There was no other information available to prove that the site was being used for agriculture purpose at that time;
- (c) the site was separated from other uses by roads and small knolls, the surrounding area was predominantly characterized by temporary structures for storage/workshop use, open storage uses and site office for other public works. Adverse impacts caused by the applied uses on the site were not envisaged;
- (d) other relevant government departments, except the Agriculture, Fisheries and Conservation Department (AFCD), had no objection to the application. However, the site was not suitable for agricultural use because its size was too small. As a result of economic restructuring, lots of agricultural land had either been laid idle or converted into open storage and warehouse uses. Demand for agricultural land was shrinking and “Agriculture” (“AGR”) zones should thus be reviewed taking into consideration the local circumstances and the changing needs. Some of the active farmlands as mentioned in the Paper had already ceased operation;
- (e) the proposed development would only serve vehicles operated by contractors undertaking the infrastructural works at Sandy Ridge as the public works site was lack of supporting facilities; and
- (f) there were a number of approved planning applications for open storage and vehicle repair workshop uses in the vicinity. The assessment criteria for



similar applications were inconsistent and in favour of large operators. For example, application No. A/NE-TKL/602 approved recently was of a very large scale and serving heavy vehicles. But it was not mentioned in the Paper. He questioned why a large site office adjacent to the application site and being used by a contractor of other public works would be allowed while his application was rejected. He also queried whether his application was given due consideration as there was no discussion by Members during the deliberation of the subject application, according to the minutes of meeting of the RNTPC on 1.2.2019.

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

15. The Chairperson and some Members raised the following questions:

- (a) whether the proposed use was considered as an existing use and could therefore be tolerated under the Town Planning Ordinance (the Ordinance) and what the assessment criteria for similar applications were, in particular, the rationale for allowing the open storage and warehouse uses in the vicinity including the site office adjacent to the application site;
- (b) information on the general reinstatement requirements of enforcement cases; and
- (c) the scale of the vehicle repairing workshop at the application site and whether alternative sites in other areas would be available for the applicant to continue his operation, should the application be rejected upon review.

16. In response, Ms Jessica H.F. Chu, DPO/STN, PlanD, made the following points with the aid of some PowerPoint slides:

- (a) according to the aerial photo taken on 18.8.1990 immediately after the gazetting of the interim development permission area plan covering the area, the application site was vacant and partly vegetated;

- (b) while there were some open storage yards and warehouses in the vicinity of the application site, some were “existing uses” tolerated under the Ordinance and others were suspected unauthorised developments that, subject to sufficiency of evidence, enforcement action might be taken under the Ordinance;
- (c) in general, an unauthorised development was required to be discontinued within three months after the issuance of an Enforcement Notice (EN) and, if Reinstatement Notice was also served, the site would be required to be reinstated so as to restore the site condition and greenery;
- (d) the site to the south-east of the application site as mentioned by the applicant’s representative was being occupied by a site office of a public works contractor of Liantang/Heung Yuen Wai Boundary Control Point. The Civil Engineering and Development Department (CEDD) had advised that the site office development was essential to support its project. As provided for in the Covering Note of the Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP), public works co-ordinated or implemented by the Government were always permitted. The operation of the site office would cease upon completion of the project around end 2019; and
- (e) the similar application No. A/NE-TKL/602 mentioned by the applicant was located about 1.5 km away from the subject site. The majority of the site (about 85%) fell within an “Open Storage” zone in which vehicle repair workshop use was always permitted, and only a minor portion of the site fell within the “AGR” zone. That similar application was the subject of a number of previous planning applications for various open storage and workshop uses approved by the RNTPC and AFCD had no strong view against the application.

17. In response, Mr Li Fu Kin, the applicant’s representative, made the following points :

- (a) the vehicle repair workshop at the subject site would only provide vehicle repairing services for contractors' vehicles serving the public works which were only about five minutes' drive away from the application site. It usually served about three to four vehicles per day and the vehicles only stayed at the workshop for a few hours unless they were badly damaged or there were serious mechanical problems;
- (b) the profit of their business was very low which could marginally supported the living of a few staffs and himself. Should the application be rejected upon review, the business would need to be closed down; and
- (c) the applicant had discontinued the vehicle repairing workshop use at the site upon receiving an EN. Currently, they were using the workshop space borrowed from other operators in Kwan Tei and near Luen Wo Hui in Fanling for temporary operation of their business. However, Fanling Town was not a suitable area for such operation in the long run. They started the business in Luen Wo Hui in early years, but after an accident of gas exposure of a vehicle repair workshop in Kowloon area, the concerned departments advised them to move their workshop away from residential dwellings.

18. 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.

19. Mr Li Fu Kin, the applicant's representative, submitted at this point a set of supplementary information to the Board in support of the review application. Such information, mainly covering the points under the oral presentation, was deposited at the Board's Secretariat for Members' information and inspection.

20. The Chairperson thanked the representatives of the applicants and PlanD for attending the meeting. They left the meeting at this point.

## Deliberation Session

21. Members noted that the government representative had explained clearly the planning consideration regarding the application, and responded to the points made by the applicant's representative at the meeting. Members considered that there was no major change in planning circumstances for the site and the reasons for rejection made by the RNTPC, as stated in paragraph 1.2 of the Paper, were still valid.

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

- “(a) the development under the application is not in line with the planning intention of “Agriculture” (“AGR”) zone in the Ping Che and Ta Kwu Ling area which is intended 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 planning justification in the submission from a departure from the planning intention, even on a temporary basis; and
- (b) 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.”

## **Agenda Item 4**

[Open Meeting]

Request for Deferment of Review of Application No. A/NE-TK/657

Proposed House (New Territories Exempted House - Small House) in “Agriculture” Zone,

Lot 671 S.B in D.D. 15 and Adjoining Government Land, Shan Liu, Tai Po

(TPB Paper No. 10543)

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[The item was conducted in Cantonese.]

23. The Secretary reported that the application site was located at Shan Liu in Tai Po and Dr Lawrence W.C. Poon had declared an interest on the item for co-owning with spouse a house at Lung Mei Tsuen in Ting Kok. Members noted that Dr Lawrence W.C. Poon had tendered apologies for being unable to attend the meeting.

24. Members noted that the applicant's representative requested on 2.5.2019 deferment of the consideration of the review applications for two months so as to allow time for preparation of further information in support of the review application. This was the first time that the applicant requested deferment of the review application.

[Mr Alex T.H. Lai arrived to join the meeting at this point.]

25. Members noted that the justification 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 made under the Town Planning Ordinance (TPB PG-No. 33) in that the applicant needed more time to prepare further information in response to departmental comments, the deferment period was not indefinite, and that the deferment would not affect the interests of other parties.

26. 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 applicants. 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.

[Mr Franklin Yu left the meeting at this point.]

**Tsuen Wan & West Kowloon District**

**Agenda Item 5**

[Open Meeting (Presentation and Question Sessions only)]

Consideration of Further Representations on Proposed Amendment to Draft Mong Kok Outline Zoning Plan No. S/K3/31 Arising from Consideration of Representations and Comments in respect of Draft Mong Kok Outline Zoning Plan No. S/K3/31 (TPB Paper No. 10544)

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[The item was conducted in Cantonese.]

27. The Secretary reported that that the Outline Zoning Plan (OZP) amendments mainly involved the revision of the building height restrictions for various development zones taking into account the Courts' ruling on the judicial review (JR) lodged by the Real Estate Developers Association of Hong Kong (REDA) against the draft Mong Kok OZP No. S/K3/28, and to take forward the recommended development scheme formulated under the 'Planning and Design Study on the Redevelopment of Government Sites at Sai Yee Street and Mong Kok East Station – Feasibility Study' (the SYS Study). The following Members had declared interests on the item for having affiliation/business dealings with Masterplan Limited (Masterplan), the representative of REDA (R1), Lindenford Limited (Lindenford) (C2), Townland Consultants Limited (Townland), the representative of Lindenford, the Institute of Future Cities (IOFC) of the Chinese University of Hong Kong (CUHK) (the consultant of the OZP review), Ove Arup & Partners Hong Kong Limited (Arup), BMT Asia Pacific Limited (BMT) and/or AGC Design Limited (AGC) (the consultants of the SYS Study), and/or some representers/commenter.

Mr Ivan C.S. Fu - having current business dealings with Masterplan Limited, Arup, AGC and some members of REDA

Professor S.C. Wong (Vice-chairperson) - having current business dealings with Arup

- Mr Thomas O.S. Ho - having current business dealings with Arup and past business dealings with Townland, his firm having past business dealings with BMT
- Mr K.K. Cheung ] their firm having current business dealings with  
Mr Alex T.H. Lai ] Lindenford (C2), Townland, Arup, AGC, and  
] hiring Ms Mary Mulvihill (R3/C16) on a contract  
] basis from time to time
- Professor John C.Y. Ng - being the Fellow of IOFC, CUHK
- Mr Franklin Yu - having past business dealings with Arup
- Ms Sandy H.Y. Wong - used to be a member of the Women's Commission, and knowing from there Ms Wong Shu-ming (R5) and Ms Wu Sui-shan (R154)
- Mr Stanley T.S. Choi - his spouse being a director of a company which owned properties in Mong Kok
- Mr Stephen L.H. Liu - co-owning with spouse a flat and his company owning another flat at Harbour Green, Sham Mong Road

28. Members noted that Mr Franklin Yu had already left. Members also noted that Professor S.C. Wong, Professor John C.Y. Ng, Messrs Ivan C.S. Fu, Thomas O.S. Ho, K.K. Cheung and Alex T.H. Lai and had no direct involvement in the JR/the SYS Study/the OZP review or the projects on the representation sites; the interests of Ms Sandy H.Y. Wong was indirect; and the properties of Mr Stanley T.S. Choi and Mr Stephen L.H. Liu did not have a direct view of the representation sites, and agreed that they should be allowed to stay in the meeting.

### Presentation and Question Sessions

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

Mr Derek W.O. Cheung - District Planning Officer/Tsuen Wan & West Kowloon (DPO/TWK), PlanD)

Mr Kimson P.H. Chiu - Town Planner/Yau Tsim Mong (TP/YTM), PlanD

30. The Chairperson extended a welcome. She then invited PlanD's representative to brief Members on the further representations.

31. With the aid of a PowerPoint presentation, Mr Derek W.O. Cheung, DPO/TWK, PlanD, briefed Members on the further representations (FRs) as detailed in TPB Paper No. 10544 (the Paper). On 12.4.2019, the proposed amendment to the draft Mong Kok Outline Zoning Plan (OZP) No. S/K3/31 (the draft OZP) was exhibited for public inspection under section 6C(2) of the Town Planning Ordinance (the Ordinance). Upon expiry of the three-week exhibition period, a total of 20 FRs were received and all of them supported the proposed amendment.

32. The Chairperson said that it was very encouraging that the amendment proposed by the Board was supported in the further representations. She then invited questions from Members. Since Members had no question, the Chairperson thanked PlanD's representatives for attending the meeting. They left the meeting at this point.

### Deliberation Session

33. After deliberation, the Board noted the supportive views of FRs F1 to F20 and agreed to amend the draft OZP by the proposed amendment in accordance with section 6F(9) of the Ordinance. The Board also noted that in accordance with section 6H of the Ordinance, the extant OZP should thereafter be read as including the amendment. The amendment should be made available for public inspection until the Chief Executive in Council had made a



decision in respect of the draft OZP in question under section 9 of the Ordinance.

### **Procedural Matters**

#### **Agenda Item 6**

[Open Meeting]

Submission of Draft Mong Kok Outline Zoning Plan No. S/K3/31A under Section 8 of the Town Planning Ordinance to the Chief Executive in Council for Approval  
(TPB Paper No. 10545)

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[The item was conducted in Cantonese.]

34. The Secretary reported that the declaration of interest for this item was the same as item 5 above. Members noted that Mr Franklin Yu had already left the meeting. As the item was procedural in nature, Members agreed that the other Members could stay in the meeting.

35. The Secretary briefly introduced the TPB Paper No. 10545 (the Paper). On 13.7.2018, the draft Mong Kok OZP No. S/K3/31, incorporating mainly amendments to the building height restrictions and rezoning of the Sai Yee Street site (SYS Site) was exhibited under section 7 of the Town Planning Ordinance (the Ordinance). On 15.3.2019, after giving consideration to the 283 representations and 17 comments, the Board decided to partially meet 280 representations by revising the Notes for the “Commercial (4)” zone (i.e. the SYS Site) requiring submission of a layout plan. On 12.4.2019, the proposed amendment was exhibited for public inspection and 20 further representations, all supporting the amendment, were received. After consideration of the further representations on 24.5.2019, the Board decided to amend the draft Mong Kok OZP by the proposed amendment. Since the representation consideration process had been completed, the draft OZP was now ready for submission to the Chief Executive in Council (CE in C) for approval.

36. After deliberation, the Board:

- (a) agreed that the draft Mong Kok OZP No. S/K3/31A and its Notes at Annexes I and II of the Paper respectively were suitable for submission under section 8 of the Ordinance to the CE in C for approval;

- (b) endorsed the updated Explanatory Statement (ES) for the draft Mong Kok OZP No. S/K3/31A at Annex III of the Paper as an expression of the planning intention and objectives of the Board for the various land use zonings on the draft Mong Kok OZP and to be issued under the name of the Board; and
  
- (c) agreed that the updated ES was suitable for submission to the CE in C together with the draft Mong Kok OZP.

**Agenda Item 7**

[Open Meeting]

Any Other Business

37. There being no other business, the meeting was closed at 9:50 a.m.